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BRIEFLY NOTED
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Judicial and Similar Proceedings

1. Prosecutor v. Laurent Gbagbo and Charles Blé Goudé (International Criminal Court – January 15, 2019)
<https://www.icc-cpi.int/Pages/item.aspx?name=pr1427>

On January 15, 2019, the Trial Chamber I of the International Criminal Court (ICC) acquitted Laurent Gbagbo and Charles Blé Goudé of all charges of crimes against humanity allegedly committed in the context of post-electoral violence in Côte d'Ivoire in 2010 and 2011. The two were accused of four charges of crimes against humanity: murder, rape, other inhumane acts, and persecution. The majority found that the Prosecutor had not proven several elements of the crimes charged, namely a "common plan" meant to keep Gbagbo in power, including crimes against civilians "pursuant to or in furtherance of a State or organisational policy," and patterns of violence that would have demonstrated a "policy to attack a civilian population." The majority also found that the Prosecutor had not provided evidence proving that the defendants "knowingly or intentionally contributed to the commission of the alleged crimes or that their speeches constituted ordering, soliciting or inducing such crimes." In dissent, Judge Herrera Carbuccia stated that she believed the majority used the wrong standard of review, that it should have been the beyond reasonable doubt standard, and "that there is evidence upon which a reasonable Trial Chamber could convict the accused."

2. M.A, S.A. and A.Z v. International Protection Appeals Tribunal and Others (Court of Justice of the European Union – January 23, 2019)
<http://curia.europa.eu/juris/document/document.jsf;jsessionid=896C275EB9BC3CE65C9F1028EE4A6F41?text=&docid=210174&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=10246735>

On January 23, 2019, the Court of Justice of the European Union ruled in *M.A, S.A. and A.Z v. International Protection Appeals Tribunal and Others* that an EU member state that has submitted its intention to withdraw from the EU must still accept asylum applicants due to its obligations under the Dublin III Regulation until withdrawal is final. The case concerns a family that lived in the U.K. and then moved to Ireland after their U.K. visas expired, where they applied for asylum. Ireland sought to return the family to the U.K., as applicants may be sent back to the first EU country where they arrive under the Dublin rules, and the family attempted to block the move, citing the U.K.'s impending departure from the EU. As noted in the press release, the Court held that the U.K. must continue accepting such applicants for now and that a notice of withdrawal "does not have the effect of suspending the application of EU law in that Member State and that, consequently, that law continues in full force and effect in that Member State until the time of its actual withdrawal from the EU."

3. Knox v. Italy (European Court of Human Rights – January 24, 2019)
<http://hudoc.echr.coe.int/eng?i=001-189422>

On January 24, 2019, the European Court of Human Rights ruled in *Knox v. Italy* that Italy had violated the human rights of Amanda Knox, an American who had been studying in Italy in 2007 when her roommate was killed, in handling the proceedings that led to her conviction for malicious accusation. The case concerns the circumstances surrounding Knox's accusation that a pub manager killed her roommate while she was being interrogated, after which he was found to be innocent and she was sentenced to three years' imprisonment for making a malicious accusation. As stated in the press release, the Court held that there had been violations of the procedural limb of Article 3 (prohibition of torture and inhuman or degrading treatment) for the state's failure to conduct an investigation into the ill-treatment she received while being interrogated; Article 6 §§ 1 and 3(c) (right to legal assistance) for the restrictions put on Knox's access to a lawyer when there was a criminal charge against her; and Article 6 §§ 1 and 3(e) (right to the assistance of an interpreter) due to the improper

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conduct of the interpreter Knox was given during her interrogation that may have impacted the outcome of the criminal proceedings. The Court ordered Italy to pay Knox EUR 10,400 for non-pecuniary damage and EUR 8,000 for costs and expenses.

4. **United States – Anti-Dumping and Countervailing Measures on Large Residential Washers From Korea (World Trade Organization – February 8, 2019)**
<https://www.wto.org/english/tratop_e/dispu_e/464arb_e.pdf>

On February 8, 2019, a World Trade Organization (WTO) arbitration panel issued a decision to authorize South Korea to impose annual retaliatory duties worth $84.8 million on the United States after challenging U.S. anti-dumping and anti-subsidy tariffs on washing machines. The arbitration panel stated that South Korea "shall be entitled to impose suspension of concessions or other obligations" in the amount of $74.4 million for U.S. anti-dumping duty measures and $10.41 million for countervailing duty measures in the year following the decision. South Korea initiated proceedings on the matter in 2013 after the U.S. imposed anti-subsidy duties on washers made by Samsung Electronics Co, LG Electronics Inc. and Daewoo Electronics Co. In 2016, South Korea won a ruling on the matter, but returned to the WTO to complain that the United States had not complied with the WTO's recommendations and rulings within a reasonable period of time. Korea had initially requested $711 million in retaliatory duties, but the ruling also provided a sanctions formula South Korea could apply in the future if the United States imposed similar tariffs in breach of WTO rules.

5. **Certain Iranian Assets (Islamic Republic of Iran v. United States of America) (International Court of Justice – February 13, 2019)**
<https://www.icj-cij.org/files/case-related/164/164-20190213-JUD-01-00-EN.pdf>

On February 13, 2019, the International Court of Justice ruled in *Certain Iranian Assets (Islamic Republic of Iran v. United States of America)* that it has jurisdiction to hear part of Iran's case against the United States and that the application is admissible. The case was initiated after the U.S. Supreme Court decision *Bank Markazi v. Peterson*, which led to the seizure of around $1.75 billion in assets from the Iranian national bank under the Foreign Sovereign Immunities Act's terrorism exception in order to compensate victims of a 1983 bombing in Beirut, Lebanon, that the U.S. blames on Tehran. Iran invoked the Treaty of Amity, Economic Relations, and Consular Rights as the basis for the Court's jurisdiction and also argued that the United States violated the international law of state immunity from jurisdiction and execution. The Court accepted jurisdiction, allowing the case to move forward, but also upheld one of the U.S.'s five objections that the court does not have jurisdiction over Iran's claims concerning sovereign immunities.

RESOLUTIONS, DECLARATIONS, AND OTHER DOCUMENTS

1. **Compendium of State and Public Comments (International Centre for Settlement of Investment Disputes – January 18, 2019)**
<https://icsid.worldbank.org/en/Documents/State_Public_Comments_Rule_Amendment_Project_1.17.19.pdf>

On January 18, 2019, the International Centre for Settlement of Investment Disputes (ICSID) released a compendium of state and public comments on proposed amendments to ICSID's procedural rules. The compendium includes all comments sent by states and public stakeholders on the proposed amendments prior to January 15, 2019, and they address the proposals made in the working paper ICSID released on August 3, 2018. The aim of the proposed amendments is "to further modernize, simplify, and streamline the ICSID rules for arbitration, conciliation, mediation and fact-finding," and they address issues such as "transparency, appointment and disqualification of arbitrators, security for costs, allocation of costs, consolidation of cases, and third-party funding." The "ICSID Secretariat is now in the process of updating the amendments based on these comments and will publish a further revised working paper in the spring of 2019."

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2. Disinformation and 'Fake News': Final Report (U.K. House of Commons Digital, Culture, Media and Sport Committee – February 14, 2019)
<https://publications.parliament.uk/pa/cm201719/cmselect/cmcumeds/1791/1791.pdf>

On February 14, 2019, the U.K. House of Commons Digital, Culture, Media and Sport Committee released a report entitled, "Disinformation and 'Fake News': Final Report," in which it stated that Facebook "intentionally and knowingly violated both data privacy and anti-competition laws." The report was an "inquiry on disinformation that has spanned over 18 months, covering individuals' rights over their privacy, how their political choices might be affected and influenced by online information, and interference in political elections both in this country and across the world." The Committee concluded that "clear legal liabilities should be established for tech companies to act against harmful or illegal content on their sites" and recommended that a new category of tech company be created, "which tightens tech companies' liabilities, and which is not necessarily either a 'platform' or a 'publisher'" so that "tech companies assume legal liability for content identified as harmful after it has been posted by users."

3. Situation in the Central African Republic (UN Secretary-General – February 6, 2019)
<https://reliefweb.int/sites/reliefweb.int/files/resources/S_2019_147_E.pdf>

On February 6, 2019, the Central African Republic (CAR) and fourteen non-state armed groups within the state signed a peace agreement. Peace talks began on January 24, 2019, in Khartoum, Sudan, and were led by the African Union, with UN support, through the African Initiative for Peace and Reconciliation in CAR. In a report on the situation in CAR, the UN Secretary-General noted that the parties reached consensus on "all major issues on the agenda, including on justice and reconciliation, a more transparent and inclusive governance system and transitional security arrangements," and the parties agreed to set up a mechanism to oversee the implementation of the political agreement. The Secretary-General said that the peace agreement "represents an important milestone towards a durable political solution for the Central African Republic" and that it "has laid a foundation upon which all national, regional and international stakeholders must now come together to build an inclusive and sustainable peace."

4. Report of the Commission on Human Rights in South Sudan (UN Human Rights Council – February 18, 2019)
<https://www.ohchr.org/Documents/HRBodies/HRCouncil/CoHRSouthSudan/A_HRC_40_69.docx>

On February 20, 2019, the UN Commission on Human Rights in South Sudan released its third report on the situation in South Sudan, providing updates on incidents that occurred in 2018 and concluding "that despite the signing of the peace agreement, violations including rape and sexual violence continue to occur which may amount to international crimes, including war crimes and crimes against humanity." The Commission determined there were reasonable grounds to believe that the Sudan People's Liberation Army and affiliated armed groups have committed serious violations of human rights and international humanitarian law, including deliberately targeting civilian populations, targeting civilians on the basis of political and ethnic violations, killing, abduction, rape and sexual violence, looting and pillaging villages, and conscripting children into the armed forces. The Commission also found that a number of incidents were part of widespread or systematic attacks directed against the civilian population, and consequently may amount to crimes against humanity. The Commission concluded that "peace in South Sudan requires meaningful progress towards accountability for past crimes" and that the "scale of violations and crimes committed during the course of the conflict demands an urgent and holistic approach, which involves all South Sudanese."

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