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JUDICIAL AND SIMILAR PROCEEDINGS

1. Coty Germany GmbH v. Parfümerie Akzente GmbH (Court of Justice of the European Union – December 6, 2017)

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62016CJ0230>

On December 6, 2017, the Court of Justice of the European Union ruled in *Coty Germany GmbH v. Parfümerie Akzente GmbH.* that luxury brands may prohibit authorized distributors from selling their products on third-party internet platforms like Amazon. The Higher Regional Court, Frankfurt am Main, Germany, requested the Court of Justice to determine whether a contract clause between luxury brand Coty Germany and one of its authorized distributors prohibiting the distribution of Coty good on "amazon.de" was lawful under EU competition law. The Court of Justice held that selective distribution systems for luxury brands to preserve their luxury image don't breach EU law provided that "(i) resellers are chosen on the basis of objective criteria of a qualitative nature, laid down uniformly for all potential resellers and not applied in a discriminatory fashion; and (ii) the criteria laid down must not go beyond what is necessary." The Court also held that EU law does not preclude contractual clauses prohibiting the sale of luxury items on third-party internet platforms in order to maintain a luxury image, provided: "(i) that clause has the objective of preserving the luxury image of the goods in question; (ii) it is laid down uniformly and not applied in a discriminatory fashion; and (iii) it is proportionate in the light of the objective pursued."

2. Decision under article 87(7) of the Rome Statute on the Non-compliance by Jordan with the Request by the Court for the Arrest and Surrender of Omar Al-Bashir (International Criminal Court – December 11, 2017)

<https://www.icc-cpi.int/CourtRecords/CR2017_07156.PDF>

On December 11, 2017, Pre-Trial Chamber II of the International Criminal Court (ICC) referred Jordan to the Assembly of States Parties of the Rome Statute (ASP) and the UN Security Council for not executing the Court's request for the arrest of Omar Al-Bashir when he was in Jordan for the League of Arab States' Summit on March 29, 2017. The Chamber noted that it had already given its opinion in an analogous case when South Africa failed to arrest Al-Bashir while he was in the state. The Chamber had not referred South Africa because it was the first to approach the ICC with a request for an opinion on a referral of non-compliance, which is not the case for Jordan. Judge Marc Perrin de Brichambaut "appended a minority opinion concurring with the Majority's conclusions while considering that the Convention on the Prevention and Punishment of the Crime of Genocide (1948) to which Jordan and Sudan are parties offers the basis for the non-immunity of Sudan's Head of State in the present case."

3. Opinión Consultiva OC-24/17 (Inter-American Court of Human Rights – January 10, 2018)

<http://www.corteidh.or.cr/docs/opiniones/seriea_24_esp.pdf>

On January 10, 2018, the Inter-American Court of Human Rights issued an advisory opinion that held for the first time that individuals have the right to have their legal names amended to conform with their gender identity and that couples have the right to same-sex unions under the American Convention on Human Rights. Puerto Rico initiated the case in 2016 when the government asked the Court whether it had an obligation to extend property rights to same-sex couples and allow transgender people to change their name and genders on identity documentation. The ruling confirms that couples in same-sex marriages have the same family and financial rights as heterosexual married couples and said that member states should treat same-sex couples without discrimination.

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4. China — Anti-Dumping and Countervailing Duty Measures on Broiler Products from the United States — Recourse to Article 21.5 Of The DSU by the United States (World Trade Organization – January 18, 2018)

<https://www.wto.org/english/news_e/news18_e/427rw_e.htm>

On January 18, 2018, a World Trade Organization (WTO) compliance panel issued its report on "China — Anti-Dumping and Countervailing Duty Measures on Broiler Products from the United States — Recourse to Article 21.5 Of The DSU by the United States," ruling that China's efforts to adjust tariffs on U.S. poultry in response to a 2013 WTO decision had not gone far enough and that the tariffs were still not in compliance with WTO obligations. The Panel upheld most of the U.S. claims against China, determining that China acted inconsistently with various provisions of the Anti-Dumping Agreement and the Agreement on Subsidies and Countervailing Measures and that China "therefore failed to comply with the recommendations and rulings of the [Dispute Settlement Body] to bring its measures into conformity with its obligations" under those agreements. If China fails to comply with the ruling, the United States may request WTO-approved retaliatory duties on Chinese exports.

5. Decisions in the Matter of 39 Russian Athletes v/ the IOC (Court of Arbitration for Sport – February 1, 2018)

<http://www.tas-cas.org/fileadmin/user_upload/Media_Release__decision_RUS_IOC_.pdf>

On February 1, 2018, the Court of Arbitration for Sport (CAS) overturned the International Olympic Committee's (IOC) suspension for twenty-eight Russian athletes and partially upheld appeals for eleven other Russian athletes. In the wake of the 2014 Olympic Winter Games, the IOC found that forty-three Russian athletes had committed anti-doping rule violations during the games, and they were subsequently disqualified, their medals were declared forfeit, and they were determined to be ineligible to participate in all subsequent Olympic Games. All but one appealed the decision to the CAS, which found that for twenty-eight of those athletes, "the evidence collected was found to be insufficient to establish that an anti-doping rule violation (ADRV)" and that "the appeals are upheld, the sanctions annulled and their individual results achieved in Sochi 2014 are reinstated." For eleven other athletes, "the evidence collected was found to be sufficient to establish an individual ADRV," but they were declared ineligible for only the next Olympic Winter Games in Pyeongchang, 2018, instead of the original lifetime ban. The CAS noted that its aim was not to determine whether there had been an organized scheme regarding doping in the Sochi lab, and that the cases for each athlete were decided individually.

6. European Commission v. Poland (Court of Justice of the European Union – February 22, 2018)

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=199566&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=923603>

On February 22, 2018, the Court of Justice of the European Union ruled in *European Commission v. Poland* that Poland had breached EU air quality standards and "persistently exceeded" pollutant limits set under a 2008 EU directive for the protection of human health. The European Commission brought the case because Poland was not in compliance with the daily and annual limit values for PM_{10}, "a mixture of organic and non-organic substances present in the air [that] may contain toxic substances such as polycyclic aromatic hydrocarbons, heavy metals, dioxin and furan." The Court stated that between 2007 to 2015, Poland "regularly exceeded, first, the daily limit values for PM_{10} concentrations in 35 zones and, second, the annual limit values for such concentrations in nine zones," which is sufficient in itself to establish a failure to fulfill its obligations under the directive. The Court also found that Poland's reasoning for the delays in compliance due to necessary structural changes could not justify such long deadlines for conforming and "that, by exceeding in four zones the daily limit values for PM_{10}concentrations in ambient air (increased by the margin of tolerance), Poland has infringed EU law."

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RESOLUTIONS, DECLARATIONS, AND OTHER DOCUMENTS

1. China's Arctic Policy (State Council Information Office of China – January 26, 2018)

<http://english.gov.cn/archive/white_paper/2018/01/26/content_281476026660336.htm>

On January 26, 2018, the State Council Information Office of China published a white paper titled, "China's Arctic Policy," which is the state's first official Arctic policy. In it, China states that it "is an active participant, builder and contributor in Arctic affairs" and that the purpose of the paper is "to expound its basic positions on Arctic affairs, to elaborate on its policy goals, basic principles and major policies and positions regarding its engagement in Arctic affairs, . . . and to work with the international community to safeguard and promote peace and stability in, and the sustainable development of, the Arctic." The paper states that China "prioritizes law-based governance and international cooperation, and commits itself to maintaining a peaceful, secure and stable Arctic order." The policy goals listed include exploration and understanding of the Arctic, protecting the environment and addressing climate change, using Arctic resources lawfully, participating in Arctic governance, and promoting peace and stability in the Arctic.

2. Resolution 2399 (United Nations Security Council – January 30, 2018)

<https://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2399(2018)>

On January 30, 2018, the United Nations Security Council adopted Resolution 2399 and extended the sanctions regime against the Central African Republic (CAR) until January 31, 2019. Acting under Chapter VII of the UN Charter, the Council extended an arms embargo, travel ban, and asset freeze on certain individuals designated by the Sanctions Committee. The "arms embargo would not apply to supplies intended solely for the support or use by the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), European Union training missions, French forces and other State forces providing training." The Council also determined that the Panel of Experts will "[c]ollect, in cooperation with MINUSCA, and report to the Committee acts of incitement to violence, in particular on an ethnic or religious basis, that undermine the peace, stability or security of the CAR and identify those perpetrators."

3. Democratic Institutions, the Rule of Law and Human Rights in Venezuela (Inter-American Commission on Human Rights – February 12, 2018)

<http://www.oas.org/en/iachr/reports/pdfs/Venezuela2018-en.pdf>

On February 12, 2018, the Inter-American Commission on Human Rights (IACHR) published a report on the human rights situation in Venezuela, entitled "Democratic Institutions, the Rule of Law and Human Rights in Venezuela." The IACHR decided to draft the report due to the "marked deterioration in terms of the exercise of human rights in Venezuela, and the grave political, economic, and social crisis in the country." The report analysis spans the last two years, with particular focus on 2017, and focuses on four main areas: "democratic institutions; social protest and freedom of expression; violence and citizen security; and economic, social, cultural, and environmental rights." The IACHR states that Venezuela is in the midst of an institutional and human rights crisis, which stemmed from a number of issues, "notably the serious interferences by the executive and judicial branches in the legislative branch." The Commission makes seventy-six recommendations to the state to address these problems and notes that its main concerns relate to "the Venezuelan people, who are suffering the grave consequences of this crisis at every level, with serious negative impacts on their civil, political, economic, social, cultural, and environmental rights."

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