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JUDICIAL AND SIMILAR PROCEEDINGS

1. Appeal in Case 002/01 (Extraordinary Chambers in the Courts of Cambodia – November 23, 2016)

<<https://www.eccc.gov.kh/en/document/court/supreme-court-chamber-judgement-appeal>>

On November 23, 2016, the Supreme Court Chamber of the Extraordinary Chambers of the Courts of Cambodia upheld a ruling of life in prison for two top Khmer Rouge leaders that was on appeal. According to the press release, the Court “upheld Nuon Chea’s and Khieu Samphan’s convictions for crimes against humanity of murder, persecution on political grounds and other inhumane acts in relation to the evacuation of Phnom Penh immediately after the fall of the city on 17 April 1975.” The Court also “reversed the convictions entered by the Trial Chamber for the crime against humanity of extermination in relation to the evacuation of Phnom Penh and the second phase of population transfers.”

2. Churchill Mining PLC v. Republic of Indonesia (International Center for the Settlement of Investment Disputes – December 6, 2016)

<<http://www.italaw.com/sites/default/files/case-documents/italaw7893.pdf>>

On December 6, 2016, an International Centre for Settlement of Investment Disputes (ICSID) tribunal ruled that claims made by Churchill Mining PLC against the Republic of Indonesia should be thrown out as certain documents Churchill used to secure the initial licenses to exploit coal reserves in Indonesia were determined to be forged. The plaintiffs alleged that Indonesia improperly revoked their coal-mining rights in violation of a U.K.-Indonesia bilateral investment treaty, though the tribunal ultimately determined that the claims were “based on documents forged to implement a fraud aimed at obtaining mining rights” and that they were all deemed inadmissible. While unable to definitely identify the source of the forgeries, the tribunal indicated that a local business partner of Churchill was likely the source and that Churchill failed to conduct due diligence in carrying out their investment. Churchill was also ordered to pay costs and arbitration fees of nearly \$9.5 million and has noted that it may seek to annul the result.

3. Tavrida Central Museum et al v. University of Amsterdam (Amsterdam District Court – December 14, 2016)

<<https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2016:8264>>

On December 14, 2016, the Amsterdam District Court ruled that various artifacts on loan from four museums in Crimea to the Allard Pierson Museum in Amsterdam should be returned to Ukraine and not Russian-controlled Crimea. The Crimean museums loaned the artifacts in 2014, prior to Crimea separating from Ukraine and joining the Russian Federation, after which the Allard Pierson Museum was unsure where to return the artifacts. Although “the District Court does not deliver a judgement on who is the rightful owner of the artefacts,” which the Court stated must be determined by a Ukrainian court, the District Court did “determined that the Crimean Museums’ claim that the treasures are part of the cultural heritage of Crimea or of the Autonomous Republic of Crimea was incorrect, as neither is a (sovereign) state.” The parties now have three months to appeal the decision, during which time the artifacts will remain at the Allard Pierson Museum.

4. Roadshow Films Pty. Ltd. v. Telstra Corporation Ltd. (Federal Court of Australia – December 15, 2016)

<<http://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/single/2016/2016fca1503>>

On December 15, 2016, the Federal Court of Australia ruled in *Roadshow Films Pty. Ltd. v. Telstra Corporation Ltd.* that Internet service providers (ISPs) in Australia must block websites that allow users to illicitly download copyrighted material. The Court ordered the ISPs to block the five named entities—Pirate Bay, Torrentz,

TorrentHound, IsoHunt, and SolarMovie—and all their related websites through various methods. The ban only applies to the websites of these entities, and the Court would have to approve any additions.

5. Judgment of 19 December 2016 (Court of Justice of the French Republic – December 19, 2016)

<https://www.courdecassation.fr/autres_juridictions_commissions_juridictionnelles_3/cour_justice_republique_616/decisions_7973/decembre_2016_35866.html>

On December 19, 2016, la Cour de Justice de la République—a French court with jurisdiction over cases against current and former government officials—convicted Christine Lagarde of using government funds in a criminally negligent manner, though the court spared her a criminal record or any actual punishment. Lagarde served as the French finance minister under the Sarkozy administration and currently the managing director of the International Monetary Fund (IMF). The case originated with Bernard Tapie, the former owner of Adidas. Tapie was jailed on corruption charges and his shares were sold by the lender, Crédit Lyonnais, which the French government partially owned at the time. Mr. Tapie sued the government for its role, and Lagarde sent the dispute to arbitration. She ultimately approved a settlement of over 400 million euros in favor of Tapie, the total sum of which the court considered negligent. Lagarde may appeal on technical grounds to the highest criminal court in France, La Cour de Cassation.

RESOLUTIONS, DECLARATIONS, AND OTHER DOCUMENTS

1. Resolution 2318 (United Nations Security Council – November 15, 2016)

<[http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2318\(2016\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2318(2016))>

On November 15, 2016, the United Nations Security Council, acting under its Chapter VII authority, passed a resolution expressing alarm at the escalation of ethnic violence in South Sudan. According to the press release, the Council urged the parties to cease all hostilities and avoid escalating the conflict in the impending dry season, emphasizing that there is no military solution to the conflict. Additionally, “[t]he members of the Security Council signalled their readiness to consider taking additional measures in order to prevent a further escalation of violence and conflict, including potential sanctions that may be appropriate to respond to the situation.” Special Adviser on the Prevention of Genocide Adama Dieng stated “that what began as a political conflict has transformed into what could become an outright ethnic war,” and the Security Council “called on the Government of South Sudan to immediately address increasing hate speech and ethnic violence and to promote reconciliation among its people.”

2. Investigatory Powers Bill (United Kingdom Parliament – November 15, 2016)

<<http://services.parliament.uk/bills/2015-16/investigatorypowers.html>>

On November 15, 2016, the U.K. Parliament passed the Investigatory Powers Bill, a controversial piece of legislation that allows authorities to access communications data without judicial approval except in the case of uncovering a press source. According to reports, the legislation also allows authorities to seek communications data or equipment interference in bulk by applying for a warrant. The bill has received muted criticism for increasing the government’s surveillance capabilities to new heights.

3. Resolution 2320 (United Nations Security Council – November 18, 2016)

<[http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2320\(2016\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2320(2016))>

On November 18, 2016, the United Nations Security Council issued a resolution reaffirming “its determination to take effective steps to further enhance the relationship between the UN and regional organizations, in particular the African Union.” In the resolution, the Council noted the need for further financial backing support for the African Union from the United Nations. The resolution follows a report by the office of the Secretary-General on strengthening the cooperation between the United Nations and the African Union.

4. Resolution 2319 (United Nations Security Council – November 18, 2016)

[<http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2319\(2016\)>](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2319(2016))

On November 17, 2016, the United Nations Security Council issued a resolution renewing the mandate of the Joint Investigative Mechanism in regards to the use of chemical weapons in Syria. The Council also reiterated its decision that Syria should not be allowed to “use, develop produce, otherwise acquire, stockpile or retain chemical weapons, or, transfer, directly or indirectly, chemical weapons to other States or non-State actors.” The Mechanism was previously established by a previous resolution on August 7, 2015.

5. Policy on Children (Office of the Prosecutor of the International Criminal Court – November 18, 2016)

[<https://www.icc-cpi.int/iccdocs/otp/20161115_OTP_ICC_Policy-on-Children_Eng.PDF>](https://www.icc-cpi.int/iccdocs/otp/20161115_OTP_ICC_Policy-on-Children_Eng.PDF)

On November 18, 2016, the Chief Prosecutor of the International Criminal Court (ICC), Fatou Bensouda, launched her office’s “Policy on Children” to “assist the Office of the Prosecutor . . . in its efforts to robustly address [crimes against children] in accordance with the Rome Statute.” The policy will “guide the Office in its efforts to hold accountable perpetrators of international crimes against children, bearing in mind their rights and best interests.” The policy was also created through “extensive expert consultations and informed by the insights of children themselves, the primary beneficiaries of this initiative.” The ICC has dealt with crimes against children in numerous capacities, most notably in the conviction of Thomas Lubanga Dyilo in 2012 for the recruitment and use of child soldiers.

6. Report on the Legal and Policy Frameworks Guiding and Limiting the Use of Military Force (United States White House – December 5, 2016)

[<https://www.justsecurity.org/wp-content/uploads/2016/12/framework.Report_Final.pdf>](https://www.justsecurity.org/wp-content/uploads/2016/12/framework.Report_Final.pdf)

On December 5, 2016, the White House released a Report on the Legal and Policy Frameworks Guiding and Limiting the Use of Military Force, laying out the domestic and international legal bases for the United States’ use of force throughout the world. As stated in the forward written by President Obama, the report describes “how [the] Administration has ensured that [its] uses of force overseas are supported by a solid domestic law framework and consistent with an international legal framework predicated on the concepts of sovereignty and self-defense embedded in the United Nations Charter.” Additionally, “it describes how the United States has applied rules, practices, and policies long used in traditional warfare to this new type of conflict.” Finally, he states that “the report recounts actions [the] Administration has taken to institutionalize a policy framework to ensure that, in carrying out certain critical operations, the United States not only meets but also in important respects exceeds the safeguards that apply as a matter of law in the course of an armed conflict—particularly in the areas of the preservation of civilian life, transparency, and accountability.”

7. The Implementation of the Hotspots in Italy and Greece (European Council on Refugees and Exiles – December 5, 2016)

[<http://www.ecre.org/wp-content/uploads/2016/12/HOTSPOTS-Report-5.12.2016.pdf>](http://www.ecre.org/wp-content/uploads/2016/12/HOTSPOTS-Report-5.12.2016.pdf)

On December 5, 2016, the European Council on Refugees and Exiles (Council) released a study analyzing the European Union’s “hot spot” approach to disproportionate migratory pressure within the Union. The Council’s study “reveals that the pressure in these countries is growing and the challenges in accessing protection are multiplying.” A senior policy advisor for the Council added that “[the program] is an experiment, a pilot model of registration and identification at the points of arrival that selects between people seeking asylum and people to be returned. Yet the hotspots currently apply practices and standards that are inadequate and disrespect fundamental rights.” The Council’s study is part of a project headed by the Dutch Council for Refugees, in partnership with the Council, the Italian Council for Refugees, the Greek Council for Refugees, and ProAsy—a human rights NGO based in Germany.

8. Resolution 2325 (United Nations Security Council – December 15, 2016)

[<http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2325\(2016\)>](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2325(2016))

On December 15, 2016, the United Nations Security Council, acting under Chapter VII of the Charter of the United Nations, passed a resolution calling for a framework to keep non-state actors from acquiring weapons of mass destruction. According to the press release, the resolution called upon member states to strengthen their national, legally-binding measures aimed at preventing the proliferation of weapons of mass destruction and endorsed a recent report on such measures that member states have already implemented. The resolution comes in the wake of various deployments of chemical weapons in Syria and North Korean-implemented nuclear tests.