© 2019 by The American Society of International Law
DOI:10.1017/ilm.2019.35

BRIEFLY NOTED

(Not reproduced in *International Legal Materials*)

Judicial and Similar Proceedings

1. R (Privacy International) v. Investigatory Powers Tribunal and Others (U.K. Supreme Court – May 15, 2019)

<https://www.supremecourt.uk/cases/docs/uksc-2018-0004-judgment.pdf>

On May 15, 2019, the U.K. Supreme Court ruled in *R (Privacy International) v. Investigatory Powers Tribunal and others* that that the extent of the U.K. government's power to hack into internet services is subject to judicial review. The case concerned whether the British Parliament was sufficiently clear in drafting an "ouster" clause in an attempt to keep the decisions of the Investigatory Powers Tribunal (IPT), which oversees challenges to the U.K. intelligence services, from review by other courts. It was instigated in the aftermath of Edward Snowden's disclosures of the U.K. government's bulk hacking techniques when Privacy International challenged them in the IPT. After the IPT sided with the government, Privacy International sought judicial review, and ultimately the Supreme Court determined that the language of the ouster clause was insufficiently clear, and consequently, the IPT is now subject to oversight by U.K. courts.

2. The Queen (on the application of Campaign Against Arms Trade) v. The Secretary of State for International Trade (Court of Appeal of England and Wales – June 20, 2019)

<https://www.judiciary.uk/wp-content/uploads/2019/06/CAAT-v-Secretary-of-State-and-Others-Open-12-June-2019.pdf>

On June 20, 2019, the Court of Appeal of England and Wales ruled in favor of the Campaign Against Arms Trade, finding that U.K. arms sales to Saudi Arabia for potential use in the Yemen conflict are unlawful. The Court noted that under EU law, member states "shall . . . deny an export licence if there is a clear risk that the . . . equipment might be used in the commission of serious violations of international humanitarian law." In reviewing the evidence, the Court determined that the "government made no concluded assessments of whether the Saudi-led coalition had committed violations of international humanitarian law in the past, during the Yemen conflict, and made no attempt to do so." The Court held that "there was a legal obligation (as a matter of rationality) to make a systematic assessment of past possible violations, not necessarily in every case but, where possible, before deciding whether there is a clear risk of future serious violations." In the aftermath of the decision, "International Trade Secretary Liam Fox said the government would not grant any new licences for export to Saudi Arabia and its coalition partners while it considers the implications of the judgment."

3. Prosecutor v. Ntaganda (International Criminal Court – July 8, 2019)

<https://www.icc-cpi.int/CourtRecords/CR2019_03568.PDF>

On July 8, 2019, Trial Chamber IV of the International Criminal Court found Bosco Ntaganda guilty of eighteen counts of war crimes and crimes against humanity, committed from 2002 to 2003 in Ituri, Democratic Republic of the Congo (DRC). The case relates to his position as the former Deputy Chief of Staff and commander of operations of the *Union des Patriotes Congolais/Forces Patriotiques pour la Libération du Congo* (UPC/FPLC) and his role in the non-international armed conflict taking place in the DRC at that time. The Court found Ntanganda "guilty of crimes against humanity (murder and attempted murder, rape, sexual slavery, persecution, forcible transfer and deportation) and war crimes (murder and attempted murder, intentionally directing attacks against civilians, rape, sexual slavery, ordering the displacement of the civilian

https://doi.org/10.1017/ilm.2019.35 Published online by Cambridge University Press

population, conscripting and enlisting children under the age of 15 years into an armed group and using them to participate actively in hostilities, intentionally directing attacks against protected objects, and destroying the adversary's property)."

RESOLUTIONS, DECLARATIONS, AND OTHER DOCUMENTS

1. Resolution 2467 (2019) (UN Security Council – April 23, 2019)

<https://undocs.org/S/RES/2467(2019)>

On April 23, 2019, the UN Security Council passed Resolution 2474 calling on all parties to armed conflict around the world to implement concrete commitments to combatting sexual violence during conflict. The Council noted its deep concern regarding "the full range of threats and human rights violations and abuses experienced by women and girls in armed conflict and post-conflict situations," and reiterated "its demand for the complete cessation with immediate effect by all parties to armed conflict of all acts of sexual violence and its call for these parties to make and implement specific time-bound commitments to combat sexual violence." The Council also urged existing sanctions committees to apply targeted sanctions against those who perpetrate and direct sexual violence during conflict and requested "the Secretary-General and relevant UN entities to further strengthen, the monitoring, analysis and reporting arrangements on conflict-related sexual violence."

2. The Price is Rights: The Violation of the Right to an Adequate Standard of Living in the Democratic People's Republic of Korea (UN Office of the High Commissioner for Human Rights – May 28, 2019)

<https://www.ohchr.org/Documents/Countries/KP/ThePriceIsRights_EN.pdf>

On May 28, 2019, the UN Office of the High Commissioner for Human Rights released a report titled, "The Price is Rights: The Violation of the Right to an Adequate Standard of Living in the Democratic People's Republic of Korea" (DPRK). The report "highlights how the public distribution system in the DPRK has been broken for over two decades and how, as people seek to eke out a living in a legally precarious parallel economy, they are exposed to arbitrary arrest, detention, and extortion." The report was based on 214 accounts from escapees of North Korea from 2017–2018 and it details how human rights are constantly violated due to the government's economic problems and widespread corruption, such that "people have been unable to survive through a State-led model of centralized economic planning and distribution, which includes State-assigned jobs and the dispensation of food, clothes and other rations." The report also recommends that North Korea implement reforms regarding the criminal code and the judiciary to improve human rights and take steps to ensure that the right to an adequate standard of living is provided for the entire population.

3. Referendums (Scotland) Bill (Scottish Government – May 29, 2019)

<https://www.parliament.scot/S5_Bills/Referendums%20(Scotland)%20Bill/SPBill46S052019.pdf>

On May 29, 2019, the Scottish government published a bill that would allow it to hold a referendum on Scottish independence. The bill does not list a date for the referendum, which will be set later by additional legislation, but it does list the technical aspects of holding a referendum and "prescribes the rules for voting and sets out the rules for how the poll should be conducted," as noted in the explanatory notes. British Prime Minister Theresa May, as well as three current candidates to replace her as Conservative leader, have stated they would block a request to hold another Scottish independence referendum. The bill will likely become law by the end of 2019.

https://doi.org/10.1017/ilm.2019.35 Published online by Cambridge University Press