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International & European
Criminal Law Observatory

ON CULTURAL ISSUES, HUMAN RIGHTS AND SECURITY

MONTHLY WRAP SEPTEMBER 2023

UNITED NATIONS SECURITY COUNCIL

[S/RES/2698 \(2023\)](#)

In its Resolution 2698 of 29 September 2023, the Security Council (SC) reaffirms its strong commitment to the sovereignty, independence, territorial integrity and national unity of Libya. It also expresses grave concern at the continued endangerment of lives by the smuggling of migrants in the Mediterranean Sea, in particular off the coast of Libya, recognizing that among these migrants may be persons who meet the definition of a refugee under the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto. The SC emphasizes in this respect that migrants, including asylum-seekers and regardless of their migration status, should be treated with humanity and dignity and that their rights should be fully respected. It urges all States to comply with their obligations under international law in this regard, including international human rights law and international refugee law, as applicable, stressing also the obligation of States, where applicable, to protect the human rights of migrants regardless of their migration status, including when implementing their specific migration and border security policies. Hence, in particular, the SC:

“1. Condemns all acts of migrant smuggling and human trafficking into, through and from the Libyan territory and off the coast of Libya, which undermine further the process of stabilization of Libya and endanger the lives of hundreds of thousands of people;

2. Calls upon Member States to place the human rights and the immediate needs of migrants and refugees at the core of their efforts to prevent and counter smuggling and trafficking;

[*omissis*]

5. Calls upon all States, with relevant jurisdiction under international law and national legislation, to investigate and prosecute persons responsible for acts of migrant smuggling and human trafficking at sea, in a manner consistent with States’ obligations under international law, including international human rights law and international refugee law, as applicable”.

[S/RES/2697 \(2023\)](#)

In its resolution 2697 of 15 September 2023 the Security Council (SC) recalls that ISIL/Da’esh constitutes a global threat to international peace and security through its terrorist acts, its violent



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extremist ideology, its continued gross, systematic and widespread attacks directed against civilians, its violations of international humanitarian law and abuses of human rights, particularly those committed against women and children, and including those motivated by religious or ethnic grounds, and its recruitment and training of foreign terrorist fighters whose threat affects all regions and Member States. Also the SC condemns the commission of acts by ISIL/Da'esh involving murder, kidnapping, hostage-taking, suicide bombings, enslavement, sale into or otherwise forced marriage, trafficking in persons, rape, sexual slavery and other forms of sexual violence, recruitment and use of children, attacks on critical infrastructure, as well as its destruction of cultural heritage, including archaeological sites, and trafficking of cultural property. Finally, The SC emphasizes to underscore the importance of sharing evidence collected by the Investigative Team established by resolution 2379 (2017) with the relevant Iraqi authorities, in a timely manner, for eventual use in fair and independent criminal proceedings, consistent with the applicable international law and the Investigative Team's Terms of Reference. Hence, in particular, the SC:

“1. Reaffirms its resolution 2379 (2017), by which the Investigative Team, headed by a Special Adviser, was established; and recalls the terms of reference approved by the Council (S/2018/119);
[omissis]

3. Further takes note of the request from the Government of Iraq for the Investigative Team to promote national accountability in Iraq for members of ISIL/Da'esh and those who provided assistance and financing to this terrorist organisation by providing the evidence it has to the Government of Iraq within the next year;

4. Requests the Secretary-General to submit to the Security Council, no later than 15 January 2024, a report setting out recommendations for implementing this request with full respect for the sovereignty of Iraq;

5. Requests the Investigative Team, with the approval of the Government of Iraq, determine the modalities for evidence sharing with third states, further requests that the Investigative Team communicate to the Government of Iraq on what previous evidence has been shared with third states, and recalls the importance of promoting throughout the world, accountability for acts that may amount to war crimes, crimes against humanity or genocide committed by ISIL/Da'esh”.

UNODC

[UNODC Joins Regional Crime Fighters to Tackle Scams and Human Trafficking in SE Asia](#)



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Nations in the southeast Asian region joined the UN crime-fighting agency in Bangkok on 26 September to launch a new strategy tackling organized crime and human trafficking. The focus of the plan is on criminal activity associated with casinos in the region, and other scams including money laundering and cybercrime. The plan of action was announced in the Thai capital by officials from the Association of Southeast Asian Nations (ASEAN) together with partner China, and the UN Office on Drugs and Crime (UNODC). The new plan aims to strengthen prevention measures and improve the capacities of crime fighters to investigate international organized crime and human trafficking across the whole region. Human trafficking to recruit victims into criminal activity, is just one aspect of transnational organised crime, according to a policy report issued by UNODC.

The report has found that, rather than operating in the shadows, transnational organised crime groups there can be remarkably open, in some cases presenting themselves as legitimate business entities or even philanthropic organisations.

UNHRC

[UN Commission of Inquiry on Ukraine Finds Continued Systematic and Widespread Use of Torture and Indiscriminate Attacks Harming Civilians](#)

“There is continuous evidence that Russian armed forces are committing war crimes in Ukraine, including unlawful attacks with explosive weapons, attacks harming civilians, torture, sexual and gender-based violence, and attacks on energy infrastructure”, the Independent International Commission of Inquiry on Ukraine said in its latest update.

During a presentation to the Human Rights Council in Geneva, the Commission reported that it had documented explosive weapons attacks on residential buildings, a functional medical facility, a railway station, a restaurant, shops and commercial warehouses. These attacks led to civilian casualties, the damage or destruction of key facilities, and the disruption of essential services and supplies.

The Commission’s investigations in Kherson and Zaporizhzhia indicate the widespread and systematic use of torture by Russian armed forces against persons accused of being informants of the Ukrainian armed forces. In some cases, torture was inflicted with such brutality that it caused the death of the victim.

The Commission is also concerned about allegations of genocide in Ukraine. For instance, some of the rhetoric transmitted in Russian state and other media may constitute incitement to genocide. The Commission is continuing its investigations on such issues.



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The Commission reiterates its deep concern at the scale and gravity of violations that have been committed in Ukraine by Russian armed forces and emphasizes the need for accountability. It also recalls the need for the Ukrainian authorities to expeditiously and thoroughly investigate the few cases of violations by its own forces.

INTERNATIONAL CRIMINAL COURT

[Presentation of evidence by the Legal Representatives of Victims in the Yekatom and Ngaïssona case: Practical information](#)

Background: Mr Yekatom is alleged to be responsible for crimes committed in this context in various locations in the CAR, including Bangui and the Lobaye Prefecture, between 5 December 2013 and August 2014, crimes against humanity: murder, deportation or forcible transfer of population, imprisonment or other severe deprivation of physical liberty, torture, persecution, and other inhumane acts and war crimes: murder, torture and cruel treatment, mutilation, intentional attack against the civilian population. The trial in this case opened on 16 February 2021 before Trial Chamber V and the prosecution called 75 witnesses to testify. Mr Yekatom and Mr Ngaïssona are in the Court's custody. 1,708 victims are participating in this case. The judges appointed two separate teams of lawyers to represent two groups of victims authorized to participate, i.e. a group of former child soldiers, on the one hand, and victims of other crimes on the other, but, the hearing scheduled on 18 September at 9:30 is cancelled.

[ICC Office of the Prosecutor Partners with National Authorities and International Experts in the Forensic Identification and Restitution of Remains of Victims in the Central African Republic](#)

The Office of the Prosecutor (OTP) of the International Criminal Court (ICC) recently supported the return of remains of victims of alleged atrocity crimes in the Central African Republic, as part of a ceremony held in Bangui. The remains had been recovered during recent exhumations in the country which had been undertaken through collaboration between the OTP, national authorities, and international partners.

The provision of support with respect to the identification and return of remains of victims forms part of a broader range of assistance that the Office is seeking to provide to CAR authorities, including the Special Criminal Court established to address the legacy of alleged international crimes committed in the country.

INTERNATIONAL CRIMINAL CRIMES



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[Central African Republic Ex-Strongman Charged With Crimes Against Humanity](#)

A United Nations-backed court in the Central African Republic (CAR) said it had charged ex-rebel leader Abdoulaye Hissene with crimes against humanity and war crimes on Thursday.

One of the poorest countries in the world, the CAR was plunged into a bloody sectarian conflict after Seleka rebels, a coalition of armed groups mainly composed of Muslims, removed President Francois Bozize in early 2013.

[Crimes Against Humanity in Syria: The First Trial in France Will Be Held in May 2024](#)

The trial of three senior officials of Bashar al-Assad's regime for the death of two French Syrian citizens, the first who will judge in France for crimes against humanity committed in Syria, will take place from 21 to 24 May, a judicial source said Monday.

This trial for complicity in crimes against humanity and war crimes, the dates of which were revealed by the Emirati daily The National, will be held before the Paris Assize Court.

Targeted by international arrest warrants, Ali Mamlouk, Jamil Hassan and Abdel Salam Mahmoud are likely to be tried by default. The three senior officials accused were working in the Syrian regime's intelligence services.

[Bosnia Arrests Five Serb Ex-Soldiers for Srebrenica Genocide](#)

Officers from Bosnia's State Investigation and Protection Agency on Tuesday arrested five wartime Bosnian Serb Army commanders and soldiers on genocide charges. The Bosnian state prosecution said they are suspected of participating in the capture and murder of around 70 Bosniak men and boys, as well as one woman, on July 15, 19 and 23, 1995 at Jarovlje in the Vlasenica area, and at two locations in the Bisine-Sekovici area.

Over 7,000 Bosniak men and boys were killed in a series of massacres during the Srebrenica genocide in July 1995.

[Civil War In Liberia: Ex-Military Man Charged In Paris For Crimes Against Humanity](#)

A former Liberian National Patriotic Front (NPFL) officer of rebel leader Charles Taylor was charged Wednesday in Paris for crimes against humanity in the 1990s during the civil war in Liberia, AFP learned Friday from sources close to the file. This man born in 1965 who had been living in France for more than 20 years and worked in a bar in the east of the country, according to another of these sources, is accused of violence, torture, in his name, and possibly as an accomplice.

The investigation was carried out by the gendarmes of the Central Office for the Fight against Crimes against Humanity and Hate Crimes. The man was placed under judicial control against the opinion of the National Anti-terrorism Prosecutor, who requested his detention in custody.



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[The Investigating Judges of the Special Criminal Court charged Edmond Patrick Abrou](#)

On Monday 18 September 2023, the investigating judges of the Special Criminal Court (SCC) accused Mr Edmond Patrick Abrou, self-proclaimed General «*antibalakas*». He is accused of crimes against humanity (for murder, rape, deportation or forced displacement of population, serious deprivation of physical freedom, persecution of a group because of its religion and any other inhuman act) and war crimes (murder, rape, looting, cruel treatment and attacks on the civilian population) against crimes committed in the locality of Boyo (Prefecture of Ouaka), between 6 and 13 December 2021. An arrest warrant had been issued by the SCC examining magistrates against this suspect. In execution of the arrest warrant, Mr Abrou was arrested on Saturday, 16 September 2023 and brought before the examining cabinet responsible for the dossier, who conducted the first appearance hearing in accordance with Article 85 of the Rules of Procedure and Evidence.

[Genocide in Rwanda: former prefect indicted in Paris and imprisoned](#)

Pierre Kayondo, a former Rwandan prefect suspected of having participated in the 1994 genocide in the country, has been indicted in Paris and imprisoned, AFP learned on Saturday.

Kayondo was the subject of an investigation in France from the end of 2021 after a complaint from a collective of victims.

The former Rwandan politician was the subject of a complaint raised by the Collective of Civil Parties of Rwanda (CPCR) filed in September 2021, which gave rise to the rapid opening of a judicial investigation. In its complaint, the CPCR stated that Kayondo, “former prefect of Kibuye and former deputy” in Gitarama prefecture, had “actively participated in the organization of exterminations in Ruhango and Tambwe in the prefecture of Gitarama allowing the establishment of groups of militias Interahamwe, by providing weapons and attending meetings”.

EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

[Crimes Against Humanity, Genocide and Gross Violations of 1949 Geneva Convention in the So-Called “Case 002”](#)

On 15 September 2010, Nuon Chea and Khieu Samphan (along with Ieng Sary and Ieng Thirith) were indicted on charges of crimes against humanity, genocide, and serious violations of the 1949 Geneva Conventions in what is referred to as Case 002 before the Extraordinary Chambers in the Courts of Cambodia (ECCC). The allegations against them are specified in the closing order of Case 002. As Ieng Thirith was found unfit to stand trial, and Ieng Sary passed away on 14 March 2013, the remaining two defendants in Case 002 are Khieu Samphan and Nuon Chea. In September 2011, the



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Trial Chamber decided to sever (separate) the charges in the closing order of Case 002 into a series of smaller trials.

The first trial in Case 002, referred to as Case 002/01, commenced on 21 November 2011, and on 7 August 2014, Nuon and Khieu Samphan were found guilty of crimes against humanity and sentenced to life imprisonment.

Instead, Case 002/02 pertains to the second trial against Khieu Samphan and Nuon Chea, where additional charges stemming from the closing order in Case 002 will be heard. In a decision dated 4 April 2014, the Trial Chamber determined that the following alleged crime sites and factual allegations would constitute the basis for Case 002/02: Genocide against the Cham and Vietnamese (excluding crimes committed by the Revolutionary Army of Kampuchea on Vietnamese territory), Forced marriages and rapes (nationwide), Internal purges, Security Center S-21; Kraing Ta Chan Security Centre, Au Kanseng Security Centre, and Phnom Kraol Security Centre, January 1st Dam Site; Kampong Chhnang Airport Site, Trapeang Thma Dam Site, Tram Kok Cooperative, Treatment of Buddhists (limited to Tram Kok Cooperatives), Targeting of former officials of the Khmer Republic (limited to Tram Kok Cooperatives, January 1st Dam Site, Security Center S-21, and Kraing Ta Chan Security Centre).

The evidentiary hearings in Case 002/02 commenced with opening statements on 17 October 2014 and concluded on 11 January 2017. During the trial, the Chamber heard testimony from 185 individuals, including 114 witnesses, 63 civil parties, and eight experts. The evidentiary base in Case 002/02 comprised over 10,800 documents for analysis and examination by the Trial Chamber.

On 16 November 2018, the Trial Chamber announced a summary of its findings and disposition in Case 002/02. It delivered the judgment on 28 March 2019. The Chamber found Nuon Chea and Khieu Samphan guilty of crimes against humanity, serious violations of the Geneva Conventions, and genocide of the Vietnamese ethnic, national, and racial group. The Chamber also convicted Nuon Chea of genocide against the Cham ethnic and religious group under the doctrine of superior responsibility. Both Nuon Chea and Khieu Samphan were sentenced to life imprisonment. The Chamber took into consideration the life sentences imposed on Nuon Chea and Khieu Samphan in Case 002/01 and merged the [sentences](#) in Cases 002/01 and 002/02 into a single life imprisonment penalty.

COUNCIL OF EUROPE

[Council of Europe Ministers of Justice Met in Riga to Support Justice for Ukraine](#)

Meeting in Riga on 11 September, Council of Europe Justice Ministers and observer states have adopted a [declaration](#) outlining a series of principles (“Riga Principles”) to comprehensive accountability for the Russian Federation’s aggression against Ukraine and provide reparations to all



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victims of the war, including through the targeted and effective operation of the Register of Damages caused by aggression.

The Register of Damages was considered as the main instrument to ensure that Russia will pay for the damage caused in Ukraine by its illegal war, it will contribute to a future international reparation mechanism that will lead to full and effective reparation for Ukraine and its victims.

The principles outlined in the declaration emphasise that the Damage Registry for Ukraine should have a victim-centred approach to provide remedies especially for the most vulnerable, such as women and children. They also stress the importance of providing assistance to national authorities to facilitate the coordination of domestic efforts to support Register's functioning and to meaningfully consulting civil society and non-governmental organisations, including human rights defenders, as well as victims and victims' rights organisations.

OSCE

[OSCE Course Highlights Importance of Financial Intelligence in Preventing and Countering Terrorism](#)

On 5 to 7 September 2023, the OSCE Secretariat's Transnational Threats Department, with the support of the OSCE Mission in Kosovo (OMiK) and the United Nations Office on Drugs and Crime (UNODC), organized a three-day training course in Pejë/Peć on how to use financial intelligence to effectively cut off terrorist financing channels. This represents the second module of the OSCE-UNODC training programme on countering the financing of terrorist, the aim of which is to build the operational framework of local bodies to prevent terrorists from moving, using, and raising funds for terrorist purposes, in line with international commitments and standards. During this course was emphasised the importance of collecting, managing and using financial intelligence in counter-terrorism investigations and participants learned about proactive and reactive analytical techniques and investigative methods for financial investigations as part of comprehensive counter-terrorism investigations.

EUROPOL

[IOCTA Spotlight Report On Malware-Based Cyber-Attacks](#)

On 13 September 2023, Europol published the report [“Cyber Attacks: The Apex of Crime-as-a-Service”](#) (the first in a series of Spotlight reports published as part of IOCTA 2023) which examines developments in cyber-attacks, the types of criminal structures behind them and how these



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increasingly professionalised groups are exploiting geopolitical changes as part of their *modi operandi*.

Europol provides dedicated support to EU cybercrime investigations by helping to protect European citizens, businesses and governments from online crime with operational, strategic, analytical and forensic support to Member State investigations. The Cyborg analysis project, based at Europol's European Cybercrime Centre (EC3), focuses on the threat of cyber-attacks and supports international cybercrime investigations and operations targeting critical computer and network infrastructure in the EU.

Malware-based cyber-attacks, particularly ransomware, remain the most important threat. In fact, the report takes an in-depth look at the nature of malware attacks and the corporate structures of ransomware groups, sheds light on the most common intrusion tactics used by criminals, and also highlights the significant increase in Distributed Denial of Service (DDoS) attacks against EU targets. Lastly, among the report's key findings are the effects the war of aggression against Ukraine and Russia's internal politics have had on cybercriminals.

[Operations co-funded by the EU lead to 197 arrests in Spain](#)

Europol has supported the Spanish national police (Policía Nacional) in 29 investigations, co-financed by the EU Financial Mechanism, which involved other EU Member States and non-EU countries and have led to the arrest of 197 suspected members of criminal organisations of 34 nationalities.

The operations, in line with EU priorities against serious organised crime, targeted a range of criminal networks involved in drug trafficking, money laundering, fraud and corruption, among other crimes. Europol facilitated the exchange of information between police agencies and provided operational coordination and analytical support, including on the ground during the multiple days of action, which resulted in 114 house searches and numerous seizures totalling at: almost 5 tonnes of cocaine, over 3 tonnes of cannabis, 1.7 tonnes of heroin, 53 kilograms of synthetic drugs, 28 firearms, 57 vehicles, over EUR 4 million in cash, properties with an estimated value of about EUR 12 million, and close to EUR 10 million in frozen bank accounts.

EUROPEAN PUBLIC PROSECUTOR OFFICE

[Launch of EPPO Academy for elite financial investigators](#)

The European Public Prosecutor's Office (EPPO) and the Italian *Guardia di Finanza* have launched "EPPO Academy", a tailor-made training programme. The European Chief Prosecutor, Laura Codruța Kăvesi, and the General Commander of the *Guardia di Finanza*, Andrea De Gennaro, signed on 27 September 2023 a working agreement to this effect. A ceremony, attended by the entire EPPO



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College, was held at the premises of the *Guardia di Finanza* School of Economic and Financial Police in Lido di Ostia, Rome. The goal of the EPPO Academy is to offer any law enforcement officer working on EPPO cases the opportunity to learn from the best in any field relevant to the competence of the EPPO. Specifically, in 2024, it will propose a first series of training courses under the auspices of the *Guardia di Finanza*, at its world-renowned School of Economic and Financial Police. Selected law enforcement officers from the 22 participating Member States will have the opportunity to better understand how their work flows into a transnational survey conducted by the EPPO and several legal instruments of particular relevance to the operations of the EPPO. They will gain a deeper insight into the existing means of acquiring and analysing evidence and detecting crimes affecting the financial interests of the EU.

[Italy: EPPO seizes €80 000 in investigation into agricultural funding](#)

At the request of the European Public Prosecutor's Office (EPPO) in Palermo (Italy), the Italian *Guardia di Finanza* has seized 80,000 euros as part of a fraud investigation into agricultural funding. Five subjects working for a farm located in the province of Messina (Sicily) are investigated. According to the evidence, the suspects falsified statements to falsely declare the ownership and possession of numerous plots of land in the province of Messina, in order to obtain agricultural funds of the European Union. Between 2013 and 2022, the suspects are believed to have unduly obtained 80,000 euros from the Italian Agency for Agricultural Payments AGEA (Agency for Agricultural Payments). Two of the suspects (both representatives of the farm investigated) asked for additional contributions for 50 thousand euros, this time not received. At the request of the EPPO, the judge for preliminary investigations of Patti ordered the preventive seizure of assets for the sums unduly received, a precautionary measure carried out on 14 September 2023 by the *Guardia di Finanza*.

EUROPEAN ANTI-FRAUD OFFICE

[OLAF, Candidate Countries And Potential Candidates Joining Forces In Fighting Fraudsters](#)

The European Anti-Fraud Office (OLAF) has organised a two-day seminar for the anti-fraud coordination services (AFCOS) of the candidate and potential candidate countries to the EU. The seminar held in Budva, Montenegro, brought together competent authorities active in the fight against fraud to discuss the challenges and opportunities in protecting the EU's financial interests. Participants from the ten candidate and potential candidate countries, representatives of three established FACs in the EU Member States, as well as colleagues from EU delegations and offices in the region had the opportunity to discuss topics of interest in the field of fraud prevention and control with particular attention to investigations, new trends in data analysis and the potential benefits of



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joining the Union anti-fraud programme. The issue of enhanced and efficient cooperation was at the heart of the discussions. The Latvian, Romanian and Spanish AFCOS presented concrete examples of how they cooperate with OLAF before, during and after investigations, including by providing information on bank accounts and transactions and supporting OLAF in the event of resistance by economic operators during an on-the-spot check, as well as in the field of data analysis. OLAF regards cooperation with the AFCOS in candidate and potential candidate countries as a vital priority and investment in the future of the EU.

EUROJUST

[Vincent Jamin Appointed Administrative Director of Eurojust](#)

The College of Eurojust appointed Vincent Jamin as Administrative Director of the Agency on 5 September 2023. Mr Jamin is a French public prosecutor by profession. It brings with it 25 years of experience in the field of criminal justice, from positions at the French Ministry of Justice (2003-2010) to several senior positions at Eurojust since 2010. Before becoming Administrative Director of Eurojust, he has been Head of the Agency's Operational Department since 2018. As Administrative Director of the European Union Agency for Criminal Judicial Cooperation, Jamin is responsible for the day-to-day administration and implementation of key organisational developments, such as the recent extension of Eurojust's mandate and its global digitisation efforts. He will take office on 1 October 2023 and remain in office for four years.

EUROPEAN COMMISSION

[EU Solidarity with Ukraine: Commission proposes to extend temporary protection for people fleeing Russian aggression against Ukraine until March 2025](#)

The European Commission proposed on 19 September to further extend temporary protection for people fleeing Russia's aggression against Ukraine from 4 March 2024 to 3 March 2025. This will provide certainty and support to over 4 million people who enjoy protection across the European Union. The EU activated the Temporary Protection Directive on 4 March 2022 by unanimous decision of the Member States and was automatically extended by one year. The Commission considers that the reasons for temporary protection persist and that temporary protection should therefore be extended as a necessary and appropriate response to the current unstable situation. Since the activation of temporary protection, only a week after Russia's brutal war of aggression against Ukraine, Member States have shown unprecedented solidarity with the Ukrainian people, not only by welcoming them to their own countries, but also making concrete efforts to facilitate its inclusion in society. The



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Temporary Protection Directive provides immediate protection and access to rights in the EU, including residence rights, access to the labour market, housing, social assistance, medical and other care. It also helps to prevent excessive pressure on national asylum systems and allows Member States to manage arrivals in an orderly and effective manner.

[Commission Facilitates the Activities of Cross-Border Associations in the EU](#)

The European Commission adopted a proposal on 5 September 2023 to facilitate the cross-border activities of non-profit associations in the EU. It will improve the functioning of the internal market by removing legal and administrative barriers for non-profit-making associations operating or wishing to operate in more than one Member State, thus promoting the role of non-profit associations in generating economic and social values in the EU and enabling a level playing field between them. At present, where non-profit-making associations carry out activities in a Member State other than that in which they are established, they do not receive uniform recognition of their legal personality and capacity and often have to register a second time or even set up a new legal entity in that Member State. The Commission proposal introduces an additional legal form of European cross-border association (ECBA) into the national legal systems of the Member States, which is specifically designed for cross-border purposes and will reduce the legal and administrative burden on the recognition and establishment of non-profit-making associations active in another Member State.

[Prison and Detention Conditions in the EU](#)

After numerous calls to action by the European Parliament, on 8 December 2022 the European Commission launched the first instrument laying down common minimum (although non-binding) standards in the field of material detention conditions. The pressing fundamental rights concerns stemming from degrading prison conditions, their detrimental effects on mutual recognition and the recent adoption of an EU Recommendation make the issue of prison conditions particularly topical and worth examining from an EU-law perspective.

This document aims to provide a comprehensive overview of the many challenges faced by the Member States of the European Union in relation to detention conditions. During the course of this investigation, it became clear that the concept of “detention conditions” should be interpreted in a broad sense, including not only material aspects closely related to the scope of detention itself, but also other related issues that significantly affect life within prison institutions. These issues may concern, for example, the abuse and prolonged duration of pre-trial detention.

Although the study identified particularly serious problems involving many EU countries, it is important to note that there is a wide range of issues that vary considerably in severity from country to country within the EU. Since it has not been possible to conduct a comprehensive review of all the



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issues related to detention, our work has focused in depth on two key issues that have assumed increasing importance at the European Union level: prison overcrowding and radicalisation within prison institutions. Despite widespread reports of the widespread phenomenon of prison overcrowding, it has emerged that the lack of common measurement indicators is a significant shortcoming, preventing a thorough international comparison.

As regards prison radicalisation, a relatively more recent issue than prison overcrowding, it has been noted that the challenges associated with radicalisation within prison institutions are receiving increasing attention at EU level. Among the relevant issues that have emerged are the specific, generally stricter, detention conditions applied to this particular group of detainees. This issue has attracted the interest of both European and national prison supervisory bodies, as its implications for fundamental rights are considerable. This issue has become particularly evident in some Member States, as illustrated in the specific cases of Belgium and France. Regarding the concrete implications of the CJEU case-law, the study found that the Court's jurisprudence had an undeniable effect on EAW proceedings with a varying impact on the practice of national authorities, whether in terms of impact on mutual trust or in terms of the parameters used to assess the real risk of inhuman or degrading treatment resulting from detention conditions in the issuing Member State.

EUROPEAN COURT OF JUSTICE

Fraudulent Activities

The preliminary ruling question raises complex issues surrounding the interpretation of several key articles within the Charter of Fundamental Rights of the European Union, the Schengen Agreement, and specific framework decisions established by the Council of the European Union. This inquiry has arisen within the jurisdiction of Spain in the course of executing a European Arrest Warrant issued by a Portuguese court. The warrant is directed at an individual named Juan, who stands convicted of a criminal offense characterized as aggravated fraud.

At the heart of this matter lies a pressing need to gain insight into how to effectively and appropriately apply European laws and agreements in the unique context of Juan's case. This situation underscores the intricate interplay between national and EU legal frameworks, with a particular focus on the principles of mutual recognition and cross-border enforcement of criminal penalties. It raises questions about the compatibility of these legal instruments and the nuances of their implementation, underscoring the broader challenges and opportunities in fostering a harmonized legal landscape within the European Union.



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[War in Ukraine: the General Court dismisses the actions brought by Mr Dmitry Alexandrovich Pumpyanskiy and Ms Galina Evgenyevna Pumpyanskaya against the restrictive measures adopted by the Council](#)

While Mr. Pumpyanskiy did not play a direct role in the military offensive in Ukraine, he is involved in economic sectors that constitute a substantial source of revenue for the Russian Federation government. Since the beginning of Russia's war against Ukraine in February 2022, the Council has included lists of measures targeting government members, banks, and major entrepreneurs who support, benefit from, or provide a significant source of revenue to the government of the Russian Federation. Mr. Dmitry Pumpyanskiy, Chairman of the Board of PJSC Pipe Metallurgical Company (TMK) and Chairman of the Board of Sinara Group, was added to the list based on his support for the Russian Federation authorities and state-owned companies and his prominent involvement in economic sectors providing a substantial source of revenue to the Russian government. Mrs. Galina Evgenyevna Pumpyanskaya is also included in the list of restrictive measures as the wife of Mr. Pumpyanskiy, Chairman of the Sinara Foundation Board. They have lodged appeals against these decisions with the European Union Court.

In judgments issued today, the Court confirms the decisions taken against Mr. and Mrs. Pumpyanskaya and maintains their names on the list of restrictive measures. Contrary to Mr. Pumpyanskiy's claims, the Court finds that the evidence provided by the Council makes it possible to conclude that his inclusion on the list of restrictive measures is justified, as he can be qualified as a significant entrepreneur involved in the oil and gas sectors, which provide a substantial source of income to the Russian government.

Regarding Mrs. Pumpyanskaya's inclusion in the list of restrictive measures, the Court recalls that she is linked to her husband due to their family relationship and their business relationship in light of their respective positions within TMK, the Sinara Group, and the Sinara Foundation.

EUROPEAN COURT OF HUMAN RIGHTS

[Compaoré v. France](#) (Application No. 37726/21)

In the Chamber judgement, the Court held unanimously that there would be a violation of Article 3 of the European Convention of Human Rights if the applicant were to be extradited to Burkina Faso. The case concerned the extradition, authorised the 21 February 2020, of Paul Francois Compaoré, where he faced criminal prosecution for incitement to murder an investigative journalist. The applicant is also brother of the former President of the Republic of Burkina Faso, who was forced to resign due to a *coup d'état*. After reviewing the diplomatic assurances given by the State of Burkina Faso, which had requested the extradition from France, and examining the reliability of those



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assurances, the Court found that those assurances had not been reiterated by the second transitional government that came into power on 30 September 2022. Since the domestic authorities had failed to take account of the new political and constitutional context in the State requesting the extradition, the Court found that the risk alleged by the applicant had not been ruled out in the extradition proceeding at the present: this was true with regard both to the risk that the applicant might not be detained in the ward of Ouagadougou Prison reserved for public figures and to the risk that he might be sentenced to life imprisonment without any possibility of release. The Court found that there would be a violation of Article 3 of the Convention under its procedural limb if the extradition order were to be enforced without a prior reassessment of the validity of the diplomatic assurances given by Burkina Faso.

[Daoudi v. France](#) (Application No. 48638/18)

In its Chamber decision, the Court has unanimously declared the application inadmissible due to the failure to exhaust domestic remedies. The applicant is an Algerian national who was sentenced to a six-years imprisonment and to permanent exclusion from France for his participation in a criminal conspiracy to commit an act of terrorism and for making use of forged documents with the intent to defraud. Upon his release, the domestic authorities made arrangements for his removal to Algeria and, in a series of orders issued by the Minister of the Interior, the applicant was placed under a residence restriction. The applicant submitted that the residence restriction to which he had been subjected since 24 April 2008 was in breach of Article 5 (right to liberty and security) of the Convention and, alternatively, of Article 2 of Protocol No. 4 (freedom of movement). In compliance with the principle of subsidiarity, applications could only be lodged with the Court after all domestic remedies had been exhausted: the Court noted that, with regard to one of the administrative orders under which he had been placed, the applicant had failed to lodge an appeal on points of law against the judgement of the Paris Administrative Court of Appeal.

[Ainis and Others v. Italy](#) (Application No. 2264/12)

The Court held, by majority, that there had been a violation of Article 2 (right to life) of the European Convention of Human Rights. The case concerned the applicants' relative, who had died from drug overdose while in police custody in Milan, while he was arrested as part of an anti-drug-trafficking operation. The Court found that the Government had failed to provide convincing arguments or evidence that sufficient steps had been taken to protect the life of the victim.

[Yuksel Yalcinkaya v. Turkey](#) (Application No. 15669/20)



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The Grand Chamber held that there had been a violation of Article 7 (no punishment without law), Article 6, para. 1 (right to fair trial) and Article 11 (freedom of assembly and association) of the European Convention of Human Rights. The case concerned the conviction of a former teacher for membership of an armed terrorist organisation, namely the FETO/PDY. The conviction of the applicant had been based decisively on his use of the encrypted messaging application “ByLock”, which the domestic courts held had been designed for the exclusive use of FETO/PDY members, under the guise of a global application. Indeed, anyone who had used the app could, in principle, be convicted on that basis alone of membership of an armed terrorist organisation. The Court held that such a uniform and global approach by the Turkish judiciary was contrary to the Article 7, which is to provide effective safeguards against arbitrary prosecutions, convictions and punishments. There had also been procedural shortcomings in the criminal proceedings, notably concerning his access to the ByLock evidence, which concerned him specifically and his ability to effectively challenge it, in breach of his right to a fair trial under Article 6.



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