



**IECLO**

**International & European  
Criminal Law Observatory**

ON CULTURAL ISSUES, HUMAN RIGHTS AND SECURITY

## MONTHLY WRAP JULY 2023

### UN SECRETARY-GENERAL

#### [UN strongly condemns Russian attack on Ukrainian cultural heritage.](#)

Senior UN officials have strongly condemned the deadly Russian missile strikes in the Ukrainian city of Odesa which damaged several historic buildings.

UN Secretary-General António Guterres strongly condemned the attack, his spokesperson said in a statement.

“In addition to the appalling toll the war is taking on civilian lives, this is yet another attack in an area protected under the World Heritage Convention in violation of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict,” it said.

Mr. Guterres also expressed concern about the war’s increasing threat to Ukrainian culture and heritage. UNESCO has verified damage to 270 cultural sites, including 116 religious sites, since the start of the Russian invasion on 24 February 2022.

“The Secretary-General urges the Russian Federation to immediately cease attacks against cultural property protected by widely ratified international normative instruments. The Secretary-General also continues to urge immediate cessation of all attacks against civilians and civilian infrastructure,” the statement concluded.

#### [UN calls for urgent action against human trafficking](#)

Global crises, conflicts, and the climate emergency are escalating trafficking risks, the UN warned on 30 July, the World Day against Trafficking in Persons. People lacking legal status, living in poverty and without decent work often become the primary targets of traffickers. In his message for the Day, UN chief António Guterres called human trafficking “a heinous violation of fundamental human rights and freedoms.” According to the 2022 Global Report on Trafficking in Persons, published by the UN Office on Drugs and Crime (UNODC), more than 50 percent of cases of human trafficking are brought forward by victims or their families, with authorities struggling to detect and protect trafficking victims, which is a concerning new trend compared to previous years. Millions of



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victims of human trafficking are going unnoticed around the world, even though many walk among us every day – on street corners, at construction sites, or in factories and public venues.

The specificity of this crime is such that many victims cannot call for help, UNODC said. Having no legal status in a country where they come in search of a better life, victims become shackled by the false promises of traffickers.

## **UN OFFICE ON GENOCIDE PREVENTION AND THE RESPONSIBILITY TO PROTECT**

### [New UN policy paper launched to counter and address online hate.](#)

The UN Office on Genocide Prevention and the Responsibility to Protect launched a new policy paper on Wednesday aimed at countering and addressing hate speech online. Key recommendations include:

- The need to ensure respect for human rights and the rule of law when countering online hate speech, and apply these standards to content moderation, content curation and regulation.
- Ensuring accountability, strengthen judicial mechanisms and enhance independent oversight mechanisms.
- Strengthening multilateral and multi-stakeholder cooperation.

The Strategy makes a firm commitment to step up coordinated action to tackle hate speech, both at global and national levels, including the use of new technologies and engaging with social media to address online hate speech and promote positive narratives.

## **INTERNATIONAL CRIMINAL COURT**

### [Situation in the Republic of the Philippines: ICC Appeals Chamber to deliver judgement on authorisation to resume investigations](#)

On 13 July 2023, the ICC Prosecutor addressed the UN Security Council on the situation in Darfur under Resolution 1593 (2005). He said: "90 days have passed, 90 days since April 15, when fighting broke out between the RWB, the Rapid Support Force and the Sudanese Arm

ed Forces. And that conflict, that commitment, came out of Khartoum to swallow up much of Sudan. Certainly, it is heard by the people of Darfur..." and again "As for the role of my Office, I would like



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to be very clear that our mandate under Security Council Resolution 1593 is ongoing with regard to crimes within our jurisdiction: crimes of genocide, crimes against humanity and war crimes. And any individual who commits those crimes within our jurisdictions will be investigated. And depending on the assessments of the independent judges of the ICC, we will pull out all the blinds and leave no stone unturned to ensure they are held accountable in fair and independent trials."

### [Ntaganda case: Trial Chamber II delivers order on reparations](#)

On 14 July 2023, Trial Chamber II of the International Criminal Court ("ICC" or "Court") delivered an Addendum to the Reparations Order of 8 March 2021 in the Ntaganda case. The trial of Mr Ntaganda opened on 2 September 2015. On 8 July 2019, ICC Trial Chamber VI [found Bosco Ntaganda](#) guilty of 18 counts of war crimes and crimes against humanity, committed in Ituri, DRC, in 2002-2003. On 7 November 2019, he was [sentenced](#) to a total of 30 years of imprisonment. The Trial Chamber issued an order on reparations on 8 March 2021. The verdict and the sentence were [confirmed](#) by the Appeals Chamber on 30 March 2021. The Chamber reiterated its request for the Presidency's assistance, with the support of the Registry, to continue exploring whether Mr Ntaganda possesses any undiscovered assets and to monitor Mr Ntaganda's financial situation on an ongoing basis.

### [Darfur: International Criminal Court launches investigation into surging violence.](#)

The Prosecutor of the International Criminal Court (ICC) is investigating fresh allegations of war crimes and crimes against humanity in the Darfur region, including the recent killings of 87 members of the Masalit ethnic community.

Mr. Khan went on to urge the 15 members of the Security Council to "converge" around the principles of the UN Charter, the obligations under the Rome Statute of the ICC, and the authority of the Council itself, which in 2005 determined that the violence in Darfur and Sudan overall, represented a threat to international peace and security.

Mr. Khan informed ambassadors that he has given "clear instructions" to his office to prioritize crimes against children, and crimes of sexual and gender-based violence.

He also announced that a secure online portal has been setup where individuals can submit information or allegations of crimes and rights violations.

The ICC Prosecutor also called on the warring factions in Sudan to uphold their fundamental obligations under international humanitarian law and protect civilians.



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## INTERNATIONAL CRIMES

### [Kosovo Charges Ethnic Serb with Crimes Against Humanity.](#)

Kosovo's Special Prosecution announced on Wednesday that it has filed an indictment charging a former member of Serbian armed forces, identified only by the initials S.T., with committing crimes against humanity against ethnic Albanian civilians during the Kosovo war.

The prosecution alleged in a statement that during the 1998-99 Kosovo war, the suspect, who is an ethnic Serb, was involved in "murder, raids, beatings, mistreatment, arrest, torture, cruel and inhumane treatment, keeping [people] in conditions of slavery, [and] the expulsion and deportation of thousands of Albanian civilians".

### [Syria: French judges send Majdi Nema to trial before the Criminal Court for complicity in war crimes and enforced disappearances](#)

Majdi Nema's indictment before the Criminal Court paves the way, for the first time in France, for a trial relating to crimes committed by the Syrian Islamist rebel group Jaysh al-Islam, which operated in Eastern Ghouta between 2013 and 2018. Majdi Nema is accused of complicity in war crimes amongst which the enlistment of children and willful killings.

Majdi Nema is also accused of being complicit in the enforced disappearance, in December 2013, of Razan Zaitouneh, human rights lawyer, co-founder of the Local Coordination Committees (LCC) and member of SCM, of Wael Hamada, human rights defender, and of their colleagues Samira Al-Khalil, political activist, and Nazem Al Hammadi, human rights lawyer.

### [Bangui: sentence relief for a warlord](#)

After several hours of deliberation, Barthelemy Yamba, president of the appeals chamber announced [the decision of the judges](#) of the [court](#). *"Acquittes Issa Sallet Adoum Alias Bozizé of the crime against humanity of other acts of outrages upon the dignity of persons with regard to the events that occurred on May 21, 2019 in Koundjili. Condemns for the crimes for which they are declared guilty Issa Sallet Adoum alias Bozizé to a prison term of 30 years"*. Issa Sallet Adoum, warlord, had been sentenced to life in 2022, after being found guilty of war crimes and crimes against humanity, committed in May 2019, in the villages of Koundjili and Lemouna in the northwest of the CAR.



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## [Court of BiH confirmed the Indictment against One Person for War Crimes](#)

The Court of Bosnia and Herzegovina confirmed the Indictment issued by the BiH Prosecutor's Office on 14 July 2023, charging the accused Borislav Gligorević with the criminal offense of Crimes against Humanity.

According to the Indictment, between April and late July 1992, during the war in Bosnia and Herzegovina and a widespread and systematic attack by members of the Zvornik Territorial Defense, subsequently the Army of Republika Srpska, Serb police and para-military formations, in the territory of Zvornik municipality, targeting the Bosniak civilian population of the Zvornik municipality.

## **UNESCO**

### [Odesa: UNESCO strongly condemns repeated attacks against cultural heritage, including World Heritage](#)

On 23 July 2023, UNESCO is deeply dismayed and condemns in the strongest terms the brazen attack carried out by the Russian forces, which hit several cultural sites in the city center of Odesa, home to the World Heritage property 'The Historic Centre of Odesa'.

The attack took the lives of at least two people, according to preliminary reports, and damaged a number of significant cultural sites, including the Transfiguration Cathedral, the first and foremost Orthodox church in Odesa founded in 1794. This act of hostility comes only days after other attacks that impacted many cultural heritage sites in areas protected under the World Heritage Convention in Lviv and Odesa.

UNESCO will continue to engage with the World Heritage site managers, local and national authorities to identify urgent needs for assistance. In the coming days, UNESCO will field a mission to Odesa to conduct a preliminary assessment of damages.

## **INTERNATIONAL COURT OF JUSTICE**

### [Application of the International Convention on the Elimination of All Forms of Racial Discrimination \(Armenia v. Azerbaijan\) - Request for the modification of the Court's Order indicating a provisional measure](#)



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By application lodged at the Registry of the Court on 16 September 2021, the Republic of Armenia has initiated proceedings against the Republic of Azerbaijan concerning alleged violations of the International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965. The Court, by Order of 22 February 2023, indicated the following precautionary measure: "The Republic of Azerbaijan, pending the final decision on the case and in accordance with its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, will take all measures at its disposal to ensure the free movement of persons, vehicles and goods along the Lachin Corridor in both directions.»

Armenia requests the Court to amend its Order of 22 February 2023 to include a further *interim* measure requiring Azerbaijan to "[withdraw] all personnel deployed on or along the Lachin Corridor from 23 April 2023 and refrain from deploying such personnel on or along the Lachin Corridor". In particular, Armenia argues that, following the Court's order of 22 February 2023, Azerbaijan established two checkpoints operated by its armed forces on the Lachin Corridor. Armenia claims that there has been a "drastic" change in the situation justifying a change in the Order and that the general conditions for the indication of provisional measures also exist.

The Court, by order of 6 July 2023, acting unanimously, notes that the circumstances, as now presented to the Court, are not such as to require the exercise of its power to amend the order of 22 February 2023 indicating an interim measure; and unanimously reaffirms the provisional measure indicated in its Order of 22 February 2023. The Court concludes that the circumstances to which Armenia refers in its fourth request do not constitute a change in the situation justifying the amendment of the order of 22 February 2023 pursuant to Article 76 of the Court's Rules of Procedure.

## OSCE

[OSCE human rights office monitoring finds evidence of torture and sexual violence in Ukraine as violations](#) [continue](#)

On July 17, the OSCE Office for Democratic Institutions and Human Rights (ODIHR ) affirmed a new report summarising its ongoing monitoring of violations of international law following Russia's military attack in Ukraine. According to the many credible testimonies, torture and ill-treatment have been widespread in detention in all Russian-occupied areas. In the course of its monitoring, ODIHR has received reports of summary executions, torture and poor



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conditions of detention of Ukrainian prisoners of war, as well as sexual violence, allegations of rape, genital electrocution and forced nudity perpetrated by Russian armed forces. ODIHR has also collected additional evidence of forcible displacements of civilians, including children, by the Russian authorities, within and from occupied areas of Ukraine. ODIHR makes a number of recommendations to both sides in the conflict, calling on them to respect and ensure compliance with international humanitarian law and international human rights law and to fulfill their duty to investigate violations and bring those responsible to justice in fair trials.

## EUROPOL

Cybercrime has become a big business

Europol's ninth Internet Organised Crime Threat Assessment (IOCTA) whose first module is published on July 17, provides an in-depth look at the online crime ecosystem, examining key actors, their attack vectors and the victims. Europol's IOCTA aims to provide law enforcement with a better understanding of modern cybercrime, in order to equip law enforcement agencies with the knowledge they need to combat it and to counteract this growing threat to the EU.

Europol Strategy adopted by Management Board

The Europol's Management Board has updated its corporate strategy with a document entitled "Delivering Security in Partnership" came about following extensive consultation of Member States and partners.

The new strategy now includes six strategic objectives, including bringing together relevant partners for cross-border cooperation and joint action, emphasising Europol's important mandate in this respect.

In order to deliver greater results, Europol will focus on three priorities:

- supporting large real-time investigations;
- offering specialized expertise;



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-providing high-end technical assistance through the decryption platform.

## **INTERPOL**

### [65 million border checks performed, more than 100 people smugglers arrested](#)

Frontex led Joint Action Days (JAD) Danube 8 against serious and organised cross-border crime in Central and South-Eastern Europe together with the Austrian authorities, 12 EU and EU-associated countries, Europol, Eurojust and INTERPOL.

The week-long operation, from 23 June to 3 July, is part of the European Multidisciplinary Platform against Criminal Threats (EMPACT) and led to the arrest of 108 people smugglers and identify two cases of trafficking in human beings. In addition, 25 stolen vehicles were seized and 115 false documents were found. Participating countries received 171 international arrest warrants, 8 red notices and 8 blue notices from INTERPOL.

In total, almost 65 million checks were carried out.

Frontex standing corps officers, along with customs, border guards and police officers from the participating countries managed the operation. The fight against smuggling of migrants, trafficking in human beings and document fraud were the main concerns.

### [Human trafficking and migrant smuggling: more than 1,000 arrests in joint INTERPOL-AFRIPOL operation](#)

INTERPOL and AFRIPOL's first joint operation against human trafficking and migrant smuggling resulted in more than 1,000 arrests worldwide and thousands of victims detected. Operation "FLASH-WEKA," coordinated with the participation of law enforcement agencies in 54 countries, aimed to dismantle the organised crime networks behind human trafficking and migrant smuggling in Africa and beyond, as many cases involve victims from Asia, particularly Bangladesh, India, Pakistan and Sri Lanka. The operation was coordinated with the help of INTERPOL's African Union Support Programme, which assists AFRIPOL in developing its strategic framework and operational functions across the



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continent.

### [Operation Nervone has dealt a significant blow to the OPERA1ER group](#)

Over the past four years, a highly organized criminal organization known as OPERA1ERe has targeted financial institutions and mobile banking services with malware, phishing campaigns and large-scale Business Email Compromise (BEC) scams, stealing between 11 and 30 million in more than 30 attacks across 15 countries in Africa, Asia and Latin America.

Operation Nervone, carried out through international collaboration and intelligence sharing, dealt a major blow to the OPERA1ER group; authorities in Côte d'Ivoire were able to arrest a key suspect linked to attacks against financial institutions across Africa. According to INTERPOL's African Cyberthreat Assessment Report 2022, cybercrime is a growing threat in the West African region, with victims worldwide. Operation NERVONE underscores INTERPOL's commitment to proactively combat the threat of cybercrime in the region.

### **OLAF**

#### [OLAF strengthens international net to protect Ukraine aid](#)

On 5 July, the European Anti-Fraud Office (OLAF) hosted a series of multilateral and bilateral meetings with the senior management of the National Anti-Corruption Bureau of Ukraine (NABU), the Specialised Anti-Corruption Prosecutor's Office of Ukraine (SAPO) and the United States Agency for International Development, Office of Inspector General (USAID). As Ukraine's current financial needs and future reconstruction following Russia's unprovoked and unjustified aggression require substantial help from the EU and other international donors, strategic and operational discussions among the participants focused on work priorities, fraud risks and main challenges that must be addressed in order to implement efficient and visible measures to fight fraud and corruption affecting the EU's and international financial assistance to Ukraine.

### **EUROJUST**

#### [History in the making – the International Centre for the Prosecution of the Crime of Aggression Against Ukraine starts operations at Eurojust](#)



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Marking a historic moment, the International Centre for the Prosecution of the Crime of Aggression Against Ukraine (ICPA) officially started operations today at Eurojust. The ICPA will support the preparation of crime of aggression cases, by securing crucial evidence and facilitating the process of case building at an early stage. At a dedicated launch event on 3 July at Eurojust's premises in The Hague, the ICPA was inaugurated by Eurojust's President Ladislav Hamran, European Commissioner for Justice Didier Reynders, Prosecutor General of Ukraine Andriy Kostin, ICC Prosecutor Karim A.A. Khan, Assistant Attorney General Kenneth A. Polite, and Justice Minister of the Netherlands Ms Dilan Yeşilgöz-Zegerius. At the same time, a contribution agreement with the European Commission's Service for Foreign Policy Instruments was signed and the Centre's first operational kick-off meeting took place.

## EPPO

### [Italy: EPPO blocks €141,000 in fraud investigation on agricultural funding](#)

On 25 July 2023, a freezing order of 141 thousand euros was carried out today, as part of an investigation into fraud against the funds of the Common Agricultural Policy (CAP), coordinated by the European Prosecutor's Office in Venice (Italy). The freezing order was issued on 11 July 2023 by the PGI of the Court of Padua against seven natural persons, for sums allegedly unduly received from 2017 to 2022. This judicial measure was carried out by the EPPO Section of the *Carabinieri* of Venice and the *Gruppo Forestale Carabinieri* of Brescia. The suspects allegedly used false documentation attesting to the ownership of land not owned by them - including state property -, in order to obtain undue payments of PAC funds. The judge of the Court of Padua also ordered the seizure of the titles of CAP rights held by two of the suspects, both farmers, based in Padua and Desenzano del Garda.

### [Italy: EPPO seizes €2 million in investigation into textiles smuggled from China](#)

An investigation into smuggling and VAT evasion, conducted by the European Public Prosecutor's Office (EPPO) in Bologna (Italy), has led to a freezing order of €2 million, and of 3 555 096 metres of textiles smuggled from China. The estimated value of the seized fabric is €4.5 million. The judicial order was executed by the Italian Financial Police (Guardia di Finanza) of Prato, against a textile trading company based in that city. According to the investigation, the Italian company used false purchase invoices, ostensibly issued by companies located in Hungary, Germany and France, to conceal that the fabrics were actually imported directly from China. Analysis of documents and



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checks on the transport of the fabrics, carried out by the Guardia di Finanza, indicate that the company purchased the textiles directly from China – thus avoiding the payment of import VAT and customs duties, totalling an estimated €2 011 035. The investigation also made it possible to identify the suspected manager of the operation, who presented himself as an employee of the Italian company. The suspect is under investigation for the crimes of smuggling and the use of false invoices. The crimes under investigation took place between 2020 and February 2023. All persons concerned are presumed to be innocent until proven guilty in the competent Italian courts of law.

### [EPPO signs working arrangement with National Anti-Corruption Bureau of Ukraine](#)

The European Chief Prosecutor, Laura Codruța Kövesi, and the Director of the National Anti-Corruption Bureau of Ukraine (NABU), Semen Kryvonos, signed a working arrangement today on cooperation between the European Public Prosecutor's Office (EPPO) and the NABU. The arrangement, which aims to facilitate the cooperation in investigating corruption cases, is the second signed with Ukrainian authorities, after the signature of a working arrangement with the Ukrainian Prosecutor General's Office, on 18 March 2022. The instrument signed today strengthens the cooperation with Ukrainian authorities specialised in investigating corruption cases and shows both parties' commitment to the protection of EU funds allocated to Ukraine, in the context of the war and for reconstruction. The EPPO believes that cooperation with Ukrainian law enforcement and judicial authorities is crucial to fight efficiently against organised crime groups and misuse of these funds. The EPPO and the NABU, together with representatives of the Specialised Anti-Corruption Prosecutor's Office from Ukraine, are already at work in pursuit of these objectives. An operational meeting took place after the signature of the working arrangement to discuss concrete cooperation in ongoing investigations and further exchange of information.

## **COURT OF JUSTICE OF THE EUROPEAN UNION**

### [Revocation and refusal of refugee status: the Court of Justice clarifies the conditions for adopting such a measure with regard to a third-country national who is convicted of a crime](#)

The Court holds that the existence of a danger to the community of the Member State in which the third-country national concerned is present cannot be regarded as established by the mere fact that he or she has been convicted by a final judgment of a particularly serious crime. A revocation measure is subject to two separate conditions being satisfied, namely, first, that the third-country national concerned has been convicted by a final judgment of a particularly serious crime and, secondly, that



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it has been established that that third-country national constitutes a danger to the community of the Member State in which he or she is present.

The Court clarifies that the revocation measure at issue may be adopted only where the third-country national concerned constitutes a genuine, present and sufficiently serious threat to one of the fundamental interests of the society of the Member State in which he or she is present.

the Court states that the revocation of refugee status is conditional on the competent authority establishing that such a measure is proportionate having regard to the danger posed by the third-country national concerned to a fundamental interest of the society of the Member State in which he or she is present.

[Wrongful removal of a child: although the court of the Member State in which the child was habitually resident has jurisdiction to rule on rights of custody, it may exceptionally request the transfer of the case to a court of the Member State to which the child has been removed](#)

The Court holds that the court of a Member State which has jurisdiction to rule on the substance of rights of custody, on the ground that the child was habitually resident in that Member State immediately before he or she was removed to another Member State by one of his or her parents, may exceptionally request the transfer of the case to a court of that other Member State.

This presupposes that the child has a particular connection with that other Member State, that that other court – in the view of the court having jurisdiction – is better placed to hear the case, and that the transfer is in the best interests of the child.

[Combating fraud against the European Union's financial interests: national rules on limitation periods for criminal liability must allow effective prevention and punishment](#)

The Court pointed out that the breach of the obligation to lay down effective criminal penalties in order to protect the financial interests of the European Union infringes EU law. The Member States are required under EU law to counter fraud and any other illegal activities affecting the financial interests of the European Union through effective deterrent measures. In that respect, the Court states that the Member States must ensure that the limitation rules laid down by national law allow effective punishment of infringements linked to such fraud. The approaches adopted in the Romanian case-law, from which it follows that Romanian law did not provide for any ground for interrupting the limitation period during a period of almost four years, creates a systemic risk of the offences in



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question going unpunished, which is not compatible with the requirements of EU law. That risk is exacerbated by the possible retroactive application of that lack of grounds for interruption to a previous period, on the basis of the principle of the more lenient criminal law (*lex mitior*).

## **COUNCIL OF EUROPE**

### [GRETA launches the fourth evaluation round of the Council of Europe Anti – Trafficking Convention](#)

The Group of Experts on Action against Trafficking in Human Beings (GRETA) launches the fourth round of evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, which will focus on vulnerabilities to human trafficking and measures taken by States Parties to prevent them, identify and support vulnerable victims, and punish perpetrators.

In addition, each State Party will receive country-specific follow-up questions on unimplemented or partially implemented recommendations after the third evaluation cycle.

## **EUROPEAN COURT OF HUMAN RIGHTS**

### [Bryan and Others v. Russia](#) (Application no. 22515/14)

In the case *Bryan and Others v. Russia*, the Court held unanimously that there had been a violation of Art. 5§1 (right to liberty and security) and Art. 10 (freedom of expression) of the European Convention of Human Rights. The case concerned a protest that took place in 2013, when 30 Greenpeace activists stormed a Russian offshore oil-drilling platform. The activists were on board of a vessel (Arctic Sunrise) sailing under the flag of the Netherlands. The Russian coastguard intercepted the vessel and towed it to the port of Murmansk, where the activists were charged with piracy, charges later reclassified to hooliganism. The Court affirmed its jurisdiction: despite the compensation the activists received because of a settlement agreement reached by the Netherlands and Russia over the case, after an arbitration proceeding under the United Nations Convention on the Law of the Sea, there had been no acknowledgment by Russia of a breach of activists' rights. The Court found that the period during the vessel had been under Russian control and up its arrival in Murmansk had amounted to a deprivation of activists' liberty: this period of detention had been completely unrecorded and had amounted to a grave violation of Art. 5 of the Convention. The activists' detention went on for two months, during which period there had been a confusion over the charges and the



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reason on the detention itself. The Court has also found that the detention had amounted to an interference with freedom to express opinion on a matter of significant environmental interest, which had not been prescribed by national law.

### [Bijan Balahan v. Sweden](#) (Application no 9839/22)

In the Chamber judgement *Bijan Balahan v. Sweden*, the Court held that there had been no violation of Art. 3 (prohibition on inhuman and degrading treatment) of the European Convention of Human Rights. The case concerned the authorities' decision to extradite Mr. Bijan Balahan from Sweden to the U.S., as he's wanted in California for aggravated mayhem, torture, inducing false testimony, dissuading a witness and grand theft, all allegedly committed in 2020. The Court found that the plaintiff had failed to make out his argument that he would risk, either *de jure* and *de facto*, a life sentence without parole if extradited or that the sentence he might receive would be grossly disproportionate. In dismissing the argument about the disproportion of the sentence, the Court noted the seriousness of the accusations against Mr Bijan Balahan. The Court also indicated the Swedish Government, under Rule 39 of the Rules of the Court, that it was desirable, in the in the interests of the proper conduct of the proceedings, not to extradite the applicant until the present judgement became final.

### [Glukhin v. Russia](#) (Application no. 11519/20)

In the case *Glukhin V. Russia*, the Court held unanimously that there had been a violation of Art. 8 (right to respect for private life) and Art. 10 (freedom of expression) of the European Convention of Human Rights. The case concerned the authorities' use of facial-recognition technology against Mr Glukhin, following his holding a solo-demonstration in the Moscow underground. The police discovered the demonstration during a routine monitoring of the Internet, as photos and video of Mr Glukhin holding a life-size cardboard of a Russian protestor whose case had caused public outcry have been uploaded to social-media sites. According to Mr Glukhin, the police has used a facial-recognition technology to identify him from screenshots of the social-media and footage from CCTV surveillance cameras installed in the metro: the police promptly used the footage to put the applicant under arrest. The Court considered that the plaintiff had sought to express his opinion on a matter of public interest but the authorities, however, had shown no tolerance towards his solo-demonstration, which had been peaceful and had not caused nay danger to public order of safety. The Court noted, the lack of detailed rules in the domestic law governing the scope and application of measures involving the use of facial-recognition technology as well as the absence of strong safeguards against



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the risk of abuse and arbitrariness. It found, however, that the measures taken against Mr Glukhin had been particularly intrusive in the face of what had been a peaceful protest, which had not presented any danger to the public or transport safety. It had in fact only led to his prosecution for a minor offence.

[B.F. and Others v. Switzerland](#) (Application nos. 13258/18, 15500/18 and 9078/20)

In the judgement *B.F. and Others v. Switzerland* the Court held unanimously that there had been a violation of Art. 8 (right to respect for private and family life) of the European Convention of Human Rights. The applicants entered Switzerland in different times but were all recognized as refugee within the meaning of the 1951 United Nations Convention relating to the status of refugee: they were anyway granted provisional admission to the Country, not asylum, since the fear of persecution for their refugee status were deemed to have arisen as a result of their illegal exit from their State of origin. The case concerns the authorities' refusal of family reunification as their entitlement to that procedure, which had been discretionary and subject to certain condition. In the cases in which it found that the refusal of the requested family reunification constituted a violation of Art. 8 of the Convention, the Court found that the authorities, when they applied the discretionary condition of non-reliance in social assistance in the way they had done had not struck a balance between the applicants' interest in being reunited with their family members and the interest of the community in controlling immigration, with a view to protecting economic well-being of the Country.

[Carvajal Barrios v. Spain](#) (Application no. 13869/22)

In the case concerning the extradition of Mr Carvajal Barrios to the United States, where he's wanted for drug-smuggling offences, the Court declared the application inadmissible. The applicant, Mr Carvajal Barrios, is a Venezuelan national in detention nearby Madrid. He was a member of Venezuelan intelligence agency: in 2014, while working as Venezuelan consul in Aruba (Kingdom of the Netherlands), he was arrested pursuant to a United States warrant arrest and, as a result of his diplomatic immunity, he was ultimately expelled from Aruba rather than extradited to the U.S. In 2019, the appellant travelled to Spain, where he was arrested pursuant an INTERPOL search order: the U.S. requested extradition on charges of, among other things, narco-terrorism conspiracy, conspiracy to import cocaine into the U.S. and possession of guns and destructive devices in furtherance of a drug-trafficking crime. Referring to the case-law principle in *Sanchez-Sanchez v. the United Kingdom*, the Court found the application manifestly ill-founded, declaring it inadmissible, as



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the plaintiff had failed to demonstrate that he would be at a real risk of ill-treatment (life imprisonment without parole) in breach of Art. 3 of the Convention if extradited.

[A.A. v. Sweden](#) (Application no. 4677/20)

The case concerned the refusal of the applicant asylum claim and the order to deport him to Libya. In the Chamber judgement, the Court found that the applicant's removal would not be in violation either of Art. 2 (right to life) and Art. 3 (prohibition of inhuman or degrading treatment) of the European Convention of Human Rights. The Court concluded that the applicant had failed to substantiate that he would be at risk of being killed or subject to ill-treatment upon returning to Libya, either because of the general security situation or because his affiliation with the Ghaddafi regime.

## ITALIAN CONSTITUTIONAL COURT

[The termination of enforcement proceedings against Germany for damages for war crimes during the Second World War is not unlawful](#)

With judgment no. 159, the Court affirmed that the immunity (so-called restricted) of the States operates in enforcement proceedings, as already recognized in favor of Germany by the International Court of Justice in The Hague, and held that the extinction of the pending proceedings is compensated by the protection introduced with the establishment of the "refreshments" Fund, in an amount equal to the sums paid by judgments that have become final.

The Court held that the contested provision strikes a not unreasonable balance between the judicial protection of those who have obtained a final judgment and the obligation to comply with the 1961 Bonn Agreement on compensation for victims of war crimes.

[Criminal enforcement - European arrest warrant - Grounds for optional refusal of surrender](#)

The Constitutional Court declared the partial constitutional illegitimacy of art. 18-bis of Law no. 69 of 2005, in so far as it does not provide for the optional refusal of the surrender of a citizen of a non-member State of the European Union who legitimately and effectively has residence or dwelling in Italian territory, provided that the Court of Appeal orders that the penalty or detention measure imposed on him by the judicial authority of a Member State of the European Union is executed in Italy in accordance with its national law.



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