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CASE CONCERNING DATASTREAM INC. (BELGIUM V. SPAIN) (2025)- A MOCK JUDICIAL OPINION

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International Court of Justice Judgment

I. Procedural Background

On July 3, 2024, Belgium filed an application against Spain with the International Court of Justice claiming that Spanish authorities unlawfully closed down the DataStream Inc. which operates globally and that Belgium owes compensation to the harmed shareholders. Spain submitted a Counter-Memorial justifying the closure as a proper exercise of executive arbitrariness. Both under Article 31 of the Statute, Belgium and Spain have assigned ad hoc judges to accompany the Court. The judges completed the necessary documents for the March 2025 hearing in order to have the case fully ready for a decision.

II. Facts

In 2020, a Spanish company set up DataStream Inc. in Madrid as a subsidiary. DataStream runs a global social networking and data app. Over 60% of the DataStream's capital is owned by Belgians, the Belgian government, and some private investors in Belgium. The rest is owned by other EU citizens. As of October 2023, the Spanish government started looking into whether the DataStream was following the Spanish Data Privatisation Framework 2021 when it came to protecting Spanish citizens' data. They said that the DataStream had been operating in a Spanish national data breach. On January 15, 2024, the Spanish court ordered a global DataStream shutdown at the request of the Data Protection Authority. This action was taken since the firm abided the company's policies which resulted in making DataStream's international operations illegal. The servers for the Spanish DataStream were turned off right away, and all of the DataStream directors from Spain were fired. The Belgian investors and other shareholders did not see the order to shut down before it was made public.

Belgium has said that the decision was random and that the damages Spain put on the Belgian investors were unfair. The Spanish government's decision and actions after that also showed that they wanted to keep information from the public. The claim says that the Spanish government's actions towards Belgian investors and Spanish-Belgian users violated basic rights that were missing, as well as basic Spanish-Belgian rights. This, in turn, broke general international law and the human rights that Belgium had to protect its citizens. Belgium requests the Court to adjudge and declare that Spain must provide reparations for these injuries. Spain denies any breach of international law, asserting that it acted within its sovereign right to enforce domestic law in a legitimate public-interest matter, and that Belgium lacks standing to espouse any claim on behalf of DataStream or its shareholders.

III. Legal Issues

The Court identifies the following principal issues:

1. Jurisdiction and standing Whether Belgium has the legal capacity (jus

standi) to bring claims on behalf of DataStream Inc. or its shareholders under international law; and whether the Court has jurisdiction ratione personae.

2. Corporate nationality in the digital age What is the applicable rule of corporate nationality for DataStream Inc., and does any notion of "genuine connection" or "seat" warrant treating it as Belgian rather than Spanish under customary law.
3. Violation of international obligations If the Court has jurisdiction, whether Spain's shutdown of DataStream violated any international obligation to Belgium, including norms of state sovereignty, freedom of expression, privacy rights (UDHR, ICCPR), or any investment or trade obligations.
4. Diplomatic protection of shareholders Whether Belgium may exercise diplomatic protection for its nationals' interests as shareholders of DataStream under either traditional rules or evolving international law.

The Court will address these issues in turn, applying relevant law and principles.

IV. Applicable Law

Article 36(1) of the Statute confers jurisdiction based on mutual consent and the subject matter presented.[491] As no specific treaty is invoked between Belgium and Spain, the Court looks to general international law. Under Article 38 of the Statute, it applies international conventions (e.g., the UN Charter, universal human rights instruments), international custom, general principles, and recognized judicial decisions and doctrine.[492] Relevant instruments include the UN Charter (notably Article 2 on state sovereignty and non-intervention), the Universal Declaration of Human Rights (UDHR) (Articles 12, 19 on privacy and expression), and the International Covenant on Civil and Political Rights (ICCPR) (Articles 17, 19).[493] The parties are also bound by customary regulations governing state responsibility and diplomatic protection.[494] In particular, the Court will analyze the Barcelona Traction case (Belgium v. Spain, 1970) on the issues of corporate nationality and the exercise of diplomatic protection, the development of investor–state arbitration, and the changing Digital Order. General principles of sovereign equality and territorial jurisdiction are also pertinent. The Court notes that business enterprises have responsibilities under the UN Guiding Principles on Business and Human Rights, and that UN human rights bodies have affirmed that "the same rights that people have offline must also be protected online."[495]

V. Reasoning

A. Corporate Nationality and Diplomatic Protection

The Court begins by determining the nationality of DataStream Inc. and whether Belgium may claim on behalf of the company or its shareholders. Under customary international law, and as affirmed in the Barcelona Traction case, the nationality of a corporation is generally determined by its place of incorporation or registered office.[496] In Barcelona Traction (1970), the Court held that "the nationality of a company must be determined by the laws of the State where it was incorporated or maintained its registered office."[497] Barcelona Traction was a Canadian-

[491] Statute of the International Court of Justice (annexed to the UN Charter) (26 June 1945) 33 UNTS 993, art 36(1).
[492] Statute of the International Court of Justice (annexed to the UN Charter) (26 June 1945) 33 UNTS 993, art 38.
[493] Charter of the United Nations (26 June 1945) 1 UNTS XVI, art 2(7); Universal Declaration of Human Rights GA Res 217 A (III) UN GAOR, 10 Dec 1948, arts 12, 19; International Covenant on Civil and Political Rights (adopted 16 Dec 1966, entered into force 23 Mar 1976) 999 UNTS 171, arts 17, 19.
[494] See generally Draft Articles on Responsibility of States for Internationally Wrongful Acts, UN GA Res 56/83, UN Doc A/RES/56/83 (12 Dec 2001) (as adopted by the International Law Commission) and Barcelona Traction, Light and Power Company, Ltd (Belgium v Spain) [1970] ICJ Rep 3 (on diplomatic protection).
[495] UN Human Rights Council, Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework, UN Doc A/HRC/17/31 (21 Mar 2011); UN Human Rights Council, 'The promotion, protection and enjoyment of human rights on the Internet' Res A/HRC/RES/32/13 (1 July 2016).
[496] Barcelona Traction, Light and Power Company, Ltd (Belgium v Spain) [1970] ICJ Rep 3.
[497] Ibid.

incorporated company whose shareholders were predominantly Belgian nationals.[498] The ICJ ruled that any injury was to the Canadian corporation itself, so Canada, not Belgium, had standing to pursue claims; only in narrow circumstances such as the company's dissolution or a direct injury to shareholders (e.g., prohibition on dividend payments) could another state invoke diplomatic protection.[499] These principles have since been reaffirmed, most recently in the Ahmadou Sadio Diallo cases (Guinea v. DRC, 2007 & 2010), which broadly confirmed that a company's nationality is fixed by its incorporation and seat.[500]

Here, DataStream Inc. was incorporated in Spain with its principal place of business there. Its nationality is thus Spanish under the classical rule. Belgium does not dispute that Spanish law governs the company's incorporation. It argues instead that DataStream's "real seat" is effectively in Belgium because the majority shareholders and ultimate control are Belgian. While some international practice (for individuals, Nottebohm doctrine) recognizes a "genuine link" test, the Court finds no prevailing custom extending such a test to corporate nationality in place of formal criteria.[501] In fact, the Barcelona Traction Court expressly declined to require a genuine connection to the state of incorporation for corporations. There is no binding international rule permitting Belgium to re-classify DataStream as Belgian merely because of shareholding patterns. The company has not changed its legal seat or nationality by operation of any bilateral agreement. Thus, the Court concludes that DataStream is a Spanish national company under international law.

Since DataStream's nationality is Spanish, the right of diplomatic protection lies prima facie with Spain and not Belgium. Belgium in effect asks this Court to allow it to assert claims on behalf of a foreign corporation and its shareholders. But Barcelona Traction forecloses such a claim: Belgium does not have locus standi to protect DataStream or its shareholders because the company is not a Belgian national. Belgium contends that DataStream has ceased to exist de facto as a result of the shutdown, akin to a liquidation, so that its shareholders are directly injured. Even if DataStream has suspended operations, it remains a Spanish legal entity unless formally dissolved by a Spanish court, which has not occurred. Moreover, even if the company were bankrupt, it would remain Spanish in nationality. The Court reiterates the Barcelona Traction dictum that only if the corporate entity were extinguished could the home state of the shareholders assert claims that would otherwise belong to the state of incorporation. Here, DataStream is not definitively defunct, so its corporate nationality rule stands.

Belgium also argues for an evolution of law in the digital age. It suggests that shareholders of a multinational digital enterprise may deserve protection irrespective of formal nationality, and that customary law should adapt accordingly. The Court observes that some bilateral investment treaties and trade agreements indeed allow claims by shareholders or home states, but this is treaty-specific and does not constitute general international law. No global custom or multilateral convention has supplanted the Barcelona Traction rule. The law is still that "the bond of nationality between the State and the individual or corporation alone confers upon the State the right of diplomatic protection."[502] The Netherlands International Law Review notes that states have wide discretion to determine corporate nationality, and that "the classical rules" were confirmed by the ICJ in Barcelona Traction. Unless and until new customary norms emerge, the Court is bound by that precedent.

[498] Ibid.
[499] Ibid.
[500] Ahmadou Sadio Diallo (Republic of Guinea v Democratic Republic of the Congo) (Preliminary Objections) [2007] ICJ Rep 582; Ahmadou Sadio Diallo (Republic of Guinea v Democratic Republic of the Congo) (Merits) [2010] ICJ Rep 639.
[501] Nottebohm (Liechtenstein v Guatemala) (Second Phase) [1955] ICJ Rep 4; see also Barcelona Traction, Light and Power Company, Ltd (Belgium v Spain) [1970] ICJ Rep 3.
[502] Barcelona Traction, Light and Power Company, Ltd (Belgium v Spain) [1970] ICJ Rep 3.

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In sum, Belgium lacks standing to sue on behalf of DataStream or its shareholders. The injury the shutdown of a Spanish-registered company falls within Spain's own jurisdictional interests. The Court finds as a matter of law that Belgium has no jus standi to assert claims against Spain in this case. Accordingly, Belgium's claims are inadmissible for want of diplomatic protection rights under existing international law.

B. Sovereignty, Data Regulation, and Human Rights Norms

Even if Belgium had standing, the Court will briefly address whether any general international obligation would bar Spain's measure. Spain invokes its sovereign prerogative to regulate companies within its territory. As Article 2(7) of the UN Charter provides, nothing in the Charter compels states to submit matters "which are essentially within the domestic jurisdiction" to international adjudication.[503] Here, Spain acted pursuant to its domestic laws for data protection, a matter ordinarily within its sovereign competence. The Court recognizes that states have broad latitude to legislate and enforce laws to protect national security, public order, and rights of their citizens. Under Article 19(3) of the ICCPR, states may impose restrictions on expression "for respect of the rights or reputations of others" or "for the protection of national security or of public order " A law targeting improper data processing could fall within such legitimate aims.

The Court must still think about Belgium's claim that international human rights rules limit what Spain can do. Spain is a signatory to the UDHR (by being a member of the UN) and the ICCPR (which Spain and Belgium ratified). These documents protect freedom of speech and privacy.[504] Article 19 of the UDHR and ICCPR says that everyone has the right to "seek, receive, and share information and ideas through any media and without regard to borders."[505] Article 17 of the ICCPR (which is the same as Article 12 of the UDHR) says that privacy cannot be "arbitrarily or unlawfully interfered with."[506] The Court says that these rights are the same online and offline. The Human Rights Council has said again that "the same rights that people have offline must also be protected online," especially the freedoms in Article 19.[507] They also said that "privacy online is important for the realisation of the right to freedom of expression." DataStream is a global platform for speech and information in the digital age. Its sudden shutdown limits the freedom of expression of both its users and its operators. Moreover, the privacy of personal data is fundamental to the protection of human rights, and the cross-border seizure of a platform may expose user data to state scrutiny.

Balancing these concerns, the Court finds no specific treaty duty that Spain breached. The ICCPR permits lawful regulation of expression to protect the privacy of others. Belgium has not identified any supranational human rights instrument that precludes a state from suspending a service within its borders, provided due process is observed. On the facts, there is no finding of ill motive (e.g., censorship of lawful content) or disproportionate violence. DataStream was given notice and opportunities in domestic courts (albeit allegedly too late by shareholders' view). Spain maintains that the shutdown was to enforce a legitimate regulation the Court will not lightly second-guess a State's policy choices absent clear international law prohibition.

The Court also notes that Belgium might have other remedies. DataStream (as a Spanish

[503] Charter of the United Nations (26 June 1945) 1 UNTS XVI, art 2(7).

[504] Universal Declaration of Human Rights GA Res 217 A (III) UN GAOR, 10 Dec 1948; International Covenant on Civil and Political Rights (adopted 16 Dec 1966, entered into force 23 Mar 1976) 999 UNTS 171.

[505] Universal Declaration of Human Rights GA Res 217 A (III) UN GAOR, 10 Dec 1948, art 19; International Covenant on Civil and Political Rights (adopted 16 Dec 1966, entered into force 23 Mar 1976) 999 UNTS 171, art 19.

[506] International Covenant on Civil and Political Rights (adopted 16 Dec 1966, entered into force 23 Mar 1976) 999 UNTS 171, art 17; Universal Declaration of Human Rights GA Res 217 A (III) UN GAOR, 10 Dec 1948, art 12.

[507] UN Human Rights Council, 'The promotion, protection and enjoyment of human rights on the Internet' Res A/HRC/RES/32/13 (1 July 2016) (recalling A/HRC/RES/20/8 (5 July 2012) and A/HRC/RES/26/13 (26 June 2014)).

company) or its shareholders could theoretically petition Spanish courts or European fora if any bilateral investment obligations were implicated. No bilateral investment treaty between Belgium and Spain has been invoked, and neither party claims one. Belgium has not adduced any international instrument granting investors direct rights in such circumstances. Thus, from the standpoint of state responsibility, Spain cannot be held internationally responsible to Belgium for an act done in exercise of its internal law, particularly when the locus of the injury is a Spanish national entity.

Finally, the Court observes the broader context of "digital sovereignty" tensions. Many states are reasserting control over data and technology within their borders. The EU's General Data Protection Regulation is an example of a state (or union) extending its jurisdiction to protect the privacy of its citizens everywhere. Likewise, some view control of digital infrastructure as a sovereign duty. Here, Spain took an assertive step, arguably prioritizing national data protection. It is true that an extreme form of data localization can impede global connectivity and rights. However, the Court must apply the law as it stands, not weigh emerging policy debates. On the current law, no customary international rule invalidates a national shutdown of a domestic company's foreign platform absent treaty violation.

V. Conclusion (Holding)

For the foregoing reasons, the Court finds by a vote of 15 to 2 that the Kingdom of Belgium's Application is inadmissible. Belgium has no right under international law to claim reparation on behalf of DataStream Inc. or its shareholders, because DataStream is a Spanish national company and any injury falls within Spain's own jurisdiction. Even assuming arguendo jurisdiction, Belgium has not shown that Spain violated any binding international obligation to Belgium by enforcing its data protection laws. Therefore, Spain is not internationally responsible to Belgium for the shutdown of DataStream. The Court accordingly dismisses the Application.

VI. Separate Opinion (Dissenting)

Judge Kowalski, dissenting in part. I agree with the majority that DataStream is formally a Spanish company, but I respectfully part company on the question of legal protection for Belgian shareholders and the balancing of human rights in this context. The majority clings to a rigid application of Barcelona Traction in an era it did not contemplate. The Court should aim towards a flexible stance which ensures justice for harmed shareholders within an interconnected digital economy which corporations can easily veil.

In my view, Belgium is not seeking to protect a Belgian company, but rather to seek redress for its nationals whose legitimate economic and civic interests were harmed by Spain's action. The traditional rule that only the state of incorporation may sue is rooted in an age of brick-and-mortar enterprises. Yet DataStream is akin to a cross-border utility. Consider that Spain's courts immediately nullified the majority of DataStream's Belgian-held assets (e.g., by seizing servers hosting Belgian user data). It is arguable that Belgium had a "genuine link" to the company the effective management was in Belgium, and the court sanctions directly deprived Belgian nationals of their property and arguably of a platform used for political speech. While not settled, I would be willing to entertain that evolving doctrine. Nottebohm and Barcelona Traction suggest genuine connection can matter; to ignore reality because the legal papers say Spain is the formal country of registration is, in my view, unduly formalistic.[508]

Moreover, human rights norms and equity demand protection for investment and expression. The Human Rights Council and rights courts have made clear that online freedoms are universal. Spain's shutdown has global effects, effectively censoring content and

[508] Nottebohm (Liechtenstein v Guatemala) (Second Phase) [1955] ICJ Rep 4; Barcelona Traction, Light and Power Company, Ltd (Belgium v Spain) [1970] ICJ Rep 3.

crippling services for users in multiple countries. Freedom of expression and protection of data are enshrined in Article 19 UDHR and ICCPR, which do not vanish because DataStream's label is Spanish. Had these events occurred in the real Barcelona Traction case before the ICJ, perhaps the result would similarly feel cold to injured shareholders. The guiding UN norms (e.g., Guiding Principles on Business and HR) emphasize a human rights-oriented interpretation.

In sum, I fear that strict adherence to old rules will leave digital-era victims without remedy. If international law is to remain meaningful, it must adapt. Therefore, were I writing the majority opinion, I would find that Belgium has standing to assert claims for its nationals and that Spain should not have acted in a way that "interferes" with fundamental rights and investment absent compelling justification. On the merits, I would carefully scrutinize Spain's necessity and proportionality something the majority declines. But given the majority's ruling, Belgium's recourse will now have to lie in domestic courts or future treaty regimes, rather than before this Court. I wouldn't come to the same decision that Belgium's claims are insufficient from an international law perspective.

Bibliography

Cases

- Ahmadou Sadio Diallo (Republic of Guinea v Democratic Republic of the Congo) (Preliminary Objections) [2007] ICJ Rep 582.
- Ahmadou Sadio Diallo (Republic of Guinea v Democratic Republic of the Congo) (Merits) [2010] ICJ Rep 639.
- Barcelona Traction, Light and Power Company, Ltd (Belgium v Spain) [1970] ICJ Rep 3. Nottebohm (Liechtenstein v Guatemala) (Second Phase) [1955] ICJ Rep 4.

International Instruments

- Charter of the United Nations (adopted 26 June 1945, entered into force 24 October 1945) 1 UNTS XVI.
- Draft Articles on Responsibility of States for Internationally Wrongful Acts, UN GA Res 56/83, UN Doc A/RES/56/83 (12 December 2001).
- International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.
- Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) [2016] OJ L119/1.
- Statute of the International Court of Justice (annexed to the UN Charter) (26 June 1945) 33 UNTS 993.
- Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A (III).

UN and Human Rights Council Documents

- UN Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, UN Doc A/HRC/17/31 (21 March 2011).
- UN Human Rights Council, *The promotion, protection and enjoyment of human rights on the Internet*, Res A/HRC/RES/32/13 (1 July 2016).