

BRIEFLY NOTED

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JUDICIAL AND SIMILAR PROCEEDINGS

1. **Gadea Mantilla v. Nicaragua (Inter-American Court of Human Rights – June 2, 2021)**

<https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2021/169.asp>

On June 2, 2021, the Inter-American Court of Human Rights was referred a case from the Inter-American Commission of Human Rights concerning Fabio Gadea Mantilla, a former candidate in the 2011 Nicaraguan presidential race. According to a [press release](#) from the OAS, it was contested that the country possessed the primary responsibility of securing and upholding Gadea Mantilla's right to become an electoral candidate, which it failed to accomplish. This is in reference to his past participation in 2011, where he was listed as a prime candidate for the presidency. In March of 2011, the presidential seat was occupied by Daniel Ortega, and despite the illegality of Ortega seeking re-election, he won by a majority vote of over 62%. This was addressed and argued before the Supreme Electoral Council by both Gadea Mantilla and other competing parties, which was dismissed, and the decision finalized. According to constitutional precedent, the Council has the last word on these matters and appeals are simply not possible. The main issue to be determined was whether executive power was being overextended, impeding on democratic processes as outlined in Article 147 of the Constitution, which limits presidential candidates to two terms. The Constitutional Chamber of the Supreme Court of Justice failed to see any validity in referencing this, but the IACHR asserted its stance on this practice being a direct contradiction to foundational principles of inter-American democracy.

This point was seconded by outside global institutions, such as the European Union. The issue of election equality was contested, and the Commission ultimately decided that states need to be cooperative parties with the precedents outlined in the American Convention, despite the conflicting processes between global democratic policy and internal jurisdiction. The Commission judged the Nicaraguan election process as one that worked against Gadea Mantilla's ability to become a viable candidate, with President Ortega utilizing his available resources to guarantee an electoral win. This was considered a violation of democratic principle on both an individual and communal level since the rights of voter participation and assertion were being compromised. The IACHR also confronted the judgment of the Council, which was in violation of the constitutional rule of limiting presidential terms. The state of Nicaragua was deemed the primary responsible party and was given the following recommendations: 1) ensure fair election processes are secured; 2) the Council possesses its own independence from other branches of government; 3) make it possible for those branches to issue objections and/or challenges to Council decisions.

2. **Reczkowicz v. Poland (European Court of Human Rights – July 22, 2021)**

<<http://hudoc.echr.coe.int/eng?i=001-211127>>

On June 22, 2021, a [judgment](#) was issued by the European Court of Human Rights (ECHR) regarding the case of Joanna Reczkowicz and the Polish government, which had been filed almost two years prior. On August 6, 2019, Joanna Reczkowicz, a barrister and Polish citizen, formally issued a complaint against the Disciplinary Chamber of the Supreme Court, which she believed had failed to remain objective in its handling of her [case](#). In 2017, she was suspended due to a compromise of bar ethics, which lasted for a period of three years. When this issue was readdressed, Reczkowicz felt it was not being done appropriately, since the newly selected judges were appointed by the President, who was responding to a request from the National Council of the Judiciary (NCJ). It was also revealed that during the reformative process in 2017, various methods had been employed to add favor to various political parties, through paid campaigns and public criticisms of presiding judges. The statewide campaign was titled 'Fair Counts,' and its initiatives were funded by various companies possessed by the state. It was argued that both the legislative and executive sects of government were heavily intertwined in the judicial proceedings, which made the Disciplinary Chamber incapable of issuing fair judgments.

As referenced in the case, Article 10 of the Constitution of the Republic of Poland emphasizes the importance of functioning independence amongst the three branches of government, which was not respected. The Court ultimately ruled in favor of Reczkowicz, holding that the Supreme Court did not uphold the constitutional precedents regarding the impartiality of Polish legal systems. Thus, there had been a breach of Articles 6 and 1 of the ECHR. These factors served as strong evidence of a conflict of interest and impedance on impartiality regulations. The remaining elements of Reczkowicz's claim were denied, but a financial settlement of approximately 15,420 EUR was reached.

RESOLUTIONS, DECLARATIONS, AND OTHER DOCUMENTS

1. Executive Order 14014 (United States – July 2, 2021)

<<https://www.state.gov/the-united-states-takes-further-actions-against-the-burmese-military-regime/>>

On July 2, 2021, the U.S. announced that it was imposing additional sanctions on the Myanmar military regime. A statement by Secretary of State Antony J. Blinken issued on that same date indicated that the U. S. Department of the Treasury's Office of Assets Control designated 22 people under [Executive Order 14014](#). The statement also noted that the Department of Commerce added Wanbao Mining Ltd., two of its subsidiaries, and King Royal Technologies to its entities list because of their "revenue and/or other support to the Burmese military." Secretary Blinken stated, "[t]oday's measures further demonstrate that we will continue to take additional action against, and impose costs on, the military and its leaders until they reverse course and provide for a return to democracy."

2. Proposal for a Council Decision on EU accession to the Hague Judgments Convention (EU Commission – July 16, 2021)

<<https://ec.europa.eu/info/law/better-regulation/>>

The European Union (EU) Commission has adopted a proposal for the EU's accession to the [2019 Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters](#) (the 2019 Hague Judgment Convention). Though there is a [framework](#) for the recognition and enforcement of judgments from EU member states, EU citizens can have difficulties having judgments obtained in the EU enforced outside of the EU. The 2019 Hague Judgment Convention would, in the [words](#) of Commissioner for Justice Didier Reynders, "improve legal certainty and save citizens and companies time and money." The Convention currently has just three signatories: Israel, Ukraine, and Uruguay. The Commission's proposal must now be adopted by the Council and obtain the consent of the European Parliament.

3. Sudan Joins UNCAT and ICPPED (August 10, 2021)

<<https://treaties.un.org/doc/Publicatio%20n/CN/2021/CN.251.2021-Eng.pdf>>

<<https://treaties.un.org/doc/Publicatio%20n/CN/2021/CN.252.2021-Eng.pdf>>

On August 10, 2021, the Government of Sudan deposited an instrument of [ratification](#) for the Convention Against Torture and Other Cruel (CAT), Inhuman or Degrading Treatment or Punishment and an instrument of [accession](#) to the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED). Sudan is the 172nd party to the CAT and the 64th party to the ICPPED. Sudan's ratification of the CAT included a declaration that it will not be bound by Article 30(1) relating to the settlement of disputes under the Convention. Similarly, its accession to the ICPPED included a declaration that it will not be bound by that Convention's dispute settlement provision in Article 42(1). Both provide for the eventual settlement of disputes before the International Court of Justice.