Copyright © 2018 by The American Society of International Law
DOI:10.1017/ilm.2018.36

BRIEFLY NOTED

(Not reproduced in *International Legal Materials*)

Judicial and Similar Proceedings

1. Appeal Judgement for Vojislav Šešelj (International Residual Mechanism for Criminal Tribunals – April 11, 2018)

<http://www.irmct.org/sites/default/files/casedocuments/mict-16-99/appeals-chamber-judgements/en/180411-vojislav-seselj-judgement-summary-en.pdf>

On April 11, 2018, the Appeals Chamber of the UN Mechanism for International Criminal Tribunals (MICT) issued its judgment on the Prosecution's appeal of Vojislav Šešelj's acquittal, reversing in part, and dismissing the remainder of the appeal. As noted in the case summary, "the Appeals Chamber entered convictions against Mr. Šešelj under Counts 1, 10, and 11 of the Indictment for instigating deportation, persecution (forcible displacement), and other inhumane acts (forcible transfer) as crimes against humanity, as well as for committing persecution, based on a violation of the right to security, as a crime against humanity." The Appeals Chamber also reversed the Trial Chamber's finding "that there was no widespread or systematic attack against the non-Serbian civilian population in Croatia and Bosnia and Herzegovina," determining that there was sufficient evidence on the matter and that no reasonable trier of fact could have concluded otherwise. The Appeals Chamber sentenced Šešelj to ten years in prison. In 2016, the International Criminal Tribunal for the former Yugoslavia Trial Chamber issued a judgment acquitting Šešelj of three counts of crimes against humanity and six counts of violations of the laws or customs of war.

2. U.S. v. Mohammed Jabbateh, a/k/a "Jungle Jabbah" Sentencing (U.S. District Court for the Eastern District of Pennsylvania – April 19, 2018)

<https://www.justice.gov/usao-edpa/pr/former-liberian-war-lord-known-jungle-jabbah-sentenced-30-years-prison-immigration>

On April 19, 2018, U.S. District Judge Paul S. Diamond sentenced Mohammed Jabbateh, a former Liberian commander who had spent the last twenty years living in Pennsylvania, to thirty years in prison (the statutory maximum) after he was found guilty in October of two counts of fraud in immigration documents and two counts of perjury. According to the Department of Justice, Jabbateh, who was also known as "Jungle Jabbah," had served as a commander in the United Liberation Movement of Liberia for Democracy during Liberia's first civil war from 1992 to 1995 and "committed various acts of shocking brutality including rapes, sexual enslavement, slave labor, murder, mutilation and ritual cannibalism." In 1998, Jabbateh lied about his activities in Liberia while making an asylum application in the United States and did so again later while applying for permanent legal residency. This marks one of the most severe penalties ever imposed in the United States for an immigration fraud case.

3. Al Nashiri v. Romania (European Court of Human Rights – May 31, 2018)

<http://hudoc.echr.coe.int/eng?i=001-183685>

On May 31, 2018, the European Court of Human Rights ruled in *Al Nashiri v. Romania* that Romania violated the European Convention on Human Rights when it assisted the U.S. Central Intelligence Agency (CIA) with its secret detainee program. The applicant, Abd Al Rahim Husseyn Muhammad Al Nashiri, alleged that Romania let the CIA "transport him under the secret extraordinary rendition programme onto its territory and had allowed him to be subjected to ill-treatment and arbitrary detention in a CIA detention 'black site.'" Although the Court had no direct access to Al Nashiri, who is currently being held by the United States at the Guantánamo detention facility in Cuba, the Court determined that the extensive evidence presented by experts and politicians involved in the case "proved that a CIA secret detention centre had operated in Romania from September 2003 to November 2005 and that Mr Al Nashiri had been held there from April

https://doi.org/10.1017/ilm.2018.36 Published online by Cambridge University Press

2004 to at the latest November 2005." The Court held that through its participation in the program, Romania violated Article 3 (prohibition of torture); Article 5 (right to liberty and security); Article 8 (right to respect for private life); Article 13 (right to an effective remedy) in conjunction with Articles 3, 5 and 8; Article 6 § 1 (right to a fair trial within a reasonable time); and Articles 2 (right to life) and 3 taken together with Article 1 of Protocol No. 6 (abolition of the death penalty).

4. MB v. Secretary of State for Work and Pensions (Court of Justice for the European Union – June 26, 2018)

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=203337&pageIndex=0&doclang=en&mode=req& dir=&occ=first&part=1&cid=415044>

On June 26, 2018, the Court of Justice of the European Union ruled in *MB v. Secretary of State for Work and Pensions* that a member state may not require an individual who has changed gender to annul his or her marriage, which was entered into before changing genders, in order to receive a retirement pension at the age necessary for the gender he or she has acquired. The case concerns MB, who was born male, married a woman, and later underwent sex reassignment surgery, but did not obtain a certificate of recognition of her change of gender, since that would have required her to annul her marriage under U.K. law. Upon reaching the age of sixty, the age of retirement for women, MB's application for retirement pension was denied because she could not be classified as a woman without a gender classification certificate and the age of retirement for a man would have been sixty-five. MB argued that this amounted to discrimination, and the Court concluded that the "legislation treats less favourably a person who has changed gender after marrying than it treats a person who has retained his or her birth gender and is married." The Court found that "the UK legislation constitutes direct discrimination based on sex and is, for that reason, prohibited by the Directive."

RESOLUTIONS, DECLARATIONS, AND OTHER DOCUMENTS

1. Memorandum of Understanding Relating to Voluntary Returns of Rohingya Refugees (April 13, 2018)

<http://www.unhcr.org/en-us/news/press/2018/4/5ad061d54/bangladesh-unhcr-agree-voluntary-returns-framework-refugees-decide-conditions.html>

On April 13, 2018, the UN Office of the High Commissioner for Human Rights (UNHCR) signed a Memorandum of Understanding (MOU) with Bangladesh regarding the voluntary returns of Rohingya refugees to Myanmar once conditions are improved. The MOU "established a framework of cooperation between UNHCR and Bangladesh on the safe, voluntary, and dignified returns of refugees in line with international standards." It concerns the more than 670,000 Rohingyas that have fled Myanmar for Bangladesh since the onset of violence last year, as well as the estimated 200,000 that have entered Bangladesh over the previous decades. The UNHCR has been engaging with Myanmar and Bangladesh separately and noted that Myanmar holds responsibility for creating safe conditions conducive to the return of the Rohingyas, which "must go beyond the preparation of physical infrastructure to facilitate logistical arrangements."

2. U.S. Withdrawal from the Joint Comprehensive Plan of Action (May 8, 2018)

<https://www.whitehouse.gov/presidential-actions/ceasing-u-s-participation-jcpoa-taking-additional-action-counter-irans-malign-influence-deny-iran-paths-nuclear-weapon/>

On May 8, 2018, U.S. President Donald Trump announced that the United States will withdraw from the Joint Comprehensive Plan of Action (JCPOA) and reinstate U.S. nuclear sanctions on the Iranian regime. The P5+1 (China, France, Germany, Russia, the United Kingdom, and the United States), the European Union (EU), and Iran completed the JCPOA on July 14, 2015, in order to impose restrictions on Iran's civilian nuclear enrichment program and allow access for international inspectors to monitor Iran's compliance with the agreement. In October 2017, Trump announced that he would not recertify the JCPOA, a requirement imposed by the U.S. Congress under the Nuclear Agreement Review Act, saying that it was not in the national interest, and in

https://doi.org/10.1017/ilm.2018.36 Published online by Cambridge University Press

January Trump threatened to pull out of the agreement unless its "disastrous flaws" were fixed by May 12. In the White House statement, Trump states that the U.S. will cease all participation in the JCPOA, the U.S. will re-impose all sanctions that had been lifted in relation to the JCPOA, the U.S. Department of Defense will take steps to ensure Iran does not develop or acquire nuclear weapons, and agencies will take steps to continue monitoring Iran's nuclear conduct.

3. Human Rights Council Resolution S-28/1 (UN Human Rights Council – May 21, 2018)

<https://www.ohchr.org/EN/HRBodies/HRC/SpecialSessions/Session28/Pages/28thSpecialSession.aspx>

On May 21, 2018, the UN Human Rights Council passed a resolution to send an independent, international commission of inquiry to investigate the violence in the Gaza Strip between Palestinian civilian protestors and Israeli forces. The resolution came at the close of a special session on the deteriorating human rights situation taking place there and was passed with twenty-nine in favor, two against, and fourteen abstentions. The commission will be tasked with investigating violations of international humanitarian law and international human rights law, to establish the facts of the alleged violations and abuses; to identify those responsible; to make recommendations; and to then present an oral update to the Council. The "Council condemned the disproportionate and indiscriminate use of force by the Israeli occupying forces against Palestinian civilians, including in the context of peaceful protests, particularly in the Gaza Strip, and called for an immediate cessation of all attacks."

4. Securing our Common Future: An Agenda for Disarmament (UN Secretary-General – May 24, 2018)

<https://front.un-arm.org/documents/SG+disarmament+agenda_1.pdf>

On May 24, 2018, UN Secretary-General António Guterres announced the release of a new disarmament agenda titled, "Securing our Common Future: An Agenda for Disarmament," which discusses the elimination of nuclear weapons and other deadly weapons. In the report, Guterres lists his main aims in disarmament discussions with member state: "[R]esuming dialogue and negotiations for nuclear arms control and disarmament; extending the norms against nuclear weapons and their proliferation; and preparing for a world free of nuclear weapons." The report also discusses three priority areas: weapons of mass destruction, conventional weapons, and new battlefield technologies. Guterres stated that "States that possess nuclear weapons have the primary responsibility for avoiding catastrophe [and] appealed to Russia and the US to resolve their dispute over the Intermediate-Range Nuclear Forces Treaty; to extend the New START treaty on strategic offensive arms, which is due to expire in just three years; and to take new steps towards reducing nuclear stockpiles." It also discussed the international legal norms and treaties regarding nuclear weapons and urges states to ratify and follow existing treaties concerning nuclear weapons.

5. Contribution of Parliaments to the Work of the Human Rights Council and Its Universal Periodic Review (Office of the High Commissioner for Human Rights – June 13, 2018)

<http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/38/25>

On June 13, 2018, the UN Office of the High Commissioner for Human Rights released its report titled, "Contribution of Parliaments to the Work of the Human Rights Council and Its Universal Periodic Review." The report focuses on the role of parliaments in the field of human rights and includes "contains recommendations regarding the setting up of a parliamentary human rights committee and the strengthening of engagement with the international human rights mechanisms, especially the universal periodic review." Included within this are a draft set of "Principles on Parliaments and Human Rights," which include sections on the (i) mandate; (ii) responsibilities and functions; and (iii) composition and working methods of a parliamentary human rights committee. The report notes that the draft principles "could serve as a guide and further strengthen the role of parliaments in the effective promotion and protection of human rights."

https://doi.org/10.1017/ilm.2018.36 Published online by Cambridge University Press