JUDICIAL AND SIMILAR PROCEEDINGS

1. Al Bahul v. United States (U.S. Court of Appeals for the District of Columbia – June 12, 2015)
<http://www.cadc.uscourts.gov/internet/opinions.nsf/3EBDD9BA6454E1FB85257E620054E9E0/$file/11-1324-1557116.pdf>

On June 12, 2015, the U.S. Court of Appeals for the District of Columbia (the Court) vacated Ali Hamza Ahmad Suliman Al Bahlul's conviction for inchoate conspiracy to commit war crimes in *Al Bahul v. United States*. The Court found that Congress lacked the authority to include conspiracy on the list of internationally recognized war crimes that a military commission could try, holding "that Bahul's conviction for inchoate conspiracy by a law of war military commission violated the separation of powers enshrined in Article III § 1 and must be vacated." The Court further noted that the Supreme Court had previously looked only to the Define and Punish Clause to determine the scope of congressional authority to confer jurisdiction and stated that "Congress cannot, pursuant to the Define and Punish Clause, declare an offense to be an international war crime when the international law of war concededly does not." Previously, the appeals court had thrown out Bahlul's convictions for providing material support for terrorism and soliciting others to commit war crimes.

2. Zivotofsky v. Kerry (U.S. Supreme Court – June 8, 2015)
<http://www.supremecourt.gov/opinions/14pdf/13-628_3dq3.pdf>

On June 8, 2015, the U.S. Supreme Court (the Court) held in *Zivotofsky v. Kerry* that an Act of Congress that would allow U.S. citizens born in Jerusalem to have their place of birth listed on their passports as "Israel" infringes on the President's exclusive power to grant formal recognition to foreign states. The Court notes that the law "forces the President, through the Secretary of State, to identify, upon request, citizens born in Jerusalem as being born in Israel when, as a matter of United States policy, neither Israel nor any other country is acknowledged as having sovereignty over Jerusalem." The Court held that "[t]he President has the exclusive power to grant formal recognition to a foreign sovereign" and "[b]ecause the power to recognize foreign states resides in the President alone, [the law] infringes on the Executive's consistent decision to withhold recognition with respect to Jerusalem."

3. Sargsyan v. Azerbaijan (European Court of Human Rights – June 16, 2015)
<http://hudoc.echr.coe.int/eng?i=001-155662>

On June 16, 2015, in a case parallel to *Chiragov and Others v. Armenia*, the European Court of Human Rights (the Court) held that the rights of an Armenian refugee had been violated by his inability to return to his property in territory controlled by Azerbaijan. This "was the first case in which the Court had to decide on a complaint against a State which had lost control over part of its territory as a result of war and occupation, but which at the same time was alleged to be responsible for refusing a displaced person access to property in an area remaining under its control." The case concerned an Armenian refugee who had been forced to flee from his home in the Shahumyan region of Azerbaijan during the conflict over Nagorno-Karabakh in 1992 and had been denied access to his property since leaving. The Court found "that, although the village from which he had to flee was located in a disputed area, Azerbaijan had jurisdiction over it" and that while safety considerations justified preventing the civilians from returning to the village, "the State had a duty to take alternative measures in order to secure Mr Sargsyan's rights as long as access to the property was not possible." The Court found that there had been a "continuing violation of Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights; a continuing violation of Article 8 (right to respect for private and family life) of the Convention; and a continuing violation of Article 13 (right to an effective remedy)."

https://doi.org/10.5305/intelegamate.54.4.0780 Published online by Cambridge University Press

4. Lambert and Others v. France (European Court of Human Rights – June 5, 2015)
<http://hudoc.echr.coe.int/eng?i=001-155352>

On June 5, 2015 (with a rectified version released on June 25, 2015), the Grand Chamber of the European Court of Human Rights (the Court) ruled in *Lambert and Others v. France* that there was no violation of Article 2 (right to life) of the European Convention on Human Rights in the implementation of a previous judgment that authorized the withdrawal of the artificial nutrition and hydration of an individual named Vincent Lambert. The Court stated that "that there was no consensus among the Council of Europe member States in favour of permitting the withdrawal of life-sustaining treatment. In that sphere, which concerned the end of life, States must be afforded a margin of appreciation." Noting their awareness of the importance and sensitive nature of the issue, the "Court reiterated that it was primarily for the domestic authorities to verify whether the decision to withdraw treatment was compatible with the domestic legislation and the Convention, and to establish the patient's wishes in accordance with national law."

5. Delphi AS v. Estonia (European Court of Human Rights – June 16, 2015)
<http://hudoc.echr.coe.int/eng?i=001-155105>

On June 16, 2015, the Grand Chamber of the European Court of Human Rights (the Court) ruled in *Delphi AS v. Estonia* that an Estonian ruling that held a commercial internet news site liable for offensive comments posted by its readers was not a violation of Article 10 (freedom of expression) of the European Convention on Human Rights. The Court "found that the Estonian courts' finding of liability against Delfi had been a justified and proportionate restriction on the portal's freedom of expression," finding in particular: "the comments in question had been extreme and had been posted in reaction to an article published by Delfi on its professionally managed news portal run on a commercial basis; the steps taken by Delfi to remove the offensive comments without delay after their publication had been insufficient; and the 320 euro fine had by no means been excessive for Delfi, one of the largest Internet portals in Estonia." This case also marked the first time the Court has been asked to decide a complaint regarding liability for internet news portals concerning user-generated comments.

RESOLUTIONS, DECLARATIONS, AND OTHER DOCUMENTS

1. Report on 2014 Gaza Conflict (UN Independent Commission of Inquiry – June 22, 2015)
<http://www.ohchr.org/EN/HRBodies/HRC/CoIGazaConflict/Pages/ReportCoIGaza.aspx#report>

On June 22, 2015, the UN Independent Commission of Inquiry on the 2014 Gaza Conflict (the Commission) released a report on its findings from the conflict. The report states that the mandate of the Commission was to "examine alleged violations of international human rights law and international humanitarian law occurring between 13 June and 26 August 2014 across the Occupied Palestinian Territory, in particular in Gaza, and in Israel, and to determine whether such violations had been committed." The Commission "gathered substantial information pointing to the possible commission of war crimes by both Israel and Palestinian armed groups." The report notes the violence committed by both sides: "The 2014 hostilities saw a huge increase in firepower used in Gaza, with more than 6,000 airstrikes by Israel and approximately 50,000 tank and artillery shells fired. In the 51 day operation, 1,462 Palestinian civilians were killed, a third of them children. Palestinian armed groups fired 4,881 rockets and 1,753 mortars towards Israel in July and August 2014, killing 6 civilians and injuring at least 1,600."

2. The Case Law of the European Regional Courts: The Court of Justice of the European Union and the European Court of Human Rights (UN Refugee Agency – June 24, 2015)
<http://www.refworld.org/docid/558803c44.html>

On June 24, 2015, the United Nations High Commissioner for Refugees (UNHCR) released a manual titled "The Case Law of the European Regional Courts: The Court of Justice of the European Union and the European Court of Human Rights." The report presents a "thematic guide to the case law of the European Court of Human Rights (ECtHR) and of the Court of Justice of the European Union (CJEU) that is of relevance

https://doi.org/10.5305/intelegamate.54.4.0780 Published online by Cambridge University Press

to refugees, asylum-seekers and stateless persons." It also "summarizes and analyses the key case law on each issue covered, with the aim of providing a quick reference for legal practitioners who need to familiarize themselves with the relevant rulings of the CJEU on European Union (EU) law, and/or with the relevant rulings of the ECtHR on the European Convention on Human Rights (ECHR)." This is the first edition of the manual and covers case law up to the end of 2013.

https://doi.org/10.5305/intelegamate.54.4.0780 Published online by Cambridge University Press