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JUDICIAL AND SIMILAR PROCEEDINGS

1. European Union — Anti-Dumping Measures on Imports of Certain Fatty Alcohols from Indonesia (World Trade Organization Appellate Body – September 5, 2017)

<https://www.wto.org/english/tratop_e/dispu_e/442abr_e.pdf>

On September 5, 2017, the World Trade Organization (WTO) appellate body issued its report on "European Union — Anti-Dumping Measures on Imports of Certain Fatty Alcohols from Indonesia," upholding most of a previous report from December 2016 that found that the European Union had been largely within its rights to impose anti-dumping duties on Indonesian fatty alcohols. The appellate body also upheld prior findings that "EU authorities had failed to make available or disclose the results of their on-the-spot investigations" as part of their anti-dumping investigation, and had therefore acted inconsistently with the Anti-Dumping Agreement. The materials at issue in the matter, fatty alcohols, are "products produced from natural or synthetic sources, such as natural fats and oils, crude oil, natural gas, natural gas liquids, and coal" that are mainly used "to produce detergents and household, cleaning, and personal care products."

2. Slovakia and Hungary v. Council (Court of Justice of the European Union – September 6, 2017)

<http://curia.europa.eu/juris/celex.jsf?celex=62015CJ0643&lang1=en&type=TXT&ancre=>

On September 6, 2017, the Court of Justice of the European Union dismissed complaints in *Slovakia and Hungary v. Council* brought by the two states against provisional measures that required the mandatory relocation of asylum seekers in Italy and Greece. The Council of the European Union adopted a decision in 2015 that provides for the relocation of asylum seekers from Italy and Greece to other EU member states, which Slovakia and Hungary argued was done through a faulty procedural process and was neither necessary nor suitable for addressing the migrant crisis. The Court held that because "the decision is a non-legislative act, its adoption was not subject to the requirements relating to the participation of national Parliaments and to the public nature of the deliberations and vote in the Council." The Court also held that the Treaty on the Functioning of the European Union "enables the EU institutions to adopt all the provisional measures necessary to respond effectively and swiftly to an emergency situation characterised by a sudden inflow of displaced persons" and that the relocation mechanism "is not a measure that is manifestly inappropriate for contributing to achieving its objective."

3. Dispute Concerning Delimitation of the Maritime Boundary Between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire) (Special Chamber of the International Tribunal for the Law of the Sea – September 23, 2017)

<https://www.itlos.org/fileadmin/itlos/documents/cases/case_no.23_merits/C23_Judgment_23.09.2017_corr.pdf>

On September 23, 2017, the Special Chamber of the International Tribunal for the Law of the Sea (ITLOS) delivered its judgment in the *Dispute Concerning Delimitation of the Maritime Boundary Between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*. In 2014, Ghana and Côte d'Ivoire agreed to submit the dispute concerning their maritime boundary to an ITLOS Special Chamber. The disputed area includes a number of oil and gas fields, and each party advocated for different methodologies in delineating the maritime boundary between their states. The Special Chamber ruled largely in Ghana's favor and, as the press release notes, created a definitive single maritime boundary for the territorial sea, the exclusive economic zone, and the continental shelf within and beyond 200. The Special Chamber also rejected Ghana's claim that Côte d'Ivoire was estopped from objecting to the "customary equidistance boundary" that Ghana had put forward in its arguments and found that Ghana did not violate Côte d'Ivoire's sovereign rights when it expanded its oil exploration in the disputed area.

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4. Navalnyye v. Russia (European Court of Human Rights – October 17, 2017)

<http://hudoc.echr.coe.int/eng?i=001-177665>

On October 17, 2017, the European Court of Human Rights (ECtHR) ruled in *Navalnyye v. Russia* that a Russian court's criminal conviction of Aleksey Navalnyy, an opposition leader, and his brother Oleg Navalnyy, an entrepreneur, for fraud and money laundering was arbitrary and unfair because it was based on the unforeseeable application of criminal law. The case concerned an agreement between two companies—Yves Rocher Vostok and Multidisciplinary Processing (MPK)—and Chief Subscription Agency, which was set up by a company that the applicants and their parents had acquired 2007. The Trial Court found that the brothers had committed fraud against MPK and Yves Rocher Vostok and had laundered the proceeds of illegal transactions. The ECtHR found that the Russian court "had extensively and unforeseeably construed to their detriment the offence of commercial fraud under the Russian Criminal Code. It had therefore not been foreseeable that the applicants' commercial conduct would constitute fraud or commercial fraud. Consequently, it had been equally unforeseeable that the profits derived from their commercial activities would constitute the proceeds of crime whose use could amount to money laundering."

5. Ypourgos Ethnikis Pedias kai Thriskevmaton v. Maria-Eleni Kalliri (Court of Justice of the European Union – October 18, 2017)

<http://curia.europa.eu/juris/celex.jsf?celex=62016CJ0409&lang1=en&type=TXT&ancre=>

On October 18, 2017, the Court of Justice of the European Union ruled in *Ypourgos Ethnikis Pedias kai Thriskevmaton v. Maria-Eleni Kalliri* that a law requiring a minimum height for entry into a police school regardless of an individual's sex may constitute unlawful discrimination against women. The Court found that a minimum height requirement for men and women constituted indirect sex discrimination because women were far more often at a disadvantage than the men. However, the Court stated that such a law would not be discriminatory where two conditions are met: "(1) the provision of law must be objectively justified by a legitimate objective, such as the operational capacity and proper functioning of police services, and (2) the means of achieving that aim must be appropriate and necessary."

6. Benkharbouche v. Secretary of State for Foreign and Commonwealth Affairs & Secretary of State for Foreign and Commonwealth Affairs and Libya v. Janah (U.K. Supreme Court – October 18, 2017)

<https://www.supremecourt.uk/cases/docs/uksc-2015-0063-judgment.pdf>

On October 18, 2017, the U.K. Supreme Court ruled in two joined cases in favor of two Moroccan nationals who were employees at the Libyan and Sudanese embassies in London, were dismissed from their positions, and filed claims against Libya and Sudan in the Employment Tribunal. Their claims were based on European Union law as well as domestic U.K. law, and the Employment Tribunal dismissed them on the basis that the states were entitled to immunity under the State Immunity Act 1978. The Court notes that "the 1978 Act renders a foreign state immune from the jurisdiction of a UK court in a claim based on the foreign state's employment of the claimant, where the claimant either: (i) at the time of the contract, was neither a UK national nor UK resident; or (ii) works for the foreign state's diplomatic mission." The Supreme Court agreed with the claimants' argument that the 1978 act was incompatible with the EU Charter of Fundamental Rights and Freedoms and that the claims regarding EU law should be allowed to proceed: "EU law prevails over English law in the event of a conflict, so those sections of the 1978 Act cannot bar the claims which are based on EU law."

RESOLUTIONS, DECLARATIONS, AND OTHER DOCUMENTS

1. Report of the Independent International Commission of Inquiry on the Syrian Arab Republic (United Nations Human Rights Council – September 6, 2017)

<http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/A_HRC_36_55_EN.docx>

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On September 6, 2017, the Human Rights Council released a report of the Independent International Commission of Inquiry on the Syrian Arab Republic, which was originally drafted. The Commission stated it its report that violence throughout Syria continues in violation of international humanitarian and human rights law and that it is primarily affecting civilian populations. The report notes that "warring parties continued to lay sieges and instrumentalized humanitarian aid in order to erode the viability of civilian support bases and compel surrender." The Commission also found that terrorist and armed groups had "targeted religious minorities through car and suicide bombings, the use of snipers and hostage-taking" and that "Government forces continued the pattern of using chemical weapons against civilians in opposition-held areas." The Commission highlighted its concern regarding international coalition air strikes and stated that "forces of the United States of America failed to take all feasible precautions to protect civilians and civilian objects when attacking a mosque, in violation of international humanitarian law," and that coalition air strikes in general have resulted in numerous civilian deaths.

2. Resolution 2375 (United Nations Security Council – September 11, 2017)

<https://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2375(2017)>

On September 11, 2017, the UN Security Council passed Resolution 2375, imposing new sanctions on the Democratic People's Republic of Korea (DPRK) and condemning Pyongyang's nuclear test on September 2. The Council stated that test was conducted "in flagrant disregard" of the Security Council's resolutions, and it reaffirmed that the DPRK must "not conduct any further launches that use ballistic missile technology, nuclear tests, or any other provocation." The sanctions include bans on natural gas sales, textile exports, as well as limits on refined petroleum and crude oil. The Council also decided to prohibit member states from providing work authorizations for DPRK nationals to work within their territories unless given special permission. The UN notes that the Security Council also called for the "resumption of the Six-Party Talks—multilateral negotiations involving China, Democratic People's Republic of Korea, Japan, Republic of Korea, Russian Federation and the United States—expressing its commitment to a peaceful, diplomatic and political solution to the situation on the Korean Peninsula."

3. Human Rights and the Fight Against Impunity and Corruption (Inter-American Commission on Human Rights – September 12, 2017)

<http://www.oas.org/en/iachr/decisions/pdf/Resolution-1-17-en.pdf>

On September 12, 2017, the Inter-American Commission on Human Rights (IACHR) passed a resolution on "Human Rights and the Fight Against Impunity and Corruption." The IACHR decided to issue the resolution to highlight the fight against impunity and corruption and their links to human rights, as well Guatemalan President Jimmy Morales's expulsion of Iván Velásquez, the head of the International Commission against Impunity in Guatemala (ICIG), from the state. The IACHR states in the resolution that "the establishment of effective mechanisms to eradicate corruption is an urgent obligation in order to achieve effective access to an independent and impartial justice and to guarantee human rights." They also observe that the decision to expel Velásquez took place shortly after another case of corruption was initiated against senior officials, including the President, and highlighted their concern regarding information they received concerning threats and attacks on judges, prosecutors, journalists, and human rights defenders working on matters of corruption in Guatemala. The IACHR called "on the independent branches of government to act to guarantee the rule of law" and "urge[d] the State of Guatemala to also take the measures necessary to exercise its oversight duties with independence, autonomy, and due process guarantees with regard to investigations and ongoing processes."

4. Measures Aimed at Reducing the Use of Pretrial Detention (Inter-American Commission on Human Rights – September 12, 2017)

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

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On September 12, 2017, the Inter-American Commission on Human Rights (IACHR) released a report titled "Measures Aimed at Reducing the Use of Pretrial Detention." The report notes that "the arbitrary and illegal use of pretrial detention is a chronic problem in the region" and "is one of the most serious and widespread problems facing member states of the Organization of American States (OAS) in regard to the respect for and guarantee of the rights of persons deprived of liberty." The purpose of the report is to follow up on a 2013 report on pretrial detention, to analyze the gains and challenges regarding its use, and to assist states in adopting policies aimed at reducing pretrial detention in the Americas. The report also includes recommendations on the following issues: '(a) general measures regarding state policies; (b) eradicating pretrial detention as an anticipated penalty or a tool for social control; (c) public defender services; (d) the use of alternatives to pretrial detention; and (e) celerity in the procedures and correcting the procedural delay." The IACHR also released a "Practical Guide to Reduce Pretrial Detention" with the report directed at addressing the challenges in reducing pretrial detention.

5. Towards a Pollution-Free Planet (United Nations Environment – September 28, 2017)

<http://wedocs.unep.org/bitstream/handle/20.500.11822/21800/UNEA_towardspollution_long%20version_-Web.pdf?sequence=1&isAllowed=y>

On September 28, 2017, United Nations Environment released its report "Towards a Pollution-Free Planet," which is meant to serve as call to action for governments, businesses, local authorities, civil society, and individuals with the aim of preventing and reducing pollution globally. The report is broken into three parts: "In Part 1 . . . the evidence on pollution is presented. Part 2 discusses ongoing responses, challenges to effective actions, and the opportunities that existing multilateral environmental agreements and the Sustainable Development Goals provide to reduce pollution. Part 3 concludes with a global framework for actions to tackle pollution head-on and move towards a pollution-free planet." It also describes five messages concerning pollution: "A global compact on pollution would make pollution prevention a priority for all. Environmental governance needs to be strengthened at all levels. Sustainable consumption and production, through improved resource efficiency and lifestyle changes, should be promoted; waste reduction and management must be prioritized. Investment in cleaner production and consumption will help to counter pollution. Multi-stakeholder partnerships and collaborations are vital for the innovation, knowledge-sharing and transdisciplinary research needed to develop technological and ecosystems- based solutions." The report was released during the first Conference of the Parties for the Minamata Convention, an international agreement that addresses mercury issues in order to protect human health and the environment.

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