



TRIAL
International

Universal Jurisdiction Annual Review 2023

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Universal Jurisdiction Annual Review 2023

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METHODOLOGY AND ACKNOWLEDGMENTS

The present report reviews cases brought under three grounds of extraterritorial jurisdiction: the principle of universal jurisdiction and the principles of active and passive personality. The vast majority of cases included in this report are brought under the principle of universal jurisdiction, hence the title of this report and the focus of its introductory article.

The report only highlights cases where judges or prosecutors have initiated criminal investigations into international crimes, namely genocide, crimes against humanity, war crimes, torture and enforced disappearances, in 2022. It does not, therefore, include complaints that victims, lawyers or NGOs filed under universal jurisdiction with national authorities that did not result in the opening of a judicial investigation or that have been dismissed by the relevant national authorities.

This report has been researched and written by Shoshana Levy, Legal Consultant at TRIAL International, in collaboration with the Center for Justice and Accountability, Civitas Maxima, the European Center for Constitutional and Human Rights, the International Federation for Human Rights and REDRESS.

TRIAL International is grateful to all the organizations, prosecutors and investigative judges who assisted in collecting the information compiled in this report. While every attempt was made to ensure accuracy, information is subject to change without notice. The report only covers developments that occurred during the year 2022; subsequent developments are therefore not included.

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2022 HIGHLIGHTS IN THE FIGHT AGAINST IMPUNITY THROUGH UNIVERSAL JURISDICTION



The year 2022 was marked by an unprecedented mobilization of existing legal and judicial resources to respond to the international crimes committed in Ukraine. In the weeks following Russia's full-scale invasion of Ukraine in February, proceedings were opened before the International Criminal Court (ICC), the International Court of Justice and the European Court of Human Rights, and an Independent International Commission of Inquiry was set up by the United Nations Human Rights Council. At the national level, the Ukrainian Prosecutor General's Office reported that it had registered over 64'000 conflict-related crimes, and that 16 individuals had been convicted in Ukraine as of December 2022.

In parallel, in an outstanding reaction to the atrocities committed, numerous foreign countries launched probes at the national level into international crimes committed in Ukraine.

The multiplication of national investigations into international crimes in Ukraine

At least 11 investigations into international crimes committed in Ukraine have been launched across Europe and in Canada on the basis of universal or extraterritorial jurisdiction. The public prosecutors of several countries have opened "structural investigations", which do not target specific persons or incidents from the outset. Rather, they are meant to collect evidence in relation to the crimes committed during the armed conflict, in order to enable investigators to pro-actively build cases for the benefit of future criminal proceedings.

Over the past decade, some European countries have built a strong expertise in investigating international crimes, in particular through structural investigations conducted by specialized "war crimes units". German, French and Swedish specialized prosecutors have been carrying out such investigations into crimes committed during the Syrian armed conflict. The historic convictions in 2021 and 2022 of Syrian officials Eyad al-Gharib and Anwar Raslan for crimes against humanity came into being thanks to a structural investigation opened in Germany ten years earlier. The structural investigations on Ukraine started in Germany and elsewhere can thus capitalize on these recent experiences.

Furthermore, other countries, with little or no experience with the specificities of investigating

international crimes, also took legal action to respond to the atrocities committed in Ukraine. With the massive influx of Ukrainian asylum seekers, prosecutors of Poland, Romania, Slovakia and Latvia, among others, began collecting testimonies in order to preserve crucial evidence for future cases. The mobilization of such an important number of actors bears a real risk of duplication, overdocumentation and re-traumatization of victims, in particular taking into account their varying levels of expertise. A joint investigation team has thus been set up through Eurojust with seven European countries and the ICC to coordinate and enhance their efforts.

The construction of solid evidentiary foundations from the very beginning of the armed conflict is undeniably encouraging, considering that one of the major challenges to the effective exercise of universal jurisdiction is the passage of time, as key witnesses become hard to locate, forget about the events or pass away and documentary and other evidence are lost or destroyed. Yet, for justice to be served, these important judicial efforts should lead to arrests and fair trials. In the first ten months of the armed conflict, no international criminal suspects have been arrested outside of Russia and Ukraine. Russian perpetrators may, however, eventually travel or settle down elsewhere, just as might be the case for Ukrainian perpetrators. The ongoing collection and preservation of evidence will then be instrumental to their prosecution.

The results of investigations based on universal jurisdiction will hopefully be seen over time, as confirmed by several landmark 2022 convictions in other contexts.

2022 milestones in the exercise of universal jurisdiction

Despite the difficulties mentioned above relating to investigations that take place long after the facts, in 2022, prosecutors remarkably managed to put on trial several perpetrators for crimes committed up to 40 years ago. A former Iranian prosecutor, who had been arrested in 2019 while travelling to Sweden, was found guilty of war crimes committed in 1988 for his involvement in the mass executions of political prisoners (see the Hamid Noury case, p. 76). In the Netherlands, a former prison commander in Kabul was convicted of the war crimes of arbitrary detention and cruel and inhuman treatment committed in the 1980s in Afghanistan (see the Abdul Razaq Arif case, p. 72).

The Hague Court of Appeal also upheld the sentence of life imprisonment imposed on a former Ethiopian official involved in war crimes during the late 1970s, in what was known as the “Red Terror” (see the Eshetu Alemu case, p. 73). Finally, France convicted a former Rwandan prefect for his role in the 1994 genocide against the Tutsi (see the Laurent Bucyibaruta case, p. 35) as well as Liberian former rebel commander Kunti Kamara for crimes against humanity committed between 1993 and 1997 (see p. 31).

Kunti Kamara’s conviction dealt with the under-prosecuted sexual offences of rape and sexual slavery. Rape was not yet legally considered a crime against humanity in France when the offenses were committed in 1994. Therefore, the Paris Criminal Court chose to characterize this conduct as the crime against humanity of torture. However, in deciding not to punish these sexual offences as stand-alone charges, but rather as underlying offences of international crimes, the Court made a significant step toward capturing the strategic, widespread and systematic use of sexual violence in Liberia.

This case may hopefully indicate a first step toward an alignment of the French prosecutorial strategy with international criminal law. In particular, France lags behind Germany and the Netherlands regarding the adequate characterization of crimes committed by French Islamic State (ISIS) members. While in Germany and the Netherlands, ISIS fighters have been cumulatively charged with both terrorist offences and international crimes, French courts have exclusively prosecuted and convicted French fighters of ordinary terrorist offences. France only opened one investigation into crimes against humanity and genocide allegedly committed by two French ISIS members, but both suspects remain at large, and there are serious doubts as to whether they are still alive (see the Essid & Greseque case, p. 48).

Growing efforts towards corporate accountability

Another important emerging trend witnessed in 2022 is the rising number of judicial initiatives aiming to hold Europe-based economic actors accountable for their responsibility in international crimes. Several investigations are ongoing in France, Sweden and Switzerland against companies and banks involved in oil, minerals, wood and cement, as well as companies selling surveillance material, and/or their executives, due to their alleged dealings with armed groups or

authoritarian regimes to secure their economic activities abroad. These promising applications of extraterritorial jurisdiction are the result of civil society organizations’ long-standing efforts to push prosecutors to fill this huge gap in international criminal law and universal jurisdiction practice. Indeed, in our globalized world, responsibilities are diluted by the multiplication of international stakeholders, which results in persisting impunity for powerful economic actors. Furthermore, such cases are notably opening up decisive and topical fields of responsibility related to the preservation of the environment and natural resources.

The number of corporate-related investigations will hopefully increase in the coming years, in particular in Switzerland where the new attorney general declared his intention to prosecute economic actors for the war crime of pillage, a widespread crime that has not been judicially attributed to private companies since World War II. Such a shift in the prosecutorial policy of one of the world biggest hubs for companies trading in commodities could result in both the development of long-awaited jurisprudence and a concrete dissuasive impact on companies’ practices abroad. This is all the more groundbreaking considering past prosecutorial timidity in dealing with such sensitive cases, persistently denounced by civil society organizations in Switzerland and elsewhere.

The growing attention drawn to companies’ involvement in international crimes is remarkably also leading to the first trial under universal jurisdiction in a western country against the national of another western country. In November 2022, the Swedish Supreme Court confirmed Swiss citizen Alex Schneider’s indictment for complicity in war crimes in Sudan in 1999-2003. As the former head of exploration of the Swedish oil company Lundin Energy, Schneider is accused of having paid the Sudanese army and non-state armed groups to forcibly displace the local population from oil-rich areas, in order to secure the company’s operations (see p. 77).

As the first trial of its kind, this unique case broadens the usual paradigm of universal jurisdiction and highlights its potential use in a systematic and principled way, countering accusations of double standards. Such an expansion of universal jurisdiction’s range of possibilities arises together with an increase in the number of domestic investigations, prosecutions and convictions for international crimes, reinforcing the credibility of this essential tool in the fight against impunity.

Multiplication of cases: toward a renewed legitimacy for universal jurisdiction

According to Eurojust, the number of newly opened cases on core international crimes in Europe increased by 44% between 2016 and 2021. In total and as of December 2022, TRIAL International reported the conviction of 78 individuals (including 9 women) for international crimes since its first [Universal Jurisdiction Annual Review in 2015](#). These growing numbers are largely due to the collaboration between prosecuting authorities and specialized civil society organizations, whose investigative efforts and support for victims have been critical for the cases to move ahead. In addition, specialized prosecutors have been deepening their expertise on the specificities of investigating international crimes and courts have over the years resolved on a case-by-case basis a number of crucial legal questions.

Some countries are nevertheless falling behind in the face of this expanding endeavor. The vast majority of states have never exercised universal jurisdiction despite having included it in their legal framework. Others have yet to pass appropriate comprehensive legislation. In Italy for instance, the enactment of an international criminal code to introduce international crimes into the national legal framework has been under discussion since 2002. Denmark has not fully translated the Rome Statute into its national law, despite having ratified it in 2001. France still grapples with thorny issues that civil society organizations describe as unacceptable “locks” prohibiting a progressive application of universal jurisdiction. Some countries are faced with logistical problems: if investigations take place, courts might not be in a position to efficiently handle the growing caseload, leading to a bottleneck effect. Resources are also an issue for many states that have instituted specialized units: some investigations, for instance in Switzerland, have been going on for many years, even in instances where the suspect is in pretrial detention.

There are, however, some silver linings. On the other side of the Atlantic, the United States is not party to the Rome Statute but has finally amended its War Crimes Act to allow for the prosecution of war crimes suspects present on US soil, regardless of the alleged perpetrators’ or victims’ nationality. A swift and massive uptake of universal jurisdiction has happened to respond to the atrocities committed in Ukraine, prompting many countries to invest

additional resources. The current pressing need for accountability is thus undoubtedly driving the structural progress of universal jurisdiction, including by states that are usually at the rear of the fight against impunity.

Such advancement must, however, go beyond temporary momentum and beyond a particular situation. It should consolidate into longer term commitment, through sustained human, financial and material resources for international crimes prosecutors, regardless of the attention of the international community to a specific situation. The year 2022 has demonstrated once more that universal jurisdiction can bear fruit over time. For this progress to continue and become a sustainable and efficient part of the international accountability framework, adequate conditions are required not only now, but also for what lies ahead.

2022 KEY FINDINGS



28

countries of
commission



12

countries of
prosecution



169

suspects at least
(18 women)



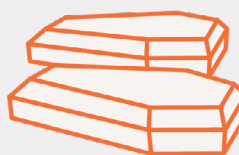
40

war crimes
charges



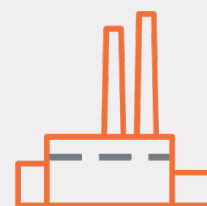
34

crimes against
humanity charges



17

genocide
charges



30

suspects are
economic actors



57

individuals
awaiting trial



23

convictions
(first instance or appeal)



1

acquittal
(pending appeal trial)

CASES IN 2022

ARGENTINA

NEW CASE!

INVESTIGATION INTO NICARAGUAN PRESIDENT OVER CRIMES AGAINST HUMANITY DURING 2018 PROTEST

Daniel Ortega, Rosario Murillo and others

Context

Ongoing investigation in Argentina against the current president of Nicaragua, Daniel Ortega; vice president Rosario Murillo (who is also Ortega's wife); and fourteen other high-ranking officials for alleged crimes against humanity committed in Nicaragua since 2018

Type of jurisdiction

Universal jurisdiction

Suspects

Ortega, president of Nicaragua (1979-1990, and since 2007); Murillo, vice president of Nicaragua; Francisco Javier Díaz Madriz, chief of the Nicaraguan police; Julio César Avilés Castillo, chief of the armed forces; and twelve other high-ranking officials

Country of residence of suspects

Nicaragua

Charges

As the case is at the investigation stage, the suspects have not yet been formally charged. The investigation focuses on charges of crimes against humanity, including torture, enforced disappearance, rape and other forms of sexual violence.

Current status

Under investigation

Facts

On 18 April 2018, a series of reforms to the social security system triggered the outbreak of social protests against the government of Nicaragua. Thousands of people across the country took to the streets on a daily basis to demonstrate. Protesters were repressed by the National Police and its anti-riot forces, with the support of "Sandinista mobs" (*turbas sandinistas*), pro-government armed groups allegedly used to generate disorder and quash protesters.

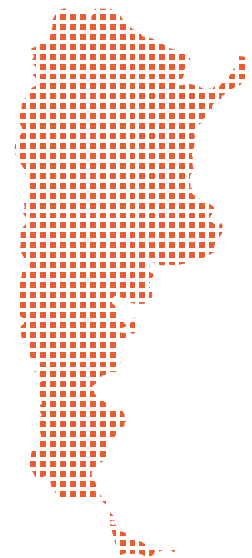
According to [a report of the Inter-American Commission of Human Rights](#), at least 355 people died, including 27 children, and 2'000 were injured. Health professionals were reportedly ordered not to treat people injured as a result of their participation in the mobilizations, and those who disregarded this order were allegedly dismissed. In addition, more than 1'614 were allegedly imprisoned; hundreds of health professionals, journalists, teachers and students were fired or expelled; and over 100'000 people fled Nicaragua.

Since 2018, and in particular due to the 2021 disputed elections in which Ortega was re-elected for a fourth consecutive term, Ortega's government allegedly intensified the persecution of its political opponents. Thousands have been reportedly detained and sentenced to lengthy prison terms, including presidential aspirants, public figures, former workers of civil society organizations and church representatives.

Procedure

In September 2022, two lawyers filed a complaint against President Ortega, Vice President Murillo and other high-ranking Nicaraguan officials for the crimes against humanity of enforced disappearances, torture, murder and deprivation of liberty among others committed since 2018. The complaint alleges that the highest political command has ordered a systematic attack against the civilian population.

In October 2022, an investigation was opened under universal jurisdiction into crimes against humanity.



As a first investigative measure, the Argentinian prosecuting authorities sent a rogatory letter to Nicaragua to ask whether it was already investigating and prosecuting those crimes. All the international organizations' public reports regarding the crush of protesters were added to the investigation file, including reports of the Inter-American Commission on Human Rights, the United Nations Human Rights Council, Amnesty International, the Center for Legal and Social Studies, the International Federation for Human Rights (FIDH), the Nicaraguan Center for Human Rights and the Interdisciplinary Group of Independent Experts for Nicaragua.

A second complaint was added in early November 2022 by the Argentina-based NGO Center for Inter-American Legal Assistance in Human Rights (*Centro de Asistencia Legal Interamericano en Derechos Humanos*).



MARTÍN VILLA'S INDICTMENT DISMISSED

Rodolfo Martín Villa

Context

Ongoing proceedings against former Spanish governor of the Franco dictatorship for alleged international crimes committed in Spain

Type of jurisdiction

Universal jurisdiction

Suspect

Rodolfo Martín Villa, civil governor and provincial chief of Barcelona from 1974 to 1975, former minister from 1975 to 1979

Country of residence of suspect

Spain

Charges

Indictment for crimes against humanity dismissed

Current status

Under investigation; indictment dismissed

Facts

After the 1930 civil war in Spain, Francisco Franco established a bloody dictatorship and proclaimed himself head of state. Enforced disappearances, extrajudicial executions, torture and inhuman and degrading treatments of perceived political opponents were committed on a large scale. Franco

maintained a tight grip on power until his death in 1975, after which Spain transitioned to democracy.

In 1977, an amnesty law was passed to cover crimes committed during the dictatorship, preventing the prosecution in Spain of human rights violations perpetrated under Franco's regime.

Martín Villa was appointed civil governor and provincial chief of Barcelona from 1974 to 1975 and then minister from 1975 to 1979.

Procedure in Spain

In December 2006, the investigative judge Baltasar Garzón opened an investigation in Spain into allegations of crimes against humanity committed during the Franco dictatorship.

In October 2008, he ruled that the 1977 Spanish law granting amnesty for crimes committed during the Franco dictatorship did not apply, owing to the nature of the crimes. However, the Supreme Court overturned this decision, while Judge Garzón was put on trial for prevarication for his alleged unfair interpretation of the amnesty law. He was eventually acquitted but the amnesty law remains applicable, and the crimes committed by the Franco dictatorship still cannot be investigated or prosecuted in Spain.

Procedure in Argentina

On 14 April 2010, Spanish and Argentinian human rights organizations filed a criminal complaint on behalf of Spanish victims. On 18 September 2013,

Judge María Romilda Servini de Cubría issued arrest warrants against four former officials of the Franco dictatorship, including Antonio González Pacheco, Jesús Muñecas Aguilar and Martín Villa, and requested their extradition in order to stand trial for crimes against humanity, including acts of torture, allegedly committed in Spain between July 1936 and June 1977. On 24 April 2014, the Spanish National Court rejected the extradition request, and the case was closed.

In August 2016, another investigation was opened into the death of Spanish poet Federico García Lorca, pursuant to a complaint filed by the Spanish Association for the Recuperation of Historical Memory (*Asociación para la Recuperación de la Memoria Histórica*).

In July 2017, an international arrest warrant was issued for crimes against humanity and murder against Martín Villa for the death of five workers in Vitoria in 1976.

On 21 June 2018, two victims joined the proceedings: the grandson of José Salmerón Céspedes who was forcibly disappeared, tortured and executed in 1936 and a relative of Gustavo Adolfo Muñoz de Bustillo, a 16-year-old executed on 11 September 1978 during violent riots in the transitional period in Barcelona. On 26 October 2018, the investigative judge admitted a complaint filed two years earlier by the NGO Women's Link Worldwide on behalf of six women victims of sexual assault, murder, forced abortion and the theft of children under Franco's regime.

Martín Villa was interrogated on 3 September 2020 in the Argentinian embassy in Madrid, Spain in a five-hour video conference.

On 15 October 2021, Martín Villa was indicted for crimes against humanity. Martín Villa appealed this decision. On 23 December 2021, the Appeals Chamber dismissed the indictment considering that there was not enough evidence to prove that the killings for which he was indicted constituted crimes against humanity, which is the legal basis allowing for universal jurisdiction. The prosecutor challenged the Appeals Chamber's decision before the Federal Chamber.

DEVELOPMENTS IN 2022

On 20 September 2022, the Federal Chamber declared the appeal inadmissible because the indictment is not a final judgment. The investigation is ongoing.

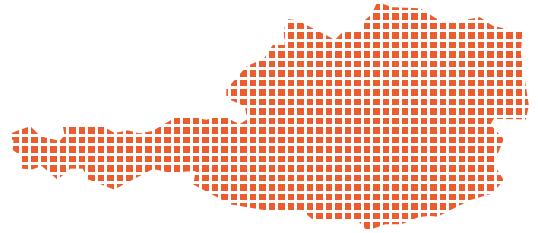
FOLLOW-UP ON OTHER CASES

- Aung San Suu Kyi and others ([UJAR 2022](#), p.19): the investigation is ongoing.
- Mohammed bin Salman ([UJAR 2022](#), p. 20): the investigation is ongoing.

AUSTRIA

LEGAL WHIRL AROUND FORMER SYRIAN INTELLIGENCE OFFICER CONTINUES

Khaled H. and others



Context

Ongoing investigations into international crimes committed by the Syrian intelligence services since 2011

Type of jurisdiction

Universal jurisdiction

Suspects

High and mid-ranking officials of the Syrian intelligence services, including Military Intelligence, Air Force Intelligence and General Intelligence Services (GIS) – in particular a former general of the GIS from Raqqa (northeastern Syria), Khaled H.

Country of residence of suspects

Syria/unknown

Charges

As the case is at the investigation stage, the suspects have not yet been formally charged. The investigation focuses on torture, murder, extermination, serious bodily harm and deprivation of liberty in Syrian detention facilities.

Current status

Under investigation

Facts

Since the beginning of the Syrian civil war in 2011, Syrian intelligence services (Military Intelligence, Air Force Intelligence and GIS) have reportedly been systematically arresting, torturing and killing persons who opposed or were suspected of opposing the Syrian regime. The government's aim has been to stop the protest movement at the earliest possible stage, and intimidate the population.

Khaled H. was a former general of the GIS from Raqqa (northeastern Syria). He is suspected of committing international crimes in detention facilities that were under his command.

According to media sources, France's external intelligence agency helped Khaled H. escape from Syria to France in 2014, believing he could be a useful asset in the event that Syrian president Bashar al-Assad is defeated. His asylum request was denied and he relocated to Austria.

Procedure

In 2016, the prosecutorial authorities reportedly initiated an investigation against Khaled H. The investigation is ongoing.

Austrian authorities have further initiated investigations into several

other officers of the Syrian intelligence services after 16 women and men from Syria filed a criminal complaint to the Public Prosecutor in Vienna in May 2018. The group of torture survivors – which included an Austrian citizen – filed the complaint together with the European Center for Constitutional and Human Rights (ECCHR), Syrian lawyers Anwar al-Bunni (Syrian Center for Legal Research and Studies) and Mazen Darwish (Syrian Center for Media and Freedom of Expression) and the Centre for the Enforcement of Human Rights International in Vienna. Following the submission, the prosecutor heard one of the complainants and initiated a criminal investigation.

Upon the prosecutor's request, NGOs submitted additional evidence.

In November 2020, the Austrian investigative newspaper Kurier alleged that in 2015, the Austrian Office for the Protection of the Constitution (hereinafter the Office) assisted Khaled H. in relocating from France to Austria and in being granted asylum there.

In 2021, investigations continued without Khaled H. having been arrested or indicted. In September 2021, The New Yorker and the German magazine Der Spiegel

reported in depth about how the Office assisted the suspect in moving from France to Austria, reportedly as a favor to Israeli Mossad. As a consequence, investigations against officers of the Austrian migration authority and the Office for suspicions of corruption and/or abuse of authority were commenced.

DEVELOPMENTS IN 2022

In October 2022, former leading personnel of these Austrian authorities were indicted in Vienna for manipulating the national asylum-procedure in order to hide Khaled H. in Austria for the Israeli Mossad.

BELGIUM

NEW CASE!

FINDINGS OF THE PARLIAMENTARY COMMISSION OF INQUIRY INCLUDED IN LUMUMBA'S MURDER INVESTIGATION

Active personality

Etienne Davignon and Jacques Brassinne de la Buisserie



Context

Ongoing investigation in Belgium for the murder as a war crime of Patrice Lumumba in 1961 in the Democratic Republic of Congo

Type of jurisdiction

Active personality

Suspects

Ten people were initially targeted by the complaint, but only two are still alive: former Belgian diplomat and former vice president of the European Commission, Etienne Davignon; and Belgian former senior civil servant, Jacques Brassinne de la Buisserie.

Country of residence of suspects

Belgium

Charges

As the case is at the investigation stage, the suspects have not yet been formally charged. The investigation focuses on murder as a war crime.

Current status

Under investigation

Facts

On 30 June 1960, the DRC gained its independence from Belgium. Lumumba, an important figure in the DRC's struggle for independence, was appointed as the first prime minister after winning the elections. The new government faced an army mutiny and a Belgian-supported movement of secession in the strategic mineral-rich province of Katanga.

In December 1960, Lumumba was arrested by the military. On 17 January 1961, he was transferred to the Katanga region, where he was beaten allegedly by both Belgian and Congolese forces. He was murdered on the same day, and his body dissolved in acid.

Procedure

In 2010, a Belgian parliamentary commission of inquiry was set up to investigate Lumumba's murder. After 18 months of investigation, the commission revealed that the Belgian government supported Lumumba's arrest and transfer to the Katanga region. It stated that, while there is no evidence that the Belgian government gave the order to physically eliminate Lumumba, Belgium bears responsibility for not having taken action to prevent the murder. The Commission

therefore concluded that "by not considering the possible risks of the transfer, not asking guarantees for his physical safety or insisting on humane treatment and a trial, the Belgian government and especially the Minister of African Affairs showed a lack of forethought and a lack of respect for the constitutional state."

In 2011, Lumumba's son filed a complaint for the murder of his father. He argued that an international armed conflict was going on between Belgium and the DRC, and that this targeted killing was constitutive of a war crime.

In 2012, a criminal investigation was opened.

DEVELOPMENTS IN 2022

On 6 October 2022, the Brussels Indictment Chamber decided on the inclusion in the investigation file of the findings of the parliamentary commission of inquiry on Lumumba's death. All the testimonies collected by the commission were therefore included, except the transcription of the interviews of the two suspects who are still alive, due to the fact that they had not been heard in the presence of their lawyers.

NEW CASE!

FORMER GUATEMALAN OFFICIALS' TRIAL TO BE OPENED OVER 40 YEARS AFTER THE ALLEGED CRIMES

Passive personality

Manuel Benedicto Lucas García and others

Context

Former Guatemalan officials sent to trial in Belgium for killings and enforced disappearance of Belgian missionaries in the 1980s

Type of jurisdiction

Passive personality

Suspects

Manuel Benedicto Lucas García, former head of the armed forces (imprisoned in Guatemala); Manuel Antonio Callejas y Callejas, former head of armed forces intelligence (imprisoned in Guatemala); Pedro García Arredondo, former head of police intelligence; Ángel Aníbal Guevara Rodríguez, former defense minister; Donaldo Álvarez Ruiz, former interior minister

Country of residence of suspects

Guatemala and unknown

Charges

Enforced disappearance and murder as crimes against humanity

Current status

Investigation closed; awaiting trial

Facts

During the internal armed conflict in Guatemala (1960-1996), Belgian missionaries travelled to the southern coast to raise the awareness of workers about their exploitation and repression, and to support their organizational process to demand for their rights. Their social protest was violently repressed and left over 100 victims, including three Belgian citizens: Father Walter Voordeckers, killed on 12 May 1980; Ward Capiiau, killed on 22 October 1981; and pastoral assistant Serge Berten, abducted on 19 January 1982 and never seen again.

Procedure

The families of the victims filed a complaint in Belgium in 2001 and an investigation was opened.

DEVELOPMENTS IN 2022

On 14 June 2022, the Pretrial Criminal Chamber indicted the five former high-ranking Guatemalan government officials and ordered their arrest. An appeal was filed against this decision.

On 10 November 2022, the Pretrial Appeals Chamber confirmed the referral to a Belgian Criminal Court of the five former government officials for enforced disappearance and murder as crimes against humanity. Two of them are already imprisoned in Guatemala for other crimes, including enforced disappearances, committed during the armed conflict, and three remain at large. No date has yet been set for the opening of their trial, which would be held *in absentia* in the event that no defendant appeared.



TWO RWANDAN NATIONALS SENT TO TRIAL ON GENOCIDE CHARGES

Pierre Basabose, Séraphin Twahirwa and Christophe Ndangali

Context

Ongoing proceedings against three suspects of international crimes committed during the 1994 genocide in Rwanda

Type of jurisdiction

Universal Jurisdiction

Suspects

Three Rwandan nationals: Pierre Basabose, a businessman close to the Rwandan government; Séraphin Twahirwa, alleged leader of an *Interahamwe* militia; and Christophe Ndangali, a senior official of the Ministry of Education

Country of residence of suspects

Belgium

Charges

Genocide and war crimes

Current status

Indicted; under investigation (Ndangali) and awaiting trial (Basabose and Twahirwa); under judicial surveillance

Facts

Basabose is a retired member of the Rwandan army who ran a foreign exchange office with the support of the presidential family. In 1993, he became the second largest shareholder in the infamous Radio-Television Libre des Mille Collines, which was known for its calls for ethnic hatred before and during the genocide. He is suspected of having financed genocidal propaganda. He allegedly distributed money and weapons to the *Interahamwe* militia (the youth organization of the National Republican Movement for Democracy and Development) in Gatenga and Gikondo and encouraged them to kill Tutsis.

Twahirwa is a relative of the former presidential family. He allegedly led an *Interahamwe* militia responsible for massacres of Tutsis in a central region of Rwanda.

Ndangali was the Ministry of Education's chief of staff. He allegedly participated in the exclusion of Tutsis from the school system and called for the extermination of Tutsis.

Procedure

The three individuals were charged with genocide and war crimes while the investigation was ongoing. They were arrested on 30 September 2020. Twahirwa and Ndangali benefit from an alternative measure to imprisonment and are under judicial surveillance through the use of an electronic bracelet. Basabose was released under investigation in May 2021.

DEVELOPMENTS IN 2022

The investigation of Basabose and Twahirwa was severed from Ndangali's investigation. On 19 September 2022, Basabose and Twahirwa were sent to trial on genocide and war crimes charges. No date has been set yet for the opening of their trial.

The investigation of Ndangali is still ongoing in Charleroi.

FOLLOW-UP ON OTHER CASES

- Martina Johnson ([UJAR 2021](#), p. 25): the investigation is ongoing.
- T.K. and N.B. (Rwandan nationals) ([UJAR 2019](#), p.18): No date has been set yet for the opening of their trial.
- Ernest Gakwaya and Emmanuel Nkunduwimye ([UJAR 2021](#), p. 22): No date has been set yet for the opening of their trial.

FINLAND



FORMER SIERRA LEONEAN REBEL COMMANDER AND SPOKESPERSON ACQUITTED OF WAR CRIMES AND CRIMES AGAINST HUMANITY

Gibril Massaquoi

Context

Pending appeal against the acquittal of a Sierra Leonean alleged former rebel commander. The Massaquoi trial was the first of its kind, where a national court travelled to hold the trial in the affected countries, Sierra Leone and Liberia. It is a unique example of cooperation between a prosecuting state and the country of commission of the crimes.

Type of jurisdiction

Universal jurisdiction

Suspect

Gibril Massaquoi, Sierra Leonean national, former Lieutenant-Colonel of the Revolutionary United Front (RUF), spokesperson and assistant to the group's founder, Foday Sankoh

Country of residence of suspect

Finland

Charges

Acquittal over charges of aggravated war crimes and aggravated crimes against humanity, including murder, rape, torture, recruitment and use of child soldiers and violations of human rights in a state of emergency

Current status

Acquitted of all charges; awaiting appeal (2023)

Facts

Massaquoi was a former Lieutenant-Colonel of the RUF and a spokesperson and assistant to the group's founder, Foday Sankoh. The RUF was a Sierra Leonean rebel group which had close ties to former Liberian President Charles Taylor's National Patriotic Front of Liberia (NPFL) during the Sierra Leonean civil war (1991-2002). The RUF invaded Sierra Leone in March 1999, with support from the NPFL, in an attempt to overthrow the Joseph Momoh government. According to the Finnish prosecution authorities, Massaquoi committed war crimes and crimes against humanity in Liberia between 1999 and 2003, including homicide, sexual violence and the recruitment and use of child soldiers.

Procedure

In 2002, the Special Court for Sierra Leone (SCSL) was established. Massaquoi offered to collaborate and became a top informer for the prosecution. In 2009 and 2012 respectively, the SCSL convicted three former senior leaders of the RUF and Charles Taylor for war crimes and crimes against

humanity committed in Sierra Leone. Massaquoi was not charged with any crimes by the SCSL.

As part of their regular investigation and documentation efforts, Geneva-based NGO Civitas Maxima and its Liberian sister organization, the Global Justice and Research Project (GJRP), found evidence that Massaquoi had allegedly committed, overseen and ordered international crimes in Liberia.

Based on indications that he was present in Finland, Civitas Maxima and the GJRP submitted information to the authorities in Finland in 2018 regarding Massaquoi's alleged involvement in mass atrocities in Liberia. Following a preliminary investigation, Finland's prosecutor general issued an order to proceed with the case.

Finnish police investigators visited Liberia on several occasions beginning in early 2019 to hear witnesses in cooperation with Liberian authorities.

On 10 March 2020, Massaquoi was arrested by Finnish police in Tampere, Finland on suspicion of war crimes and crimes against humanity, including murders, sexual violence and the recruitment and use of child soldiers.

On 13 January 2021, Finland's National Bureau of Investigation's pre-trial investigation on Massaquoi concluded and the case was officially handed over to the prosecutor.

On 3 February 2021, the trial against Massaquoi began in Finland. Throughout the year, hearings were held in Liberia, Sierra Leone and Finland. The proceedings lasted 62 days, and over 100 witnesses were heard.

DEVELOPMENTS IN 2022

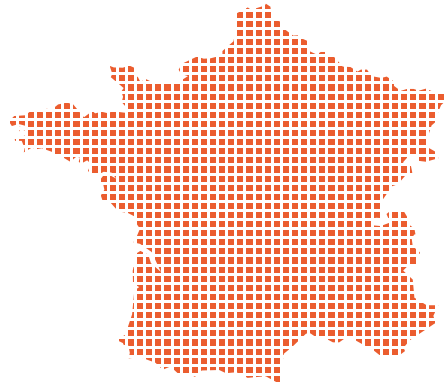
The trial ended in January 2022 and Massaquoi was released from custody on 16 February 2022, awaiting judgment.

On 29 April 2022, the District Court dismissed all charges and found that there was reasonable doubt that the defendant committed the offences with which he was charged.

In May 2022, the prosecutor filed an 80-page appeal. The Court of Appeal has granted the prosecutor leave to appeal, and the appeal hearing will take place in 2023.

CENTRAL AFRICAN REPUBLIC FORMER ANTI-BALAKA LEADER INVESTIGATED OVER CHARGES OF WAR CRIMES AND CRIMES AGAINST HUMANITY

Eric Danboy Bagale



Context

Ongoing proceedings for war crimes, crimes against humanity, torture and enforced disappearance in the Central African Republic between 2007 and 2014

Type of jurisdiction

Universal jurisdiction

Suspect

Eric Danboy Bagale, Central African national, former head of the presidential guard, alleged former anti-Balaka leader

Country of residence of suspect

France

Charges

Complicity in war crimes and crimes against humanity; torture; enforced disappearance

Current status

Indicted while under investigation (*mis en examen*); under judicial surveillance

Facts

In 2003, General François Bozizé overthrew President Ange-Félix Patassé with the support of the so-called "Liberators", including Eric Danboy Bagale, who then became the head of the presidential guard. In 2013, the Séléka militia, an alliance of rebels from the Muslim-majority North of the Central African Republic, ousted President Bozizé from power. Danboy Bagale allegedly became a senior official in the anti-Balaka militias, an armed group formed to fight the Séléka. Bozizé was placed under sanctions by the United Nations in 2014 for organizing a bloody counterinsurgency from exile through the anti-Balaka militias.

The numerous massacres perpetrated by the anti-Balaka and the Séléka militias have plunged the Central African Republic into a violent civil war. According to the UN, which denounced war crimes from both sides, between 3'000 and 6'000 people were killed between 2013 and 2015, most of whom were civilians.

According to the prosecution, Danboy Bagale arrived in France in 2014. He reportedly fled the Central African Republic with relatives of President Bozizé. France and Monaco have frozen Danboy Bagale's assets, accusing him of working "to destabilize the Central African Republic" and attempting "to commit an act of terrorism".

Danboy Bagale was arrested in France on 15 September 2020 and charged while under investigation (*mis en examen*) on 18 September 2020 for complicity in war crimes and crimes against humanity, torture and enforced disappearances in the Central African Republic between 2007 and 2014. He was placed in pre-trial detention.

DEVELOPMENTS IN 2022

In January 2022, Danboy Bagale was released from pre-trial detention. He remains under judicial surveillance.



FIRST EVER INVESTIGATION ON CRIMES COMMITTED IN THE DEMOCRATIC REPUBLIC OF CONGO BEFORE 2003

Roger Lumbala Tshitenga

Context

Ongoing proceedings for complicity in crimes against humanity committed during the second civil war in the Democratic Republic of Congo (1998-2003)

Type of jurisdiction

Universal jurisdiction

Suspect

Roger Lumbala Tshitenga, Congolese national, former leader of the *Rassemblement Congolais pour la Démocratie-National* (Congolese Rally for National Democracy, or RCD-N) and former minister of commerce of the Congolese government between 2003 and 2007

Countries of residence of suspect

DRC and France

Charges

Complicity in crimes against humanity; participation in an established group formed with the view to prepare the commission of crimes against humanity

Current status

Charged while under investigation (*mis en examen*); detained

Facts

From 1998 to 2003, Congolese forces supported by Angola, Namibia and Zimbabwe fought a variety of rebel armed groups backed by Rwanda and Uganda in what is known as the Second Congo War. In this context, the armed group RCD-N was created in 2000 and forged an alliance with the *Mouvement pour la libération du Congo*, led by Jean-Pierre Bemba, in an attempt to take control of resource-rich areas in the eastern part of the DRC. In 2003, the United Nations published a report implicating the RCD-N in the perpetration of crimes against humanity, including rape and other forms of sexual violence, summary executions, torture, mutilation and cannibalism.

Lumbala Tshitenga was the leader of the RCD-N. He is accused of participating in crimes that took place between 1 July 2002 and the end of December 2003 in the provinces of Ituri and Haut Uélé (northeastern DRC), in particular during a military operation labelled *Effacer le tableau* (Erase the Board).

Procedure

In 2016, the Office of the Prosecutor of the French Specialized Unit for the prosecution of genocide, crimes against humanity, war crimes and torture within the Paris Tribunal (integrated in 2019 within the newly created French National Anti-Terrorist Prosecution Office) opened an investigation against Lumbala Tshitenga, after the rejection of his asylum application by the French National Court of Asylum Law. Lumbala Tshitenga was arrested on 29 December 2020 in Paris and the

case was referred to an investigating judge, who has been conducting a judicial investigation since.

On 2 January 2021, Lumbala Tshitenga was charged while under investigation (*mis en examen*) for his alleged participation in a group formed with a view to prepare the commission of crimes against humanity committed in the DRC between 2002 and 2003.

Throughout the year 2021, several NGOs as well as over a dozen Congolese nationals became civil parties. The investigation shed light on the crimes committed during the military operation in the Beni-Mambasa-Bunia area by the alliance of the RCD-N and other armed groups toward the end of 2002. Evidence and testimonies were also gathered on crimes committed in Bafwasende and Isiro, areas controlled by the RCD-N in those years.

DEVELOPMENTS IN 2022

During the year 2022, twenty Congolese victims were heard by the investigating judge in Paris and became civil parties to the procedure. Additional Congolese and international NGOs also became civil parties to the procedure, and submitted to the judge further documentation and evidence on the case. Several eyewitnesses and expert witnesses were heard on the functioning and hierarchical structure of the RCD-N and on Lumbala Tshitenga's alleged role in the preparation and perpetration of the crimes.

CYBER-SURVEILLANCE COMPANY, EXECUTIVES AND EMPLOYEES' INDICTMENTS FOR TORTURE AND ENFORCED DISAPPEARANCES IN EGYPT DISMISSED

Nexa Technologies and four executives and employees

Context

Ongoing proceedings for complicity in torture and enforced disappearances committed in Egypt. The case is linked to the ongoing Amesys case (see p. 32).

Type of jurisdiction

Universal jurisdiction

Suspects

Nexa Technologies and four executives and employees of the company

Country of residence of suspects

France

Charges

Indictments (*mises en examen*) dismissed for complicity in acts of torture and enforced disappearances in Egypt between 2014 and 2021

Current status

Under investigation

Facts

In July 2017, the newspaper *Télérama* brought to light the existence of a contract concluded by Amesys – now Nexa Technologies – with the Egyptian regime, to sell a software called “Cerebro”. The software was allegedly used by Egypt’s al-Sisi regime to track down its opponents and subsequently commit acts of torture and enforced disappearances between 2014 and 2021.

Procedure

On 9 November 2017, the International Federation for Human Rights (FIDH) and its member organization in France the *Ligue des Droits de l’Homme* (LDH), with the support of the Cairo Institute for Human Rights Studies, filed a complaint for complicity in torture and enforced disappearances with the French Specialized Unit for the prosecution of genocide, crimes against humanity, war crimes and torture within the Paris Tribunal (integrated in 2019 within the newly created French National Anti-Terrorist Prosecution Office) regarding the participation of Nexa Technologies in the repressive operations carried out by al-Sisi’s regime, through the sale of surveillance equipment.

On 30 January 2018, FIDH was heard as a civil party.

In June and July 2021, four executives and employees of Nexa Technologies were charged while under investigation (*mis en examen*) for complicity in torture and enforced disappearances.

In September 2021, Nexa Technologies was charged while under investigation (*mise en examen*) as a legal entity.

DEVELOPMENTS IN 2022

In December 2021 and February 2022, Nexa Technologies and its four indicted executives and employees requested the annulment of the procedure and their indictments.

On 14 December 2022, the Investigative Chamber of the Paris Court of Appeals did not uphold the nullities invoked but dismissed the indictments for lack of sufficient evidentiary basis and ordered the continuation of the investigation. The investigation must determine whether a link between the use of this surveillance technology and the repression of political opponents can be demonstrated.



FIRST CONVICTION FOR CRIMES AGAINST HUMANITY IN THE CONTEXT OF THE LIBERIAN CIVIL WARS

Kunti Kamara

Context

Ongoing proceedings for international crimes committed in Liberia between 1993 and 1997

Type of jurisdiction

Universal jurisdiction

Suspect

Kunti Kamara, Dutch and Liberian national, former commander of the United Liberation Movement of Liberia for Democracy (ULIMO)

Country of residence of suspect

France

Charges

Torture, barbaric acts and complicity in these crimes; crimes against humanity

Current status

Convicted; sentenced to life imprisonment; detained; awaiting appeal

Facts

The ULIMO rebel group was formed during the first Liberian civil war (1989-1996) to fight former Liberian President Charles Taylor's National Patriotic Front of Liberia.

According to the judgment, in his capacity as a ULIMO commander, Kamara committed the crimes against humanity of murder, enslavement, torture and cannibalism in Lofa County between 1993 and 1997.

Procedure

On 23 July 2018, the NGO Civitas Maxima filed a complaint in the name of Liberian victims before the French Specialized Unit for the prosecution of genocide, crimes against humanity, war crimes and torture within the Paris Tribunal (integrated in 2019 within the newly created French National Anti-Terrorist Prosecution Office).

On 4 September 2018, Kamara was arrested by the French police and remanded in custody. On 6 September 2019, he was released from pre-trial detention after a procedural error.

In early January 2020, Kamara was returned to prison after failing to fulfill an obligation related to his release, namely to live at an address known to and agreed upon by the judge.

On 26 November 2020, the investigative judge charged Kamara while under investigation (*mis en examen*) for the crimes of torture, barbaric acts and complicity in torture and aggravated acts of barbarism.

In December 2020, the prosecutor appealed the failure to charge Kamara for crimes against humanity. The investigating chamber ruled in favor of the prosecutor and expanded the charges to include

crimes against humanity in addition to crimes of torture and acts of barbarism. In April 2021, the investigating chamber of the Paris Court of Appeals confirmed the referral to trial.

DEVELOPMENTS IN 2022

The trial of Kamara began on 10 October and ended on 2 November 2022 before the Paris Criminal Court. After 17 days of trial during which 27 witnesses and experts and 10 civil parties were heard, Kamara was found guilty as an accomplice of the crime against humanity of torture for the rape and sexual slavery committed by his subordinates on particularly vulnerable people. He was further found guilty as a perpetrator of acts of torture and barbarism, by subjecting a man to severe suffering and participating in the public eating of his heart, executing a sick woman accused of witchcraft who had just lost her baby, subjecting two men to forced labor under inhumane conditions and torturing a civilian. He was sentenced to life imprisonment. He appealed the decision.

FRENCH COMPANY AND ITS MAIN EXECUTIVES' INDICTMENT FOR COMPLICITY IN TORTURE IN LIBYA CONFIRMED

Amesys and two of its executives

Context

Ongoing proceedings for aiding and abetting crimes of torture committed in Libya under Muammar Gaddafi's regime

Type of jurisdiction

Universal jurisdiction

Suspects

Amesys as a company; two French executives of the company

Country of residence of suspects

France

Charges

Complicity in torture as a result of selling surveillance material to Gaddafi's regime in Libya

Current status

Under investigation; five indictments issued, two dismissed

Facts

In 2007, the company Amesys signed a contract with the government of Libya to provide surveillance technologies for the purposes of intercepting communications and processing and analyzing data. This technology allegedly allowed

the Gaddafi regime (1969-2011) to repress dissident voices and to commit serious human rights abuses.

Procedure

On 19 October 2011, the International Federation for Human Rights (FIDH) lodged a criminal complaint as a civil party before the investigative judges at the Paris Tribunal against Amesys and its management, denouncing their alleged role as accomplices in acts of torture and other cruel, inhumane or degrading treatment in Libya, on the basis of universal jurisdiction.

On 26 March 2012, the Office of the Prosecutor at the Paris Tribunal decided that there were insufficient grounds to open an investigation. However, the investigative judges decided on 23 May 2012 to open a formal criminal investigation. On 15 January 2013, the Paris Court of Appeals decided to allow the investigation to proceed.

In January 2013, five Libyan victims joined the proceedings as civil parties. They were heard in June and July 2013 by the investigative judges. Another Libyan victim joined the case and was heard on 11 December 2015. In March 2016, it was revealed that new evidence consisting of dozens of documents from Gaddafi's security services had come to light, reportedly showing the regime's extensive use of the surveillance technologies provided by Amesys to track, arrest and torture political opposition.

On 30 May 2017, Amesys was formally assigned the status of assisted witness (*témoign assisté*) for complicity in torture committed in Libya between 2007 and 2011.

In June and July 2021, two executives of the company, as well as two employees and the company itself, were charged while under investigation (*mis en examen*) by the investigative judges for complicity in torture.

DEVELOPMENTS IN 2022

In December 2021 and January 2022, Amesys and its four indicted executives and employees requested the annulment of the procedure and their indictments.

In November 2022, the Investigative Chamber of the Paris Court of Appeals confirmed the indictment of Amesys and of its two executives but dismissed that of its two employees, dismissing all other nullities invoked.

The defendants appealed the decision before the Supreme Court.



CIVIL PARTY HEARD IN THE ONGOING INVESTIGATION AGAINST FORMER RWANDAN DOCTOR

Charles Twagira

Context

Ongoing proceedings against Rwandan doctor for his alleged participation in crimes committed during the Rwandan genocide

Type of jurisdiction

Universal jurisdiction

Suspect

Charles Twagira, Rwandan doctor and former director of the Kibuye Hospital

Country of residence of suspect

France

Charges

Genocide; crimes against humanity

Current status

Charged while under investigation (*mis en examen*); under judicial surveillance

Facts

Twagira is suspected of having participated in numerous murders during the Rwandan genocide and, more generally, of using his position as director of the Kibuye Hospital to target Tutsis and deprive them of medical care. On 16 April 1994, Augustin Mukandasira, a Tutsi driver

helping Tutsi individuals fleeing the genocide, was killed, allegedly following the orders of Twagira. On 18 and 19 April 1994, many Tutsis gathered at the Garwaro stadium were massacred by *Interahamwe* militiamen following the orders of Mayor Karara. Twagira was allegedly present at the scene. On 3 May 1994, 72 Tutsis under the age of 18 who took refuge in the Kibuye Hospital were killed.

Procedure

In 2009, the *Collectif des parties civiles pour le Rwanda* (CPCR) lodged a complaint against Twagira for his alleged participation in the genocide, after locating him in France.

In October 2010, the International Federation for Human Rights (FIDH) and its member organization in France the *Ligue des Droits de l'Homme* (LDH) were admitted as civil parties.

On 20 March 2014, Twagira was charged while under investigation (*mis en examen*) for genocide and crimes against humanity and placed in pre-trial detention.

On 22 May 2015, Twagira was released from pre-trial detention. He remains under judicial supervision.

DEVELOPMENTS IN 2022

In December 2022, FIDH was heard by the investigative judges.

UPCOMING TRIAL OF THE FORMER HEAD OF THE CENTER OF PUBLIC HEALTH OF THE UNIVERSITY OF BUTARE, RWANDA, FOR GENOCIDE AND CRIMES AGAINST HUMANITY

Eugène Rwamucyo

Context

Awaiting trial for crimes committed during the 1994 genocide in Rwanda

Type of jurisdiction

Universal jurisdiction

Suspect

Eugène Rwamucyo, Rwandan citizen, former head of the Center of Public Health of the University of Butare, Rwanda

Country of residence of suspect

France

Charges

Genocide; crimes against humanity

Current status

Indicted; awaiting trial; under judicial surveillance

Facts

Rwamucyo was the head of the Center of Public Health of the University of Butare in 1994. He

is accused of having supervised the burial of Tutsi victims and of finishing off those already injured in the Butare prefecture.

Procedure

On 23 April 2007, the *Collectif des parties civiles pour le Rwanda* (CPCR) lodged a complaint against Rwamucyo for his alleged participation in the genocide.

On 18 July 2007, the Prosecutor of Lille opened a judicial investigation, which was transferred to investigative judges of the Paris Tribunal in November 2007. CPCR was admitted as a civil party in the case at the opening of the investigation. The International Federation for Human Rights (FIDH) also became a civil party in 2010.

On 18 September 2013, Rwamucyo was indicted while under investigation (*mis en examen*) and placed under judicial surveillance.

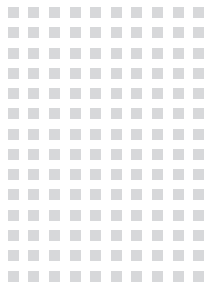
On 19 December 2018, the investigative judge informed the parties that he had completed his investigation.

On 7 April 2020, the prosecution issued its final submission requesting that Rwamucyo be sent to trial on charges of genocide and crimes against humanity.

On 13 October 2020, the investigative judge referred the case to the Paris Criminal Court for complicity in genocide and crimes against humanity. Rwamucyo appealed this decision.

DEVELOPMENTS IN 2022

In September 2022, the Paris Court of Appeals rejected Rwamucyo's appeal and confirmed the referral of his case to the Paris Criminal Court. No trial date has been set yet.



FORMER PREFECT OF GIKONGORO, RWANDA SENTENCED TO 20 YEARS' IMPRISONMENT FOR COMPLICITY IN GENOCIDE AND CRIMES AGAINST HUMANITY

Laurent Bucyibaruta

Context

Conviction of a former Rwandan prefect for complicity in crimes committed during the 1994 genocide in Rwanda

Type of jurisdiction

Universal jurisdiction

Suspect

Laurent Bucyibaruta, former Prefect of Gikongoro and head of the prefectural committee of the *Interahamwe* movement (the youth organization of the National Republican Movement for Democracy and Development)

Country of residence of suspect

France

Charges

Complicity in genocide and crimes against humanity

Current status

Convicted; sentenced to 20 years' imprisonment; awaiting appeal; detained

Facts

According to his conviction, as Prefect of Gikongoro, Bucyibaruta aided the Tutsi massacres at the school under construction in Murambi and in the parishes of Cyanika and Kaduha, all committed on 21 April 1994. He also aided the executions of students at the Marie Merci school in Kibeho, and those committed during rounds and at roadblocks.

Procedure before the International Criminal Tribunal for Rwanda

The International Criminal Tribunal for Rwanda (ICTR) indicted Bucyibaruta on 16 June 2005 for incitement to genocide, genocide and complicity in genocide, as well as crimes against humanity including extermination, murder and rape.

In August 2007, the ICTR issued an arrest warrant requesting that the French government detain Bucyibaruta. On 20 November 2007, the ICTR referred the case to the French authorities.

Procedure in France

On 5 January 2000, the International Federation for Human Rights (FIDH) and its member organization in France, the *Ligue des Droits de l'Homme* (LDH), lodged a complaint against Bucyibaruta for his alleged participation in the genocide. The Prosecutor of Troyes questioned and detained Bucyibaruta on 3 May 2000. He was released on 20 December 2000.

Bucyibaruta was arrested again on 5 September 2007 and placed under judicial surveillance after the issuance of the arrest warrant by the ICTR. On 9 May 2017, the investigative judge informed the parties that he had completed his investigation.

On 4 October 2018, the prosecution issued its final submission requesting that Bucyibaruta be sent to trial on charges of genocide and crimes against humanity. On 24 December 2018, the investigative judges referred the case to the Paris Criminal Court for complicity in genocide and crimes against humanity. The accused appealed the referral.

On 7 October 2020, a hearing took place before the Paris Court of Appeals, following the appeals lodged by the accused and by civil parties against the referral of the case to the Paris Criminal Court.

On 21 January 2021, the Court of Appeal confirmed the referral of the case, changing the charges from complicity to direct perpetration of genocide for certain criminal facts, and adding other charges which had been rejected by the investigative judge.

DEVELOPMENTS IN 2022

On 9 May 2022, Bucyibaruta was released on parole to appear free before the court.

Bucyibaruta's trial took place from 9 May to 1 July 2022 before the Paris Criminal Court. He was acquitted as a direct perpetrator of the genocide and crimes against humanity but was found guilty of complicity in those crimes for aiding and abetting the perpetration of massacres at the school under construction in Murambi and in the parishes of Cyanika and Kaduha on 21 April 1994, as well as the executions of students at the Marie Merci school in Kibeho and those committed during rounds and at roadblocks.

Bucyibaruta was sentenced to 20 years' imprisonment and was detained again at the end of the trial. He appealed the conviction.



RWANDAN EX-DRIVER FOR THE INTERAHAMWE'S MILITIA AWAITING APPEAL

Claude Muhayimana

Context

Ongoing proceedings for crimes allegedly committed during the 1994 genocide in Rwanda

Type of jurisdiction

Universal jurisdiction

Suspect

Claude Muhayimana, dual Rwandan and French national, former driver for the *Interahamwe's* militia

Country of residence of suspect

France

Charges

Complicity in crimes against humanity and genocide

Current status

Convicted; sentenced to 14 years' imprisonment; awaiting appeal; detained

Facts

According to his conviction, Muhayimana drove Hutu militias to several attack locations while he was the driver for the Kibuye Guesthouse. He was involved, as an accomplice, in the massacres of Tutsi civilians who had found refuge in Karongi, Gitwa and Bisesero between April and June 1994.

Procedure

On 13 December 2011, the Rwandan judicial authorities issued an international arrest warrant against Muhayimana for his alleged participation in the genocide. The Rwandan authorities also requested his extradition from France.

On 26 February 2014, the French Supreme Court ruled that Muhayimana could not be extradited because Rwanda's request was based on laws passed after the alleged crimes took place.

On 9 April 2014, Muhayimana was arrested in Rouen following a complaint filed in June 2013 by the *Collectif des parties civiles pour le Rwanda*. A criminal investigation was launched regarding his alleged role in the genocide committed in the district of Kibuye. Muhayimana was placed in pre-trial detention. On 3 April 2015, he was released and placed under judicial surveillance.

On 9 November 2017, the investigative judge referred the accused to the Paris Criminal Court for complicity in genocide and crimes against humanity. Muhayimana unsuccessfully appealed the referral decision.

The trial, initially scheduled from 29 September to 26 October 2020, was postponed twice due to the Covid-19 outbreak.

The trial took place before the Paris Criminal Court between 22 November and 17 December 2021. Muhayimana was found guilty of complicity in genocide for

transporting militiamen to various massacre sites during the genocide. He was sentenced to 14 years' imprisonment.

Muhayimana appealed this decision and applied for his immediate release pending his trial before the Court of Appeal.

DEVELOPMENTS IN 2022

On 21 December 2022, the Appeal court released Muhayimana from detention and placed him under judicial supervision while awaiting his appeal trial.



FORMER RWANDAN POLICE OFFICER SENT TO TRIAL

Philippe Hategekimana (Philippe Manier)

Context

Ongoing proceedings for crimes allegedly committed during the 1994 genocide in Rwanda. Phillippe Hategekimana is the eighth defendant to be tried in France for genocide in Rwanda.

Type of jurisdiction

Universal jurisdiction

Suspect

Hategekimana, dual Rwandan and French national, former police officer. In 2005, he changed his name to Philippe Manier.

Country of residence of suspect

France

Charges

Genocide; crimes against humanity; participation in a group formed with the view to prepare the commission of these crimes

Current status

Indicted; awaiting trial; detained

Facts

Hategekimana is suspected of having participated in the genocide against Tutsis in Rwanda in 1994.

He was allegedly involved in multiple atrocities in Nyanza and the surrounding villages in April 1994. He is accused of having assassinated a Tutsi mayor and of having participated in several mass murders, including at the Institute of Agronomic Sciences of Rwanda.

In 1999, Hategekimana fled to France where he obtained refugee status.

In 2005, Hategekimana obtained French citizenship and changed his name to Philippe Manier.

Procedure

In June 2015, the *Collectif des parties civiles pour le Rwanda* filed a complaint against Hategekimana before the French Specialized Unit for the prosecution of genocide, crimes against humanity, war crimes and torture within the Paris Tribunal (integrated in 2019 within the newly created French National Anti-Terrorist Prosecution Office).

In September 2015, an investigation was opened.

In 2017, Hategekimana left France to Cameroon and in 2018, an international arrest warrant was issued against him.

In April 2018, Hategekimana was arrested in Yaoundé, Cameroon, by the Cameroonian police.

In 2019, France requested his extradition, which was granted by Cameroonian authorities. Hategekimana was brought before the French investigative judges and denied the charges. He was indicted and placed in pre-trial detention.

On 20 September 2021, investigative judges ordered that Hategekimana be sent to trial for genocide, complicity in genocide, crimes against humanity and participation in a group formed with the view to prepare the commission of these crimes. The accused appealed this order.

DEVELOPMENTS IN 2022

In January 2022, the Paris Court of Appeals confirmed Hategekimana's referral to the Paris Criminal Court. The Paris Court of Appeals additionally added to his charges the massacre allegedly committed at the Institute of Agronomic Sciences of Rwanda, which had been dismissed in the 2021 indictment. The trial is scheduled for May 2023.



SUDANESE VICTIMS AND WITNESS HEARD BY INVESTIGATIVE JUDGES

Active personality

BNP Paribas and senior staff members

Context

Ongoing proceedings regarding the alleged complicity of BNP Paribas (BNPP) in crimes committed by the Sudanese government between 2002 and 2008

Type of jurisdiction

Universal jurisdiction and active personality

Suspects

BNPP as a company and senior staff members of the company as individuals

Country of residence of suspects

France

Charges

As the case is at the investigation stage, the suspects have not yet been formally charged. The investigation focuses on complicity in crimes against humanity, torture, genocide as well as financial crimes, including money laundering and handling the proceeds of crime.

Current status

Under investigation

Facts

From 2002 to 2008, BNPP was the primary foreign bank of the Sudanese government. During this time, Sudanese government forces and its militia called the *Janjaweed* were engaged in an armed conflict with rebel groups. They systematically targeted civilians belonging to the non-Arab ethnic groups as the rebels (particularly the Masalit, Fur and Zaghawa), in Darfur and other areas. Government forces and allied militia killed, tortured, detained, forcibly displaced, raped and assaulted tens of thousands of civilians.

These crimes, said to amount to genocide and crimes against humanity, were allegedly facilitated by BNPP through its provision of credit facilities, access to foreign financial markets and petrol exports to the Sudanese government. This alleged responsibility is compounded by the fact that Sudan was subject to sanctions from the United Nations, the European Union and individual states, increasing the government's reliance on the services provided by BNPP.

In June 2014, BNPP was prosecuted in the United States for violating US sanctions restricting financial transactions with Sudan. However, the bank never faced trial, as it accepted a plea agreement with the US Department of Justice, forfeiting nearly USD 9'000'000'000.

Procedure

On 26 September 2019, nine Sudanese victims, supported by the International Federation for Human Rights (FIDH) and Project Expedite Justice, filed a criminal complaint against BNPP before the investigative judges of the Paris Tribunal. The complaint alleges that by providing banking services to the Sudanese government while Sudan was subject to international sanctions for committing crimes against its civilians, the bank and its senior staff became complicit in these crimes.

On 26 August 2020, a criminal investigation was opened into BNPP's alleged role in mass atrocities in Sudan before the French National Anti-Terrorist Prosecution Office.

DEVELOPMENTS IN 2022

In March and December 2022, one witness and six Sudanese civil parties accompanied by FIDH were heard by the investigative judges.

REFERRAL TO THE SUPREME COURT REGARDING FRENCH COURTS' JURISDICTION OVER CRIMES AGAINST HUMANITY COMMITTED IN SYRIA

Abdulhamid Chaban (referred to as Abdulhamid A. in UJAR 2021)

Context

Ongoing proceedings against Syrian national regarding alleged crimes of torture and crimes against humanity committed in Syria. Referral of the case to the Supreme Court to decide whether French courts have jurisdiction over crimes against humanity committed in Syria

Type of jurisdiction

Universal jurisdiction

Suspect

Abdulhamid Chaban, Syrian national, former reservist of the General Intelligence Services (GIS)

Country of residence of suspect

France

Charges

Complicity in crimes against humanity

Current status

Charged while under investigation (*mis en examen*); arrested and released under investigation; awaiting Supreme Court's decision on French courts' jurisdiction

Facts

Since the beginning of the Syrian civil war in 2011, Syrian intelligence services have reportedly been systematically arresting, torturing and killing opposition activists. As a former member of the GIS, Chaban is being investigated for his alleged participation in crimes committed by the Syrian regime against the civilian population between 2011 and 2013.

Procedure

On 12 February 2019, the French authorities arrested Chaban in the Paris region on suspicion of crimes against humanity, following the rejection of his application for asylum.

On the same day, German authorities arrested two other former intelligence officials, Anwar Raslan and Eyad al-Gharib, in Germany (see p. 56). The arrests were coordinated in the context of a joint French-German investigation.

On 15 February 2019, Chaban was charged while under investigation (*mis en examen*) for complicity in crimes against humanity. He was immediately placed in pre-trial detention.

On 22 February 2019, the International Federation for Human Rights (FIDH), along with its member organization in France, the *Ligue des Droits de l'Homme* (LDH), were admitted as civil parties.

On 12 August 2019, Chaban filed an appeal against his indictment on the grounds of procedural irregularities and the lack of French courts' jurisdiction over crimes against humanity committed in Syria. The Court of Appeal did not grant his request.

In 2020, Chaban was released under investigation.

On 18 February 2021, Chaban challenged the Court of Appeal's decision before the Supreme Court.

On 24 November 2021, the Supreme Court overturned the Court of Appeal's decision, considering that, in order to be prosecuted in France, the French legal framework requires that crimes against humanity are also punishable under Syrian law, which is not the case.

DEVELOPMENTS IN 2022

On 7 December 2021, FIDH opposed the Supreme Court's decision as it had not been notified of the Court hearing and was, therefore, not able to participate in it.

In 2022, the Supreme Court announced that it would hold a new hearing on 17 March 2023, this time in plenary session together with the Nema case (see page 41).



REFERRAL TO THE SUPREME COURT REGARDING FRENCH COURTS' JURISDICTION OVER WAR CRIMES COMMITTED IN SYRIA

Majdi Nema (alias Islam Alloush)

Context

Ongoing proceedings against a senior official of the Jaysh al-Islam armed group for crimes committed between 2011 and 2018

Type of jurisdiction

Universal jurisdiction

Suspect

Majdi Nema, Syrian national, former spokesperson of Jaysh al-Islam

Country of residence of suspect

France

Charges

War crimes including recruitment of child soldiers; torture; enforced disappearances

Current status

Charged while under investigation (*mis en examen*); detained

Facts

Jaysh al-Islam is a rebel armed group formed in 2013, opposed to the Syrian regime, and which has been operating mainly in Eastern Ghouta (the suburbs of

Damascus, Syria). This group is suspected of being involved in the abduction, torture and enforced disappearance of human rights lawyers Razan Zaitouneh, Nazem al-Hammadi and Wael Hamada; and of the political activist Samira al-Khalil.

Nema, also known under his wartime alias Islam Alloush, was a senior official and spokesperson for Jaysh al-Islam. He was allegedly involved in the forced enlistment of children in the armed group, kidnapping and torture.

Procedure

On 26 June 2019, the Syrian Center for Media and Freedom of Expression, the International Federation for Human Rights (FIDH) and its member organization in France the *Ligue des Droits de l'Homme* (LDH) filed a complaint against Nema for crimes committed by Jaysh al-Islam.

Following this complaint, Nema was arrested on 29 January 2020 in Marseille by the French National Anti-Terrorist Prosecution Office. He was charged while under investigation (*mis en examen*) for war crimes, torture, enforced disappearances and complicity in these crimes.

The investigative judges performed several procedural acts, including hearings of victims, civil parties and witnesses.

In July 2020, Nema lodged an appeal against his indictment, claiming that the French courts lacked jurisdiction.

DEVELOPMENTS IN 2022

In April 2022, the Investigative Chamber of the Paris Court of Appeals stated that French courts do have jurisdiction over war crimes, torture and enforced disappearances committed by armed groups in Syria.

Nema appealed this decision before the Supreme Court. The hearing will take place in March 2023, in plenary session of the Supreme Court together with the Chaban case (see p. 40).

TADAMON MASSACRE CASE FILED INTO THE SYRIAN STRUCTURAL INVESTIGATION

Structural investigation

Context

Structural investigation regarding crimes by Syrian regime officers during armed conflict

Type of jurisdiction

Universal jurisdiction

Suspects

Unknown

Country of residence of suspects

Unknown

Charges

As the case is at the investigation stage, no suspect has yet been formally charged. The investigation focuses on charges of crimes against humanity and war crimes.

Current status

Under investigation

Facts

Since the beginning of the Syrian civil war in 2011, Syrian intelligence services have reportedly been systematically arresting, torturing and killing opposition activists. On 16 April 2013, a massacre of civilians was allegedly perpetrated by members of the Syrian intelligence forces in Damascus, Syria.

Procedure

A former photographer with the military police of the Syrian regime, codenamed Caesar, sought refuge in Europe after fleeing Syria with thousands of pictures of dead and abused bodies, attesting to the torture committed in the jails of the regime of Bashar al-Assad. In September 2015, on the basis of these pictures, the French Ministry of Foreign Affairs requested the Office of the Prosecutor of the French Specialized Unit for the prosecution of genocide, crimes against humanity, war crimes and torture within the Paris Tribunal (integrated in 2019 within the newly created French National Anti-Terrorist Prosecution Office) (Specialized Unit) to open a preliminary investigation into crimes against humanity, war crimes and torture.

France has jurisdiction over these alleged crimes if one or more of the victims is French, or if a suspect has established his habitual residence on French territory, or, in the case of the crime of torture, if a suspect is located on French territory.

The Caesar investigation is still ongoing, in collaboration with other European countries, in particular Germany, following the creation in 2018 of a joint investigative team between the French and German authorities.

DEVELOPMENTS IN 2022

On 27 April 2022, the British newspaper *The Guardian* published a lengthy investigation as well as a video showing the massacre, by members of the Syrian armed forces, of 41 civilians in Tadamon, a neighborhood of Damascus, Syria. This massacre is believed to have taken place on 16 April 2013. The video and photographs of the massacre as well as *The Guardian's* independent investigation regarding its perpetration, conducted by two researchers, were submitted to the French Ministry of Foreign Affairs and transmitted to the Specialized Unit.

In 2022, the information provided was incorporated into the ongoing structural investigation regarding the crimes committed in Syria.

CLOSURE OF THE INVESTIGATION AGAINST HIGH-RANKING SYRIAN OFFICIALS

Passive personality

Ali Mamluk, Jamil Hassan and Abdel Salam Mahmoud

Context

Investigation closed for international crimes committed in Syria in 2013

Type of jurisdiction

Passive personality

Suspects

Ali Mamluk, director of the National Security Bureau; Jamil Hassan, head of Air Force Intelligence; and Abdel Salam Mahmoud, in charge of Air Force Intelligence at the Mezzeh military airport

Country of residence of suspects

Syria

Charges

Complicity in crimes against humanity; torture; enforced disappearances; war crimes

Current status

Investigation closed; international arrest warrants issued

Facts

In November 2013, Patrick Dabbagh and his father Mazen Dabbagh, both dual French-Syrian nationals, were arrested in their home in

Damascus by Syrian Air Force Intelligence agents and detained for interrogation at the Mezzeh detention center. Neither one has been seen since. In summer 2018, the Dabbagh family received formal notification from the Syrian authorities that Patrick and Mazen Dabbagh had died. According to the United Nations Commission of Inquiry on Syria, the Mezzeh detention center has one of the highest mortality rates in Syria.

Procedure

On 24 October 2016, a complaint was filed before the Paris Tribunal by Obeida Dabbagh, a Syrian-French national, on behalf of his nephew and brother, Mazen and Patrick Dabbagh, together with the International Federation for Human Rights (FIDH) and its member organization in France the *Ligue des Droits de l'Homme* (LDH).

In October 2018, in an unprecedented step towards accountability for crimes committed in Syria, French judges of the Specialized Unit for the prosecution of genocide, crimes against humanity, war crimes and torture within the Paris Tribunal (integrated in 2019 within the newly created French National Anti-Terrorist Prosecution Office) issued international arrest warrants against Mamluk, Hassan and Salam Mahmoud. Mamluk and Hassan, also subject to an arrest warrant issued in Germany earlier in 2018, are both wanted for complicity in crimes against humanity, torture and enforced disappearances. Mahmoud, in charge of Air Force Intelligence at the Mezzeh military

airport, is wanted on war crimes charges as well as complicity in crimes against humanity, torture and enforced disappearances.

DEVELOPMENTS IN 2022

On 31 March 2022, the investigative judges decided to close the ongoing judicial investigation. They are now awaiting the final opinion of the prosecutor, before deciding on the referral of the case to the criminal court. If the case is sent to trial, and if the suspects are not apprehended, they will be tried *in absentia*.

NEW CASE!

SENIOR SYRIAN OFFICIALS UNDER INVESTIGATION FOR CRIMES COMMITTED IN SYRIA

Passive personality

Names withheld – Syrian officials

Context

Ongoing investigation for international crimes committed in Syria in 2017 against a French-Syrian national

Type of jurisdiction

Passive personality

Suspects

Syrian officials

Country of residence of suspects

Syria

Charges

War crime of deliberately attacking civilians

Current status

Under investigation

Facts

On 7 June 2017, the city of Deraa, and more particularly the neighborhood of Tareq al-Sad, was heavily bombed by the Syrian army. This attack, targeted against civil infrastructures, claimed the life of Salah Abou Nabout, a French-Syrian national.

Procedure

In 2017, a complaint was filed before the Paris Tribunal by Omar Abou Nabout, on behalf of his father, Salah Abou Nabout. Since then, a judicial investigation has been opened, and multiple witnesses and experts have been heard by the judges.

DEVELOPMENTS IN 2022

On 14 June 2022, the investigative judges requested the Paris prosecutor's position on the issuance of international arrest warrants against certain Syrian officials for the war crime of deliberately attacking civilians committed in the city of Deraa on 7 June 2017.



SYRIAN ACTIVISTS TESTIFIED IN THE CRIMINAL INVESTIGATION OVER THE KILLING OF JOURNALISTS IN SYRIA

Passive personality

Unknown – Members of the Syrian Regime

Context

Ongoing investigation into the killing of French, Syrian and British journalists during an army bombardment of a media center in Syria in 2012

Type of jurisdiction

Passive personality

Suspects

Members of the Syrian regime

Country of residence of suspects

Syria

Charges

As the case is at the investigation stage, there have been no formal charges. The investigation focuses on potential war crimes.

Current status

Under investigation

Facts

On 22 February 2012, a Syrian army bombardment in Baba Amr (Homs) led to the death and serious injury of several journalists operating from a media center there.

French photojournalist Rémi Ochlik and American war crimes correspondent Marie Colvin were both killed in the attack. Several other journalists were injured in the attack, including French journalist Edith Bouvier as well as Syrian and British journalists who were using the center as a base to report on the events in Homs in early 2012.

Procedure

This case was originally opened in 2012 as a homicide case but was reclassified in 2014 as a war crimes case.

The families of Ochlik and Colvin are civil parties in the case, together with French, Syrian and British journalists injured in the attack, the International Federation for Human Rights (FIDH) and Reporters without Borders.

On 9 April 2018, documents filed in a United States civil case concerning Colvin's death were declassified. They allegedly demonstrate the premeditated nature of the Syrian army bombardment of the media center in Homs that led to the death of Colvin and Ochlik and to the injuries to several others including Bouvier, Paul Conroy and Wael al Omar. These documents have been filed in the ongoing war crimes investigation in France.

On 30 January 2019, the US District Court in Washington DC held Syria's government liable for the targeting and killing of Colvin and awarded a compensatory USD 302'000'000 to her relatives.

DEVELOPMENTS IN 2022

In November 2022, Syrian activists were heard by the investigators, following a request made by the civil parties.

TRANSFERRING MILLIONS OF DOLLARS TO ARMED AND TERRORIST GROUPS CAN AMOUNT TO COMPLICITY IN CRIMES AGAINST HUMANITY

Active personality

Lafarge SA, Eric Olsen and others

Context

Proceedings against the cement company Lafarge SA (which, following its merger with Holcim became LafargeHolcim and was renamed Holcim in 2021) for complicity in crimes against humanity committed by armed groups in Syria, financing terrorism, deliberate endangerment of people's lives and violation of an embargo

Type of jurisdiction

Universal jurisdiction and active personality

Suspects

The French company Lafarge prior to its 2015 merger with Swiss-based Holcim; Eric Olsen, former deputy director; seven top executives of the French-Swiss Holcim group and of its subsidiary Lafarge Cement Syria; one Syrian-Canadian intermediary between Lafarge and ISIS. The primary suspects are French and Norwegian nationals.

Countries of residence of suspects

France and Switzerland

Charges

Complicity in crimes against humanity; financing of a terrorist enterprise; deliberate endangerment of people's lives and violation of the European Union embargo on oil purchases

Current status

Indicted while under investigation (*mis en examen*)

Facts

Lafarge owned and ran a cement factory in Jalabiya, Syria. From 2012 on, several armed groups operated in the factory's vicinity. The company allegedly entered into negotiations with ISIS to purchase oil and pozzolan (a material used to make concrete) from them, as well as to obtain official ISIS passes for crossing checkpoints in order to maintain its production in the area. Testimonies also point to Lafarge risking the lives of its employees, who suffered kidnappings and extortion, and violating a number of basic labor rights. The company worked out "arrangements" with armed groups, including ISIS and the al Nusra Front, around the factory from 2012-2015 amounting to at least EUR 13'000'000, according to the judicial inquiry.

Procedure

In September 2016, the French minister of finance filed a complaint before the Paris prosecutor against LafargeHolcim for its alleged illegal purchase of oil in Syria, despite the EU embargo issued in 2012. The Paris prosecutor opened an investigation in October 2016.

On 15 November 2016, 11 former Lafarge Syrian employees and the human rights groups Sherpa and the European Center for Constitutional and Human Rights (ECCHR) filed a criminal complaint as civil parties in Paris against Lafarge, Lafarge Cement Syria and their current and former top executives for financing of terrorism, complicity in crimes against humanity committed in Syria, endangerment of people's lives and for a series of labor rights violations.

On 9 June 2017, three investigative judges of the Paris Tribunal opened an investigation into the crimes alleged by the plaintiffs. In September 2017, three of the victims were heard by one of the investigative judges.

Between December 2017 and May 2018, eight former executives, including former CEOs of the Holcim group, were charged while under investigation (*mis en examen*) with financing terrorism and endangerment of people's lives amongst other charges, and were requested to provide the courts with a deposit of several million euros. In September 2019, a Syrian-Canadian alleged former intermediary between the company and ISIS suppliers was also charged.

On 28 June 2018, three investigative judges of the Paris Tribunal charged while under investigation (*mis en examen*) the legal entity Lafarge SA (now Holcim) with complicity in crimes against humanity, financing a terrorist enterprise, endangerment of people's lives and violation of an embargo. The investigative judges ordered the company to hand over EUR 30'000'000 to the judicial authorities as a security deposit ahead of a possible trial.

On 24 October 2019, the Investigation Chamber of the Paris Court of Appeals rejected the admissibility of Sherpa and the ECCHR as civil parties.

On 7 November 2019, the Paris Court of Appeals confirmed the indictments of the Lafarge executives and of the Lafarge company itself for financing a terrorist enterprise, endangerment of people's lives and violation of an EU embargo. However, it dismissed the charges of complicity in crimes against humanity for the company.

In November 2019, Sherpa and the ECCHR appealed the rejection of their civil party applications and the dismissal of the complicity in crimes against humanity charges to the French Supreme Court. Defense lawyers also appealed the 7 November confirmation of indictments.

On 7 September 2021, the French Supreme Court ruled that Lafarge's indictment for complicity in crimes against humanity was wrongly dismissed by the Paris Court of Appeals, finding that knowingly transferring millions of dollars to an organization whose sole purpose is criminal is sufficient to characterize complicity in crimes against humanity. The court also ruled that Lafarge's indictment for endangerment of peoples' lives was wrongly confirmed by the Paris Court of Appeals, finding that it had not sufficiently justified the application of French law to the case of Syrian workers. The Supreme Court therefore referred the case back to the Paris Court of Appeals for a new decision on both

charges. In addition, it confirmed the inadmissibility of Sherpa as a civil party on all charges and ECCHR's inadmissibility for almost all charges, with the exception of the complicity in crimes against humanity charge.

The Supreme Court sent the legal challenges against the various indictments back to a newly composed Court of Appeal.

DEVELOPMENTS IN 2022

On 18 May 2022, the Paris Court of Appeals upheld all charges against the parent company Lafarge. In confirming the charge of complicity in crimes against humanity, the Court of Appeals reiterated the legal findings of the Supreme Court that there was serious or corroborating evidence that Lafarge knowingly chose to maintain its activities in the region by financing these groups. With regard to the charge of deliberately endangering the lives of its subsidiary's employees in Syria, the Court of Appeals further found that French law was applicable as there was a close connection between the workers and the French parent company. The Court relied on the permanent interference of Lafarge in the management of its subsidiary, as had been highlighted by the Supreme Court. The Court thus found that there was serious or corroborating evidence that Lafarge may have been complicit in crimes against humanity and may have endangered the lives of its Syrian workers and upheld the charges.

Civil proceedings in the United States of America

On 18 October 2022, in a separate proceeding in the United States, Lafarge SA and Lafarge Cement Syria pleaded guilty before a federal court to conspiring to provide material support to foreign terrorist organizations and agreed to pay USD 778'000'000 in fines and forfeiture. It was the first time that a company was prosecuted in the US on this charge. The media reported that in court, the Lafarge chair said the former company executives knowingly and willfully agreed to participate in a conspiracy to make and authorize payments intended for the benefit of various armed groups in Syria.

The plea agreement is distinct from the French criminal proceedings and does not address the central question of corporate complicity in international crimes and reparations for those affected.

PROGRESS MADE IN TWO INVESTIGATIONS OPENED FOR GENOCIDE AND CRIMES AGAINST HUMANITY AGAINST YAZIDIS

Active personality

Sabri Essid and Nabil Greseque

Context

Ongoing proceedings against alleged Islamic State (ISIS) fighters accused of genocide and crimes against humanity committed against Yazidis

Type of jurisdiction

Active personality

Suspects

Sabri Essid and Nabil Greseque, French nationals who allegedly joined ISIS in Syria

Country of residence of suspects

Unknown

Charges

As the case is at the investigation stage, the suspects have not yet been formally charged. The investigation focuses on genocide through serious harm to physical and mental integrity against Yazidi victims; crimes against humanity of enslavement, imprisonment or any other form of severe deprivation of liberty in violation of fundamental provisions of international law, torture, rape, persecution and other inhumane acts against civilian victims.

Current Status

Under investigation

Facts

In 2014, Essid and Greseque travelled to Syria to join ISIS.

In August 2014, ISIS fighters invaded Mount Sinjar, the stronghold of the Yazidis, a Kurdish-speaking religious minority in northern Iraq. Thousands were killed and thousands of women and teenage girls were kidnapped and sexually enslaved in Iraq and Syria.

Procedure

In 2016, the Prosecutor of the French Specialized Unit for the prosecution of genocide, crimes against humanity, war crimes and torture of the Paris Tribunal (integrated in 2019 within the newly created French National Anti-Terrorist Prosecution Office) opened a preliminary investigation into alleged genocide and crimes against humanity perpetrated by ISIS against the Yazidi community in Syria and Iraq.

In 2018 and 2019, the International Federation for Human Rights (FIDH) legally represented Yazidi survivors who gave their testimonies to the investigators regarding the participation of French suspects in the crimes they suffered.

On 25 October 2019, the French National Anti-Terrorist Prosecution Office opened an investigation against Essid for crimes against humanity.

In February 2020, an international arrest warrant was issued for Essid for genocide and crimes against humanity.

On 10 July 2020, a judicial investigation was opened against Greseque for genocide and crimes against humanity committed in Syria against Yazidis between 2015 and 2016.

In 2021, two Yazidi survivors, who had been alleged victims of Essid, expressed their willingness to become civil parties.

DEVELOPMENTS IN 2022

In January 2022, a representative of FIDH's partner organization, Kinyat, based in Iraqi Kurdistan, was heard as a witness in the Essid and Greseque investigations.

NEW CASE!

HEAD OF SHIPPING COMPANY UNDER INVESTIGATION FOR SUPPLYING MATERIALS ALLEGEDLY USED FOR OPPONENTS' SURVEILLANCE AND CHEMICAL WEAPONS PRODUCTION IN SYRIA

Active personality

Salah Habib

Context

Ongoing investigation into crimes against humanity and war crimes by supplying equipment and components allegedly used by the Syrian regime for the surveillance and repression of opponents, as well as materials allegedly used for the production of chemical weapons, through a company based in France and in the United Arab Emirates

Type of jurisdiction

Active personality

Suspect

Salah Habib, French-Syrian national, head of the company Yona Star

Country of residence of suspect

France

Charges

Conspiracy to commit crimes against humanity; complicity in crimes against humanity and in war crimes; laundering the proceeds of war crimes and crimes against humanity

Current status

Charged while under investigation (*mis en examen*); under house arrest and judicial surveillance

Facts

The suspect and his company Yona Star are suspected of having provided support to the Syrian army through the sale of equipment and components used directly for the surveillance and repression of the population, despite an international embargo. The materials allegedly included items that may have been used in the production of chemical weapons.

Procedure

In 2016, the United States Office of Foreign Assets Control imposed financial sanctions on the suspect and his company Yona Star and blacklisted them as it found that they had transported goods to Damascus in violation of an international embargo.

In June 2017, a preliminary investigation was opened by the French Specialized Unit for the prosecution of genocide, crimes against humanity, war crimes and torture of the Paris Tribunal (integrated in 2019 within the newly created French National Anti-Terrorist Prosecution Office).

On 25 December 2021, the suspect was arrested in France and charged while under investigation for conspiracy to commit crimes against humanity, complicity in crimes against humanity and complicity in war crimes as well as

for the laundering the proceeds of war crimes and crimes against humanity. He was placed in pre-trial detention.

DEVELOPMENTS IN 2022

In January 2022, the International Federation for Human Rights (FIDH), along with its member organization in France, the *Ligue des Droits de l'Homme* (LDH), and the Syrian Center for Media and Freedom of Expression were admitted as civil parties.

On 17 February 2022, the investigative judge released the suspect from pre-trial detention and placed him under house arrest and electronic surveillance. This decision was confirmed by the Paris Court of Appeals on 24 February 2022.

NEW CASE!

CRIMINAL INVESTIGATION OF INTERPOL'S PRESIDENT

Ahmed Nasser al-Raisi

Context

Ongoing investigation into torture allegedly committed by General Ahmed Nasser al-Raisi, president of Interpol since November 2021

Type of jurisdiction

Universal jurisdiction

Suspect

Al-Raisi, Emirati general, high-ranking police official and current president of Interpol

Countries of residence of suspect

United Arab Emirates, France

Charges

As the case is at the investigation stage, the suspect has not yet been formally charged. The investigation focuses on charges of complicity in torture.

Current status

Under investigation

Facts

Al-Raisi has worked since 2015 as an inspector general at the UAE Interior Ministry, which has, according to the Gulf Centre for Human Rights, a long record of multiple abuses.

Ahmad Mansoor, a prominent human rights activist, was arrested in 2017, convicted in 2018 and sentenced to ten years' imprisonment for having publicly criticized the UAE authorities. Mansoor's inhumane detention conditions have been repeatedly condemned by United Nations human rights experts.

Matthew Hedges, a British citizen, was charged with espionage and detained in the UAE between May and November 2018. He reported having been tortured and coerced into a false confession. He was sentenced to life imprisonment in November 2018 and pardoned a few days later thanks to international pressure.

Ali Issa Ahmad, also a British citizen, was detained for ostensibly supporting the soccer team of the Emirate of Qatar, a rival of the UAE, by wearing a t-shirt bearing Qatar's flag at an Asian Cup match. He reported having been stabbed and repeatedly beaten during a month-long detention between January and February 2019.

Procedure

In June 2021, the NGOs Gulf Centre for Human Rights and AFD International filed two complaints with the French National Anti-Terrorist Prosecution Office alleging that al-Raisi was responsible for the ill-treatment inflicted on Ahmed Mansoor.

In September 2021, another complaint was filed on the behalf of the two British citizens who were victims of torture and ill-treatment in the UAE, Matthew Hedges and Ali Issa Ahmad.

The complaints were dismissed on the ground that al-Raisi was not present on French territory, which is a requirement to conduct an investigation under universal jurisdiction.

In November 2021, al-Raisi was elected president of Interpol, which holds its headquarters in Lyon, France.

DEVELOPMENTS IN 2022

In January 2022, another complaint was filed by the Gulf Centre for Human Rights, alleging that France has jurisdiction over the case now that al-Raisi was present on French territory.

In March 2022, an investigation was opened into complicity in torture.

NEW CASE!

DISMISSAL OF THE UAE PRESIDENT'S CASE ON THE GROUNDS OF IMMUNITY

Mohammed Ben Zayed

Context

Dismissal of investigation of former crown prince, senior army official, now President of the United Arab Emirates for complicity in torture in Yemen

Type of jurisdiction

Universal Jurisdiction

Suspect

Mohammed Ben Zayed, President of the UAE, former crown prince and senior army official when the facts occurred

Country of residence of suspect

UAE

Charges

The suspect was not formally charged. The investigation focused on complicity in acts of torture and in war crimes.

Current status

Case closed

Facts

Ben Zayed was accused of complicity in acts of torture perpetrated in Yemeni prisons controlled by UAE forces. He was also accused of complicity in the injuring and killing of civilians in the 2016 bombing of a funeral in Sana'a by coalition forces of which the UAE was part.

Procedure

In November 2018, six Yemeni victims and the International Alliance for Defending Rights and Freedom lodged a complaint against Ben Zayed for his alleged complicity in crimes of torture and war crimes perpetrated in Yemen.

A judicial investigation was opened in October 2019.

In July 2021, the investigative judges ruled that Ben Zayed was protected by head of state immunity and dismissed the investigation. The civil parties appealed this decision.

FOLLOW-UP ON OTHER CASES

- Garment companies investigated for forced labor of Uyghurs (UJAR 2022, p. 38): the investigation is ongoing.
- Ahmed Hamdane El Aswadi (UJAR 2021, p. 37): the suspect is pending extradition.
- Laurent Serubuga (UJAR 2018, p. 27): awaiting trial.
- Name withheld, alleged Rwandan genocidaire (UJAR 2022, p. 43): the investigation is ongoing.
- Pierre Kayondo (UJAR 2022, p. 45): the investigation is ongoing.
- Sosthène Munyemana (UJAR 2022, p. 46): awaiting trial.
- Isaak Kamali (UJAR 2022, p. 41): the investigation is ongoing.
- Marcel Hitayezu (UJAR 2022, p. 42): the investigation is ongoing.
- Names withheld – Syrian officials, chemical attacks (UJAR 2022, p. 29): the investigation is ongoing.
- Nouri Mahammat (UJAR 2021, p. 38): the investigation is ongoing.

DEVELOPMENTS IN 2022

In January 2022, the Court of Appeals confirmed the closure of the investigation.

On 12 October 2022, the civil parties referred the case to the Supreme Court.

On 16 November 2022, the Supreme Court dismissed the case, thus confirming the decision of the Court of Appeals.

GERMANY

AWAITING DECISION IN INVESTIGATION AGAINST FORMER ARGENTINIAN MILITARY OFFICER

Active personality

Luis Esteban Kyburg

Context

Ongoing preliminary investigation in Germany for murder of civilians during the Argentinian dictatorship

Type of jurisdiction

Active personality

Suspect

Luis Esteban Kyburg, an Argentinian-German citizen and former second commander of a special unit at the Mar del Plata naval base

Country of residence of suspect

Germany

Charges

As the case is at the investigation stage, Kyburg has not yet been formally charged for any crime. However, the investigation is focused on his alleged involvement in the murder of at least 19 persons in 1976.

Current status

Under investigation

Facts

Between 1976 and 1983, the dictatorship in Argentina headed by Jorge Rafael Videla developed a policy of state terrorism, resulting in thousands of human rights violations and crimes against humanity. Among these, at least 30'000 persons were forcibly disappeared for opposing the regime. In many cases, state officials tortured captive pregnant women and forcibly gave their children up for adoption to supporters of the regime.

In this period, the naval base in Mar del Plata (a city 400 km south of Buenos Aires) was being used as an illegal detention center. Detainees were held captive, tortured, possibly drugged and thrown into the ocean by military planes (a practice that is commonly known as "death flights" – or *vuelos de la muerte*). In 1976, Kyburg was appointed second commander of a special unit for tactical divers (*Agrupación Buzos Tácticos*) in the Mar del Plata naval base.

The complaint against Kyburg regards the case of a young man who was detained with his three-month pregnant partner in September 1976. The detention occurred after Argentinian state forces, dressed in civilian clothes, raided their home and took them to the naval base. Since then, their whereabouts are unknown.



At least 16 former members of the armed forces have been convicted for the crimes against humanity committed in Mar del Plata during this period. Among these, the first commander of Kyburg's unit and the person who followed him in his position in 1997 have been convicted and imprisoned.

Procedure in Argentina

In 2013, Argentinian authorities issued an arrest warrant against Kyburg in the context of criminal proceedings in which he, along with other former naval officers, were being investigated for the crimes against humanity of murder, forced disappearance, torture and kidnapping of civilians in the Mar del Plata naval base.

Kyburg managed to flee Argentina before his arrest and has been living, since then, in Germany.

Procedure in Germany

German authorities denied an extradition request as Kyburg is a German citizen (Germany does not extradite its own nationals unless the extradition takes place within European Union countries).

German authorities have requested judicial assistance from Argentinian authorities and have obtained substantial amounts of evidence on the crimes that occurred in the Mar del Plata naval base. Additionally, in 2017, the Berlin Prosecutor traveled to Argentina in order to gather additional evidence and to meet Argentinian authorities.

In 2018, a criminal complaint against Kyburg was submitted – with the support of the European Center for Constitutional and Human Rights – by the sister of the young man who was forcibly disappeared in 1976. In 2019, German authorities took the testimony of the complainant.

In July 2020, a prosecutor in Berlin publicly confirmed that a person-specific investigation targeted Kyburg and that he was undertaking further investigatory steps to prosecute the crimes under German law. In this respect, in 2021, the testimonies of survivors living in EU countries other than Germany were taken by prosecutors of the respective countries through EU mutual assistance in criminal matters. At the end of 2021, the gathering of testimonies by survivors, witnesses and former military officers in Mar del Plata began. The testimonies were taken via videoconference and with the cooperation of the German Embassy in Argentina and local authorities.

DEVELOPMENTS IN 2022

In 2022, German authorities finished taking the testimonies of witnesses, survivors and former Argentinian military officers. A decision on the results of the investigation, which could either lead to Kyburg's indictment or the closure of the investigation, is pending.

ALLEGED FORMER MEMBER OF GAMBIAN PARAMILITARY ACCUSED OF CRIMES AGAINST HUMANITY

Bai L.

Context

Trial of a former member of a Gambian paramilitary unit known as the "Junglers" or "Patrol Team" for crimes against humanity allegedly committed between December 2003 and December 2006

Type of jurisdiction

Universal jurisdiction

Suspect

Bai L., Gambian national, alleged former member of the Junglers

Country of residence of suspect

Germany

Charges

Crimes against humanity of murder and attempted murder

Current status

On trial; detained

Facts

The Gambia was under the control of Yahya Jammeh from 1994 to 2016. For more than two decades, human rights violations, including enforced disappearances, torture, extrajudicial killing, sexual violence and arbitrary detention were widespread.

Bai L. is alleged to be a former member of the paramilitary Junglers death squad. According to his arrest warrant and indictment, he was a driver for the Junglers from December 2003 until December 2006.

In that context, Bai L. was allegedly involved in three killing missions. In late December 2003, the paramilitary unit allegedly received an order to kill lawyer Ousman Sillah in Banjul, the Gambia. In his capacity as driver, Bai L. allegedly drove other Junglers to the location where the crime took place. There, a member of the Junglers allegedly fired several shots at the lawyer, who survived the attack. A year later, the Patrol Team killed prominent Gambian journalist Deyda Hydara, who was critical of the government. The Junglers, with the alleged participation of Bai L., stopped the journalist's car on a road in Kanifing. Subsequently, two members of the Patrol Team killed him by firing several shots, while Bai L. allegedly transported one of the shooters in his vehicle. In 2006, members of the paramilitary unit shot and killed Dawda Nyassi, a suspected opponent of the Gambian president near the Banjul airport. As before, the accused allegedly transported the other perpetrators to the location of the shooting.

Procedure

On 16 March 2021, the suspect was arrested in Hanover by the Federal Criminal Police and the state police forces under suspicion of crimes against humanity and his apartment was searched. Subsequently, and in execution of an arrest warrant, the suspect was placed in detention.

DEVELOPMENTS IN 2022

In March 2022, the suspect was indicted for crimes against humanity based on the attempted murder of lawyer Ousman Sillah in 2003, as well as the murders of journalist Deyda Hydara in 2004, and of perceived political opponent Dawda Nyassi in 2006. This indictment was approved by the Higher Regional Court of Celle, where Bai L.'s trial opened on 25 April 2022. During the trial, several witnesses were heard by the Court, including two eyewitnesses to one of the crime scenes and two joint-plaintiffs; the son of the journalist assassinated and a former employee of said journalist's newspaper. The trial is scheduled to last until early 2023.



TRIAL AGAINST SYRIAN DOCTOR FOR CRIMES AGAINST HUMANITY CONTINUES

Alaa M.

Context

Ongoing proceedings for international crimes allegedly committed by a Syrian doctor in Syrian military hospitals

Type of jurisdiction

Universal jurisdiction

Suspect

Alaa M., Syrian national, former doctor and member of the Syrian Military Intelligence

Country of residence of suspect

Germany

Charges

Crimes against humanity, including sexual violence, torture and dangerous bodily harm

Current status

On trial; detained

Facts

According to the indictment, between April 2011 and the end of 2012, Alaa M. worked as a doctor in a military hospital in the city of Homs as well as in the al-Mezzeh military hospital in Damascus. In these hospitals as

well as in the prison of Department 261 of the Syrian Military Intelligence in Homs, he allegedly severely mistreated and tortured numerous detained civilians, two of whom subsequently died.

Among other things, he is accused of beating several detained patients with batons and a plastic tube, administering a lethal injection to one person, stepping on a prisoner's wound with boots and subsequently setting it on fire with disinfectant and pouring alcohol over the genitals of a 14 or 15-year-old boy, which he then ignited.

Alaa M. fled Syria to Germany, where he worked as a doctor since 2015.

Procedure

On 19 June 2020, the Federal Public Prosecutor arrested the former doctor and alleged employee of the Syrian Military Intelligence Alaa M. under the suspicion of crimes against humanity.

On 16 December 2020, the arrest warrant was extended to cover allegations of murder in one case, torture in 18 cases, inflicting grievous bodily and mental harm in one case, severe deprivation of physical liberty in seven cases (one of which led to death) and an attempt to deprive a person of their reproductive capacity, all of which are characterized as crimes against humanity.

On 15 July 2021, the Federal Public Prosecutor indicted Alaa M. In early November 2021, the main parts of the indictment were admitted for trial by the Higher Regional Court of Frankfurt. The Court declined, however, to admit ten cases of the indictment to trial for legal reasons.

DEVELOPMENTS IN 2022

In January 2022, upon appeal by the Federal Public Prosecutor, the Federal Court of Justice overturned the decision declining to admit ten cases of the indictment to trial, thus admitting the full indictment to trial.

On 19 January 2022, the trial against Alaa M. began before the Higher Regional Court of Frankfurt. Throughout the year, the accused and several witnesses and civil parties were heard by the court.

FIRST CONVICTION FOR SYRIAN STATE TORTURE UPHeld BY FEDERAL COURT OF JUSTICE

Anwar Raslan and Eyad al-Gharib

Context

Conviction before the Higher Regional Court of Koblenz of two former members of the Syrian General Intelligence Service (GIS) for international crimes allegedly committed by the al-Khatib branch (also known as Branch 251) in Damascus. This was the first trial addressing systematic international crimes committed by the Syrian government and its intelligence agencies since 2011.

Type of jurisdiction

Universal jurisdiction

Suspects

Anwar Raslan, former head of the investigation unit at the al-Khatib branch of the GIS in Damascus; Eyad al-Gharib, employee of the subdivision working with Anwar Raslan's investigation unit

Country of residence of suspects

Germany

Charges

Raslan was originally charged with being a co-perpetrator in 4'000 cases of torture, 58 murders and in individual cases of sexual assault and rape that were committed between 29 April 2011 and 7 September 2012, as crimes against humanity.

Throughout the proceedings, the court indicated that the charges extended to further cases of murder and sexualized violence as crimes against humanity.

Al-Gharib was charged with aiding and abetting crimes against humanity in at least 30 cases of deprivation of liberty and torture.

Current status

Both defendants are detained and have been sentenced. The sentence against al-Gharib was upheld by the Federal Court of Justice and is therefore final. Raslan's case is still under appeal.

Facts

Since the beginning of the Syrian civil war in 2011, Syrian intelligence services have reportedly been systematically arresting, torturing and killing opposition activists. In September 2011, the German Federal Public Prosecutor opened a structural investigation into war crimes and crimes against humanity committed by the governmental institutions. Other person-specific investigations targeted Raslan and al-Gharib.

Raslan headed the investigation unit of the al-Khatib branch. Between late April 2011 and early September 2012, he implemented and oversaw a brutal system of physical and psychological torture intended to extract confessions and gain insight into the opposition movement. At least 4'000 persons were exposed to torture in the al-Khatib detention center under Raslan's direct command. Methods of torture included beatings with fists and various objects, administering electric shocks, suspending victims from the ceiling by their wrists, sleep deprivation and making threats against relatives. Moreover, victims were subjected to inhumane conditions of detention such as overcrowded cells and the withholding of medical attention. Dozens of persons died as a result of the torture and inhumane conditions.

Al-Gharib was a member of a sub-unit of the investigative division tasked with conducting identity checks and arresting demonstrators, deserters and other suspicious persons. He was indicted for aiding and abetting the torture and illegal detention of at least 30 persons. In the autumn of 2011, after an anti-government demonstration in the city of Douma had been violently dispersed by security forces, al-Gharib and other GIS officials pursued and arrested fleeing demonstrators and transported them to the al-Khatib detention center. According to the charges, al-Gharib had full knowledge of the system of torture and mistreatment that detainees were being subjected to.

Procedure

In September 2011, the German Federal Public Prosecutor opened a structural investigation into war crimes and crimes against humanity committed by the Syrian governmental institutions.

On 12 February 2019, German authorities arrested Raslan and al-Gharib in Berlin and Rhineland-Palatinate, respectively, as a result of person-specific investigations. On the same day, French authorities arrested another former intelligence service official in Paris (Abdulhamid Chaban, see p. 40). The arrests were coordinated by the joint French-German investigative unit.

On 22 October 2019, the German Federal Public Prosecutor formally indicted Raslan and al-Gharib before the Higher Regional Court of Koblenz.

On 23 April 2020, the trial against Raslan and al-Gharib began at the Higher Regional Court of Koblenz.

Numerous survivors and witnesses of the crimes, as well as expert witnesses, testified throughout the trial, including forensic analyst Professor Markus Rothschild, who analyzed the 26'938 photographs provided by the defected military photographer Caesar and confirmed that survivors' testimonies were largely consistent with his findings.

Several insider witnesses who formerly worked in or with Syrian intelligence agencies also gave their testimony, including an anonymous witness who gave

a detailed account on the mass burial of deceased detainees of the intelligence services. The witness reported on his work in cemeteries in the province of Damascus and his assistance to intelligence officers in transporting and burying the bodies of detainees from detention facilities of the intelligence services, including the GIS's al-Khatib detention center and the Saydnaya military prison. Trucks carried several hundred corpses per week. The corpses were marked with numbers and symbols on their foreheads or chests, which corresponds with the images provided by Caesar.

Originally, the Court had refused to make an Arabic translation available to the audience. However, on 18 August 2020, the German Constitutional Court granted a preliminary injunction to provide Arabic translation to all accredited journalists following the trial.

On 18 November 2020, the Court severed the trial of al-Gharib and announced it would soon rule on his case.

On 19 November 2020, the European Center for Constitutional and Human Rights (ECCHR) supported a motion filed by partner lawyers on behalf of the seven joint plaintiffs to expand the charges against Raslan to include rape and sexual coercion as part of the crimes against humanity indictment, as so far sexual and gender-based crimes had only been indicted as single incidents rather than as part of a crime against humanity.

On 24 February 2021, al-Gharib was found guilty of aiding and abetting a crime against humanity in 30 cases of torture and aggravated deprivation of liberty and sentenced to four and a half years in prison. He appealed the verdict.

On 17 March 2021 the Court explicitly informed Raslan that cases of sexual violence in the al-Khatib Branch would be tried as a crime against humanity in the context of a widespread and systematic attack against the civilian population in Syria.

On 22 July 2021, joint plaintiff representatives and partner lawyers of the ECCHR filed a motion to include enforced disappearance as a crime against humanity in the charges. The court did not grant the request, as it could not confirm that Raslan acted intentionally in this regard.

On 1 July 2021, 23 German and international academics, research institutions and human rights organizations, together with the ECCHR, filed a motion to the Higher Regional Court of Koblenz, Germany, requesting it to produce audio recordings of the last phase of the trial. On 31 August 2021, the Court denied the request, as it did not find that the trial was of paramount significance for the contemporary history of the Federal Republic of Germany as required by law.

DEVELOPMENTS IN 2022

On 13 January 2022, the Higher Regional Court of Koblenz found Raslan guilty of crimes against humanity in the form of killing, torture, severe deprivation of liberty, rape and sexual assault in conjunction with 27 cases of murder, 25 cases of dangerous bodily harm, aggravated rape, two cases of sexual assault and deprivation of liberty lasting more than one week in 14 cases. He was sentenced to life imprisonment. He has appealed the verdict. The appeal is currently pending with the Federal Court of Justice.

On 20 April 2022, the Federal Court of Justice upheld the conviction of al-Gharib and his sentence to four and a half years' imprisonment, making the conviction and sentence final.



FINAL CONVICTION FOR INVOLVEMENT IN EXECUTION OF PRISONER OF WAR IN SYRIA

Khedr A. K. and Sami A. S.

Context

Conviction for international crimes committed by members of non-state armed groups in Syria

Type of jurisdiction

Universal jurisdiction

Suspects

Khedr A. K. and Sami A. S., Syrian nationals, members of an organized armed group in Syria

Country of residence of suspects

Germany

Charges

War crimes; murder; membership in a foreign terrorist organization

Current status

Convicted; sentences confirmed

Facts

According to the judgment, Khedr A. K. joined the group "Ghuraba'a Mohassan" in the Syrian village of Mohassan in the spring of 2012, which became part of the foreign terrorist organization "Jabhat al-Nusra". On 10 July 2012, both defendants participated in the

execution of a lieutenant colonel in the Syrian armed forces who had previously been captured during violent clashes between opposition groups and the Syrian army. The victim, who visibly suffered from severe mistreatment, was killed by multiple gunshots as a representative of the Assad regime. Khedr A. K. was among the prisoner's guards and shielded the execution. Sami A. S. filmed the execution of the victim and commented on it in a glorifying manner in a video published online shortly thereafter.

Procedure

On 10 July 2020, an investigative judge of the Federal Court issued an arrest warrant against Khedr A. K. and Sami A. S. They were subsequently arrested in Naumburg (Saale) and Essen (North Rhine-Westphalia), respectively, on 13 July 2020.

On 16 December 2020, the German Federal Public Prosecutor issued a formal indictment against the accused.

On 26 August 2021, the Higher Regional Court of Düsseldorf found Khedr A. K. guilty of war crimes by murder in conjunction with murder and membership in a foreign terrorist organization. He was sentenced to life imprisonment. Sami A. S. was found guilty of aiding and abetting these crimes in conjunction with supporting a terrorist organization abroad. He was sentenced to nine years in prison.

DEVELOPMENTS IN 2022

On 5 April 2022, the Federal Court of Justice largely dismissed the defendants' appeals, with the result that both sentences of the Higher Regional Court of Düsseldorf are now final.



ALLEGED SYRIAN WAR CRIMINAL ON TRIAL

Moafak D.

Context

Ongoing trial for alleged war crimes and murder committed in Syria in 2014

Type of jurisdiction

Universal jurisdiction

Suspect

Moafak D., Syrian national, alleged member of the Syrian Free Palestine Movement

Country of residence of suspect

Germany

Charges

War crimes; murder; dangerous bodily harm

Current status

On trial; detained

Facts

Moafak D. was allegedly a member of the Free Palestine Movement. Previously, he had belonged to the Popular Movement for the Liberation of Palestine General Command. After the beginning of the unrest in Syria, which turned into a civil war, these armed militias exercised control over Yarmouk on behalf of the Syrian regime.

Moafak D. allegedly fired a grenade from an anti-tank weapon into a crowd of people in Yarmouk, Damascus, Syria, on 23 March 2014. The people were civilians from the neighborhood who were waiting for food parcels to be distributed by the United Nations Relief and Works Agency for Palestine Refugees in the Near East. At least seven people were killed in the attack. At least three other people, including a six-year-old child, were injured.

Procedure

On 4 August 2021, officers of the Berlin Criminal Police arrested Moafak D. in Berlin upon the request of the German Federal Public Prosecutor and searched his apartment in Berlin.

DEVELOPMENTS IN 2022

On 5 April 2022, the German Federal Prosecutor indicted Moafak D. for war crimes, murder in seven cases, attempted murder in three cases and dangerous bodily harm in three cases.

On 25 August 2022, Moafak D.'s trial began before the Higher Regional Court of Berlin. Since then, several crime scene-witnesses as well as experts and investigators have testified in the proceedings.



ISIS RETURNEES AND FOREIGN ISIS MEMBERS UNDER PROSECUTION

This year saw the continuation and start of 12 cases against alleged former members of the Islamic State (ISIS). The majority of these cases continued being based on the active personality principle as the involved individuals were German nationals returning from Syria or Iraq. However, two trials were also conducted against alleged foreign ISIS members in accordance with the principle of universal jurisdiction. Regarding the investigative focus, the efforts of German prosecutors to fight impunity for the Yazidi genocide have continued, with the start of three new cases this year in addition to those that are still ongoing from the previous year. In terms of crimes, it may be noted that six of the prosecutions against female returnees relied on war crimes against property and other rights for appropriating houses and properties where the former legal residents had fled or been displaced by ISIS. With the conviction of Jalda A. (p. 63), Germany has handed down the world's second conviction for genocide against the Yazidi community, following the conviction of Taha A. J. in November 2021 (UJAR 2022, p. 58). The newly initiated proceedings against Nadine K. (p. 66) also address this charge.

NEW CASE!

Former fighter associated with the Free Syrian Army convicted of war crimes

Amin M.

Context

Conviction for war crimes committed in Syria

Type of jurisdiction

Universal jurisdiction

Suspect

Amin M., Syrian national, former fighter associated with the Free Syrian Army

Country of residence of suspect

Germany

Charges

War crimes

Current status

Convicted; sentenced to one year and six months in prison, suspended on probation

Facts

According to the findings by the Higher Regional Court, Amin M. lived with his family near Homs in Syria. In the course of the protests against Bashar al-Assad's government that flared up in early 2011 and expanded from March 2011 into

a widespread civil war, Amin M. suffered injuries and losses within his family as a result of air raids. He subsequently joined a resistance group that fought against the Assad regime under the leadership of the Free Syrian Army.

During the associated fighting, on 30 December 2013, the then 18-year-old defendant and his fellow fighters came across the body of a Syrian armed forces soldier killed earlier in the battle. Amin M. believed the soldier to have been an Assad regime air force pilot. Out of anger against the regime and the military, incited by fellow fighters and in reaction to the airstrikes, Amin M. allowed himself to be filmed kicking the dead body in the stomach with his foot and running this foot over the dead man's face, calling him a "dog". Furthermore, the defendant posed – partly alone, partly together with a fellow combatant armed with a rifle – for several photographs with the dead Syrian soldier, whereby, among other things, he placed a foot on the chest of the dead man.

Procedure

Amin M., who had entered Germany in November 2015, was arrested on 18 August 2021 based on an arrest warrant issued by an investigative judge of the Higher Regional Court of Frankfurt am Main dating from 6 August 2021 and was placed in pre-trial detention.

DEVELOPMENTS IN 2022

On 27 July 2022, the investigative judge decided to release Amin M. from pretrial detention and to lift the arrest warrant.

On 5 October 2022, the Higher Regional Court of Frankfurt am Main found Amin M. guilty of war crimes. He was sentenced to one year and six months in prison under juvenile law and the sentence was suspended on probation.

NEW CASE!

Raed E.

Context

Ongoing proceedings for international crimes committed in Syria

Type of jurisdiction

Universal jurisdiction

Suspect

Raed E., Syrian national

Country of residence of suspect

Germany

Charges

Crimes against humanity; war crimes; membership in a foreign terrorist organization; bodily injury by dangerous means

Current status

Indicted; detained

Facts

According to the indictment, Raed E. joined the Islamic State (ISIS) as a member in Deir-Ezzor, Syria in the summer of 2014. In this area, ISIS cracked down with great severity on the al-Shu'aytat tribe from the end of July/beginning of August 2014, including mass killings, arbitrary arrests and severe physical abuse of those captured by ISIS members. These ISIS actions against the al-Shu'aytat tribe cost the lives of between 700 and 1'000 people at the time.

The indictment states that between mid-September and November 2014, Raed E. and other ISIS members arrested a member of the al-Shu'aytat tribe. The arrest took place when the victim inquired about his 13-year-old brother, who had previously been kidnapped by ISIS. Together with other ISIS members, Raed E. allegedly hung the victim from the ceiling with his hands tied behind his back, hit him several times with whips and cables and kicked him. The victim was subsequently detained in various ISIS prisons for more than two months. There, the accused, together with other ISIS members, are said to have repeatedly abused him with pointed, sharp or heavy objects and with electric shocks.

ISIS also held the 13-year-old brother of the aforementioned victim captive for several months. During this time, Raed E. allegedly transported him

from one ISIS prison to another. On another occasion, the accused reportedly instructed two ISIS members to hang the 13-year-old from the ceiling with his hands tied behind his back.

Another member of the al-Shu'aytat tribe spent four and a half months in ISIS captivity. During this time, Raed E. together with another ISIS member reportedly abused him twice. The prisoner's hands, which were tied behind his back, were allegedly pulled up to the ceiling with a rope until only his toes touched the floor. The accused then allegedly hit the prisoner with a water hose all over his body with the exception of his head.

According to the indictment, Raed E. was active in ISIS until February 2015. During this time, he also allegedly performed other tasks for the organization, including the handling of ransom payments for imprisoned members of the al-Shu'aytat tribe and the guarding of three ISIS road checkpoints in the tribal area.

Procedure

Raed E. was arrested on 6 April 2022 and has been in custody since.

On 14 June 2022, the Federal Public Prosecutor formally indicted Raed E. on the charges of crimes against humanity, war crimes, membership in a foreign terrorist organization and bodily injury by dangerous means at the Higher Regional Court of Berlin.

NEW CASE!

Active personality

Jalda A.

Context

Conviction for international crimes committed in Syria, including the enslavement of a Yazidi woman

Type of jurisdiction

Active personality

Suspect

Jalda A., German and Afghan national

Country of residence of suspect

Germany

Charges

Crimes against humanity of persecution, enslavement and severe deprivation of liberty; aiding and abetting genocide; aiding and abetting the crimes against humanity of rape and causing severe mental harm; aiding and abetting the war crimes of rape, cruel and inhuman treatment and serious bodily harm; and membership in a foreign terrorist organization

Current status

Convicted; sentenced to five and a half years in prison

Facts

According to the indictment, Jalda A. travelled to Syria in April 2014, following her brother who had already joined the Islamic State (ISIS) in February 2014.

After her arrival, she married an ISIS fighter, with whom she lived in several houses that had fallen into the hands of ISIS after the former residents had fled or been driven out. Together they regularly attended public "punishment actions" by ISIS, including stonings. After the birth of their son in February 2015, Jalda A. lived in an ISIS apartment in Raqqa with her first husband, who died in April 2015.

Subsequently, Jalda A. lived as a "second wife" with another ISIS member, before she was married to a third man from September to October 2017, with whom she lived in several accommodations provided by ISIS in Mayadin. Part of the joint household was a 26-year-old Yazidi woman "M" who was enslaved by ISIS in August 2014 when her home village had been conquered. According to the findings of the court, Jalda A. facilitated her husband's physical and sexual abuse of M by guarding the woman and preventing her from fleeing. Jalda A. used the Yazidi woman for slave labor and abused her several times over a period of approximately three weeks.

Procedure

After her capture by Kurdish forces at the end of 2017, Jalda A. was placed with her son in the Roj camp near al-Hasakah, where she gave birth to her second son in July 2018. In October 2021, she was transferred with her children to Germany, where she was arrested upon arrival and indicted in April 2022.

On 27 July 2022, the Higher Regional Court of Hamburg found Jalda A. guilty of the crimes against humanity of persecution, enslavement and severe deprivation of liberty; aiding and abetting genocide; aiding and abetting the crimes against humanity of rape and causing severe mental harm; aiding and abetting the war crimes of rape, cruel and inhuman treatment and serious bodily harm; and membership in a foreign terrorist organization. She was sentenced to five and a half years in prison.

NEW CASE!

Active personality

Kim Teresa A.

Context

Conviction for war crimes committed in Syria

Type of jurisdiction

Active personality

Suspect

Kim Teresa A., German national

Country of residence of suspect

Germany

Charges

Aiding and abetting war crimes; membership in a foreign terrorist organization; violations of the War Weapons Control Act

Current status

Convicted; sentenced to four years in prison confirmed

Facts

According to the findings by the Higher Regional Court of Frankfurt-Main, Kim Teresa A. travelled together with her partner to Syria in June 2014, where they both joined the Islamic State (ISIS).

While her partner worked as a fighter for ISIS in various locations in Syria, Kim Teresa A. kept the joint household and took care of him in case of illness. During this time, the couple was sustained by ISIS. This included in particular the provision of housing free of charge in six cases. In each case, the shelters were occupied by ISIS after their former residents had been evicted, imprisoned or killed. In addition, they received USD 80-100 per month from ISIS, with half of this amount expressly intended for Kim Teresa A. as remuneration for her work as the wife of a combatant.

In two cases, she also received Kalashnikov AK-47 assault rifles from her partner, which she carried with her to ward off attacks against herself or ISIS if necessary.

During her stay in Syria, Kim Teresa A. ran two chat groups, in which life in the "caliphate" was glossed over. One group also included women in Germany who were thinking of leaving Germany in order to join ISIS. In the chat group, these women were motivated to join ISIS and given practical tips for doing so.

Procedure

After the situation had become increasingly dangerous for her, Kim Teresa A. fled the ISIS occupied territory to territory controlled by the Free Syrian Army in the spring of 2014. In autumn 2020, she fled from Syria to Turkey and returned to Germany on 2 October 2020, where she was arrested upon arrival.

On 29 October 2021, the Higher Regional Court of Frankfurt am Main found Kim Teresa A. guilty of membership in a foreign terrorist organization, war crimes against property and other rights as well as violations of the War Weapons Control Act. She was sentenced to four years in prison.

The defendant filed an appeal against the decision.

DEVELOPMENTS IN 2022

On 3 May 2022, the Federal Court of Justice rejected the appeal and confirmed Kim Teresa A.'s four-year sentence.

Active personality

Leonora M.

Context

Ongoing proceedings for war crimes committed in Syria, including the enslavement of a Yazidi woman and her two children

Type of jurisdiction

Active personality

Suspect

Leonora M., German national

Country of residence of suspect

Germany

Charges

Aiding and abetting crimes against humanity; membership in a foreign terrorist organization; violations of the War Weapons Control Act

Current status

Sentenced to two years in prison suspended on probation; pending appeal

Facts

According to the indictment, Leonora M. left Germany for Syria in March 2015 to join the Islamic State (ISIS) while she was still under eighteen. She married a member of the ISIS security apparatus and lived with him in Raqqa from the fall of 2015 to June 2017. During this time, she temporarily owned a semi-automatic handgun for firing cartridge ammunition and exercised control over a Kalashnikov assault rifle, a weapon subject to the War Weapons Control Act. She supported her husband's activities in ISIS by managing the household and writing a letter of application for him to the ISIS intelligence service, for which he then worked

until April 2017. Leonora M. also worked for ISIS herself. Shortly after her arrival, she was assigned to a hospital controlled by ISIS for three months. At the end of 2015, she took on the task of investigating the wives of ISIS fighters for the ISIS intelligence service.

The Court of Appeal will have to determine whether Leonora M. supported her husband in trafficking in human beings. At the end of June 2015, her husband allegedly bought a 33-year-old Yazidi woman as a slave in order to sell her and her two small children for a profit. They were allegedly held captive in the couple's shared apartment in Raqqa. According to the prosecutor, at the behest of her husband, Leonora M. physically took care of the injured Yazidi woman so that she could be resold at a profit. In addition, she allegedly tried to dissuade the victimized Yazidi woman from her religious beliefs and to convince her of ISIS's understanding of Islam. The enslaved Yazidi woman was subsequently sold at a profit.

Procedure

On 20 December 2020, upon her return to Germany, Leonora M. was arrested on the basis of an arrest warrant issued by an investigative judge of the Federal Supreme Court on 20 May 2020. On 8 January 2021, Leonora M. was conditionally released from pretrial detention.

On 7 July 2021, the Federal Public Prosecutor formally indicted Leonora M. at the Higher Regional Court of Naumburg, for aiding and abetting the crime against humanity of human trafficking, membership in a foreign terrorist organization, and violations of the War Weapons Control Act.

DEVELOPMENTS IN 2022

On 18 May 2022, the Higher Regional Court of Naumburg found Leonora M. guilty of membership in a foreign terrorist organization and violations of the War Weapons Control Act. The Court acquitted her of the charge of aiding and abetting crimes against humanity. The acquittal is based on factual grounds as the Court could not establish that the defendant facilitated human trafficking by caring for a Yazidi woman.

She was sentenced to two years in prison under juvenile law and the sentence was suspended on probation, setting the probation period at three years.

Both the Federal Public Prosecutor and the defendant have appealed the decision.

NEW CASE!

Active personality

Monika K.

Context

Ongoing proceedings for war crimes committed in Iraq and Syria

Type of jurisdiction

Active personality

Suspect

Monika K., German national

Country of residence of suspect

Germany

Charges

War crimes; membership in a foreign terrorist organization

Current status

Indicted; detained

Facts

According to the indictment, Monika K. together with her husband travelled to Syria and joined the Islamic State (ISIS) in February 2014.

While her husband was deployed as a fighter in Syria and Iraq, Monika K. took care of the joint household. The couple received financial support from ISIS on a monthly basis. In the spring of 2015, the couple moved into a well-equipped

house in the Iraqi city of Hit, which was provided free of charge by ISIS. The former legal residents had fled or been displaced by ISIS.

After her first husband died in fighting in 2015, Monika K. married two more ISIS fighters one after the other. She lived with them in various places under ISIS rule in Iraq and Syria and kept the household, for which she received remuneration from ISIS.

In March 2019, Kurdish forces arrested Monika K. and took her to the al-Hol refugee camp in northern Syria. In the camp, she allegedly ran a donation network for female ISIS members. In December 2019, the accused was smuggled out of al-Hol by a higher-ranking ISIS member and became his “second wife” according to Islamic rites. The couple moved to Idlib, where Monika K. continued to campaign for financial support for ISIS members, especially regarding their return from refugee camps back to the organization. In addition, she was reportedly available to receive the funds and maintained contacts between fundraisers in Germany and female ISIS members in Syria.

Procedure

In September 2020, Monika K. was arrested by Turkish forces on her way to the al-Hol refugee camp and remained in Turkish custody until her return to Germany on 11 March 2022. Upon arrival in Germany, she was arrested and has been in custody since.

On 9 August 2022, the Federal Public Prosecutor formally indicted Monika K. on the charges of war crimes and membership in a foreign terrorist organization at the Higher Regional Court of Düsseldorf.

NEW CASE!

Active personality

Nadine K.

Context

Ongoing proceedings for international crimes committed in Syria, including the enslavement of a Yazidi woman

Type of jurisdiction

Active personality

Suspect

Nadine K, German national

Country of residence of suspect

Germany

Charges

Genocide; crimes against humanity of enslavement, severe deprivation of liberty, religious and gender-based persecution, torture, rape and severe mental harm; war crimes of torture, rape, forcible transfer of a population and crimes against property; membership in a foreign terrorist organization; violations of the War Weapons Control Act

Current status

Indicted; detained

Facts

According to the indictment, Nadine K. left Germany in December 2014 to join the Islamic State (ISIS), following her husband.

From spring 2015, the couple allegedly stayed in Mosul, where Nadine K. kept the joint household and raised their daughter in accordance with ISIS ideology. The family reportedly lived in a house whose legal residents had fled or been displaced by ISIS.

In the house, Nadine K. and her husband allegedly stored a large number of explosives and weapons, including hand grenades, Kalashnikov assault rifles and a Glock pistol. In addition, they are said to have set up a reception center for single female ISIS members, with the approval and financial support of ISIS. They provided the women not only with board and lodging but also support regarding marriages or divorces before the Sharia court.

From spring 2016, Nadine K. and her husband reportedly kept a Yazidi woman as a slave. According to the indictment, the husband regularly raped and beat the woman, which Nadine K. knew. Nadine K. allegedly made sure that the woman could not escape. In addition, the couple is said to have forced the enslaved woman to do unpaid housework and child care.

The woman had to conduct daily prayers in accordance with Islamic rites and observe fasting times during Ramadan. All this served the declared aim of ISIS to destroy the Yazidi faith, according to the prosecutor.

In the fall of 2016, Nadine K. moved with her family and the enslaved Yazidi woman to Syria and lived in ISIS-controlled territory until the beginning of March 2019.

Procedure

In March 2019, Nadine K. was captured by Kurdish forces in Syria. In the course of her return to Germany, she was arrested on 31 March 2022 and has been in custody since.

On 16 September 2022, the Federal Public Prosecutor formally indicted Nadine K. on the charges of, amongst others, genocide; the crimes against humanity of enslavement, severe deprivation of liberty, religious and gender-based persecution, torture, rape and severe mental harm; the war crimes of torture, rape, forcible transfer of a population and crimes against property; membership in a foreign terrorist organization; and violations of the War Weapons Control Act. The criminal trial began in January 2023 at the Higher Regional Court of Koblenz.

NEW CASE!

Active personality

Name withheld

Context

Ongoing proceedings for war crimes committed in Syria

Type of jurisdiction

Active personality

Suspect

German national

Country of residence of suspect

Germany

Charges

War crimes against property and other rights; membership in a foreign terrorist organization

Current status

Indicted; on trial

Facts

According to the indictment, the defendant, then a tenth-grade high school student, left Germany in December 2014 to travel to Syria and join the Islamic State (ISIS).

She married a German-Tunisian ISIS fighter, with whom she had three children and moved into various

apartments that ISIS had illegally appropriated and made available to its followers free of charge. The defendant allegedly supported her husband and thus enabled him to participate in hostilities. In addition to housing, they are said to have received financial benefits of up to USD 150 per month from ISIS.

During her stay in Syria, the defendant allegedly had access to weapons of war owned by her husband, namely a Kalashnikov assault rifle with ammunition and two hand grenades.

Procedure

After her capture by Kurdish forces in 2019, the defendant and her children were returned to Germany by officials of the Federal Criminal Police Office in March 2022. Upon arrival in Germany, she was arrested and has been in custody since 31 March 2022.

On 11 August 2022, the attorney general of Naumburg indicted the defendant for war crimes against property and other rights, and membership in a foreign terrorist organization.

On 23 September 2022, the Higher Regional Court of Naumburg admitted these charges to trial, opened the trial and decided to continue the pre-trial detention. In addition, the Court ordered that the trial be conducted in non-public session.

NEW CASE!

Active personality

Nils D.

Context

Conviction for war crimes committed in Syria

Type of jurisdiction

Active personality

Suspect

Nils D., German national

Country of residence of suspect

Germany

Charges

War crimes; murder; membership in a foreign terrorist organization

Current status

Convicted; sentence of 10 years' imprisonment confirmed

Facts

According to the judgment by the Higher Regional Court of Düsseldorf, Nils D. travelled to Syria and joined the Islamic State (ISIS) from March to early November 2014.

In this capacity, he performed duties as a guard in an ISIS prison in the Syrian city of Manbij. In one case, he participated in the punishment of a

prisoner. When the prisoner shouted what Nils D. considered blasphemy, while being tortured using the "Balango" method, Nils D. and three other guards beat him with their fists and a club, which resulted in the death of the prisoner.

Procedure

On 26 November 2021, the Higher Regional Court of Düsseldorf found Nils D. guilty of membership in a foreign terrorist organization, war crimes and murder. He was sentenced to ten years in prison. In sentencing, the Court made use of the possibility to reduce the sentence based on the help of the defendant in investigating other terrorist offenses (the so-called leniency program) and took into account that he had already been sentenced to several years' imprisonment in a previous trial for membership in ISIS, which he served in full.

The defendant filed an appeal against the decision.

DEVELOPMENTS IN 2022

On 10 August 2022, the Federal Court of Justice rejected the appeal and confirmed the sentence.

NEW CASE!

Active personality

Romiena S.

Context

Conviction for crimes against humanity committed in Syria, including the enslavement of a Yazidi woman

Type of jurisdiction

Active personality

Suspect

Romiena S., German national

Country of residence of suspect

Germany

Charges

Aiding and abetting crimes against humanity; membership in a foreign terrorist organization; child abduction; violation of the duty of care and upbringing

Current status

Convicted; sentenced to three years and three months in prison

Facts

According to the judgment, Romiena S. travelled to Syria in 2014 to join the Islamic State (ISIS). She took along her then four-year-old daughter against her father's will.

In Syria, she successively married several ISIS members. By taking care of the household, she enabled them to take part in the hostilities as fighters.

She raised her daughter and her two sons, who were born in Syria, in accordance with the radical Islamist teachings of ISIS. She took her then 6-year-old daughter to the stoning of a woman and showed her execution videos.

She published short messages on Twitter, in which she expressed her approval of the ISIS attacks in Nice on 14 July 2016 and in Würzburg on 18 July 2016.

Finally, she used the labor of a Yazidi woman enslaved by ISIS in the household of a slave trader for several days and watched over her on a walk to the city.

Procedure

After her capture at the beginning of 2019, Romiena S. together with her children was placed in two Kurdish camps. On 7 October 2021, she was arrested upon return to Germany.

DEVELOPMENTS IN 2022

On 1 June 2022, the Higher Regional Court of Celle found Romiena S. guilty of membership in a foreign terrorist organization, aiding and abetting crimes against humanity, severe child abduction as well as violation of the duty of care and upbringing. She was sentenced to three years and three months in prison. In sentencing, the Court took into account in her favor that she largely admitted the crimes, distanced herself from ISIS and had not been a "hardliner".

NEW CASE!

Active personality

Stefanie A.

Context

Conviction for war crimes committed in Syria

Type of jurisdiction

Active personality

Suspect

Stefanie A., German national

Country of residence of suspect

Germany

Charges

War crimes; membership in a foreign terrorist organization; violation of the duty of care and upbringing; negligent homicide

Current status

Convicted; sentenced to six and a half years in prison

Facts

According to the indictment, Stefanie A. travelled to Syria in August 2016 to join ISIS, following her husband who had already been active as an Islamic State (ISIS) fighter since the previous year. She took along her then 13-year-old son.

Stefanie A. initially joined the ISIS-affiliated jihadist militia "Jund al-Aqsa" in Idlib in order to get to Raqqa with the militia's help. Her son was enlisted in the militia engaged in an armed conflict with rival militias and trained as a fighter. In February 2017, they entered ISIS territory with other members of the militia. Together with her husband and son, Stefanie A. lived first in Raqqa and later in Gharanji and Hajin, while being financially supported by ISIS.

In February 2018, the then 15-year-old son died as a result of a bomb attack on a house in the vicinity of the family home in Hajin.

Procedure

On 24 March 2021, Stefanie A. was transferred to Germany, where she was arrested upon arrival.

On 21 October 2021, the Federal Prosecutor charged Stefanie A. with membership in foreign terrorist organizations as well as war crimes by integrating her son into armed groups in connection with a non-international armed conflict and by aiding and abetting active participation in hostilities. In relation to her role as a parent, further charges were brought for violation of the duty of care and upbringing as well as negligent homicide.

DEVELOPMENTS IN 2022

On 24 March 2022, the Higher Regional Court of Hamburg found Stefanie A. guilty of membership in a foreign terrorist organization, war crimes, violation of the duty of care and upbringing as well as negligent homicide. She was sentenced to six and a half years in prison.

FOLLOW-UP ON OTHER CASES

- Jennifer W. and Taha A. J. ([UJAR 2022](#), p. 58): awaiting appeal.

LITHUANIA

NEW CASE!

KILLING OF LITHUANIAN FILMMAKER IN MARIUPOL UNDER INVESTIGATION

Passive personality

Unknown

Context

Ongoing investigation into the killing of Lithuanian filmmaker Mantas Kvedaravičius in Mariupol in the context of the Russian war against Ukraine

Type of jurisdiction

Passive personality

Suspects

Unknown armed forces

Country of residence of suspects

Unknown

Charges

As the case is at the investigation stage, no suspect has been formally charged. The investigation presumably focuses on charges of war crimes and murder.

Current status

Under investigation

Facts

Lithuanian filmmaker Mantas Kvedaravičius went to Mariupol to shoot footage for the second part of his documentary Mariupolis. Around the end of March 2022, he was captured by armed forces (presumably Russian-

backed soldiers), while helping to evacuate civilians from the besieged city. He was found dead a few days later in the vicinity of the place of arrest.

Procedure

In April 2022, Lithuanian authorities opened an investigation into the case. The European Center for Constitutional and Human Rights supported Kvedaravičius's fiancée, Hanna Bilobrova, and her Lithuanian lawyer in gathering and analyzing evidence as well as by providing legal expertise in international criminal law.

FOLLOW-UP ON OTHER CASES

- Belarus regime officials (UJAR 2022, p. 70): the investigation is ongoing.



NETHERLANDS

76-YEAR-OLD AFGHAN PRISON COMMANDER CONVICTED OF WAR CRIMES

Active personality

Abdul Razaq Arif



Context

Conviction for war crimes committed in Afghanistan in the 1980s. This is the first time a leadership member of the Kabul Pul-e-Charki prison has been tried.

Type of jurisdiction

Universal Jurisdiction and active personality

Suspect

Abdul Razaq Arif, dual Afghan and Dutch citizen, former commander of the Pul-e-Charki prison in Kabul

Country of residence of suspect

The Netherlands

Charges

War crimes of arbitrary detention, cruel and inhuman treatment and assault on personal dignity

Current status

Convicted; sentenced to 12 years in prison

Facts

During the Soviet-Afghan war, the Pul-e-Charki prison in Kabul was reportedly notorious for its inhumane regime, with political prisoners being kept for years in detention without a trial and without informing them of the charges against them, tortured, subjected to inhumane and degrading treatment and executed. From 1983 to 1988, Razaq Arif worked in a supervisory role at the Pul-e-Charki prison.

Razaq Arif arrived in the Netherlands in 2001 and later obtained Dutch nationality.

Procedure

In 2012, the Dutch police opened an investigation into alleged war crimes committed in Afghanistan by perpetrators now living in the Netherlands. This included Razaq Arif's involvement in Pul-e-Charki in Afghanistan.

On 12 November 2019, the Dutch police arrested Razaq Arif on suspicion of war crimes.

In 2020, the prosecutors gathered statements from victims and former employees in the Afghan communist government, demonstrating that the suspect worked in three different positions at the Pul-e-Charki prison.

DEVELOPMENTS IN 2022

On 14 April 2022, The Hague District Court established that Razaq Arif had worked in a supervisory role in the Pul-e-Charki prison from 1983 to 1988 and was responsible for the detention conditions and the order of Blocks 1, 2 and 3 of the prison, where political prisoners and detainees were held. As such, he was found guilty of the war crimes of arbitrary detention, cruel and inhuman treatment and assault on the personal dignity of at least 18 individual political prisoners committed between 1983 and 1987. He was sentenced to 12 years in prison, almost 40 years after the facts, with the Court considering that *"the passage of time does not constitute a reason for a reduced sentence. Violations of international humanitarian law are permanently topical and still shock the legal order today"*.

Both Razaq Arif and the prosecution have appealed the decision. No dates have yet been set for the appeal hearing.



LIFE IMPRISONMENT CONFIRMED IN ETHIOPIAN RED TERROR CASE

Active personality

Eshetu Alemu

Context

Final conviction for war crimes committed in Ethiopia during the Red Terror (1977-1978)

Type of jurisdiction

Universal jurisdiction and active personality

Suspect

Eshetu Alemu, Dutch national originally from Ethiopia, former member of the Provisional Military Administrative Council, also known as the Dergue, during the Mengistu Haile Mariam regime

Country of residence of suspect

The Netherlands

Charges

War crimes including arbitrary detention, inhuman treatment, torture and murder of alleged opponents to the regime

Current status

Convicted; sentenced to life in prison; appeal rejected

Facts

In 1974, the communist military regime, known as the Dergue, overthrew Emperor Haile Selassie I and seized power in Ethiopia. The regime effectively ruled the country for the next 17 years. In February 1977, the Red Terror was officially declared, which led to mass killings, arrests, torture and enforced disappearances against suspected political opponents. Human Rights Watch in its 2017 report stated that the incident was one of the most prominent systematic mass executions by a state ever witnessed in Africa and reported that over 150'000 students, academics and political opponents were killed during the period.

As a former member of the Provisional Military Administrative Council, Alemu was convicted for ordering the execution of 75 people, torturing nine people and controlling the illegal detention of more than 300 people in cruel and inhuman conditions in the Gojjam province during the Red Terror.

In 1990, Alemu fled to the Netherlands as an asylum seeker and acquired Dutch citizenship in 1998.

Procedure in Ethiopia

On 12 December 2006, Ethiopia concluded the trial of former Dergue officials, convicting Alemu, and 57 other regime officials, for genocide and crimes against humanity. Alemu was tried *in absentia* and received a death sentence.

Procedure in the Netherlands

Alemu was arrested in the Netherlands in September 2015. In September 2016, 15 Ethiopian witnesses residing in the United States and Canada were questioned by a Dutch judge and a prosecutor. Alemu pleaded not guilty to all charges.

On 15 December 2017, The Hague District Court found Alemu guilty of the war crimes of arbitrary detention, inhuman treatment, torture and murder. He was sentenced to life in prison.

Alemu appealed his conviction on 3 January 2018. On 23 April 2018, a first pre-trial hearing took place before The Hague Court of Appeal. At the defense's request, on 19 November 2018, the Court agreed to hear a dozen witnesses in Ethiopia. An investigative judge traveled to Ethiopia, together with the defense counsel and prosecutors, to hear the witnesses.

DEVELOPMENTS IN 2022

On 8 June 2022, the Hague Court of Appeal upheld Alemu's conviction for the war crimes of arbitrary detention, inhuman treatment, torture and murder, and sentence of life-imprisonment. The Court also ordered compensatory damages for the victims.

AHRAR AL-SHAM COMMANDER SENTENCED FOR WAR CRIMES COMMITTED IN SYRIA

Ahmad al-Y.

Context

Conviction for war crimes allegedly committed in Syria in 2015 by a commander of the Salafist militant group Ahrar al-Sham. That group was designated as a terrorist organization by a Dutch court in 2019.

Type of jurisdiction

Universal jurisdiction

Suspect

Ahmad al-Y., Syrian national, former commander of the armed group Ahrar al-Sham

Country of residence of suspect

The Netherlands

Charges

War crimes; membership in a terrorist organization

Current status

Sentenced on appeal to 5 years and 4 months; awaiting appeal before the Supreme Court

Facts

According to the judgment, Ahmad al-Y. commanded Ahrar al-Sham fighters and took part in an offensive in the city of Hama in April 2015. During this time, he subjected persons who were *hors de combat* to humiliating and degrading treatment by posing with the corpse of an enemy fighter and kicking the body of another. In addition, he appeared in a video posted on YouTube, "*singing to celebrate the deaths of fighters and referring to them as dogs.*"

Ahmad al-Y. entered the Netherlands as an asylum seeker in October 2019.

Procedure

On 22 October 2019, Dutch police arrested Ahmad al-Y. in an asylum center in Ter Apel, on suspicion of outrages upon personal dignity constituting a war crime. According to the Dutch Public Prosecutor, Ahmad al-Y. was flagged by German authorities in 2015 when he spent a short-time seeking asylum there before returning to Syria due to personal circumstances.

On 21 April 2021, The Hague District Court found Ahmad al-Y. guilty of membership in a terrorist organization and committing a war crime of assault on personal dignity by putting his foot on a corpse, making a kicking movement to another and by celebrating the deaths of the deceased adversaries while referring to them as "dogs". He was sentenced to six years in prison. The prosecution appealed the decision.

DEVELOPMENTS IN 2022

Appeal hearings commenced in October 2022 and came to a close in November 2022. On 6 December 2022, The Hague Court of Appeal ruled that the acts depicted on the videos presented in support of the case did not reach the threshold of the war crime of assault on personal dignity, and acquitted al-Y. of all core international crimes charges. It upheld the finding of guilt for membership in a terrorist organization. Al-Y.'s sentence was thus lowered to five years and four months in prison.

The prosecution has appealed the decision on the law before the Supreme Court.

**NEW CASE!****FIRST ARREST IN THE NETHERLANDS OF AN ALLEGED SYRIAN PRO-REGIME FIGHTER**

Name withheld

Context

Arrest of a member of the pro-regime Liwa al-Quds militia over crimes against humanity and war crimes

Type of jurisdiction

Universal jurisdiction

Suspect

Syrian national, alleged former member of Liwa al-Quds

Country of residence of suspect

The Netherlands

Charges

Crimes against humanity; war crimes; participating in an organization whose aim is to commit international crimes

Current status

Under investigation; detained

Facts

The pro-regime militia Liwa al-Quds in Syria was founded in the al-Nayrab Palestinian refugee camp near Aleppo. Armed by the Syrian regime, it has been deployed to arrest civilians and crush dissent.

The suspect was born in the al-Nayrab camp and is said to have been part of the militia Liwa al-Quds. In January 2013, the suspect allegedly arrested a civilian in his home in the al-Nayrab camp. The civilian was allegedly abused during the arrest and taken to a Syrian Air Force Intelligence prison, where he was reportedly tortured.

The 34-year-old Syrian suspect had been living in the Netherlands since 2020 and had applied for asylum there.

Procedure

The Dutch police arrested the Syrian national in Kerkrade on 24 May 2022 on suspicion of war crimes and crimes against humanity committed in Syria in 2013. In August and October 2022, The Hague Court decided there were sufficient compelling reasons to keep him in custody.

FOLLOW-UP ON OTHER CASES

- Guus Kouwenhoven ([UJAR 2022](#), p. 87): convicted of war crimes; pending extradition from South Africa; application pending before the European Court of Human Rights.
- Abu Khuder (Ahmad al-K.) ([UJAR 2022](#), p. 83): awaiting appeal.

SWEDEN

IRANIAN FORMER OFFICIAL CONVICTED FOR KARAJ PRISON MASS EXECUTIONS

Hamid Noury

Context

Ongoing appeal for war crimes committed in Iran in 1988

Type of jurisdiction

Universal jurisdiction

Suspect

Hamid Noury, former assistant to the deputy prosecutor at the Gohardasht prison in Karaj, Iran

Country of residence of suspect

Iran, arrested when travelling to Sweden

Charges

War crimes; murder

Current status

Convicted; sentenced to life imprisonment; awaiting appeal

Facts

In 1988, during the war between Iraq and Iran, Iran's leader Rouhollah Khomeini issued an order (*fatwa*) to execute all prisoners who supported the People's Mojahedin Organization of Iran, an outlawed opposition group, as well as leftist prisoners.

Prisoners at the Karaj prison were brought before so-called "death commissions" which ordered their arbitrary execution. The number of victims is unknown but estimated to be between 2'800 and 5'000 prisoners according to Human Rights Watch. Many of those killed were subjected to torture and other cruel, inhumane and degrading treatment or punishment.

Noury, in his role of assistant to the deputy prosecutor, was convicted for having played an active role in these massive executions by retrieving prisoners, bringing them to the death commissions and escorting them to the execution site.

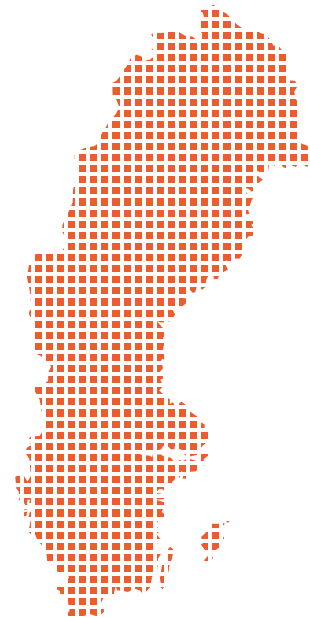
Procedure

Noury was arrested on 9 November 2019 while traveling to Sweden.

On 13 November 2019, the Court allowed his pre-trial detention which was renewed several times as the investigation was ongoing.

On 10 August 2021, Noury's trial opened in Stockholm.

On 9 November 2021, the Stockholm District Court moved to Durres, Albania for two weeks to hear seven witnesses.



DEVELOPMENTS IN 2022

After 92 days of hearings, on 14 July 2022, the Stockholm District Court established that the crimes committed against sympathizers of the People's Mojahedin Organization of Iran began with the Mojahedin's cooperation with the Iraqi army in the international armed conflict between Iran and Iraq, which triggered the application of international humanitarian law. Therefore, the Court found Noury guilty of war crimes as crimes against international law for his involvement in the mass executions of sympathizers of the People's Mojahedin Organization of Iran, and for murder for the executions of left-wing sympathizers who were deemed to have renounced their Islamic faith. Noury was sentenced to life imprisonment. Compensation for injury was also awarded to close relatives of executed prisoners and to surviving prisoners.

In August 2022, both Noury and the prosecution appealed the conviction. The appeal trial will start in January 2023.



TRIAL TO BE OPENED AGAINST SWISS AND SWEDISH BUSINESSMEN FOR COMPLICITY IN SUDANESE WAR CRIMES

Alex Schneider and

Active personality

Ian Lundin

Context

Ongoing proceedings in Sweden into complicity in international crimes committed in Sudan (now South Sudan) between 1997 and 2003

Type of jurisdiction

Universal jurisdiction and active personality

Suspects

Alex Schneider, Swiss national and CEO of Lundin Energy; Ian Lundin, Swedish national and Chairman of Lundin Energy; and the company Lundin Energy

Countries of residence of suspects

Sweden and Switzerland

Charges

Complicity in war crimes

Current Status

Investigation closed; two individuals indicted; awaiting trial

Facts

The second Sudanese civil war was fought by the Government of Sudan, the Sudanese People's Liberation Army (SPLA) and other

armed groups from 1983 to 2005. According to a [report](#) published by the European Coalition on Oil in Sudan, Lundin Petroleum (then Lundin Oil and Lundin Energy) signed a contract in 1997 with the Government of Sudan for the exploration and production of oil in a war zone in southern Sudan, the Block 5A concession, which was not at that time under full government control.

A conflict broke out between the government and SPLA-supported armed groups for the control of the Block 5A concession.

The company allegedly paid the Sudanese army and non-state armed groups to forcibly displace the local population from oil-rich areas, in order to secure their operations. Between 1997 and 2003, almost 200'000 civilians were forcibly displaced and thousands died. Other crimes were allegedly carried out in this context, including unlawful killings, rape, enslavement, torture, indiscriminate attacks, pillage and the recruitment of child soldiers.

Procedure

In 2010, the European Coalition on Oil in Sudan published a report indicating that Lundin Petroleum may have been complicit in international crimes committed in Sudan between 1997 and 2003. The report was submitted to the Swedish International Public Prosecution Office, which opened a preliminary investigation the same year. Schneider, who was head of exploration during the relevant time period, and Lundin, Chairman of Lundin Energy, became formal

suspects after being questioned by prosecutors in 2016. Since 2010, prosecutors have conducted over 270 interviews.

On 18 October 2018, the Swedish Government authorized the prosecutor to proceed with an indictment in this case. Pursuant to Swedish law, the prosecution of a foreign national for crimes committed abroad requires governmental authorization.

On 11 November 2021, Schneider and Lundin were indicted for aiding and abetting war crimes committed in Sudan in 1999-2003 in the context of the non-international armed conflict, with the purpose of securing the company's oil operations in southern Sudan. According to the prosecution, the Sudanese regime systematically attacked civilians and committed indiscriminate attacks, in order to take control over relevant areas and create conditions for the oil exploration activities of Lundin Oil.

Later that month, Schneider requested the District Court to reject the indictment against him claiming that Swedish courts have no jurisdiction over him. The District Court rejected his request and Schneider appealed to the Svea Court of Appeal, which agreed with the lower court's decision.

A claim has been filed to confiscate around of SEK 1'400'000'000 (EUR 140'000'000) from Lundin Energy, which, according to the prosecutor, corresponds to the profit the company made on the sale of the business in 2003.

DEVELOPMENTS IN 2022

On 28 February 2022, Schneider appealed his indictment before the Swedish Supreme Court on the grounds that there was no legal basis in international law for the exercise of universal jurisdiction against a non-Swedish national who is not present on Swedish territory.

On 10 November 2022, the Supreme Court ruled that, in the exercise of universal jurisdiction, some form of connection to Sweden is required for a crime to be prosecuted. However, it concluded that the connection to Sweden of the crimes allegedly committed by Schneider was sufficient for the trial to be held by Swedish courts and that there was no obstacle to it in international law. The Supreme Court hence confirmed Schneider's indictment.

The Stockholm District Court has thus resumed preparation for the trial, which is scheduled for September 2023, and may last for over 150 days.

NEW CASE!

SWEDISH WOMAN CONVICTED FOR ENLISTING HER SON IN ISIS

Active personality

Lina Ishaq

Context

Conviction of a Swedish national for serious crimes under international law and serious war crimes committed in Syria in 2013

Type of jurisdiction

Active personality

Suspect

Lina Ishaq, Swedish national

Country of residence of suspect

Sweden

Charges

Serious crimes under international law; serious war crimes of recruitment and use of a child soldier

Current status

Convicted; sentenced to six years in prison

Facts

Ishaq, a Swedish national, travelled to Syria in 2013 with four of her children to join her husband and an older son. One of her sons, aged 12, was recruited by the Islamic State (ISIS) and used as a child soldier. He died in combat in 2017. She returned from Syria in 2020.

DEVELOPMENTS IN 2022

On 4 March 2022, the Stockholm District Court sentenced Ishaq to 6 years' imprisonment for serious crimes under international law and serious war crimes. She was convicted as an accomplice for failing, in her capacity as a legal guardian, to prevent her son aged 12, from being recruited and used as a child soldier by ISIS during the armed conflict in Syria.

The United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD) provided support to the Court in this case which was the first time that charges were brought in Sweden for the war crime of using a child soldier.

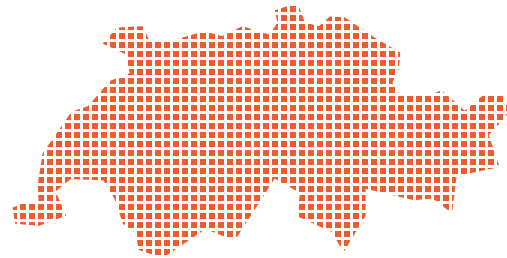
FOLLOW-UP ON OTHER CASES

- Investigations over Syrian chemical attacks (UJAR 2022, p. 74): the investigations are ongoing.
- Name withheld – Former Syrian army officer (UJAR 2022, p. 75): the investigation is ongoing.
- Names withheld – Members of the Syrian intelligence services (UJAR 2021, p. 67): the investigation is ongoing.

SWITZERLAND

ON THE WAY TO A TRIAL FOR WAR CRIMES AND CRIMES AGAINST HUMANITY DURING ALGERIA'S "DIRTY WAR"

Khaled Nezzar



Context

Ongoing proceedings against the former Algerian minister of defense for alleged war crimes committed in Algeria between 1992 and 1994

Type of jurisdiction

Universal jurisdiction

Suspect

Khaled Nezzar, former chief of staff of the *Armée nationale populaire* (National Popular Army) from 1988 to 1990, minister of defense in Algeria from 1990 to 1993, member of the High Council of State (HCS) from 1992 to 1994

Country of residence of suspect

Algeria

Charges

As the case is at the investigation stage, the suspect has not yet been formally charged. The investigation focuses on crimes against humanity and war crimes, including acts of torture, killings and enforced disappearances.

Current status

Under investigation

Facts

From 14 January 1992 to 31 January 1994, as minister of defense and member of the HCS, Nezzar allegedly incited, authorized and ordered military and public agents to commit acts of torture, murders, extrajudicial killings, enforced disappearances and other grave violations of international humanitarian law. The "dirty war", which ended in 2000, caused the death of approximately 200'000 persons and the disappearance of some 20'000 others.

Procedure

In October 2011, after having been informed of the presence of the suspect on Swiss territory, TRIAL International filed a criminal complaint against Nezzar for war crimes committed during the civil war in Algeria. Two victims of torture joined the procedure in 2011 by filing a criminal complaint before the Office of the Attorney General (OAG). In 2012, 2014 and 2016, three other victims filed their own criminal complaints and became plaintiffs.

Nezzar was arrested in October 2011 and was interviewed by the OAG. Before being allowed to leave the country, his lawyers challenged the jurisdiction of the

OAG, in particular on the grounds that Nezzar would benefit from jurisdictional immunity.

In a 25 July 2012 decision, Nezzar's appeal was rejected by the Federal Criminal Court which considered that functional immunities cannot be invoked for international crimes.

In early January 2017, the OAG dismissed the case, considering that the alleged acts committed by the former minister of defense could not be considered as war crimes, on the grounds that there was no war in Algeria when the acts allegedly occurred. On 16 January 2017, some of the plaintiffs appealed the decision before the Federal Criminal Court.

On 30 May 2018, the Federal Criminal Court overturned the decision of the OAG. The Court recognized the existence of a non-international armed conflict in Algeria in the early 1990s and found that there was no doubt that Nezzar was aware of the acts committed under his order. Therefore, the Court concluded that the OAG should complete its investigation on war crimes and determine whether Nezzar could also be charged with crimes against humanity, torture and murder.

In August 2018, a letter to Switzerland by the United Nations Special Rapporteurs on torture and on the independence of judges and lawyers was made public. It heavily criticized Switzerland for an alleged lack of independence and political interference, mentioning explicitly the case against Nezzar.

In 2019, Nezzar was tried *in absentia* in Algeria along with other former regime members and sentenced to 20 years' imprisonment for acts of conspiracy against the authority of the state. Despite this conviction, Nezzar returned to Algeria in December 2020, where he remains free.

DEVELOPMENTS IN 2022

On 8 February 2022, the OAG conducted the final hearing of Nezzar. The OAG concluded that numerous war crimes and crimes against humanity were committed while Nezzar was leading the military junta and serving as minister of defense at the beginning of the Algerian civil war.

In May 2022, one of the plaintiffs decided to withdraw his complaint against Nezzar following pressure allegedly exerted on him. In September, an additional victim filed an individual criminal complaint. This new plaintiff was heard the following month. Other hearings, including of witnesses, took place between November and December 2022.

FORMER GAMBIAN MINISTER OF INTERIOR INVESTIGATED OVER WIDESPREAD REPRESSION OF POLITICAL OPPONENTS

Ousman Sonko

Context

Ongoing proceedings against former Gambian minister of interior for alleged international crimes under Yahya Jammeh's regime

Type of jurisdiction

Universal jurisdiction

Suspect

Ousman Sonko, former State Guard commander, former inspector general of the police (2005 to 2006) and former minister of the interior (2006 to 2016)

Country of residence of suspect

Switzerland

Charges

As the case is at the investigation stage, the suspect has not yet been formally charged. The investigation focuses on crimes against humanity committed between 2000 and 2016.

Current status

Under investigation; detained

Facts

The Gambia was under the control of President Jammeh from 1994 to 2016. For more than two decades, all opposition was repressed: torture, extrajudicial executions and enforced disappearances were widespread.

After Jammeh's re-election in September 2006, Sonko was appointed minister of interior. He held this position until September 2016, when he was dismissed from office and left the Gambia.

In its final report published late 2021, the Gambia's Truth, Reconciliation and Reparations Commission (TRRC), recommended the prosecution of Sonko for the role he allegedly played in killings that took place in 2000, 2005 (west African migrants), 2006 and 2012 and acts of torture committed in 2006 and 2016. The TRRC also recommended his prosecution for acts of sexual violence allegedly committed in 2005 and 2015.

Procedure

Alerted of Sonko's presence on Swiss territory, TRIAL International lodged a criminal complaint before the prosecuting authorities in Bern on 25 January 2017. The former Gambian minister was arrested the following day at the immigration center of Lyss (canton of Bern), where he had applied for asylum.

On 9 October 2017, the Swiss Federal Supreme Court confirmed the seizure of Sonko's assets, worth approximately USD 15'000. His detention has been extended several times since 2017 to allow the Office of the Attorney General (OAG) to conduct the investigation.

Between 2017 and 2021, nine Gambian victims filed additional complaints. All of them, along with dozens of witnesses, including the United Nations Special Rapporteur on torture, were heard by the OAG. The Swiss authorities travelled on different occasions to the Gambia during the course of their investigation to gather evidence in the framework of mutual judicial cooperation, including to hear witnesses.

DEVELOPMENTS IN 2022

The investigation continued: a tenth victim filed a criminal complaint and was heard by the OAG, while Sonko's final hearing took place in the fall.

NEW CASE!

INVESTIGATION OPENED AGAINST SWISS BUSINESSMAN ALLEGEDLY INVOLVED IN TIMBER TRAFFICKING ACROSS THE GAMBIA AND SENEGAL

Active personality

Nicolae Bogdan Buzaianu

Context

Ongoing proceedings in Switzerland against a Swiss national for his alleged involvement in international crimes through commercial activities conducted together with former Gambian president, Yahya Jammeh

Type of jurisdiction

Active personality

Suspect

Nicolae Bogdan Buzaianu, a Swiss businessman who, through a complex network of commercial entities and the use of straw men, was allegedly jointly heading the Westwood Company Ltd. in partnership with Jammeh and involved in the exportation from the Gambia of protected wood harvested in the South Senegalese war-torn region, Casamance

Country of residence of suspect

Unknown

Charges

As the case is at the investigation stage, the suspect has not yet been formally charged. However, given the occurrence of a non-international armed conflict in the Casamance region, where the timber was coming from, Buzaianu's behavior could be qualified as pillage of natural resources amounting to a war crime.

Current status

Under investigation

Facts

Estimates suggest that Senegal loses the equivalent of 40'000 hectares of forest per year, several dozen hectares of which are lost due to the illegal exploitation of rosewood in Casamance. The destruction of Casamance forests is a disaster with long-term consequences such as the decrease in rainfall and the increased desertification of the region.

A large share of the trafficking and logging has been taking place in a territory which is under the control of the *Mouvement des forces démocratiques de Casamance*, an armed group that has been fighting the Senegalese army since the 1980s. With Jammeh as an ally, the armed group was able to monopolize the timber trade in Lower Casamance, using its profits to finance its armed struggle.

Between June 2014 and March 2017, Westwood Ltd., a Gambian company owned by entities affiliated with Buzaianu and Jammeh, allegedly exported to China over 315'000 tons of precious rosewood illegally harvested in the neighboring Casamance region (roughly equivalent to USD 163'000'000). Westwood Ltd. allegedly benefited generously from this trade, transferring its profits to individuals and companies associated with former President Jammeh and Buzaianu.

Procedure

In June 2019, TRIAL International filed a criminal complaint against Buzaianu for the alleged pillaging of protected Senegalese rosewood as a war crime.

DEVELOPMENTS IN 2022

A criminal investigation was formally opened by the Office of the Attorney General against Buzaianu. In June 2022, Swiss media reported that a mutual legal assistance request had been sent from the Swiss prosecuting authorities to Gambian authorities, to facilitate the exchange of information on the case.

FIRST INTERNATIONAL CRIMES TRIAL BEFORE THE SWISS FEDERAL CRIMINAL COURT

Alieu Kosiah

Context

Ongoing proceedings for international crimes committed during the first Liberian civil war (1989-1996). This marks the first time a Liberian national was tried for war crimes in relation to the Liberian civil wars, and the first time the Swiss Federal Criminal Court held a war crimes and crimes against humanity trial.

Type of jurisdiction

Universal jurisdiction

Suspect

Alieu Kosiah, Liberian national, former commander of the armed group the United Liberation Movement of Liberia for Democracy (ULIMO)

Country of residence of suspect

Switzerland

Charges

Crimes against humanity; war crimes, including murder, rape, inhumane treatment, looting and the recruitment and use of child soldiers

Current status

Sentenced to 20 years in prison; on appeal

Facts

During the first Liberian civil war (1989-1996), Kosiah joined the armed group ULIMO, which gathered supporters of former President Samuel Doe. The ULIMO carried out attacks against former Liberian President Charles Taylor's National Patriotic Front of Liberia.

According to his judgment, Kosiah ordered or participated in the murder of civilians and soldiers *hors de combat*, desecrated the corpse of a civilian, raped a civilian, ordered the cruel treatment of civilians, recruited and employed a child soldier, ordered several pillages and ordered and/or participated in forced transports of goods and ammunition by civilians. He committed these crimes between March 1993 and the end of 1995 as commander of the ULIMO.

Procedure

In July and August 2014, seven Liberian victims, assisted by the NGO Civitas Maxima, filed a complaint in Switzerland against Kosiah for his participation in war crimes and systematic killings committed between 1993 and 1995 in Lofa County (northwestern Liberia). An investigation for war crimes was opened in August 2014.

On 10 November 2014, Kosiah was arrested in Switzerland. On 13 November 2014, a Swiss judge decided to hold him in pre-trial detention.

On 22 March 2019, the Office of the Attorney General (OAG) of Switzerland presented an indictment against Kosiah to the

Federal Criminal Court, alleging that Kosiah violated the laws of war as a member of a military faction in the 1989-1996 Liberian war, including through acts of sexual violence, recruitment of child soldiers, lootings, ordering and participating in the forced movement of looted goods and ammunitions, forcing civilians to work in cruel conditions, ordering and committing murders and carrying out acts of cannibalism.

The trial was due to begin in April 2020 but was postponed four times because of Covid-19. The trial began on 3 December 2020, and from 15 February to 5 March 2021, the plaintiffs and the witnesses were heard, and the lawyers made their final pleadings.

On 18 June 2021, the Swiss Federal Criminal Court of Bellinzona found Kosiah guilty of 21 counts of war crimes including: ordering the killing of 13 civilians and two unarmed soldiers; murdering four civilians; raping a civilian; ordering the cruel treatment of seven civilians; infringing upon the dignity of a deceased civilian; repeatedly ordering the cruel, humiliating and degrading treatment of several civilians; repeatedly inflicting cruel, inhuman and degrading treatment on several civilians; and repeated ordering to loot, and using a child soldier in armed hostilities.

The four counts of war crimes for which Kosiah was acquitted include recruiting a child soldier; attempted murder of a civilian; complicity in a civilian murder; and giving orders to loot in one instance.

Kosiah was sentenced to 20 years in prison, from which his over six years of pre-trial detention will be deducted, and he was ordered to pay over CHF 50'000 to the seven plaintiffs who testified against him.

DEVELOPMENTS IN 2022

On 2 September 2022, following the plaintiffs' appeal regarding the inclusion of charges of crimes against humanity, the OAG filed an amended indictment against Kosiah to include charges of crimes against humanity.

The appeal trial began in January 2023 and will last for several weeks. It is taking place before the Federal Criminal Court, in Bellinzona, Switzerland.

NEW CASE!

INVESTIGATION TARGETS OIL TRADING SCHEME AS POSSIBLE COMPLICITY IN INTERNATIONAL CRIMES

Active personality

Unnamed Swiss-based company

Context

Ongoing proceedings regarding alleged complicity in acts of pillage as a war crime deriving from the acquisition of smuggled gasoil from Libya

Type of jurisdiction

Active personality

Suspect

Unnamed Swiss-based company

Country of residence of suspect

Switzerland

Charges

The offenses being investigated have not been made public by the Office of the Attorney General. However, given the occurrence of a non-international armed conflict in Libya during the period considered (2014-2015), the facts could be qualified as complicity in pillage of natural resources amounting to a war crime.

Current status

Under investigation

Facts

In March 2020, TRIAL International and Public Eye published a joint report concerning their investigation into a case of alleged pillage of smuggled gasoil belonging to the National Oil Corporation, a Libyan state-owned company. The report alleged that a Swiss-based company had purchased the smuggled gasoil from Libya in 2014 and 2015, a time period which coincided with the second Libyan civil war.

The fuel was allegedly diverted from Libyan tanks with the complicity of an armed group. It was then transshipped from Libyan fishing boats to larger vessels chartered by two Maltese businessmen in international waters, and finally transported to Malta. According to the investigation's findings, the Swiss company purchased more than 50'000 tons of gasoil stored in tanks in the Maltese capital between 2014 and 2015.

Several individuals involved in the smuggling operation are currently on trial in Italy.

Procedure

TRIAL International filed a criminal denunciation in May 2020 against the company, and an investigation has been opened.



FORMER SYRIAN VICE PRESIDENT UNDER INVESTIGATION FOR WAR CRIMES IN HAMA

Rifaat al-Assad

Context

Ongoing proceedings against Syria's former vice president and head of the Defense Brigades in Syria for alleged war crimes committed in Hama in February 1982

Type of jurisdiction

Universal jurisdiction

Suspect

Rifaat al-Assad, Syria's former vice president, brother of the former Syrian president Hafez al-Assad, and uncle of the current president Bashar al-Assad, former head of the Defense Brigades (*Saraya al-Difa*), Syria's elite commando troops, from 1971 to 1984

Country of residence of suspect

Formerly residing in France, the suspect fled to Syria in October 2021 where he currently resides.

Charges

As the case is at the investigation stage, the suspect has not yet been formally charged. The investigation focuses on war crimes allegedly committed in Hama in February 1982.

Current status

Under investigation in Switzerland for war crimes; sentenced to four years in prison in France for financial crimes.

Facts

In February 1982, opponents of the regime took up arms in Hama. As retaliation, the Syrian armed forces, including the Defense Brigades, attacked the city. The civilian population was trapped and cut off from supply, food and electricity for almost a month. The estimated number of civilian casualties ranges from 10'000 to 40'000, depending on the source. Apart from the high number of casualties, whole areas of the city were destroyed.

Rifaat al-Assad, as the commander of the Defense Brigades, is suspected of having participated in the massacre of several thousands of people in Hama in 1982 during the civil war in Syria.

Procedure in Switzerland

In December 2013, after being informed that Rifaat al-Assad was present on Swiss territory, TRIAL International filed a criminal complaint with the Office of the Attorney General (OAG) accusing him of having committed war crimes during the Hama massacre in 1982. A criminal investigation was opened a few days later against Rifaat al-Assad for the same charges.

In August 2014, a plaintiff joined the proceedings.

In 2015, Rifaat al-Assad returned to Geneva. TRIAL International and the plaintiff asked the Swiss authorities to arrest him in order to proceed to his hearing. After the OAG refused to proceed with his arrest, the plaintiff filed a motion for provisional measures before the Federal Criminal Court. The Court ordered the OAG to hear Rifaat al-Assad without delay, and a short hearing took place.

In 2016, three other plaintiffs joined the criminal proceedings.

In 2017, TRIAL International filed an additional complaint, with various offers of proof, regarding Rifaat al-Assad's involvement in the Tadmor prison massacre that occurred in 1980. The complaint was dismissed by the OAG.

On September 2017, four years after the official opening of the investigation, one of the plaintiffs filed a petition alleging a denial of justice. The Federal Criminal Court dismissed it, considering that the extensive delay could be explained by the complexity of the case.

In August 2018, a letter to Switzerland signed by the United Nations Special Rapporteurs on torture and on the independence of judges and lawyers was published by the UN. It heavily criticized Switzerland for an alleged lack of independence and political interference notably concerning the case against Rifaat al-Assad. In five years of proceedings, only four witnesses and two plaintiffs had been heard.

In April 2021, a fifth plaintiff – who had joined the case in October 2020 – was heard by the OAG and in June the same year, one witness was heard.

Procedure in France

In June 2020, Rifaat al-Assad was convicted in France and sentenced to four years in jail for money laundering and embezzlement of Syrian public funds. French authorities also confiscated several properties worth millions.

In September 2021, the French Court of Appeal confirmed Rifaat al-Assad's conviction and sentence for financial crimes as well as the confiscation measures ordered against him.

In October 2021, Rifaat al-Assad fled Europe to return to Syria despite this second instance conviction and the judicial surveillance he was under in France.

DEVELOPMENTS IN 2022

In September 2022, the French Supreme Court confirmed Rifaat al-Assad's conviction, making it definitive. It is now up to the French government to work on the restitution of stolen assets "as close as possible to the deprived population" as provided for by law since July 2021.

In Switzerland, nine years after the initial opening and regardless of al-Assad's return to Syria, the investigation for war crimes remains ongoing, however at a slow pace. Only one witness, whose hearing had been postponed in 2021, was heard in March 2022.

FOLLOW-UP ON OTHER CASES

- Christoph Huber (UJAR 2020, p. 82): the investigation is ongoing.

UNITED KINGDOM

NEW CASE!

23-YEAR-OLD MAN ARRESTED IN CONNECTION WITH AN INVESTIGATION INTO EVENTS THAT OCCURRED IN IRAQ IN 2016

Name withheld

Context

Iraqi national investigated for alleged war crimes committed in Iraq in 2016

Type of jurisdiction

Universal jurisdiction

Suspect

Name withheld, Iraqi national

Country of residence of suspect

United Kingdom

Charges

As the case is at the investigation stage, the suspect has not yet been formally charged. The investigation concerns suspicion of a war crime, contrary to Article 8 of the International Criminal Court Act 2001.

Current status

Under investigation

Facts

The allegations relate to events that occurred in Iraq in 2016.

Procedure

On 20 May 2022, officers from the Metropolitan Police War Crimes Team arrested in Leeds a 23-year-old man on suspicion of a war crime, contrary to Article 8 of the International Criminal Court Act 2001. The allegation relates to events that occurred in Iraq in 2016.

He was taken into custody at a police station in Leeds and has been released under investigation.



NEW CASE!

55-YEAR-OLD MAN ARRESTED IN CONNECTION WITH AN INVESTIGATION INTO AN ALLEGED OFFENCE IN KUWAIT IN THE EARLY 1990S

Name withheld

Context

Ongoing proceedings against Kuwaiti national in relation to an offence committed during the international armed conflict in the 1990s

Type of jurisdiction

Universal jurisdiction

Suspect

Name withheld, Kuwaiti national

Country of residence of suspect

United Kingdom

Charges

As the case is at the investigation stage, the suspect has not yet been formally charged. The investigation relates to a grave breach of the Geneva Conventions under Section 1, Article 130 Geneva Conventions Act 1957.

Current status

Under investigation

Facts

An offence was allegedly committed in Kuwait in the early 1990s when the country was in a state of international armed conflict.

Procedure

On 24 February 2022, officers from the Metropolitan Police War Crimes Team arrested in Gateshead, Newcastle-upon-Tyne, a 55-year-old man on suspicion of committing a grave breach of the Geneva Conventions under Section 1, Article 130 Geneva Conventions Act 1957. The arrest is in connection with an investigation into an alleged offence in Kuwait in the early 1990s when the country was in a state of international armed conflict.

The suspect was taken to a Northumbria police station and was subsequently released under investigation.



NEW CASE!

**MAN ARRESTED
IN NEWCASTLE ON
SUSPICION OF WAR
CRIMES IN LIBERIA**

Name withheld

Context

Arrest and ongoing inquiries into a man suspected of war crimes during the first and second Liberian civil wars

Type of jurisdiction

Universal jurisdiction

Suspect

Name withheld, Liberian national

Country of residence of suspect

United Kingdom

Charges

As the case is at the investigation stage, the suspect has not yet been formally charged. The investigation focuses on charges of war crimes.

Current status

Under investigation; detained

Facts

The suspect allegedly committed war crimes during the first and second Liberian civil wars.

Procedure

On 7 September 2022, Officers from the Metropolitan Police War Crimes Team arrested a man on suspicion of war crimes contrary to Section 51 of the International Criminal Court Act 2001, as confirmed by Scotland Yard.

The man was held in custody while officers searched an address in southeast London and is still being detained.

NEW CASE!

SRI LANKAN NATIONAL ARRESTED IN RELATION TO THE MURDER OF JOURNALIST AND OF TWO SUPPORTERS OF THE TAMIL UNITED LIBERATION FRONT IN 2001

Name withheld

Context

Ongoing proceedings against Sri Lankan national for alleged murder constitutive of international crimes committed in 2000-2001

Type of jurisdiction

Universal jurisdiction

Suspect

Name withheld, Sri Lankan national

Country of residence of suspect

United Kingdom

Charges

As the case is at the investigation stage, the suspect has not yet been formally charged. The investigation focuses on offences under Section 51 of the International Criminal Court Act 2001 (war crimes, crimes against humanity, and genocide).

Current status

Under investigation

Facts

The journalist Mylvaganam Nimalrajan reported for the BBC amongst other news outlets and had been reporting on election-related violence and alleged vote rigging. He was killed in Sri Lanka in 2000.

In 2001, two supporters of the Tamil United Liberation Front were killed.

Procedure

On 22 February 2022, officers from the Metropolitan Police War Crimes Team conducted an operation in Northamptonshire and arrested a 48-year-old man on suspicion of offences under Section 51 of the International Criminal Court Act 2001. The suspect was taken into custody at a police station in Northamptonshire, and has since been released under investigation. Mylvaganam Nimalrajan's family members have been notified and are being supported by specialist officers. Officers are continuing to liaise with the Sri Lankan authorities.

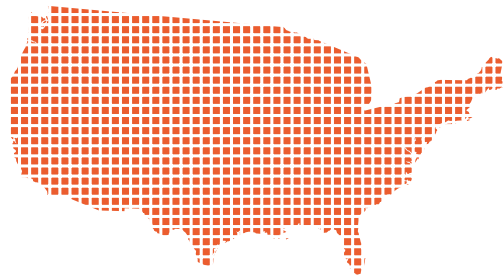
FOLLOW-UP ON OTHER CASES

- Name withheld – 45-year-old Londoner suspected of war crimes committed in Liberia (UJAR 2021, p. 82): the investigation is ongoing.
- Vincent Bajinya, Célestin Ugirashebuja, Charles Munyaneza, Emmanuel Nteziryayo and Célestin Mutabaruka (UJAR 2022, p. 89): the investigation is ongoing.
- Name withheld – Leeds resident arrested on suspicion of war crimes in Sierra Leone (UJAR 2022, p. 91): the investigation is ongoing.

UNITED STATES OF AMERICA

THE FIRST PROSECUTION OF YAHYA JAMMEH'S JUNGLERS, AN OPPORTUNITY FOR JUSTICE FOR GAMBIANS

Michael Sang Correa



Context

Ongoing proceedings against former Gambian death squad member for torture and conspiracy committed during the administration of former President Yahya Jammeh. Michael Sang Correa's indictment marked the first prosecution of a member of Jammeh's death squad anywhere in the world, and is only the third time the United States has laid charges pursuant to its extraterritorial torture statute.

Type of jurisdiction

Universal jurisdiction

Suspect

Michael Sang Correa, former member of the Junglers death squad

Country of residence of suspect

USA

Charges

Six counts of torture and one count of conspiracy to commit torture

Current status

Indicted; detained; awaiting trial

Facts

The Gambia was under the control of Jammeh from 1994 to 2016. For more than two decades, human rights violations, including enforced disappearances, torture, extrajudicial killing, sexual violence and arbitrary detention were widespread. The Junglers were members of the Gambian armed forces that answered directly to then-President Jammeh and were considered one of the most brutal enforcement arms of Jammeh's regime. In 2015, the United Nations Special Rapporteur on torture found that the Junglers carried out the regime's most repressive abuses: arbitrary detention, torture, enforced disappearance and extrajudicial killing.

Correa is alleged to be a former member of the Junglers death squad. Correa and other Junglers allegedly tortured the detainees in the Mile 2 Prison and the National Intelligence Agency Headquarters. According to his indictment, Correa and other Junglers tortured suspected participants for confessions, including by beating their victims with plastic pipes, wires and branches; suffocating them with plastic bags; dripping molten plastic and acid on their bodies; and subjecting them to electric shocks.

In 2016, Adama Barrow defeated Jammeh and launched the Truth, Reconciliation, and Reparations Commission (TRRC) to reckon with Jammeh's legacy of human rights abuses. The TRRC issued its findings on 24 December 2021 and called for the prosecution of those most responsible for gross human rights violations and abuses during Jammeh's rule, including the former president and members of the Junglers paramilitary unit. During the TRRC hearings in the Gambia, former members of the Junglers publicly testified about the crimes they committed under Jammeh's orders. Several victims testified that Correa personally tortured them or was present while other Junglers engaged in torture.

Procedure

On 17 September 2019, the US Department of Homeland Security arrested Correa in Denver, Colorado for overstaying his visa. Correa was placed in immigration detention and removal proceedings. He applied for asylum, but his application was denied in January 2020. Correa appealed his asylum denial in February 2020, and his removal from the US was stayed pending the resolution of his appeal.

Following news of his detention, a coalition of human rights organizations and Correa's victims, including the Center for Justice and Accountability, the African Network Against Extrajudicial Killings and Enforced Disappearances, the Gambia Center for Victims of Human Rights Violations, the Guernica Centre for International Justice, Human Rights Watch, the Solo Sandeng Foundation and TRIAL International, called on the US to investigate the credible allegations of grave international crimes committed by Correa in the Gambia.

On 11 June 2020, the US Attorney for the District of Colorado announced Correa's indictment on six counts of torture and one count of conspiracy to commit torture. Following this announcement, the Gambian Ministry of Justice issued a press release in support of the indictment. Correa has pled not guilty to the charges against him and is currently in detention awaiting trial.

In 2021, Correa's trial was delayed because Covid-19 pandemic restrictions prevented Correa's defense team from travelling to the Gambia to investigate and prepare his defense.

DEVELOPMENTS IN 2022

The trial continues to be delayed as both the prosecution and defense have requested additional time for discovery.

At a hearing in August 2022, the prosecution stated that it was working with US intelligence agencies to declassify additional evidence to disclose as part of its case.

Correa's defense attorneys stated that they would continue to travel to the Gambia as part of their preparation for trial. While in pre-trial detention, Correa attempted to file several motions to dismiss the charges against him on his own behalf, without his attorneys, arguing that the case against him results from "malicious prosecution" and causes prejudicial delay. However, the motions were denied for improper procedure. Correa has been in detention since September 2019 and a trial is expected to take place in 2023.

FORMER UNITED STATES CONTRACTOR CHARGED WITH VIOLATING 1994 TORTURE STATUTE

Active personality

Ross Roggio and Roggio Consulting Co., LLC

Context

Ongoing proceedings in Pennsylvania against former United States contractor for torture, criminal conspiracy, money laundering, wire fraud and illegal export of goods to Iraq. Ross Roggio is only the second US citizen, and fourth person overall, to be charged under the federal torture statute since it went into effect in 1994.

Type of jurisdiction

Active personality

Suspects

Ross Roggio, US citizen; Roggio Consulting Company, LLC

Country of residence of suspects

USA

Charges

Thirty-nine count indictment including torture and conspiracy to commit torture; money laundering; wire fraud; illegal export of goods

Current status

Indicted; detained; awaiting trial

Facts

Roggio owns and operates Roggio Consulting Company, LLC. In 2015, Roggio and Roggio Consulting Company, LLC allegedly conspired to illegally export items and defense services from the US to Iraq, including M4 Bol Gas Rings MIL, Firing Pin Retainers, and Rifling Combo Buttons. Roggio allegedly failed to obtain the requisite licensing or written approval from the US Department of Commerce and the US Department of State.

In addition, Roggio and his firm allegedly committed wire fraud by providing false information about end users when purchasing items from a US company. The items were then allegedly sent to Iraq where the parts were utilized to manufacture firearms at a plant constructed and operated in part by Roggio. Throughout this process, Roggio also allegedly laundered money from Iraq to bank accounts in Pennsylvania.

In addition, according to the indictment, when one of Roggio's employees raised concerns about the weapons production project in Kurdistan, Roggio ordered Kurdish soldiers to abduct and detain the employee at a Kurdish military compound for approximately thirty-nine days. While the employee was detained, Roggio allegedly led a series of interrogation sessions where he wrapped his belt around the employee's neck and yanked the employee off the ground, which led the employee to lose consciousness. Roggio also reportedly directed Kurdish soldiers to suffocate the employee with a plastic bag, shock the employee with a taser, beat

the employee with rubber hoses, threaten to cut off the employee's finger and force the employee to run barefoot over sharp gravel. Throughout the time the employee was detained at the military compound, Roggio also repeatedly told the employee they might not make it out of the military compound alive. The indictment further alleges that Roggio brought other employees to the military compound to intimidate them and force them to watch as the employee was tortured.

Procedure

On 20 March 2018, a thirty-seven count indictment was issued charging Roggio and Roggio Consulting Company, LLC with criminal conspiracy, money laundering, wire fraud and illegal export of goods.

On 23 March 2018, Roggio pled not guilty and was arrested. He subsequently sought to have his detention order revoked, which was denied by the judge.

DEVELOPMENTS IN 2022

In February 2022, a superseding indictment was issued also charging Roggio with torture and conspiracy to commit torture against one of his employees in violation of Title 18, U.S.C §2340, 2340A(c), 2340A(a) and 2.

FOLLOW-UP ON OTHER CASES

- Umm Sayyaf (UJAR 2022, p. 94): the investigation is ongoing.



TABLE OF CASES



- * ● For defendants who were formally charged or convicted, charges are marked by a **black** symbol.
- For those who have not yet been formally charged, alleged crimes are marked by a **grey** symbol.

DEFENDANT(S)	COUNTRY OF PROSECUTION	COUNTRY OF COMMISSION	CHARGES / ALLEGED CRIMES*					CURRENT STATUS	PAGE
			Genocide	Crimes against humanity	War crimes	Torture	Enforced disappearance		
Daniel Ortega and others	Argentina	Nicaragua		●				Under investigation	17
Rodolfo Martín Villa	Argentina	Spain						Under investigation; indictment dismissed	19
Khaled H. and others, Syrian intelligence services	Austria	Syria				●		Under investigation	21
Active personality Etienne Davignon and Jacques Brassinne de la Buissière	Belgium	Democratic Republic of Congo			●			Under investigation	23
Passive personality Manuel Benedicto Lucas García and others	Belgium	Guatemala		●				Investigation closed; awaiting trial	24
Pierre Basabose, Séraphin Twahirwa	Belgium	Rwanda	●		●			Indicted; awaiting trial	25
Christophe Ndangali	Belgium	Rwanda	●		●			Indicted; under investigation	25
Gibril Massaquoi	Finland	Liberia		●	●			Acquitted of all charges; awaiting appeal	26
Eric Danboy Bagale	France	Central African Republic		●	●	●	●	Indicted while under investigation; under judicial surveillance	28
Roger Lumbala Tshitenga	France	Democratic Republic of Congo		●				Charged while under investigation; detained	29
Nexa Technologies and executives and employees	France	Egypt				●	●	Indictments dismissed; under investigation	30
Kunti Kamara	France	Liberia		●		●		Convicted; sentenced to life imprisonment; detained; awaiting appeal	31
Amesys and executives	France	Libya				●		Under investigation; five indictments issued, two cancelled	32
Charles Twagira	France	Rwanda	●	●				Charged while under investigation; under judicial surveillance	33

DEFENDANT(S)	COUNTRY OF PROSECUTION	COUNTRY OF COMMISSION	CHARGES / ALLEGED CRIMES*					CURRENT STATUS	PAGE
			Genocide	Crimes against humanity	War crimes	Torture	Enforced disappearance		
Eugène Rwamucyo	France	Rwanda	•	•				Indicted; awaiting trial; under judicial surveillance	34
Laurent Bucyibaruta	France	Rwanda	•	•				Convicted; sentenced to 20 years' imprisonment; awaiting appeal; detained	35
Claude Muhayimana	France	Rwanda	•	•				Convicted; sentenced to 14 years' imprisonment; awaiting appeal; detained	37
Philippe Hategekimana (Philippe Manier)	France	Rwanda	•	•				Indicted; awaiting trial; detained	38
Active personality BNP Paribas	France	Sudan	•	•		•		Under investigation	39
Abdulhamid Chaban	France	Syria		•				Charged while under investigation	40
Majdi Nema (alias Islam Alloush)	France	Syria			•	•	•	Charged while under investigation; detained	41
Structural investigation Syria - massacre of Tadamon	France	Syria		•	•			Under investigation	42
Passive personality Ali Mamluk; Jamil Hassan; Abdel Salam Mahmoud	France	Syria		•	•	•	•	Investigation closed; international arrest warrants issued	43
Passive personality Names withheld – Syrian officials	France	Syria			•			Under investigation	44
Passive personality Unknown – targeting of journalists Marie Colvin; Edith Bouvier; Remi Olchik	France	Syria			•			Under investigation	45
Active personality Lafarge SA and top executives	France	Syria		•				Indicted while under investigation	46
Active personality Sabri Essid and Nabil Greseque	France	Syria	•	•				Under investigation	48

DEFENDANT(S)	COUNTRY OF PROSECUTION	COUNTRY OF COMMISSION	CHARGES / ALLEGED CRIMES*					CURRENT STATUS	PAGE
			Genocide	Crimes against humanity	War crimes	Torture	Enforced disappearance		
Active personality Salah Habib	France	Syria		●	●			Charged while under investigation; under house arrest and judicial surveillance	49
Ahmed Nasser al-Raisi	France	United Arab Emirates				●		Under investigation	50
Mohammed Ben Zayed	France	Yemen			●	●		Case closed	51
Active personality Luis Esteban Kyburg	Germany	Argentina		●				Under investigation	52
Bai L.	Germany	The Gambia		●				On trial; detained	54
Alaa M.	Germany	Syria		●				On trial; detained	55
Anwar Raslan	Germany	Syria		●				Sentenced to life imprisonment; awaiting appeal	56
Eyad al-Gharib	Germany	Syria		●				Sentence of 4.5 years imprisonment confirmed on appeal	56
Khedr. A. K. and Sami A. S.	Germany	Syria			●			Convicted; sentences confirmed	59
Moafak D.	Germany	Syria			●			On trial; detained	60
Amin M.	Germany	Syria			●			Convicted; sentenced to 1.5 year in prison, suspended on probation	61
Raed E.	Germany	Syria		●	●			Indicted; detained	62
Active personality Jalda A.	Germany	Syria	●	●	●			Convicted; sentenced to 5.5 years in prison	63
Active personality Kim Teresa A.	Germany	Syria			●			Convicted; sentenced to 4 years in prison confirmed	63
Active personality Leonora M.	Germany	Syria						Sentenced to 2 years in prison suspended on probation; pending appeal	64
Active personality Monika K.	Germany	Syria			●			Indicted; detained	65

DEFENDANT(S)	COUNTRY OF PROSECUTION	COUNTRY OF COMMISSION	CHARGES / ALLEGED CRIMES*					CURRENT STATUS	PAGE
			Genocide	Crimes against humanity	War crimes	Torture	Enforced disappearance		
Active personality Nadine K.	Germany	Syria	●	●	●			Indicted; detained	66
Active personality ISIS returnee - Name withheld	Germany	Syria			●			Indicted; on trial	67
Active personality Nils D.	Germany	Syria			●			Convicted; sentenced to 10 years' imprisonment confirmed	68
Active personality Romiena S.	Germany	Syria		●				Convicted; sentenced to 3 years and 3 months in prison	68
Active personality Stefanie A.	Germany	Syria			●			Convicted; sentenced to 6.5 years in prison	69
Passive personality Unknown	Lithuania	Ukraine			●			Under investigation	71
Active personality Abdul Razaq Arif	Netherlands	Afghanistan			●			Convicted; sentenced to 12 years in prison	72
Active personality Eshetu Alemu	Netherlands	Ethiopia			●			Convicted; sentenced to life in prison; appeal rejected	73
Ahmad al-Y.	Netherlands	Syria						Sentenced on appeal to 5 years and 4 months in prison; awaiting appeal before the Supreme Court	74
Name withheld - Liwa al-Quds member	Netherlands	Syria		●	●			Under investigation; detained	75
Hamid Noury	Sweden	Iran			●			Convicted; sentenced to life imprisonment; awaiting appeal	76
Active personality Alex Schneider and Ian Lundin	Sweden	Sudan			●			Investigation closed; two individuals indicted; awaiting trial	77
Active personality Lina Ishaq	Sweden	Syria			●			Convicted; sentenced to 6 years in prison	79
Khaled Nezzar	Switzerland	Algeria		●	●			Under investigation	80
Ousman Sonko	Switzerland	The Gambia		●				Under investigation; detained	82

DEFENDANT(S)	COUNTRY OF PROSECUTION	COUNTRY OF COMMISSION	CHARGES / ALLEGED CRIMES*					CURRENT STATUS	PAGE
			Genocide	Crimes against humanity	War crimes	Torture	Enforced disappearance		
Active personality Nicolae Bogdan Buzaianu	Switzerland	The Gambia			•			Under investigation	83
Alieu Kosiah	Switzerland	Liberia		•	•			Sentenced to 20 years in prison; on appeal	84
Active personality Unnamed Swiss-based company	Switzerland	Libya			•			Under investigation	86
Rifaat al-Assad	Switzerland	Syria			•			Under investigation in Switzerland for war crimes; sentenced to 4 years in prison in France for financial crimes	87
Name withheld – Iraqi national	United Kingdom	Iraq			•			Under investigation	89
Name withheld – Kuwaiti national	United Kingdom	Kuwait			•			Under investigation	90
Name withheld – Liberian national	United Kingdom	Liberia			•			Under investigation; detained	91
Name withheld – Sri Lankan national	United Kingdom	Sri Lanka		•	•			Under investigation	92
Michael Sang Correa	United States of America	The Gambia				•		Indicted; detained; awaiting trial	93
Active personality Ross Roggio and Roggio Consulting Co., LLC.	United States of America	Iraq				•		Indicted; detained; awaiting trial	95

WHO WE ARE

TRIAL INTERNATIONAL

TRIAL International is a non-governmental organization fighting impunity for international crimes and supporting victims in their quest for justice. TRIAL International takes an innovative approach to the law, paving the way to justice for survivors of unspeakable suffering. The organization provides legal assistance, litigates cases, develops local capacity and pushes the human rights agenda forward.

www.trialinternational.org

THE CENTER FOR JUSTICE AND ACCOUNTABILITY

The Center for Justice and Accountability (CJA) is a United States-based human rights organization dedicated to accountability for torture, war crimes, crimes against humanity and other grave abuses. Using innovative litigation and transitional justice strategies, CJA partners with survivors and their communities to seek truth, justice and redress for atrocity.

www.cja.org

CIVITAS MAXIMA

Civitas Maxima, based in Geneva (Switzerland), ensures the coordination of a network of international lawyers and investigators who work for the interests of those who have been victims of international crimes, particularly war crimes and crimes against humanity.

www.civitas-maxima.org

THE EUROPEAN CENTER FOR CONSTITUTIONAL AND HUMAN RIGHTS

The European Center for Constitutional and Human Rights (ECCHR) is an independent, non-profit organization based in Berlin that makes use of groundbreaking strategic legal intervention to challenge impunity, injustice and human rights violations worldwide. ECCHR aims to hold the responsible State and non-State actors accountable and to bring about political, economic, legal and social change. In order to achieve that, ECCHR works closely with partners from around the world.

www.ecchr.eu



THE INTERNATIONAL FEDERATION FOR HUMAN RIGHTS

The International Federation for Human Rights (FIDH) takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice. A broad mandate: FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights. A universal movement: FIDH was established in 1922, and today unites 188 member organizations in 116 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level. An independent organization: FIDH is not linked to any party or religion, and is independent of all governments.

www.fidh.org

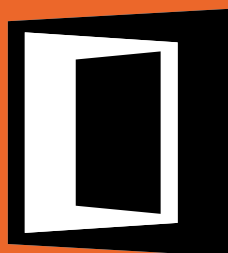
REDRESS

REDRESS is a non-governmental organization that pursues legal claims on behalf of survivors of torture in the UK and around the world to obtain justice and reparation for the violation of their human rights. It empowers survivors to access justice through cases against governments, civil cases against individuals and cases where it advocates for law enforcement bodies to prosecute perpetrators under the principle of universal jurisdiction. REDRESS's approach is strategic, so that as well as representing an individual it targets the policy reasons that enabled the torture to take place, by building a campaign that uses advocacy, community engagement and communications to influence change.

www.redress.org







TRIAL

International

Rue de Lyon 95 - 1203 Geneva
Switzerland
+41 22 321 61 10



info@trialinternational.org
[@Trial](#)

www.trialinternational.org