

## JUDICIAL AND SIMILAR PROCEEDINGS

### 1. **Prosecutor v. Thomas Lubanga Dyilo (ICC – December 1, 2014)**

<http://www.icc-cpi.int/iccdocs/doc/doc1876833.pdf>

On December 1, 2014, the Appeals Chamber of the International Criminal Court (the Court) affirmed the Trial Chamber's decision in *Prosecutor v. Thomas Lubanga Dyilo* to convict Mr. Lubanga of the "enlistment, conscription, and use in hostilities of children under the age of fifteen" as well as his fourteen-year sentence. Mr. Lubanga appealed on the grounds that "the proceedings were unfair" and that he was not personally responsible for the individual criminal acts of which he was convicted. The Court affirmed "the Trial Chamber's approach that a co-perpetrator must make an essential contribution and does not need to personally and directly commit the crime" and noted the Trial Chamber's broad discretion in deciding an appropriate sentence, holding that "the sentence was not disproportionate to the gravity of the crimes and reflected Mr. Lubanga's culpability for the crimes for which he was convicted."

### 2. **A, B, C v. Staatssecretaris van Veiligheid en Justitie (CJEU – December 2, 2014)**

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=160244&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=35298>

On December 2, 2014, the Court of Justice of the European Union (the Court) issued a preliminary ruling in *A, B, C v. Staatssecretaris van Veiligheid en Justitie* to clarify guidelines for national authorities when determining whether an asylum seeker who claims persecution for homosexuality is indeed homosexual. The Court found that national authorities must take individual circumstances into account and may not assess individuals "on the basis solely of stereotyped notions associated with homosexuals." The Court also decided that physical tests to determine homosexuality do "not necessarily have probative value [and] such evidence would of its nature infringe human dignity, the respect of which is guaranteed by the [Charter of Fundamental Rights of the European Union]," and that an applicant's initial reluctance to identify his or herself as homosexual does not indicate "a lack of credibility." The Court stressed that any assessment "must be consistent with the EU law and, in particular, the fundamental rights guaranteed by the Charter, such as the right to respect for human dignity and the right to respect for private and family life."

### 3. **Liberty & Others v. Security Service, SIS, GCHQ (Investigatory Powers Tribunal – December 5, 2014)**

[http://www.ipt-uk.com/docs/IPT\\_13\\_168-173\\_H.pdf](http://www.ipt-uk.com/docs/IPT_13_168-173_H.pdf)

On December 5, 2014, the British Investigatory Powers Tribunal (IPT) ruled that U.K. security services' programs of mass surveillance are lawful and human rights compliant. The IPT determined that in regard to the programs at issue, "the law gives individuals an adequate indication as to the circumstances in which and the conditions upon which the Intelligence Services are entitled to resort to interception, or to make use of intercept" and that there is no violation of Articles 8 (right to respect for private and family life) or 10 (freedom of expression) of the European Convention on Human Rights. The IPT also noted that previous efforts to intercept some people's communications might be illegal and it "left open for further argument the question as to whether prior hereto there has been such a breach." The "case was the first time that the country's intelligence agencies had openly defended the programs." Privacy groups also said that they would appeal the decision at the European Court of Human Rights.

## RESOLUTIONS, DECLARATIONS, AND OTHER DOCUMENTS

### 1. **UN Resolution 2185 (UN – November 20, 2014)**

[http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/2185%20\(2014\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2185%20(2014))

On November 20, 2014, the UN Security Council (the Council) adopted Resolution 2185, calling for the integration of police forces and policing in peacekeeping operations in its first stand-alone resolution on the topic.

According to the press release, because of the increased need for a police presence in many conflict and post-conflict situations, the Council requested “host-State efforts to professionalize the law enforcement sector and . . . ensure that international policing support to those efforts [are] well coordinated with plans nationally agreed upon through inclusive processes.” The Council also stressed the need to continue to increase the number of women in police forces, which has helped build “trust with local populations and . . . create a safe environment for victims of sexual violence to report crimes.” Because of the nature of modern conflict, the Council also “prioritized protection of civilians by police.”

**2. The Right to Truth in the Americas (IACHR – November 27, 2014)**

*<<http://www.oas.org/en/iachr/reports/pdfs/Right-to-Truth-en.pdf>>*

On November 27, 2014, the Inter-American Commission on Human Rights (the Commission) released a report, “The Right to Truth in the Americas,” about the importance of disseminating information on human rights abuses, particularly forced disappearances, during conflict. Restriction of information during periods of dictatorship or violence has been a popular method of controlling populations, and “the report examines States’ obligations with regard to the goal of guaranteeing the right to the truth in the face of grave human rights violations.” As forced disappearances have plagued Central and South America for decades, “the report stresses that States have an obligation to take all measures necessary to clarify what happened, determine the victims’ whereabouts, identify the exhumed bodies, and return the remains to the next of kin.” The report suggests different options for telling the truth about conflict, including “unofficial truth commissions, investigations, and the preparation of studies and reports, as well as initiatives designed to bring pressure to bear for recognition of these violations by society and the public.”

**3. Report on Children and Armed Conflict in South Sudan (UN – December 11, 2014)**

*<<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N14/660/21/PDF/N1466021.pdf?Open+Element>>*

On December 11, 2014, the United Nations Secretary-General released a report on children and armed conflict in South Sudan, the first of its kind since South Sudan seceded from the Sudan in July 2011. The report “contains information on the six grave violations against children and, more broadly, on the situation of children affected by armed conflict during the period from 1 March 2011 to 30 September 2014.” It further “demonstrates that all parties to the conflict in South Sudan were responsible for grave violations against children during the reporting period, including killing and maiming, recruitment and use, abduction and rape and other forms of sexual violence.” Additionally, “the report called on the Government of South Sudan to develop a disarmament, demobilization and reintegration programme for children separated from armed forces and groups. This programme should be designed to ensure that children receive adequate support and reintegration assistance, with particular attention to the specific needs of girls.”