Judicial and Similar Proceedings

1. Al-Saadoon v. Secretary of State for Defence (England and Wales High Court – March 29, 2015)
<http://www.bailii.org/ew/cases/EWHC/Admin/2015/715.html>

On March 29, 2015, the England and Wales High Court ruled in *Al-Saadoon v. Secretary of State for Defence* that the European Convention on Human Rights (ECHR) applies to cases where British forces shot Iraqi soldiers during security operations. The main proceedings brought by Al-Saadoon and others represent at least 1,000 cases alleging "ill-treatment, unlawful detention and, in some cases, unlawful killing of Iraqi civilians by British soldiers" during the British military involvement in Iraq between 2003 and 2009. The claimants sought "orders from the court to require the Secretary of State for Defence to investigate alleged human rights violations." The Court considered whether the duty to investigate "applied to the use of force against Iraqi civilians who were not in the custody of British forces" and "the extent to which, where individuals were within the jurisdiction of the UK, there is a duty to investigate alleged violations of their rights." The Court ruled that the duty to investigate may arise in some circumstances during handover (Article 2), detention (Article 5), and in cases where an individual is shot by a British soldier.

2. ACLU v. Clapper (U.S. Second Circuit Court of Appeals – May 7, 2015)
<https://www.aclu.org/sites/default/files/field_document/clapper-ca2-opinion.pdf>

On May 7, 2015, the U.S. Second Circuit Court of Appeals (the Court) ruled in *ACLU v. Clapper* that the National Security Agency (NSA) bulk metadata telephone collection program is unlawful. The Court found that "the district court erred in ruling that § 215 [of the USA PATRIOT Act] authorizes the telephone metadata collection program, and instead hold that the telephone metadata program exceeds the scope of what Congress has authorized and therefore violates § 215." Because the Court ruled that the program exceeds the scope of what Congress authorized, the Court "dismiss[ed] the complaint without reaching appellants' constitutional arguments." The decision voided a ruling from December 2013 by U.S. District Judge William Pauley, who found the NSA program lawful. The appeals court sent the case back to him for further review.

3. Prosecutor v. Zdravko Tolimir (International Criminal Tribunal for the Former Yugoslavia – April 8, 2015)
<http://www.icty.org/x/cases/tolimir/acjug/en/150408_judgement.pdf>

On April 8, 2015, the Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia (ICTY) issued its judgment in *Prosecutor v. Zdravko Tolimir*, upholding the convictions and sentence of Zdravko Tolimir for crimes committed in Srebrenica in 1995. According to the Court's press release, the Appeals Chamber confirmed "the Trial Chamber's finding that Tolimir participated in two joint criminal enterprises (JCE): one to murder the able-bodied men of Srebrenica and the other to forcibly remove the Bosnian Muslim population from Srebrenica and Žepa." The Chamber upheld Tolimir's "convictions for genocide, conspiracy to commit genocide, extermination, murder, persecutions, and inhumane acts (forcible transfer), on the basis of Tolimir's participation in these two JCEs," "upheld [his] sentence to life imprisonment," and "partly reversed [his] conviction for genocide." Tolimir's remaining grounds of appeal were dismissed.

4. Chagos Marine Protected Area Arbitration (Mauritius v. United Kingdom) (Permanent Court of Arbitration – March 18, 2015)
<http://www.pca-cpa.org/showpage.asp?pag_id=1429>

On March 18, 2015, the Permanent Court of Arbitration (PCA) issued its award in the matter of the *Chagos Marine Protected Area Arbitration (Mauritius v. United Kingdom)*, unanimously finding the United Kingdom's establishment of a marine protected area (MPA) around the Chagos Archipelago contravened its obligations under the Convention on the Law of the Sea. Mauritius commenced the arbitration before the PCA in 2010 after the United Kingdom declared an MPA in the waters surrounding the Chagos Archipelago. The Archipelago has been administered by the United Kingdom as part of the British Indian Ocean Territory since

https://doi.org/10.5305/intelegamate.54.3.0561 Published online by Cambridge University Press

1965 and, before then, as a dependency of its then-colony, Mauritius. Mauritius submitted, among other claims, that the United Kingdom was "not entitled to declare an MPA or other maritime zones because it is not the 'coastal State' for the purposes of the Convention," nor could it, given its 1965 commitments to Mauritius, "unilaterally [] declare an MPA or other maritime zones because Mauritius has rights as a 'coastal State.'" The PCA interpreted these claims as rooted in a dispute over the sovereignty of the Archipelago and noted that it did not have jurisdiction over that issue. However, it held that "in declaring the MPA, the United Kingdom failed to give due regard to [Mauritius's] rights and declared that the United Kingdom had breached its obligations under the Convention."

2. Spain v. Parliament and Council (Court of Justice of the European Union – May 5, 2015)
<http://curia.europa.eu/juris/document/document.jsf?text=&docid=164092&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=211426>

On May 5, 2015, the Court of Justice of the European Union (the Court) ruled in *Spain v. Parliament and Council* to dismiss Spain's actions against regulations that would enhance cooperation in creating a system of unitary patent protection in the European Union (EU). Under the "'unitary patent package,' the EU legislature sought to confer unitary protection on the European patent and establish a unified court in this area," and Spain sought "the annulment of the two regulations forming part of that package, namely the regulation on the creation of unitary patent protection . . . and the regulation governing the applicable translation arrangements . . . ." In its actions, Spain argued*, inter alia*, that the procedure for granting a patent under this system "is not subject to judicial review to ensure the correct and uniform application of EU law and the protection of fundamental rights, which undermines the principle of effective judicial protection." The Court rejected this and other arguments, noting that the "regulation merely (i) establishes the conditions under which a European patent previously granted by the European Patent Office pursuant to the provisions of the EPC may, at the request of the patent proprietor, benefit from unitary effect and (ii) provides a definition of that unitary effect."

RESOLUTIONS, DECLARATIONS, AND OTHER DOCUMENTS

1. Sendai Framework for Disaster Risk Reduction 2015–2030 (United Nations – March 18, 2015)
<http://www.wcdrr.org/uploads/Sendai_Framework_for_Disaster_Risk_Reduction_2015–2030.pdf>

On March 18, 2015, 187 United Nations member states adopted the "Sendai Framework for Disaster Risk Reduction 2015–2030" at the UN World Conference on Disaster Risk Reduction in Japan. The framework, described by the UN as "the first major agreement of the Post-2015 development agenda," includes seven targets to be achieved over the next fifteen years— "a substantial reduction in global disaster mortality; a substantial reduction in numbers of affected people; a reduction in economic losses in relation to global GDP; substantial reduction in disaster damage to critical infrastructure and disruption of basic services, including health and education facilities; an increase in the number of countries with national and local disaster risk reduction strategies by 2020; enhanced international cooperation; and increased access to multi-hazard early warning systems and disaster risk information and assessments." It also includes four priorities for action: (a) better understanding of risk, (b) strengthened disaster risk governance, (c) more investment, and (d) more effective disaster preparedness.

2. Resolution Creating Special Rapporteur on Privacy (United Nations Human Rights Council – March 26, 2015)
<http://www.un.org/ga/search/view_doc.asp?symbol=A/HRC/28/L.27>

On March 26, 2015, the Human Rights Council created the mandate of a Special Rapporteur on the right to privacy. The Council "called on all countries to support this new mandate, including by providing all necessary information requested by the Special Rapporteur, to respond promptly to his or her urgent appeals and other communications, to consider favourably his or her requests to visit their countries, and to consider implementing the recommendations made in his or her reports." The mandate was created pursuant to General

https://doi.org/10.5305/intelegamate.54.3.0561 Published online by Cambridge University Press

Assembly resolution 68/167, which addresses the right to privacy in the digital age and expresses concern at the "negative impact that surveillance and/or interception of communications . . . may have on the exercise and enjoyment of human rights."

3. Report of the United Nations Joint Human Rights Office on International Humanitarian Law Violations Committed by Allied Democratic Forces (ADF) Combatants in the Territory of Beni, North Kivy Province, Between 1 October and 31 December (United Nations – May 13, 2015)
<http://www.ohchr.org/Documents/Countries/CD/ReportMonusco_OHCHR_May2015_EN.pdf>

On May 13, 2015, the United Nations released a report on the Democratic Republic of the Congo (DRC) titled "Report of the United Nations Joint Human Rights Office on International Humanitarian Law Violations Committed by Allied Democratic Forces (ADF) Combatants in the Territory of Beni, North Kivy Province, Between 1 October and 31 December." The report states "that a Uganda-based rebel group has committed grave violations of international humanitarian law in crisis-riven north-eastern Democratic Republic of the Congo." It further states that "ADF combatants attacked 35 villages, killing at least 237 civilians, including 65 women and 35 children, between 1 October and 31 December 2014, with a further 47 civilians wounded, 20 abducted and two sexually abused." Additionally, the report documents "violations of international humanitarian and human rights law committed in the same period by members of the Armed Forces of the Democratic Republic of the Congo (FARDC) in operations against the ADF."

https://doi.org/10.5305/intelegamate.54.3.0561 Published online by Cambridge University Press