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In collaboration with

Independent Legal Representation of Victims of War Crimes and Crimes Against Humanity
CIVITAS MAXIMA

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Universal Jurisdiction Annual Review 2024

#UJAR

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Name withheld

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Name withheld

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Name withheld

115 **Libyan national arrested over torture allegedly committed between 2002 and 2007**
Name withheld

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Name withheld

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Name withheld

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Name withheld

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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. Most cases included in this report have been launched under the principle of universal jurisdiction, hence the title of this report.

Extraterritorial jurisdiction refers to cases in which crimes have been committed outside the territory of the prosecuting country. In such cases, universal jurisdiction applies when neither the suspects nor the victims are nationals of the prosecuting country, while active and passive personality apply when suspects and victims are nationals of the prosecuting country, respectively. The term "universal jurisdiction" is used in the report according to this definition, even when it is not labeled as such within the national legislation of the relevant prosecuting country.

The report covers public developments that occurred during the year 2023 and does not claim to be exhaustive as a large number of cases are subject to the confidentiality of criminal investigations. It only reports cases where judges or prosecutors have initiated criminal investigations into international crimes, namely genocide, crimes against humanity, war crimes, torture and enforced disappearances. It does not, therefore, include complaints that victims, lawyers, or NGOs filed under universal and extraterritorial jurisdiction that did not result in the opening of a judicial investigation or that have been dismissed by the relevant national authorities. Cases marked as "new" are those in which an investigation was opened or made public in 2023.

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.

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2023 HIGHLIGHTS IN THE DOMESTIC PROSECUTION OF INTERNATIONAL CRIMES UNDER EXTRATERRITORIAL AND UNIVERSAL JURISDICTION

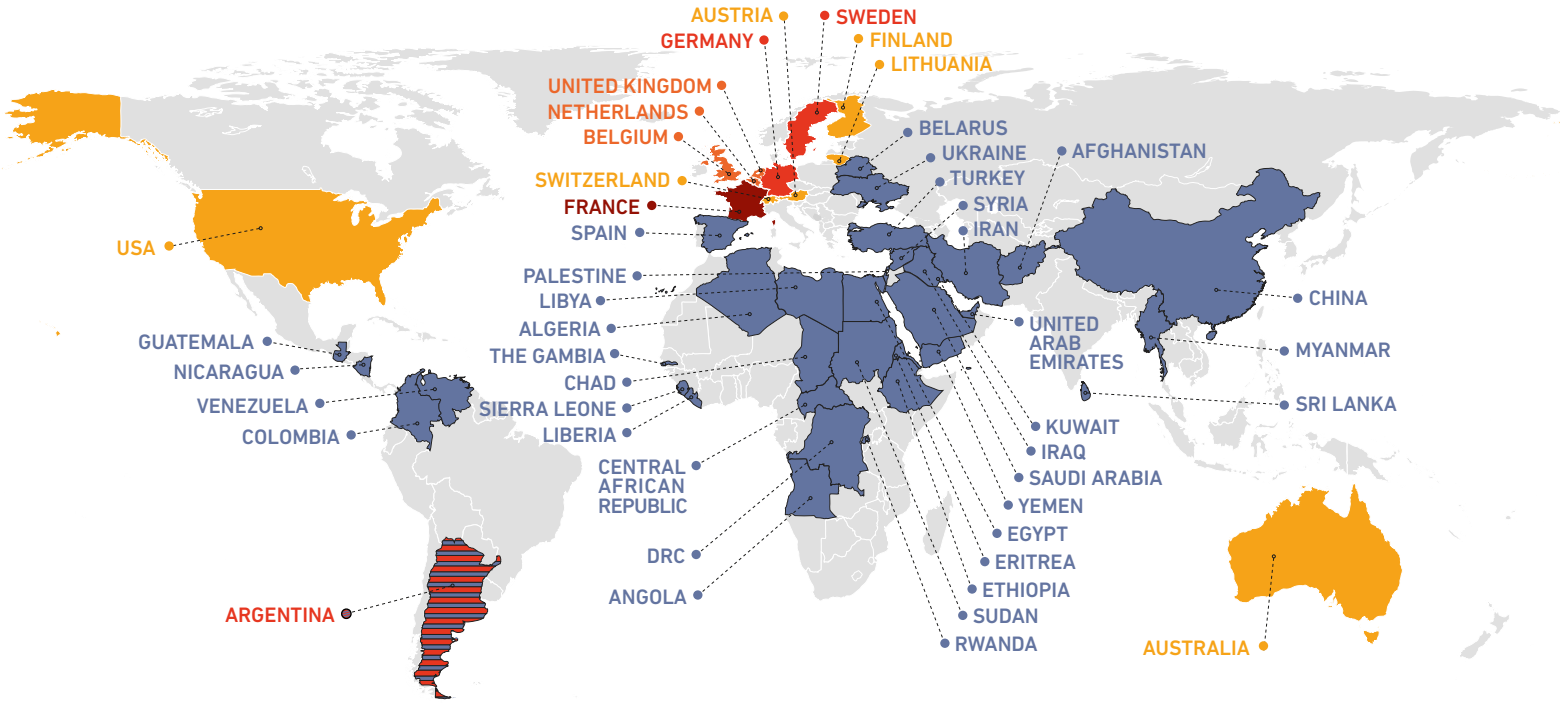
In 2023, the number of investigations and prosecutions of international crimes opened before domestic jurisdictions under extraterritorial and universal jurisdiction continued to rise. This reflects the hopes and expectations that victims and survivors place in foreign domestic courts and the growing ability and willingness of many of these jurisdictions to play a key role in the fight against impunity for international crimes. As outlined in this report, 36 new investigations were opened in 2023 compared to 2022 – a remarkable 33% increase of the total number of cases. However, this upward trend is not uniform, and the use of this crucial prosecuting tool is not expanding evenly across countries. As long as cases continue to be concentrated in a few specific countries, the truly universal nature and potential impact of universal jurisdiction will remain unexploited.

2023 trends: the geography of the domestic prosecution of extraterritorial international crimes

Despite the incorporation of provisions related to international crimes in the legal frameworks of the majority of countries globally, only 13 domestic jurisdictions – ten of which are European – currently have officially open extraterritorial cases. The practice is therefore rather exceptional in the global picture, as most countries worldwide have not launched any national proceedings on international crimes committed abroad. Narrowing down this scope further, a substantial 86% of all suspects mentioned in this report are currently being investigated or prosecuted in just six out of the 13 countries. France leads with around 29% of the total number of suspects publicly targeted by criminal proceedings, followed by Argentina (16%), Sweden (13%), Germany (12%), Belgium and the United Kingdom (8% each). On the other side of the spectrum, Austria and Finland each have only one ongoing case, and have been joined this year by Australia, which indicted for the first time a national soldier for war crimes allegedly committed in Afghanistan in 2012 (see Schulz case, p. 25).

Regarding the countries where the crimes investigated have been committed, the list has grown larger and more diverse in 2023. Cases detailed in this report pertain to international crimes committed in 35 countries – six more than in 2022 (see cases regarding Colombia, p. 19, Venezuela, p. 24, Palestine, p. 44, Ukraine, p. 66, Eritrea, p. 110 and Angola, p. 109). With respect to the profiles of the suspects, 54% of them are current or former state officials, 18% are former members of rebel armed groups, 5% are former members of paramilitary groups and 15% are economic actors (businesspeople and companies). Women constitute 10% of the total suspects. These disaggregated data about past and ongoing proceedings are now available in the Universal Jurisdiction Interactive Map (UJIM) launched in November 2023 by TRIAL International to enhance access to qualitative and quantitative information regarding universal and extraterritorial jurisdiction cases across the world.

Map



COUNTRIES OF PROSECUTION

Over 60 suspects

- France

20 to 40 suspects

- Argentina
- Sweden
- Germany

10 to 20 suspects

- United Kingdom
- Belgium
- Netherlands

Less than 10 suspects

- Switzerland
- USA
- Austria
- Lithuania
- Australia
- Finland

COUNTRIES OF COMMISSION

- Afghanistan
- Algeria
- Angola
- Argentina
- Belarus
- Central African Republic
- Chad
- China
- Colombia
- Democratic Republic of the Congo (DRC)
- Egypt
- Eritrea
- Ethiopia
- Guatemala
- Iran
- Iraq
- Kuwait
- Liberia
- Libya
- Myanmar
- Nicaragua
- Palestine
- Rwanda
- Sierra Leone
- Spain
- Sri Lanka
- Sudan
- Syria
- Saudi Arabia
- The Gambia
- Turkey
- Ukraine
- United Arab Emirates
- Venezuela
- Yemen

The vital contribution of civil society organizations to universal jurisdiction

As highlighted in previous editions of the UJAR, the practice of universal jurisdiction faces numerous political, legal and practical challenges. To overcome these and allow for such an important expansion, civil society organizations' (CSOs) litigation efforts have been instrumental. Notably, CSOs have been involved in legal proceedings in over 56% of the ongoing cases, by filing complaints, collaborating with or providing information to prosecuting authorities, providing support to the plaintiffs and participating as civil parties. This figure reaches 74% in France, 83% in Argentina and 100% in Switzerland. Significantly, in the United Kingdom, where CSOs cannot file complaints on behalf of the victims or act as civil parties, one third of the cases have been closed this year due to insufficient evidence. Improving collaboration between CSOs and authorities could contribute to gathering important evidence and thus avoiding the closure of cases, in particular by connecting investigators with victims and witnesses whose testimonies could be relevant to the cases.

Over the past two decades, CSOs' extraterritorial jurisdiction expertise has continued to grow, informed by victims' and survivors' needs and choices, and enhanced by the partnership between international and national CSOs. Thanks to their longstanding engagement in specific contexts and with local actors, CSOs are able to establish trustful relationships with victims and to bridge the gap between affected communities and prosecution services which are often geographically, culturally and linguistically far away. In addition, CSOs can conduct efficient in-country investigations, which translates into well-documented complaints and submissions filed before the relevant authorities. They also bring crucial legal, logistical, and psychosocial support to victims on the long and emotionally demanding path to justice.

The impact of CSOs' strategic litigation efforts often extends well beyond individual cases and can result in the setting of highly significant legal precedents. A prominent example is the International Federation for Human Rights' (FIDH) strategic intervention in the Chaban case in France, after the *Cour de cassation*, France's highest court, ruled in 2021 that universal jurisdiction could only be exercised if the charged crimes have the exact same legal qualification in the legislation of the country where the crime occurred (see p. 55). Acting as a civil party, the FIDH opposed the decision and presented its legal arguments, which, remarkably, led to the Court reversing its initial stance. The *Cour de cassation* found in 2023 that French judicial authorities can prosecute international crimes if their underlying acts (such as murder, rape, or torture) are punishable in the country where the crime occurred, even though they are not explicitly qualified as crimes against humanity, war crimes or genocide. This judicial review of the "double criminality" requirement paved the way for the French parliament decision, passed on 11 October 2023, to remove this longstanding legal obstacle to universal jurisdiction in France. The parliament did not, however, address other problematic obstacles in the process.

In addition to undertaking litigation, CSOs' advocacy work has been crucial for the comprehensive and effective inclusion of international crimes and prosecution tools in both national and international legal instruments. For instance, at the domestic level in Germany, the European Center for Constitutional and Human Rights (ECCHR) has advocated for a reform of German international criminal law to strengthen the procedural rights of survivors and to close legal gaps related to sexual violence and the crime of enforced disappearance. Following several meetings with members of parliament along with statements on the need for reform, a large number of ECCHR's demands have been taken up in a draft bill, which is now pending before the German Parliament's Legal Affairs Committee.

At the international level, a prime example of CSOs' significant advocacy work is the negotiation of the Ljubljana – The Hague Convention on International Cooperation in the Investigation and Prosecution of the Crime of Genocide, Crimes Against Humanity, War Crimes and Other International Crimes. Adopted on 26 May 2023 following a two-week diplomatic conference, the entry into force and effective implementation of this treaty could be a significant step forward in the global cooperation on international crimes prosecution. In addition to defining international crimes, mandating their prosecution and establishing universal jurisdiction over them, the treaty addresses challenges related to transnational aspects of investigations, providing tools for evidence sharing, extradition of suspects and the construction of robust cases in national courts. The concerted and persistent efforts of CSOs during these negotiations, which included active

engagement with all stakeholders and constant communication to draw international attention to sidelined issues, were crucial for the inclusion of victims' rights. In particular, they proved decisive to ensure the duty to establish jurisdiction on the basis of even short-term, non-habitual presence of the suspect on a state party's territory as well as the obligation to exercise it.

Justice for Syria before foreign domestic courts

Universal and extraterritorial jurisdiction has also played a pivotal role in addressing crimes committed in Syria, both by the Assad regime and by organized armed groups, in particular the Islamic State (ISIS). In the absence of an international tribunal with jurisdiction over these crimes, victims and survivors present in Europe, supported by Syrian and international CSOs, have turned to domestic courts to seek justice through extraterritorial and universal jurisdiction. This report includes 49 cases underway in nine prosecuting countries for international crimes committed in Syria and bordering Iraq since 2011. These cases involve 92 suspects, who make up 42% of all individuals currently under domestic investigation or prosecution for international crimes globally. Twenty-seven cases have been launched under universal jurisdiction, 17 through active personality and five through passive personality. Twenty-nine cases target members of rebel armed groups, primarily ISIS, three cases relate to members of paramilitary groups allied to the Syrian regime, three cases involve economic actors and 11 cases involve state representatives.

Efforts to hold the Syrian regime accountable are not only numerous, but also significant considering the rank of the suspects targeted. In addition to the conviction of Eyad al-Gharib and Anwar Raslan in Germany in 2021 and 2022 (see UJAR 2023, p. 56), the French specialized unit for the prosecution of international crimes has initiated prosecutions against higher levels of the chain of command. France has issued a total of 11 international arrest warrants for crimes against humanity and war crimes against senior officials, including in 2023 Syrian president Bashar al-Assad (see p. 58), whose arrest warrant is currently under appeal on immunity grounds. These will most probably lead to trials *in absentia*, beginning in 2024 with three former heads of the Syrian intelligence services (see Ali Mamluk, Jamil Hassan and Abdel Salam Mahmoud case, p. 57). Despite the likely absence of the suspects, these trials will nevertheless be highly meaningful as they are expected to shed light on individual responsibilities for the egregious state atrocity crimes committed in Syria over the last decade.

The need for timely justice and the risk of "biological impunity"

The responsiveness of judicial authorities to complaints filed by victims is key to avoiding prolonged delays which can hinder the likelihood of reaching arrests, indictments and trials. A concrete example can be found in Switzerland in the case against former Syrian vice-president Rifaat al-Assad, against whom a criminal complaint was filed in 2013 (see p. 104). In August 2023, the Swiss Federal Office of Justice made public that in 2021, the attorney general had issued an international arrest warrant against Rifaat al-Assad for his alleged role in the commission of war crimes during the 1982 massacre in the city of Hama, which caused between 10'000 and 40'000 deaths over about three weeks. Only a month before the issuance of the arrest warrant, Rifaat al-Assad ended his long exile in France and returned to Syria, where the arm of justice will unlikely be long enough to reach him.

In addition, protracted procedures can also lead to "biological impunity" due to the advancing age, failing health and eventual death of suspects, witnesses and victims. In Switzerland, former Algerian Minister of Defense Khaled Nezzar died at the age of 85, four months after being indicted for war crimes and crimes against humanity, and 12 years after the start of criminal proceedings (see p. 99). Likewise, in Germany, a 75-year-old Argentinian former military officer passed away only weeks before being charged with the murder of political opponents during the country's military dictatorship (see Kyburg case, p. 67). In France, Laurent Bucyibaruta died in 2023 while awaiting his appeal trial over genocide and crimes against humanity in Rwanda, 23 years after the filing of the complaint against him (p. 47).

Similar scenarios may unfold in various countries, where individuals are being investigated and convicted decades after the crimes took place, while nearing the end of their lives. In Belgium in 2023, Pierre Basabosé was convicted of genocide but could not be interrogated by the court during his trial

due to his advanced age and senile dementia (p. 32). Former Guatemalan state officials aged between 84 and 91 were also convicted this year of enforced disappearances in the 1980s, but two of them are currently hospitalized (see Lucas García and others case, p. 28). In France, Paul Barril's health issues are reportedly preventing him from participating in any hearing (see p. 50) and in the case of Laurent Serubuga, an 87-year-old Rwandan national, a decision regarding his referral to trial over genocide has been awaited since 2018 (see UJAR 2018, p. 27).

The need to hold those responsible for international crimes accountable does not extinguish itself with time. The absence of statutory limitations for such atrocities is aimed at making justice possible even decades after the crimes occur. However, excessively protracted legal processes, be they linked to prosecuting and investigating authorities' lack of resources or to the absence of political will, seriously compromise the prospects of accountability, and deeply affect the numerous survivors who may not witness justice being delivered during their lifetime. The phenomenon of "biological impunity" stands as a poignant illustration of the systemic challenges faced by judicial authorities when trying to build complex prosecutions in a timely manner. Political backing and adequate human and financial resources are thus vital to enable universal jurisdiction to fulfill its potential and uphold the central commitment to deliver long-overdue justice to the victims of the most egregious crimes.

2023 KEY FINDINGS



35
countries of commission



13
countries of prosecution



36
new cases



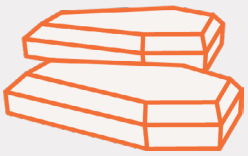
217
suspects at least (21 women)



60
war crimes charges



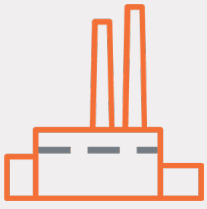
50
crimes against humanity charges



22
genocide charges



13
sexual violence charges



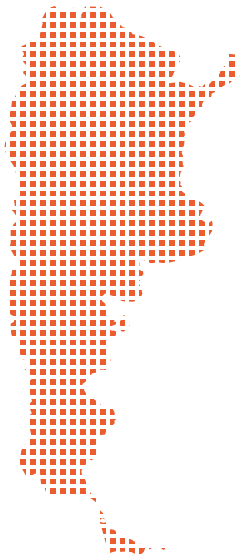
32
suspects are economic actors (businesspeople or companies)



16
convictions (first instance or appeal)

CASES IN 2023

ARGENTINA



NEW CASE!

INVESTIGATION OPENED INTO "FALSE POSITIVE" CRIMES ALLEGEDLY COMMITTED BY FORMER COLOMBIAN PRESIDENT

Álvaro Uribe Velez

Country of commission

Colombia

Jurisdictional basis

Universal jurisdiction

Suspect

Álvaro Uribe Velez, Colombian national, former president of Colombia (2002-2010)

Country of residence of suspect

Colombia

Charges

As the case is at the investigation stage, the suspect has not been formally charged. The investigation focuses on the crimes against humanity of murder and enforced disappearances and the war crime of murder.

Current status

Under investigation

Facts

Between 2002 and 2008, an internal armed conflict pitted the Colombian armed forces against leftist guerrillas. During this period, state agents, in particular members of the national army, executed and enforced the disappearances of at least 6'402 civilians and other persons protected under international humanitarian law. Victims were mostly young men from modest backgrounds who were lured with promises of work and then executed by soldiers. They were later dressed in guerrilla fatigues or/and had weapons placed in their hands, and were illegitimately presented as combatants of the leftist guerillas killed during fighting. These crimes were committed with the aim of boosting statistics and creating the impression that the army was winning the war.

These crimes, publicly known as "false positives" were committed in 31 of Colombia's 32 departments, by all army divisions, with the same *modus operandi*. They allegedly involved a wide range of members of the armed forces, including the lower, middle and high command.

Uribe was elected president of the Republic of Colombia from 2002 to 2010. As the Supreme Commander of the Armed Forces, he is suspected of having had knowledge of the criminal practice of false positives, but having failed to prevent, investigate or punish those crimes. He also allegedly dismissed numerous complaints that were filed against these crimes and continued to pressure his troops to report significant numbers of kills in combat, despite reportedly knowing that the victims were civilians.

The *Jurisdicción Especial para la Paz* (Special Jurisdiction for Peace), a transitional tribunal established in 2017 to judge crimes committed during the internal armed conflict, has so far indicted a total of 99 members of the Colombian armed forces, including eight generals, for war crimes and the crimes against humanity of murder and enforced disappearance. It does not, however, have jurisdiction over former presidents.

Procedure

On 7 November 2023, 11 victims and three Colombian non-governmental organizations – the *Comité de Solidaridad con los Presos Políticos*, the *Colectivo de Abogados José Alvear Restrepo* and the *Corporación Jurídica Libertad* – filed a complaint against the former Colombian president for war crimes and crimes against humanity before the Argentinian prosecuting authorities.

The case was assigned to an investigating judge of Federal Court N°2, who, on 9 November 2023 asked the International Criminal Court to share with the Argentinian authorities' information on any investigations into the crimes denounced.

On 19 December 2023, the prosecutor assigned to the case announced the opening of an investigation and requested several additional acts of mutual assistance from Colombia.

INVESTIGATION INTO CRIMES AGAINST HUMANITY ALLEGEDLY COMMITTED BY NICARAGUAN PRESIDENT AND VICE-PRESIDENT DURING 2018 PROTESTS

Daniel Ortega, Rosario Murillo and fourteen other high-ranking officials

Country of commission

Nicaragua

Jurisdictional basis

Universal jurisdiction

Suspects

Nicaraguan nationals: Daniel Ortega, president of Nicaragua (1979-1990, and since 2007); Rosario 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 been formally charged. The investigation focuses on 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 daily to demonstrate. Protesters have been 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 2021 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, Ortega's government allegedly intensified the persecution of its political opponents, in particular due to the 2021 disputed elections in which Ortega was re-elected for a fourth consecutive term. It is reported that thousands have been 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, a complaint against Ortega, Murillo and other high-ranking Nicaraguan officials was filed for the crimes against humanity of enforced disappearances, torture, murder and deprivation of liberty among other crimes committed since 2018. The complaint alleges that the highest political command ordered a systematic attack against the civilian population.

In October 2022, an investigation was opened under universal jurisdiction into crimes against humanity. As an initial investigative measure, the Argentinian prosecuting authorities sent a rogatory letter to Nicaragua to ask whether it was already investigating and prosecuting those crimes. 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, the United Nations Group of Human Rights Experts on Nicaragua, Amnesty International, the Center for Legal and Social Studies, the International Federation for Human Rights and the Nicaraguan Center for Human Rights.

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

DEVELOPMENTS IN 2023

On 24 November 2023, the National Prosecutor's Office formally requested statements from Ortega and Murillo.

INVESTIGATION CONTINUES INTO SAUDI CROWN PRINCE'S ROLE IN KHASHOGGI'S KILLING IN TURKEY, TORTURE OF NATIONALS, AND WAR CRIMES IN YEMEN

Mohammed bin Salman

Countries of commission

Saudi Arabia, Turkey and Yemen

Jurisdictional basis

Universal jurisdiction

Suspect

Mohammed bin Salman, Saudi national, crown prince (since 2017), prime minister of the Kingdom of Saudi Arabia (since 2022), former minister of defense (2015-2022)

Country of residence of suspect

Saudi Arabia

Charges

As the case is at the investigation stage, the suspect has not been formally charged. The investigation focuses on war crimes, murder, torture and inhumane treatment.

Current status

Under investigation

Facts

Yemen was plunged into a civil war in 2014 when Houthi rebels seized the north of the country, including Sanaa, the country's capital.
Bin Salman was appointed minister of defense of neighboring Saudi Arabia on 23 January 2015. On 25 March 2015, he launched a military campaign against the Houthis in Yemen along with other Arab states. The international coalition led by Saudi Arabia also received logistical and intelligence support from Canada, France, the United States and the United Kingdom, while the Houthis have been backed by Iran.

Since then, Yemen has been ravaged by a war that has caused over 377'000 deaths, with 60% of these occurring as result of hunger, lack of healthcare and unsafe water. Eighty percent of the population are in need of humanitarian aid and protection, and face famine conditions. Eleven thousand children are known to have been killed or wounded as a direct result of the fighting.

United Nations bodies and human rights groups have denounced the widespread violations of human rights and humanitarian law committed in Yemen. Alleged war crimes include deliberately targeting civilians, the use of illegal cluster-munitions, indiscriminate airstrikes and a naval and air blockade that has deprived civilians of access to their basic livelihood.

Bin Salman, acting as defense minister, oversaw Saudi military forces and served as the commander of the international coalition that has been carrying out the military campaign and alleged war crimes in Yemen. He is also under investigation for the torture and ill-treatment of Saudi citizens, and for the murder of Saudi journalist and political opponent Jamal Khashoggi on 2 October 2018 inside the Saudi consulate in Istanbul. After initially denying Saudi authorities' responsibility for Khashoggi's murder, the Kingdom of Saudi Arabia recognized the responsibility of some of its agents, while denying bin Salman's individual responsibility.

Bin Salman was promoted to crown prince in June 2017 and was appointed prime minister in 2022.

Procedure

On 26 November 2018, the NGO Human Rights Watch filed a denunciation with the Argentinian federal prosecutor ahead of bin Salman's visit to Buenos Aires for the G20 Summit. The submission asked the Argentinian authorities to investigate bin Salman's role in war crimes allegedly committed by the Saudi-led coalition in Yemen, as well as in acts of torture and ill-treatment of Saudi nationals and the murder of Khashoggi.

An investigation was immediately opened. On 28 November 2018, a federal prosecutor formally requested inquiries into whether the allegations were being investigated elsewhere, and into bin Salman's diplomatic status and immunities. On the same day, the federal investigative judge sent information requests to the governments of Saudi Arabia and Yemen, to the International Criminal Court and to the Argentinian Foreign Ministry.

In September 2021, Argentinian prosecuting authorities also sent a rogatory commission to Turkey.

DEVELOPMENTS IN 2023

To date, Argentinian prosecutors have not received any response to the requests sent to Turkey, Yemen or the International Criminal Court.

NEW CASE!

INVESTIGATION OF FOURTEEN VENEZUELAN OFFICIALS FOR CRIMES AGAINST HUMANITY DURING 2014 PROTESTS

Juan José Noguera Pietri, José Dionisio Goncálvez Mendoza and 12 other high-ranking members of the Venezuelan National Guard

Country of commission

Venezuela

Jurisdictional basis

Universal jurisdiction

Suspects

Venezuelan nationals, members of the Venezuelan National Guard: Major General Juan José Noguera Pietri, Major General José Dionisio Goncálvez Mendoza, Brigadier General Arquímedes Herrera Ruso, Colonel Ephraín Verdú Torrelles, Colonel Ramón Adolfo Pimentel Avilán, Colonel Ephraín Verdú Torrelles, Lieutenant Colonel Frank Alonzo Osuna Díaz, Lieutenant Luis Amaya Chirino, First Sergeant Johan Ramírez Hernández and Second Sergeants José Urdaneta Urdaneta, Jhonny Mallarino Miranda, Luis Reyes González, Jorvy Pennaloza Ramírez and Roger Alejo Durán

Country of residence of suspects

Venezuela

Charges

As the case is at the investigation stage, the suspects have not been formally charged. The investigation focuses on crimes against humanity, including murder.

Current status

Under investigation

Facts

An ongoing political and economic crisis in Venezuela led to protests in February 2014 against the regime of Nicolás Maduro. Venezuelan authorities violently repressed individuals associated or perceived to be associated with the government's political opposition. The United Nations Independent International Fact-Finding Mission on Venezuela documented extrajudicial executions, enforced disappearances, arbitrary detentions, torture and cruel, inhuman or degrading treatment, including sexual and gender-based violence. It concluded in 2022 that crimes against humanity were committed in Venezuela to suppress dissent.

Procedure

In June 2023, the Clooney Foundation for Justice filed a complaint under universal jurisdiction before the Argentinian federal justice system, representing family members of two victims of indiscriminate violence and killings in Venezuela in 2014. The complaint relied on over 15'000 pages of evidence of the crimes against humanity allegedly committed in Venezuela.

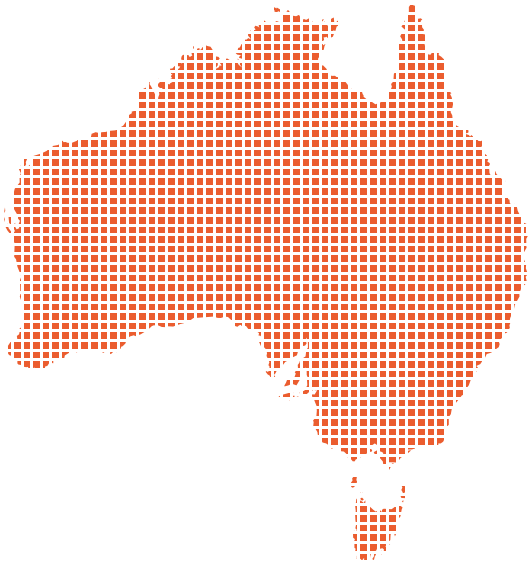
In July 2023, the Argentinian federal prosecutor opened an investigation into crimes against humanity allegedly committed by Venezuelan security forces. The prosecutor subsequently requested a series of measures, including requests to the Venezuelan justice system to send copies of judicial proceedings and to the hospitals where the victims were treated in order to access medical records, a list of professionals who treated them and death certificates. He also called for documents to be requested from the United Nations, the Organization of American States, the Inter-American Commission on Human Rights and the International Criminal Court (ICC), which opened an investigation into the situation in Venezuela in November 2021.

On 26 September 2023, Argentinian prosecutors received a response from the ICC indicating that the scope of the ICC investigation encompasses any crimes within the Court's jurisdiction alleged to have occurred in Venezuela since 12 February 2014, but that it does not currently have any cases opened against specific identified individuals.

FOLLOW-UP ON OTHER CASES

- Aung San Suu Kyi and others (UJAR 2022, p. 19): the investigation is ongoing.
- Rodolfo Martín Villa (UJAR 2023, p. 19): the investigation is ongoing.

AUSTRALIA



NEW CASE!

FIRST-EVER AUSTRALIAN SOLDIER CHARGED OVER ALLEGED WAR CRIME IN AFGHANISTAN IN 2012

Oliver Schulz

Country of commission

Afghanistan

Jurisdictional basis

Active personality

Suspect

Oliver Schulz, Australian national, former member of the Australian Defence Force

Country of residence of suspect

Australia

Charges

War crime of murder

Current status

Indicted; awaiting confirmation of charges

Facts

In 2012, Schulz was deployed in Afghanistan with the Australian Defence Force. He is accused of shooting an Afghan civilian in the head and the heart while the civilian was laying on the ground in a wheat field after being mauled by a dog in the Afghan province of Uruzgan.

Schulz was awarded the Commendation for Gallantry for his service in Afghanistan.

In March 2020, ABC News released footage of the Afghan civilian being shot by an Australian soldier in a wheat field in Uruzgan.

Procedure

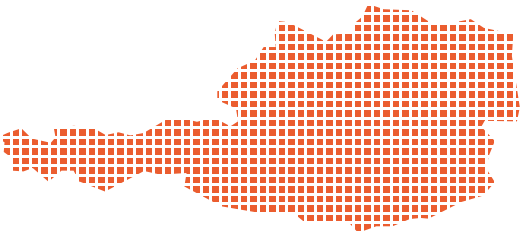
In 2016, the inspector-general of the Australian Defence Force started an inquiry regarding alleged war crimes by Australian forces in Afghanistan.

In November 2020, the inspector-general released his report (known as the Brereton Report), which found credible information that members of the Australian Special Forces had committed war crimes during their operations in Afghanistan between 2005 and 2016. In particular, it recommended that 19 current or ex-special forces soldiers should be investigated by police over killings of prisoners or civilians from 2009 to 2013.

These accusations led to the establishment in 2021 of the Office of the Special Investigator, responsible for reviewing the potential criminal matters raised in the Brereton Report and investigating together with the Australian Federal Police any breaches of the laws of armed conflict by members of the Australian Defence Force in Afghanistan from 2005 to 2016.

In March 2023, the Office of the Special Investigator announced that a joint investigation with the police resulted in Schulz being charged with the war crime of murder. Investigators arrested the 41-year-old man in New South Wales and he was initially remanded in custody. On 28 March, Schulz was granted bail. Once his charge is confirmed by a magistrate, the case will be sent to trial.

AUSTRIA



INVESTIGATION AGAINST SYRIAN INTELLIGENCE OFFICERS CONTINUES AFTER AUSTRIAN GOVERNMENT OFFICIALS ACQUITTED OF CHARGES OF ASYLUM ABUSE

Khaled H. and others

Country of commission

Syria

Jurisdictional basis

Passive personality

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. The suspects are all Syrian nationals.

Country of residence of suspects

Syria/unknown

Charges

As the case is at the investigation stage, none of the suspects have been formally charged. The investigation focuses on torture, bodily harm and serious bodily harm.

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 through the intimidation of 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 not granted by French asylum authorities and he relocated to Austria.

Procedure

In 2016, the Austrian prosecutorial authorities initiated an investigation into the crimes allegedly committed by Khaled H.
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.

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.

DEVELOPMENTS IN 2023

In summer 2023, four high level members of the Austrian secret service that had facilitated Khaled H.'s entry into the country were acquitted in a trial in which they had been charged with the misuse of executive powers. The court did not find enough evidence to prove that the defendants had intentionally misused their powers to the detriment of the Republic of Austria.

Further in 2023, the prosecutor dismissed the criminal complaints filed by NGOs and Syrian torture survivors in 2018 in all but one case, arguing that he only had jurisdiction in the case of the Austrian torture survivor, making this a passive personality case.

BELGIUM

CONVICTION OF FIVE FORMER GUATEMALAN MINISTERS AND HIGH-RANKING OFFICIALS OVER 40 YEARS AFTER CRIMES AGAINST HUMANITY AGAINST BELGIAN MISSIONARIES

Manuel Benedicto Lucas García and four other officials



Country of commission

Guatemala

Jurisdictional basis

Passive personality

Suspects

Manuel Benedicto Lucas García (detained in a Guatemalan military hospital), former head of the armed forces; Manuel Antonio Callejas y Callejas (detained in a Guatemalan military hospital), former head of armed forces intelligence; Pedro García Arredondo, former head of police intelligence; Ángel Aníbal Guevara Rodríguez, former defense minister; Donaldo Álvarez Ruiz, former interior minister. The suspects are all Guatemalan nationals.

Country of residence of suspects

Guatemala and unknown

Charges

Crimes against humanity of enforced disappearance, unlawful imprisonment, torture and murder

Current status

Convicted; sentenced to life imprisonment; two detained in Guatemala, three at large

Facts

In the 1980s, Belgian missionaries travelled to the southern coast of Guatemala to raise the awareness of workers about their exploitation and repression, and to support their organizational process to demand their rights. Their social protest was violently repressed by the Guatemalan armed forces and left thousands of victims, including three Belgian citizens: Father Walter Voordeckers, killed on 12 May 1980; Ward Capiau, killed on 22 October 1981; and pastoral assistant Serge Berten, abducted on 19 January 1982 and never seen again. A fourth victim, Father Paul Schildermans, was tortured and imprisoned, and subsequently fled Guatemala in January 1982.

Procedure

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

Over twenty years later, on 14 June 2022, the Pretrial Criminal Chamber indicted five former high-ranking Guatemalan government officials over crimes against humanity 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.

While three suspects remain at large, Callejas y Callejas and Lucas García are currently detained in a Guatemalan military hospital for other cases.

The first case regards a May 2018 conviction against the two by a Guatemalan criminal court for crimes against humanity, enforced disappearances and aggravated rape committed in 1981. They were sentenced to 58 years in prison. However, on 9 June 2023, a Guatemalan appeals court ordered the release of the former high-ranking military officers, disobeying a 2004 ruling of the Interamerican Court of Human Rights, which had ordered the Republic of Guatemala to investigate, identify, prosecute, and punish the perpetrators of these crimes.

Despite the court order, Callejas y Callejas and Lucas García were not released because they are also facing trial in a second case related to crimes of genocide and crimes against humanity against the Mayan Ixil population. The trial in this case was scheduled for 9 January 2023 but was suspended due to the health issues of the accused, who are respectively 86 and 91 years old.

DEVELOPMENTS IN 2023

A preliminary hearing before the Criminal Court took place in the city of Leuven on 13 June 2023.

The trial in absentia started on 4 December and lasted for two weeks. On 14 December, the public jury of the Leuven Criminal Court handed down life sentences to the five former Guatemalan ministers and military leaders. All defendants were convicted of the crimes against humanity of enforced disappearance, unlawful imprisonment, torture and murder, except for Guevara Rodriguez, whose conviction only includes the crime against humanity of murder.

NEW CASE!

IRAQI NATIONAL DETAINED OVER ALLEGED AL-QAEDA WAR CRIMES AND CRIMES AGAINST HUMANITY IN BAGHDAD IN 2009-2010

O.Y.T.

Country of commission

Iraq

Jurisdictional basis

Universal jurisdiction

Suspect

O.Y.T., 43-year-old Iraqi national, alleged former al-Qaeda member

Country of residence of suspect

Belgium

Charges

War crimes; crimes against humanity; several murders with terrorist intent; participation in the activities of a terrorist group

Current status

Charged while under investigation; detained

Facts

O.Y.T. is being investigated for allegedly belonging to an al-Qaeda cell which was partly responsible for several car bombings in Baghdad. These attacks, which targeted governmental buildings in 2009 and 2010, killed 376 people and injured over 2'300.

O.Y.T. fled Iraq to Belgium in 2015.

Procedure

The suspect was granted asylum in Belgium in 2015. In 2020, Iraqi authorities requested O.Y.T.'s extradition over the same charges as those in the Belgian investigation. A criminal investigation has then been opened in Belgium.

On 3 May 2023, O.Y.T. was arrested after the police raided an address in Hasselt, Belgium. He was indicted while under investigation for murders with terrorist intent, participation in a terrorist group, war crimes and crimes against humanity. The federal prosecutor indicated that he cannot extradite O.Y.T. to Iraq because of his refugee status in Belgium and because Iraq still practices the death penalty. The secretary of state for asylum and migration requested the withdrawal of O.Y.T.'s refugee status, which had been maintained in order to carry out secret investigations since 2020.

TRIAL DATE SET FOR ALLEGED INTERAHAMWE MEMBERS OVER GENOCIDE AND WAR CRIMES

Ernest Gakwaya and Emmanuel Nkunduwimye

Country of commission

Rwanda

Jurisdictional basis

Universal jurisdiction

Suspects

Ernest Gakwaya and Emmanuel Nkunduwimye, Rwandan nationals, alleged members of the *Interahamwe* militia (the youth organization of the National Republican Movement for Democracy and Development)

Country of residence of suspects

Belgium

Charges

Genocide and war crimes, including murder and rape

Current status

Indicted; awaiting trial; detained

Facts

Gakwaya and Nkunduwimye were allegedly members of the *Interahamwe* militia, which was heavily implicated in the 1994 genocide. They allegedly participated in the 1994 genocide in Rwanda by murdering and raping Tutsis and moderate Hutus.

Procedure

Gakwaya and Nkunduwimye were arrested in March 2011 in Brussels.

On 9 October 2019, the Criminal Court decided to sever the cases against Gakwaya and Nkunduwimye from the case against another accused, Fabien Neretsé (see UJAR 2021, p. 21), considering that there was no connection between the offenses.

DEVELOPMENTS IN 2023

In 2023, the trial date was set. A preliminary hearing is scheduled for 6 February 2024, with the trial to commence on 8 April 2024 and expected to last approximately two and a half months.

TWO RWANDAN NATIONALS CONVICTED ON GENOCIDE AND WAR CRIMES CHARGES, INCLUDING SEXUAL VIOLENCE

Pierre Basabosé, Séraphin Twahirwa

Country of commission

Rwanda

Jurisdictional basis

Universal jurisdiction

Suspects

Pierre Basabosé, Rwandan national, businessman close to the 1994 Rwandan government; Séraphin Twahirwa, Rwandan national, leader of an *Interahamwe* (the youth organization of the National Republican Movement for Democracy and Development) militia

Country of residence of suspects

Belgium

Charges

Basabosé convicted of war crimes and genocide through murder and deliberate attacks on civilians

Twahirwa convicted of war crimes and genocide through murder, deliberate attacks on civilians and rape

Current status

Basabosé committed to indefinite internment in a medical establishment; awaiting appeal before the Supreme Court (*Cour de cassation*)

Twahirwa sentenced to life imprisonment; detained; awaiting appeal before the Supreme Court

Facts

Basabosé is a businessman and 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 *Radio Télévision Libre des Mille Collines*, known for its calls for ethnic hatred before and during the genocide. He was convicted for having financed genocidal propaganda. According to the sentence, he distributed money and weapons to the *Interahamwe* militia in Gatenga and Gikondo and encouraged them to kill Tutsis.

After the genocide, he fled Kigali to Zaire (now the Democratic Republic of the Congo), Kenya, Kazakhstan and Germany before arriving in Belgium, where he was granted refugee status.

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. He also fled to Zaire and Uganda, and eventually reached Belgium.

Procedure

The two individuals were arrested on 30 September 2020 and charged with genocide and war crimes while the investigation was ongoing. Twahirwa was placed under judicial surveillance through the use of an electronic bracelet. Basabosé was released under investigation in May 2021.

On 19 September 2022, Basabosé and Twahirwa were sent to trial on genocide and war crimes charges.

DEVELOPMENTS IN 2023

On 12 June, Basabosé's lawyer argued that the proceedings were inadmissible on the grounds of his 76-year-old client's deteriorated mental health.

On 21 June, the court ruled that the trial would go ahead despite Basabosé's fragile mental health and memory problems. The court stated that "*the oral hearings at the Assize Court will likely enable Pierre Basabosé to recall the facts in question, understand what he is accused of, and defend himself.*" The prosecutor stated that at the end of the trial she would request for him to be put in a medical establishment in any case.

On 9 October, the trial began before the Brussels Criminal Court. Around 100 witnesses testified before the court, including 40 who came from Rwanda especially for the trial. The Belgian prosecutor called for a life sentence for Twahirwa and for the internment in a medical establishment for Basabosé. Basabosé and Twahirwa's lawyers denied the accusations and argued for acquittals, questioning the credibility of the witness testimonies. Basabosé could not be interrogated by the Court due to his diagnosed senile dementia and could only provide one oral statement at the end of the trial.

On 19 December, the popular jury of the Brussels Criminal Court convicted Basabosé and Twahirwa of war crimes and genocide for dozens of murders and deliberate attacks on civilians. Twahira's conviction also includes counts of rape constitutive of genocide and war crimes. He was found responsible for at least 11 cases of rape, committed either directly by himself or through militiamen under his command.

Basabosé was committed to indefinite internment in a medical facility and Twahirwa was sentenced to life imprisonment.

Both accused appealed the decision before the Supreme Court (*Cour de Cassation*).

NEW CASE!

FORMER RWANDAN BUSINESSMAN ARRESTED IN BELGIUM OVER GENOCIDE AND WAR CRIMES CHARGES

V.K.

Country of commission

Rwanda

Jurisdictional basis

Universal jurisdiction

Suspect

V.K., Rwandan national, former businessman

Country of residence of suspect

Belgium

Charges

Genocide; war crimes

Current status

Charged while under investigation; detained

Facts

V. K. was working as a businessman in the Butare region in Rwanda. During the 1994 genocide, he allegedly carried out war crimes and crimes of genocide against the Tutsi minority.

Procedure

On 21 June 2023, V. K. was arrested and charged with genocide and war crimes. He remains in pre-trial detention while the investigation is ongoing.

NEW CASE!

ALLEGED FORMER MEMBER OF ISIS INVESTIGATED FOR WAR CRIMES IN PALMYRA

Name withheld

Country of commission

Syria

Jurisdictional basis

Universal jurisdiction

Suspect

Syrian national, aged 38, alleged former Islamic State (ISIS) fighter

Country of residence of suspect

Belgium

Charges

War crimes and participation in the activities of a terrorist group

Current status

Under investigation; detained

Facts

The suspect is being investigated for the executions of civilians who refused to swear allegiance to ISIS jihadists near the historic city of Palmyra. The suspect left Syria for Belgium in 2015.

Procedure

In 2015, the suspect was granted asylum in Belgium.

On 28 March 2023, he was arrested. Belgian immigration services were requested to withdraw his refugee status.

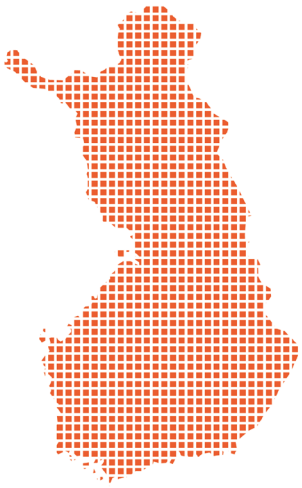
FOLLOW-UP ON OTHER CASES

- Etienne Davignon and Jacques Brassinne de la Buissière (UJAR 2023, p. 23): the investigation is ongoing.
- Martina Johnson (UJAR 2021, p. 25): the investigation is ongoing.
- Christophe Ndangali (UJAR 2023, p. 25): the investigation is ongoing.
- T.K. and M.B. (Rwandan nationals) (UJAR 2019, p. 16): No date has been set yet for the opening of their trial.

ONGOING STRUCTURAL INVESTIGATION

- Structural investigation regarding the crimes of genocide committed against the Yazidis by Belgian nationals.

FINLAND



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

Gibril Massaquoi

Country of commission

Sierra Leone

Jurisdictional basis

Universal jurisdiction

Suspect

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

Country of residence of suspect

Finland

Charges

Acquitted of charges of aggravated war crimes and aggravated violation of human rights in a state of emergency, including murder, rape, torture, assault, forced labor and violation of the dignity of the dead

Current status

Acquitted of all charges in the first instance and on appeal

Facts

Massaquoi was a former lieutenant-colonel and a spokesperson of the RUF 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). In March 1991, the RUF, with support of the NPFL, attempted to overthrow the Joseph Momoh government, sparking the start of the civil war. According to the Finnish prosecution authorities, Massaquoi committed war crimes and crimes against humanity in Liberia between 2001 and 2003, including murder, sexual violence and torture.

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, the 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 charges of war crimes and aggravated violation of human rights in a state of emergency including murder, rape, torture, assault, forced labor and violation of the dignity

of the dead. Massaquoi was also charged with the recruitment and use of child soldiers, but these charges were later dropped by the prosecution.

On 13 January 2021, Finland's National Bureau of Investigations concluded its pre-trial investigation on Massaquoi 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.

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 remaining charges and found that there was reasonable doubt that the defendant committed the offences with which he was charged.

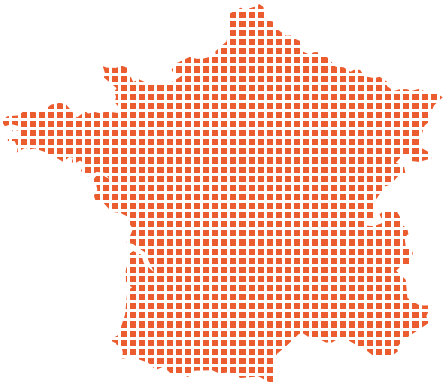
In May 2022, the prosecutor filed an 80-page appeal. The Court of Appeal granted the prosecutor leave to appeal.

DEVELOPMENTS IN 2023

The appeal proceedings, held by the Turku Court of Appeal, began on 10 January 2023 and ended on 8 September 2023. The court relocated to Liberia for most of the hearings.

On 31 January 2024, the Court of Appeal rendered its decision, acquitting Massaquoi of all charges.

FRANCE



DISMISSAL OF INVESTIGATION AGAINST GARMENT COMPANIES FOR FORCED LABOR OF UYGHURS

Several multinational garment companies

Country of commission

China

Jurisdictional basis

Active personality

Suspects

Several multinational garment companies

Country of residence of suspects

Several countries including European Union member states

Charges

As the case was at the investigation stage, the suspects had not been formally charged. The investigation focused on concealment of crimes against humanity.

Current status

Case closed; new complaint filed

Facts

Since at least 2019, journalists and researchers highlighted the existence of systematic forced labor in the Xinjiang Uyghur Autonomous Region by the Chinese government, where nearly 20% of the world's cotton is produced. However, according to public information available to date, the companies Inditex (including the brands Zara, Bershka, Pull and Bear, Massimo Dutti etc.), Uniqlo, SCMP (including Sandro, Maje, Claudie Pierlot and De Fursac) and Skechers, as well as many other transnational companies, continued to subcontract part of their production of market goods using cotton produced in the Xinjiang region.

Procedure

On 9 April 2021, the NGOs Sherpa, the *Collectif Éthique sur l'étiquette* and the Uyghur Institute of Europe (IODE), along with one Uyghur survivor, filed a criminal complaint with the Paris Public Prosecutor's Office against several multinational garment companies.

On 1 July 2021, the French judiciary announced that it had opened a preliminary investigation into the crime of concealment of crimes against humanity.

DEVELOPMENTS IN 2023

In April 2023, the prosecutor of the specialized unit for the prosecution of international crimes decided to dismiss the case, considering that French courts lacked jurisdiction to prosecute the principal offense (crimes against humanity) and therefore did not have jurisdiction over the offense of concealment of this crime.

In May 2023, a new civil party complaint was lodged by Sherpa, *Collectif Éthique sur l'étiquette*, IODE and a victim, this time for concealment of four crimes: crimes against humanity, genocide, aggravated enslavement and trafficking of human beings in an organized group.

CONGOLESE FORMER REBEL COMMANDER SENT TO TRIAL OVER CRIMES AGAINST HUMANITY COMMITTED IN 2002-2003 IN THE DRC

Roger Lumbala Tshitenga

Country of commission

Democratic Republic of the Congo (DRC)

Jurisdictional basis

Universal jurisdiction

Suspect

Roger Lumbala Tshitenga, Congolese national, former leader of the *Rassemblement Congolais pour la Démocratie – National* (National Congolese Rally for Democracy, or RCD-N), former minister for foreign trade of the Congolese government between 2003 and 2005 and former congressman until 2013

Country of residence of suspect

France

Charges

Complicity in and conspiracy to commit crimes against humanity including murder, torture, rape, pillage, enslavement and sexual slavery

Current status

Indicted; awaiting trial; 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 to fight Congolese public forces 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).

In April 2003, he became minister for foreign trade in the transitional government following the inter-Congolese dialogue, until January 2005. He then became a member of parliament and a senator until 2013.

Procedure

In 2016, the French specialized unit for the prosecution of international crimes opened an investigation against Lumbala Tshitenga, after the rejection of his asylum application. Lumbala Tshitenga was arrested on 2 January 2021 in Paris and the case was referred to three investigating judges within the specialized unit, who have 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 years 2021 and 2022, more than thirty Congolese victims and witnesses were heard by the investigating judges in Paris. 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. 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.

TRIAL International, Clooney Foundation for Justice, Minority Rights Group, and the DRC-based NGO Justice Plus, all admitted as civil parties to the procedure, have collaborated throughout the investigation to identify and support Congolese communities, victims, and survivors who provided evidence and shared their account with French judicial authorities.

DEVELOPMENTS IN 2023

During the year 2023, the investigating judges collected the last documentary and witness evidence, and the prosecutor as well as the parties submitted their final observations.

In October 2023, the Paris Court of Appeal rejected a motion introduced by Lumbala Tshitenga's counsel invoking the judges' violation of the procedural requirement to verify that no extradition request had been issued regarding the suspect. Lumbala Tshitenga's counsel filed an appeal of this rejection before the Supreme Court (*Cour de cassation*).

On 6 November, the investigative judges sent Lumbala Tshitenga to trial for his alleged complicity in and conspiracy to commit crimes against humanity including murder, torture, rape, pillage and enslavement, including sexual slavery, in the DRC between 2002 and 2003. On 28 February 2024, the Paris Court of Appeal confirmed the indictment. His trial will be held in Paris, probably in 2025.

KEY WITNESS HEARD ON THE ALLEGED USE OF A FRENCH SURVEILLANCE TECHNOLOGY TO TARGET EGYPTIAN POLITICAL OPPONENTS

Nexa Technologies and executives

Country of commission

Egypt

Jurisdictional basis

Universal jurisdiction

Suspects

French company Nexa Technologies (previously named *Amesys*); executives and employees of the company

Country of residence of suspects

France

Charges

The charges (*mises en examen*) have been dismissed. The investigation focusing on charges of complicity in torture and enforced disappearances continues.

Current status

Under investigation; five indictments (*mises en examen*) issued, all dismissed

Facts

In July 2017, the newspaper *Télérama* brought to light the existence of a contract concluded by the French company *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 international crimes. The complaint addresses the alleged 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, the company Nexa Technologies was charged while under investigation (*mise en examen*) as a legal entity.

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

On 14 December 2022, the Investigative Chamber of the Paris Court of Appeal did not uphold the nullities invoked but dismissed all 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.

DEVELOPMENTS IN 2023

In October 2023, a key witness was heard by the investigative judges regarding the alleged links between the use of the surveillance technology by the Egyptian regime and the crimes of torture and enforced disappearance under investigation.

NEW CASE!

ALLEGED FORMER REBEL COMMANDER ARRESTED IN RELATION TO INTERNATIONAL CRIMES COMMITTED IN LIBERIA BETWEEN 1989 AND 1996

Saturday T.

Country of commission

Liberia

Jurisdictional basis

Universal jurisdiction

Suspect

Saturday T., Liberian national, alleged former commander of the National Patriotic Front of Liberia (NPFL)

Country of residence of suspect

France

Charges

Crimes against humanity

Current status

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

Facts

Saturday T. was allegedly an NPFL commander involved in crimes against humanity during the First Liberian Civil War (1989-1996). The NPFL, led by Charles Taylor, is responsible for at least 63'800 documented human rights violations, according to the Liberian Truth and Reconciliation Commission's Final Report.

Procedure

Civitas Maxima filed a complaint in France in May 2018 against Saturday T. for his alleged commission or command of multiple crimes against humanity.

On 13 September 2023, Saturday T. was charged while under investigation (*mis en examen*) with committing and complicity to commit crimes against humanity. He was placed under judicial surveillance, but the prosecutor appealed this decision and requested Saturday T. to be placed in detention. On 25 September 2023, the three judges of the Investigative Chamber of Paris ruled that the gravity of the facts and the risk of consulting with possible accomplices and witnesses were too high and ordered his placement in detention.

INVESTIGATIVE JUDGES ORDERED TO PROCEED WITH SEVERAL INVESTIGATIVE ACTS WITHIN CORPORATE ACCOUNTABILITY CASE OF TORTURE IN LIBYA

Amesys and two of its executives

Country of commission

Libya

Jurisdictional basis

Universal jurisdiction

Suspects

French company Amesys (now Nexa Technologies); two French executives of the company

Country of residence of suspects

France

Charges

Complicity in torture

Current status

Under investigation; five indictments issued, two dismissed

Facts

In 2007, the French company *Amesys* signed a contract with the government of Libya to sell surveillance technologies for the purposes of intercepting communications and processing and analyzing data. This technology allegedly allowed the Gaddafi regime (1969-2011) to repress dissidence and to commit serious human rights abuses.

Procedure

On 19 October 2011, the International Federation for Human Rights (FIDH) and the French *Ligue des droits de l'Homme* (LDH) lodged a criminal complaint as civil parties 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 considered that there were insufficient grounds to open an investigation. However, the investigative judge decided on 23 May 2012 to open a formal criminal investigation. On 15 January 2013, the Paris Court of Appeal (*Cour d'appel*) 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 judge. Another Libyan victim joined the case and was heard on 11 December 2015. In March 2016, new evidence consisting of dozens of documents from Gaddafi's security services came 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 (témoin assisté) for complicity in torture committed in Libya between 2007 and 2011.

In June and July 2021, two French 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.

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

In November 2022, the Investigative Chamber of the Paris Court of Appeal confirmed the indictments of *Amesys* and of its two executives. The nullity requested as well as the indictments of the employees have been dismissed.

DEVELOPMENTS IN 2023

In 2023, the investigative judges issued a decision refusing to carry out several investigative acts requested by the defense and the prosecutor, deeming that these acts were not necessary to the investigation. Both the defense and the prosecutor have appealed the judges' refusal. As a result, the Paris Court of Appeal partially overturned this decision and ordered the investigative judges to proceed with some of the requested investigative acts.

UNPRECEDENTED WAR CRIMES AND CORPORATE ACCOUNTABILITY CASE AGAINST A FRENCH COMPANY FOR A MILITARY ATTACK IN GAZA

Exxelia

Country of commission

Palestine

Jurisdictional basis

Active personality

Suspect

French company Exxelia

Country of residence of suspect

France

Charges

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

Current status

Under investigation

Facts

Exxelia is a manufacturer of components used for military equipment. The products manufactured by Exxelia allegedly enabled Israeli forces to precisely guide a missile to strike the roof of the Shuheibar family home on 17 July 2014, killing three children and seriously injuring two others.

Procedure

In 2017, the Shuheibar family submitted a civil party complaint before the Paris Tribunal and an investigation was opened.

DEVELOPMENTS IN 2023

In July 2023, the Shuheibar family, together with a fieldworker of the Al Mezan Center for Human Rights who attended the scene soon after the attack, travelled to Paris to provide their testimony and evidence to the investigating judges in charge of the case.

FORMER RWANDAN HEAD OF THE BUTARE CENTER OF PUBLIC HEALTH SENT TO TRIAL FOR GENOCIDE AND CRIMES AGAINST HUMANITY

Eugène Rwamucyo

Country of commission

Rwanda

Jurisdictional basis

Universal jurisdiction

Suspect

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

Country of residence of suspect

France

Charges

Genocide through serious bodily or mental harm; crimes against humanity through extrajudicial execution, torture and other inhumane acts; participation in a group formed for the purpose of preparing genocide and 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. The 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*) for genocide through serious bodily or mental harm and crimes against humanity of extrajudicial execution, torture and other inhumane acts. He was 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.

In September 2022, the Paris Court of Appeal rejected Rwamucyo's appeal and confirmed the referral of his case to the Paris Criminal Court. The defense appealed this decision before the French Supreme Court (*Cour de cassation*).

DEVELOPMENTS IN 2023

In January 2023, the French Supreme Court *(Cour de cassation)* dismissed the appeal and definitively confirmed Rwamucyo's referral to the Paris Criminal Court. No trial date has been set yet.

NEW CASE!

FORMER RWANDAN OFFICIAL UNDER INVESTIGATION IN FRANCE FOR COMPLICITY IN GENOCIDE

Jean-Marie Vianney Nzapfakumunsi

Country of commission

Rwanda

Jurisdictional basis

Universal jurisdiction

Suspect

Jean-Marie Vianney Nzapfakumunsi (renamed Jean-Marie Munsy in 2004), 71-year-old former gendarme

Country of residence of suspect

France

Charges

As the case is at the investigation stage, the suspect has not been formally charged. The investigation focuses on complicity in genocide and crimes against humanity.

Current status

Under investigation

Facts

Nzapfakumunsi is a graduate of the *Gendarmerie Nationale* officers' school in Melun (Seine-et-Marne), which he attended between 1979 and 1980. He is also a graduate of the *Institut de Criminologie* in Paris, where he studied from 2000 to 2004.

He is accused of having distributed weapons used in the massacre, in April 1994, of nearly 2'000 Tutsis who had taken refuge in a church in Nyange, in the Kibuye region.

After the genocide, he spent a year in Kinshasa, in the neighboring Democratic Republic of the Congo, followed by two years in Cameroon. He arrived in France in 1997.

Procedure

After arriving in France in 1997, Nzapfakumunsi was initially refused asylum by the French authorities, who suspected him of having played a role in the genocide, before obtaining refugee status on appeal in 2001. He obtained French nationality in 2004.

He testified in 2009 in the second major trial of Rwandan soldiers at the International Criminal Tribunal for Rwanda, and again in 2023 before the Paris Criminal Court in the Philippe Manier trial (see p. 51).

A preliminary investigation into complicity in genocide and crimes against humanity was opened at the end of 2023 by the French specialized unit for the prosecution of international crimes.

PASSING OF FORMER RWANDAN PREFECT WHILE AWAITING APPEAL TRIAL AFTER CONVICTION OF GENOCIDE AND CRIMES AGAINST HUMANITY

Laurent Bucyibaruta

Country of commission

Rwanda

Jurisdictional basis

Universal jurisdiction

Suspect

Laurent Bucyibaruta, Rwandan national, 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; appeal dismissed and case closed due to the death of the suspect

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 French authorities to 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. Bucyibaruta appealed the referral.

On 7 October 2020, a hearing took place before the Paris Court of Appeal, 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.

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 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 taken into custody at the end of the trial. He appealed the conviction.

DEVELOPMENTS IN 2023

On 6 December, Bucyibaruta passed away at the age of 79. The case has thus been closed.

NEW CASE!

RWANDAN NATIONAL ARRESTED OVER GENOCIDE AND CRIMES AGAINST HUMANITY

Madjaliwa Safari

Country of commission

Rwanda

Jurisdictional basis

Universal jurisdiction

Suspect

Madjaliwa Safari, 58-year-old Rwandan national

Country of residence of suspect

France

Charges

Genocide; crimes against humanity

Current status

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

Facts

Safari is accused of having participated in the murder of Tutsi civilians in the provinces of Gitarama and Butare between April and July 1994. He allegedly played a decisive role in the arrests and executions of Tutsis at a roadblock known as "*Chez Premier*".

Procedure

Rwandan authorities issued an arrest warrant against Safari in 2017 and the French specialized unit for the prosecution of international crime opened an investigation into his case in November 2019. In July 2023, he was charged while under investigation (*mis en examen*) for genocide and crimes against humanity, and arrested near Saint-Pierre-des-Corps, where he lived.

PROSPECTS OF JUSTICE COMPROMISED DUE TO SUSPECT'S DETERIORATING HEALTH IN INVESTIGATION OVER FRENCH SALE OF WEAPONS TO RWANDAN GOVERNMENT IN MAY 1994

Paul Barril

Country of commission

Rwanda

Jurisdictional basis

Active personality

Suspect

Paul Barril, French national, former head of the *Groupe d'intervention de la Gendarmerie nationale* (National Gendarmerie Intervention Group), head of private security companies

Country of residence of suspect

France

Charges

As the case is at the investigation stage, the suspect has not been formally charged. The investigation focuses on complicity in genocide and crimes against humanity.

Current status

Under investigation

Facts

On 17 May 1994, in the midst of the genocide against the Tutsi minority in Rwanda, the UN Security Council imposed an arms embargo on Rwanda.

In May 1994, Barril allegedly signed an assistance and arms supply contract with the Rwandan government orchestrating the massacres. The contract provided for the delivery of a large quantity of ammunition, shells, mortars and grenades for a total of USD 3'130'000. Only a down payment of USD 1'200'000 was made, and the contract was not fully executed, allegedly due to the deployment of the French *Opération Turquoise*. According to the complaint, several testimonies collected by the International Criminal Tribunal for Rwanda indicated that the types of weapons that Barril had supplied were used in the genocide.

In June 1994, Barril was promoted to Honorary Captain of the *Gendarmerie nationale*.

Procedure

In June 2012, during searches of Barril's home and the homes of his relatives ordered in a different investigation, French authorities found the arms supply contract, along with a letter from the Rwandan government's minister of defense confirming the request for assistance.

On 25 June 2013, the NGOs International Federation for Human Rights (FIDH), the *Ligue des droits de l'Homme* (LDH) and *Survie* filed a complaint against Barril for having entered into an assistance agreement with the prime minister of the Rwandan interim government, Jean Kambanda, in May 1994 for the supply of arms and munitions and for training and supervision.

Two days later, French prosecutors opened an investigation for complicity in genocide and crimes against humanity.

Barril was formally assigned the status of assisted witness (*témoin assisté*), and was heard once, in May 2020, seven years after the judicial investigation was opened.

In December 2020, a medical report stated that Barril was suffering from Parkinson's disease, and that the illness had "reached its highest level", which meant that he could "no longer support any hearings or confrontations".

DEVELOPMENTS IN 2023

In February 2023, the civil parties requested the investigative judges to perform new investigative acts, but their request was denied.

LIFE SENTENCE FOR RWANDAN FORMER POLICE OFFICER FOR CRIMES AGAINST HUMANITY AND GENOCIDE

Philippe Hategekimana (Philippe Manier)

Country of commission

Rwanda

Jurisdictional basis

Universal jurisdiction

Suspect

Philippe Hategekimana (renamed Philippe Manier in 2005), dual Rwandan and French national, former police officer

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

Convicted; sentenced to life imprisonment; detained; awaiting appeal trial

Facts

Hategekimana has been convicted for having participated in the genocide against Tutsis in Rwanda in the Butare region, in particular in Nyanza and the surrounding villages in April 1994. He was accused of having assassinated a Tutsi mayor, having supervised roadblocks aimed at control and murder of Tutsis, and having participated in several mass murders, including at the Institute of Agronomic Sciences of Rwanda and at the Nyabubare and Nyamure hills.

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 international crimes.

In September 2015, an investigation was opened.

In 2017, Hategekimana left France for 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.

In January 2022, the Paris Court of Appeal confirmed Hategekimana's referral to the Paris Criminal Court. The Paris Court of Appeal additionally added to his charges the massacre committed at the Institute of Agronomic Sciences of Rwanda, which had been dismissed in the 2021 indictment.

DEVELOPMENTS IN 2023

In May 2023, the Paris Criminal Court found Hategekimana guilty of nearly all charges and sentenced him to life imprisonment.

The defendant has appealed this decision.

FORMER SHAREHOLDER OF THE RWANDAN *RADIO TÉLÉVISION LIBRE DES MILLE COLLINES* CHARGED WITH GENOCIDE AND CRIMES AGAINST HUMANITY

Pierre Kayondo

Country of commission

Rwanda

Jurisdictional basis

Universal jurisdiction

Suspect

Pierre Kayondo, Rwandan national, former prefect of Kibuye, former member of parliament in Gitarama district, and former shareholder of the *Radio Télévision Libre des Mille Collines*

Country of residence of suspect

France

Charges

Genocide; complicity in genocide; complicity in crimes against humanity; participation in a group formed for the purpose of preparing the commission of these crimes

Current status

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

Facts

Kayondo was reportedly a shareholder of the *Radio Télévision Libre des Mille Collines*, a radio station that played a fundamental role in the 1994 genocide, inciting massacres and spreading hatred against the Tutsi and moderate Hutus.

He was reportedly a member of the *Mouvement Républicain National pour la Démocratie et le Développement* (National Republican Movement for Democracy and Development), which had close ties to the *Interahamwe* militia, a Hutu paramilitary organization which has been the main perpetrator of the Rwandan genocide.

He is also alleged to have taken part personally in the massacres.

Procedure

On 22 September 2021, the *Collectif des parties civiles pour le Rwanda* filed a complaint against Kayondo for his alleged involvement in the 1994 genocide in Rwanda.

On 18 October 2021, the French prosecuting authorities opened an investigation against Kayondo for his alleged involvement in crimes of genocide and crimes against humanity committed in Rwanda in 1994.

DEVELOPMENTS IN 2023

In September 2023, Kayondo was indicted while under investigation (*mis en examen*) for the crimes of genocide and crimes against humanity and placed in pre-trial detention.

CONVICTION OF BUTARE DOCTOR FOR GENOCIDE AND CRIMES AGAINST HUMANITY IN RWANDA

Sosthène Munyemana

Country of commission

Rwanda

Jurisdictional basis

Universal jurisdiction

Suspect

Sosthène Munyemana, Rwandan national, former gynecologist at the University Hospital of Butare

Country of residence of suspect

France

Charges

Genocide through serious bodily or mental harm; crimes against humanity through extrajudicial execution, torture and other inhumane acts; participation in a group formed for the purpose of preparing genocide and crimes against humanity

Current status

Convicted; sentenced to 24 years of imprisonment; awaiting appeal trial; detained

Facts

On 17 April 1994, in a public speech, Munyemana allegedly incited Hutus to exterminate the Tutsi community of Tumba. He has also been convicted of taking part, from 21 April 1994, in several massacres of Tutsis in and around Tumba. He is reported to have distributed ammunition and compiled lists of Tutsis to be eliminated. He allegedly led night patrols and specified who should be abducted. He is also accused of having organized a hunt against Tutsis, detained some of them in inhumane conditions and sent them to killing sites.

Procedure

On 18 October 1995, the NGOs *Collectif girondin pour le Rwanda*, International Federation for Human Rights (FIDH) and *Survie* lodged a criminal complaint against Munyemana for his alleged participation in genocide. In 2001, the *Collectif des parties civiles pour le Rwanda* joined the proceedings as a civil party.

In 2006, Rwanda requested Munyemana's extradition from France. However, on 7 October 2010, the Investigation Chamber of the Bordeaux Court of Appeal denied this request.

In October 2008, Munyemana was found guilty *in absentia* by the Butare Gacaca Court in Rwanda. He was sentenced to life imprisonment.

On 14 December 2011, Munyemana was charged while under investigation (*mis en examen*) in France for crimes against humanity and genocide and placed under judicial surveillance.

On 9 May 2017, the investigative judges of the specialized unit for the prosecution of international crimes informed the parties that they had completed their investigation.

On 11 May 2018, the prosecutor issued his final submission.

In 2021, the investigative judges ordered that Munyemana be sent to trial for the commission of crimes against humanity, genocide, complicity in these crimes and participation in a group formed for the purpose of preparing these crimes.

Munyemana appealed this decision before the Court of Appeal (*Cour d'appel*) and the Supreme Court (*Cour de cassation*), unsuccessfully.

DEVELOPMENTS IN 2023

Munyemana's trial started before the Paris Criminal Court on 13 November 2023. On 19 December 2023, Munyemana was convicted and sentenced to 24 years of imprisonment for genocide, crimes against humanity and participation in a group formed for the purpose of preparing these crimes. He was acquitted of the charges of complicity in these crimes.

Muyemana appealed the conviction.

YET ANOTHER TWIST IN THE CASE OF FRENCH RESPONSIBILITY IN THE RWANDAN GENOCIDE

Unknown members of the French military

Country of commission

Rwanda

Jurisdictional basis

Active personality

Suspects

Unknown members of the French military

Country of residence of suspects

France

Charges

No suspect was formally charged. The investigation focused on complicity in torture, inhuman and degrading treatment and complicity in genocide and crimes against humanity.

Current status

Case closed; dismissal of the case under appeal

Facts

In June 1994, *Opération Turquoise* was launched by the French military, in the context of the genocide against Tutsis in Rwanda. The operation, which counted 2'500 French military personnel, aimed at ending the massacres and protecting the civilian populations.

Several former military personnel later alleged that the operation had a hidden political agenda and that numerous abuses were perpetrated by French military forces on the ground, including the rape of Tutsi women and the allowing of several massacres by knowingly abandoning Tutsi civilians to the hands of their genocidaires. In particular, between 27 and 30 June 1994, the French army failed to prevent atrocities committed on the Bisesero hills where Tutsi survivors had taken refuge, of which the army was allegedly aware.

Procedure

In February 2005, a complaint was filed by six victims as civil parties. Later that year, the International Federation for Human Rights (FIDH), its member organization in France, the *Ligue des droits de l'Homme* (LDH) and *Survie* were admitted as civil parties in the case.

In 2012, the case was transferred to the specialized unit for the prosecution of international crimes.

In 2017, the investigative judges refused to grant the request of the civil parties to interview senior political and military officials. An appeal was lodged against this decision, but the refusal was upheld by the Court of Appeal.

The same year, several French military personnel were placed under the status of "assisted witnesses" (*témoins assistés*).

On 26 July 2018, the investigation was closed by the investigative judges. A request for additional investigative acts was filed by the civil parties but this request was rejected by the investigating judges. The civil parties appealed this decision unsuccessfully.

On 3 May 2021, the prosecutor asked for the dismissal of the case.

In June 2021, the civil parties filed observations to oppose the dismissal.

In September 2022, the investigative judges followed the request of the prosecutor and dismissed the case, deeming that the investigation had not established the direct participation nor the complicity of the French military forces in the crimes committed between 27 and 30 June 1994.

The civil parties appealed this decision.

DEVELOPMENTS IN 2023

On 21 June 2023, the Court of Appeal granted the civil parties' appeal and ordered the reopening of the investigation.

Once again, the prosecutor asked for the dismissal of the case, what the investigative judges did.

The civil parties have appealed this decision.

SUPREME COURT LANDMARK REVERSAL REMOVES LEGAL BARRIER FOR THE PROSECUTION OF INTERNATIONAL CRIMES UNDER UNIVERSAL JURISDICTION

Abdulhamid Chaban

Country of commission

Syria

Jurisdictional basis

Universal jurisdiction

Suspect

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

Country of residence of suspect

France

Charges

Complicity in the crimes against humanity of imprisonment or other severe deprivation of physical liberty, torture, rape and serious bodily harm

Current status

Charged while under investigation (*mis en examen*)

Facts

Since the beginning of the Syrian civil war in 2011, Syrian intelligence services have reportedly been systematically arresting, torturing and killing political opponents. 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 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 UJAR 2023, 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 the crimes against humanity of imprisonment or other severe deprivation of physical liberty, torture, rape and serious bodily harm. 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 (*Cour de cassation*).

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

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. The Supreme Court thus annulled its November 2021 decision and ordered a new hearing.

DEVELOPMENTS IN 2023

On 17 March 2023, the Supreme Court (*Cour de cassation*) held a hearing in plenary session on the case, together with the Nema case (see p. 63), to determine whether French courts have jurisdiction over crimes against humanity, war crimes and crimes of torture committed in Syria, although those legal qualifications are not embedded in Syrian legislation. This time, FIDH participated in the hearing and was able to present its arguments.

On 12 May 2023, the Supreme Court issued two distinct decisions (in the Nema and the Chaban case) which both overturned the conclusions it had reached in its November 2021 decision. In the Chaban case, the Court concluded that, for French authorities to prosecute international crimes under universal jurisdiction, it is sufficient for the foreign legislation of the country where the crimes were committed to punish the underlying acts of international crimes (such as murder or rape), even if these are not explicitly classified as crimes against humanity. Doing so, the French Supreme Court definitively confirmed the French courts' jurisdiction over crimes against humanity committed in Syria.

The investigation against Chaban over crimes against humanity committed in Syria is therefore ongoing.

THREE HIGH-RANKING SYRIAN OFFICIALS SENT TO TRIAL FOR COMPLICITY IN CRIMES AGAINST HUMANITY AND WAR CRIMES IN SYRIA

Ali Mamluk, Jamil Hassan and Abdel Salam Mahmoud

Country of commission

Syria

Jurisdictional basis

Passive personality

Suspects

Three Syrian nationals: Ali Mamluk, former director of the National Security Bureau; Jamil Hassan, former head of Air Force Intelligence; and Abdel Salam Mahmoud, director of the Air Force Intelligence Branch in Damascus.

Country of residence of suspects

Syria

Charges

Complicity in crimes against humanity of deliberate attacks on life, torture, enforced disappearance and imprisonment or other serious deprivation of liberty; war crimes of extortion and concealment of extortion of property

Current status

Investigation completed; international arrest warrants issued; awaiting trial *in absentia*

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 al-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 al-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, judges of the specialized unit for the prosecution of international crimes issued international arrest warrants against Mamluk, Hassan and Mahmoud.

On 31 March 2022, the investigative judges decided to complete the judicial investigation.

DEVELOPMENTS IN 2023

On 27 January 2023, the prosecutor requested Mamlouk, Hassan and Mahmoud be sent to trial before the Paris Criminal Court for complicity in the crimes against humanity of deliberate attacks on life, torture, enforced disappearance and imprisonment or other serious deprivation of liberty as well as the war crimes of extortion and concealment of extortion of property committed against Patrick and Mazzen Dabbagh.

On 29 March 2023, the investigative judge ordered their indictment before the Paris Criminal Court on the same charges.

The trial will be held *in absentia* from 21 to 24 May 2024 before the Paris Criminal Court.

ARREST WARRANTS AGAINST SYRIAN PRESIDENT BASHAR AL-ASSAD AND OTHER HIGH-RANKING OFFICIALS FOR WAR CRIMES AND CRIMES AGAINST HUMANITY THROUGH CHEMICAL ATTACKS

Bashar al-Assad, Maher al-Assad, Ghassan Abbas, Bassam al-Hassan

Country of commission

Syria

Jurisdictional basis

Passive personality

Suspects

Four Syrian nationals: Bashar al-Assad, president of Syria and head of the armed forces; Maher al-Assad, president's brother and *de facto* leader of the 4th Armored Division; General Ghassan Abbas, director of Branch 450 of the Syrian Scientific Studies and Research Center (SSRC); and General Bassam al-Hassan, presidential advisor for strategic affairs and liaison officer between the presidential palace and the SSRC

Country of residence of suspects

Syria

Charges

Complicity in the war crimes of willful killings, willfully causing great suffering or serious injury to body or health and deliberate attacks against civilians; complicity in the crimes against humanity of willful killings and other inhumane acts

Current status

Under investigation; international arrest warrants issued; one arrest warrant under appeal

Facts

In 2011, the Syrian regime brutally repressed opponents' demonstrations, giving rise to the beginning of the present armed conflict. In 2013, as reported by the United Nations Fact Finding Mission into the Alleged Use of Chemical Weapons in the Syrian Arab Republic, chemical weapons, specifically sarin gas, have been used on multiple occasions during the armed conflict in Syria. In August 2013, in Eastern Ghouta (the suburbs of Damascus), significant quantities of sarin were used in a well-planned attack that indiscriminately targeted civilian areas, resulting in thousands of casualties.

Procedure

On 1 March 2021, the Syrian Center for Media and Freedom of Expression and individual victims (one of French nationality) of the chemical attacks filed a complaint and were admitted as civil parties. A judicial investigation was opened for crimes against humanity and war crimes in April 2021. Open Society Justice Initiative, Syrian Archive and Civil Rights Defenders later joined the case as civil parties. In 2021 and 2022 several civil parties testified before the investigative judges and witnesses were heard.

DEVELOPMENTS IN 2023

On 14 November 2023, the investigative judges issued four international arrest warrants against President Bashar al-Assad, the president's brother and *de facto* leader of the 4th Armored Division Maher al-Assad, director of Branch 450 of the SSRC General Ghassan Abbas and presidential advisor for strategic affairs and liaison officer between the presidential palace and the SSRC General Bassam al-Hassan for complicity in crimes against humanity and complicity in war crimes.

On 21 December 2023, the prosecutor appealed the arrest warrant against President Bashar al-Assad on immunity grounds.

INTERNATIONAL ARREST WARRANTS ISSUED AGAINST FOUR SENIOR SYRIAN OFFICIALS FOR COMPLICITY IN WAR CRIMES

Fahed Jassem al-Fraij, Ali Abdallah Ayoub, Ahmad Balloul, Ali Safetli

Country of commission

Syria

Jurisdictional basis

Passive personality

Suspects

Four Syrian nationals: Fahed Jassem al-Fraij, former minister of defense; Ali Abdallah Ayoub, former chief of staff of the armed forces; Ahmad Balloul, former commander of the Air Force and Air Defense; Ali Safetli, former commander of the 64th Helicopter Brigade and commander of the Bley airport

Country of residence of suspects

Syria

Charges

War crimes of deliberate attack against civilians and of murder of a person protected by international humanitarian law

Current Status

Under investigation; international arrest warrants issued

Facts

In 2011, the Syrian regime brutally repressed opponents' demonstrations, giving rise to the beginning of the present armed conflict. 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 infrastructure, cost 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, several legal expertises were conducted and multiple witnesses and experts were heard by the judges.

In 2020, the Syrian Center for Media and Freedom of Expression became a civil party in the case.

DEVELOPMENTS IN 2023

On 18 October 2023, the investigative judges of the specialized unit for the prosecution of international crimes issued international arrest warrants against al-Fraij, Ayoub, Balloul and Safetli.

FRENCH SUPREME COURT CONFIRMS LAFARGE COMPANY'S INDICTMENT FOR COMPLICITY IN CRIMES AGAINST HUMANITY

Lafarge SA, Eric Olsen and others

Country of commission

Syria

Jurisdictional basis

Universal jurisdiction and active personality

Suspects

The French cement company Lafarge SA, which merged in 2015 with Holcim and became LafargeHolcim, and was renamed Holcim in 2021; Eric Olsen, former deputy director of the company; seven top executives of the French-Swiss Holcim group and of its subsidiary Lafarge Cement Syria; one Syrian-Canadian intermediary between Lafarge and the Islamic State (ISIS). The primary suspects are French and Norwegian nationals.

Countries of residence of the suspects

France and Switzerland

Charges

Complicity in crimes against humanity; financing of a terrorist enterprise; 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 allegedly worked out "arrangements" with armed groups, including ISIS and Jabhat Al-Nusra, 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 Syrian former Lafarge 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 the 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 Appeal (*Cour d'appel*) rejected the admissibility of Sherpa and the ECCHR as civil parties.

On 7 November 2019, the Court of Appeal 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 arguing that the money transfers had an economic purpose and were not driven by an intention to participate in crimes against humanity.

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 (*Cour de cassation*). Defense lawyers also appealed the 7 November confirmation of indictments.

On 7 September 2021, the Supreme Court ruled that Lafarge's indictment for complicity in crimes against humanity was wrongly dismissed by the Paris Court of Appeal, finding that knowingly transferring millions of dollars to a terrorist organization with knowledge of its criminal nature was sufficient to establish the moral element for complicity in crimes against humanity, without the necessity to establish whether Lafarge was driven by an intent to commit crimes against humanity. The court also ruled that Lafarge's indictment for endangerment of peoples' lives was wrongly confirmed by the Paris Court of Appeal, 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 Appeal for a new decision on both charges. In addition, it confirmed Sherpa's inadmissibility as a civil party on all charges and ECCHR's inadmissibility for all charges except 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.

On 18 May 2022, the Paris Court of Appeal upheld all charges against the parent company Lafarge. In confirming the charge of complicity in crimes against humanity, the Court of Appeal 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 armed and terrorist groups. With regard to the charge of deliberately endangering the lives of its subsidiary's employees in Syria, the Court of Appeal further found that French law was applicable under private international law, as there was a closer connection between the workers and the French parent company. The Court relied on the permanent interference of Lafarge in the management of its subsidiary in Syria, 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 both charges.

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 is 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.

DEVELOPMENTS IN 2023

Lafarge filed another appeal to the Supreme Court against the 18 May 2022 decision of the Court of Appeal which had upheld all charges against the company. Central to Lafarge's claim was that the Supreme Court needed to decide whether the Court of Appeal was right in ruling that French law governs the employment relationship between the multinational Lafarge and its Syrian subsidiary's workers, in order to uphold the charge of deliberate endangerment of the Syrian workers' lives.

As a result, on 14 March 2023, the Supreme Court's criminal chamber, assigned to the case, requested the formal opinion of the Supreme Court's social rights chamber on the question of whether French labor laws on employee's safety are overriding mandatory provisions providing protections that are of public interest and thus cannot be derogated. On 4 July 2023, the social chamber issued its opinion that rules about security obligations for the employer are not "overriding mandatory provisions" – which would apply in all instances. The social chamber concluded that these rules cannot justify alone the application of French law to the working relationship between the subsidiary Syrian workers and Lafarge. The human rights organizations, plaintiffs in this case, including ECCHR, Sherpa and the International Federation for Human Rights (FIDH), along with former Lafarge employees' plaintiffs in this case, argued that regardless of the qualification of these rules as overriding mandatory provisions, French law should apply to the employment relationship based on the criteria of a closer connection derived from private international law regulations.

The criminal chamber of the Supreme Court held its subsequent hearing on 18 September 2023. In an exceptional turn, instead of issuing its awaited decision, the Supreme Court, on 3 October 2023, ordered the reopening of the debates regarding a potential decision to cancel the charge of endangering the lives of its Syrian employees without referring the case back to the lower court.

On 16 January 2024, the Supreme Court made its final decision and confirmed the Lafarge company's indictment for complicity in crimes against humanity while dismissing the charge of endangerment of workers' lives.

FORMER SPOKESPERSON OF SYRIAN ARMED GROUP JAYSH AL-ISLAM TO BE SENT TO TRIAL

Majdi Nema (alias Islam Alloush)

Country of commission

Syria

Jurisdictional basis

Universal jurisdiction

Suspect

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

Country of residence of suspect

France

Charges

Complicity in war crimes of recruitment of child soldiers; participation in a group formed for the purpose of preparing war crimes

Current status

Charged while under investigation (*mis en examen*); indictment under appeal before the Supreme Court (*Cour de cassation*); 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 numerous crimes, including 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 between 2013 and 2016. He was allegedly involved in the war crimes of recruitment of child soldiers, willful killings, willfully causing great suffering or serious injury to body or health, deliberate attacks against civilians and enforced disappearances.

Procedure

On 26 June 2019, the Syrian Center for Media and Freedom of Expression (SCM), 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. 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.

In April 2022, Paris Court of Appeal *(Cour d'appel)* 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 (*Cour de cassation*).

DEVELOPMENTS IN 2023

On 17 March 2023, the Supreme Court held a hearing in plenary session on the Nema case, together with the Chaban case (see p. 55), to determine whether the principle of double criminality allowed French courts have jurisdiction over crimes against humanity, war crimes and crimes of torture committed in Syria, although those legal qualifications are not embedded in Syrian legislation.

On 12 May 2023, the Supreme Court concluded that, for French courts to prosecute international crimes under universal jurisdiction, it is sufficient for the foreign legislation of the country where the crimes were committed to punish the underlying acts of international crimes (such as murder or rape), even if these are not explicitly classified as war crimes. Doing so, the French Supreme Court definitively confirmed the French courts' jurisdiction over war crimes committed in Syria, and over Nema's case.

Regarding the legal requirement of the suspect's habitual residence in France to allow prosecution under universal jurisdiction, the Court found that this criterion was subject to case-by-case factual evaluation of the lower courts, but specified a set of indicators for establishing a sufficient connection between France and the person prosecuted.

With regards to acts of torture perpetrated by non-state groups, the Supreme Court took note of the evolution of international law in this area and confirmed that such acts could indeed be attributed to persons acting for or on behalf of a non-state group when the group exercises quasi-governmental authority.

On 19 July 2023, the judges of the specialized unit for the prosecution of international crimes ordered that Nema be sent to trial before the Paris Criminal Court for complicity in the war crimes of recruitment of child soldiers, wlilful killings, willfully causing great suffering or serious injury to body or health and deliberate attacks against civilians, as well as complicity in enforced disappearances and participation in a group formed for the purpose of preparing war crimes. They excluded the charge of torture.

The defense appealed this decision.

On 20 November 2023, the Court of Appeal dismissed the charges of complicity in the war crimes of wilflul killings, willfully causing great suffering or serious injury to body or health, deliberate attacks against civilians and complicity in enforced disappearances. It confirmed Nema's referral of to the Criminal Court for complicity in the war crime of recruitment of child soldiers and participation in a group formed for the purpose of preparing war crimes.

The civil parties appealed this decision before the Supreme Court.

INVESTIGATION FOR GENOCIDE AND CRIMES AGAINST HUMANITY AGAINST THE YAZIDI MINORITY

Nabil Greseque

Country of commission

Syria

Jurisdictional basis

Active personality

Suspect

Nabil Greseque, French national, alleged former member of the Islamic State (ISIS)

Country of residence of suspect

Unknown

Charges

As the case is at the investigation stage, the suspect has not been formally charged. The investigation focuses on genocide and crimes against humanity.

Current Status

Under investigation

Facts

In 2014, 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 international crimes opened a preliminary investigation into alleged genocide and crimes humanity perpetrated by ISIS against the Yazidi community in Syria and Iraq.

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

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.

DEVELOPMENTS IN 2023

In July 2023, a Yazidi survivor was heard by the investigative judges and admitted in the case as a civil party.

NEW CASE!

INVESTIGATIONS OPENED INTO WAR CRIMES IN UKRAINE FOLLOWING THE DEATHS OF FRENCH JOURNALISTS

Unknown

Country of commission

Ukraine

Jurisdictional basis

Passive personality

Suspects

Unknown

Country of residence of suspects

Unknown

Charges

As the cases are at the investigation stage, no suspect has been formally charged. The investigations focus on war crimes.

Current status

Under investigation

Facts

Arman Soldin, a French journalist and *Agence France-Presse's* video coordinator in Ukraine, was killed on 9 May 2023 at the age of 32 by a salvo of Grad rockets in the vicinity of Tchassiv Iar near Bakhmout. Soldin was part of a team of five reporters who were accompanying Ukrainian soldiers on the most active front of the war. He was hit as he lay on the ground trying to protect himself.

Pierre Zakrzewski, a Franco-Irish cameraman for Fox News, was killed on 14 March 2023 in Horenka, north-west of the Ukrainian capital, after his vehicle was attacked.

Frédéric Leclerc-Imhoff, a French journalist for BFMTV, was killed on 30 May 2023 while on a humanitarian mission in the east of the country.

Procedure

On 10 May 2023, the National Prosecutor's Office opened a war crimes preliminary investigation into the Soldin case. Preliminary investigations have also been opened into the murder of Zakrzewski and Leclerc-Imhoff. Since the end of February 2022, the prosecutor has reportedly opened at least seven preliminary investigations into possible war crimes committed against French nationals in Ukraine, mainly in February and March 2022.

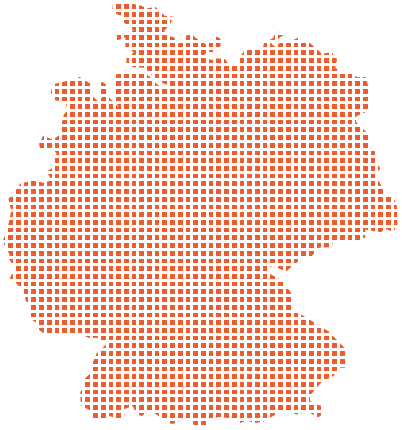
FOLLOW-UP ON OTHER CASES

- Eric Danboy Bagale (UJAR 2023, p. 28): the investigation is ongoing.
- Ahmed Hamdane El Aswadi (UJAR 2021, p. 37): the suspect is pending extradition.
- Kunti Kamara (UJAR 2023, p. 31): sentenced to life imprisonment, awaiting appeal trial.
- Antoine M. (UJAR 2022, p. 43): the investigation is ongoing.
- Charles Twagira (UJAR 2023, p. 33): the investigation is ongoing.
- Claude Muhayimana (UJAR 2023, p. 37): awaiting appeal trial.
- Isaak Kamali (UJAR 2022, p. 41): the investigation is ongoing.
- Laurent Serubuga (UJAR 2018, p. 27): investigation closed, awaiting indictment.
- Marcel Hitayezu (UJAR 2022, p. 42): the investigation is ongoing.
- BNP Paribas and senior staff members (UJAR 2023, p. 39): the investigation is ongoing.
- Sabri Essid (UJAR 2023, p. 48): the investigation is ongoing, international arrest warrant issued.
- Salah Habib (UJAR 2023, p. 49): the investigation is ongoing.
- Targeting of journalists Marie Colvin; Edith Bouvier; Remi Olchik: (UJAR 2023, p. 45): the investigation is ongoing.
- Nouri Mahammat (UJAR 2021, p. 38): the investigation is ongoing.
- Ahmed Nasser al-Raisi (UJAR 2023, p. 50): the investigation is ongoing.

ONGOING STRUCTURAL INVESTIGATION

- Structural investigation regarding crimes committed in Syria (see UJAR 2023, p. 42).

GERMANY



DEATH OF ARGENTINIAN FORMER OFFICER HALTS PROSECUTION OF DICTATORSHIP CRIMES

Luis Esteban Kyburg

Country of commission

Argentina

Jurisdictional basis

Active personality

Suspect

Luis Esteban Kyburg, 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

Twenty-three counts of murder

Current status

Case closed due to the death of the suspect

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, 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 investigation in Germany against Kyburg regarded the cases of 19 political opponents, which was later expanded to 23, who were detained and murdered in the naval base in Mar del Plata between February 1976 and January 1977 – the period in which Kyburg served as second commander. 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 49 former members of the armed forces have been convicted in Argentina 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. That same year, because Kyburg's whereabouts were unknown, INTERPOL issued a Red Notice against him.

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

Procedure in Germany

In 2014, German authorities denied an extradition request as Kyburg is a German citizen and Germany does not extradite its own nationals unless the extradition takes place within European Union countries. Thereafter, the Berlin Public Prosecutor General's Office initiated a criminal investigation against Kyburg.

German authorities requested judicial assistance from Argentinian authorities and 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 (ECCHR) – by the sister of a young man who was forcibly disappeared in 1976. In 2019, German authorities took the testimony of the complainant.

In July 2020, the Berlin Public Prosecutor General's Office publicly confirmed that a person-specific investigation targeted Kyburg and that the prosecutor 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.

In 2022, German authorities finished taking the testimonies of witnesses, survivors and former Argentinian military officers.

DEVELOPMENTS IN 2023

In March 2023, ECCHR supported the two brothers of a German-Argentinean victim of enforced disappearance in Mar del Plata in 1976, to bring their case as part of the ongoing investigations. In turn, the Berlin prosecutor added this case to the proceedings.

In November 2023, the Berlin Public Prosecutor General's Office filed a 220-page indictment against Kyburg for 23 counts of murder with the Berlin Regional Court. Only then did it become known that Kyburg, aged 76, had died of natural causes in a Berlin hospital in October 2023. The case has thus been closed.

TRIAL AGAINST SYRIAN DOCTOR FOR CRIMES AGAINST HUMANITY CONTINUES

Alaa M.

Country of commission

Syria

Jurisdictional basis

Universal jurisdiction

Suspect

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

Country of residence of suspect

Germany

Charges

Crimes against humanity of murder, 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 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.

The Syrian Center for Legal Studies and Research supported the prosecuting authorities by referring witnesses.

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.

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 to trial the full indictment of the crimes against humanity of murder, sexual violence, torture and dangerous bodily harm.

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.

DEVELOPMENTS IN 2023

Proceedings continued throughout 2023 and have now exceeded 100 trial days in total. In November, the Higher Regional Court of Frankfurt issued a legal notice stating that it is considering ordering the preventive detention of the defendant after he serves his possible prison sentence, due to the threat he allegedly poses to society.

NEW CASE!

ARREST OF ALLEGED FORMER HEZBOLLAH MEMBER ON SUSPICION OF CRIMES AGAINST HUMANITY AND WAR CRIMES IN SYRIA

Ammar A.

Country of commission

Syria

Jurisdictional basis

Universal jurisdiction

Suspect

Ammar A., Syrian national, alleged former member of the *Hezbollah*

Country of residence of suspect

Germany

Charges

Crimes against humanity of torture and deprivation of liberty; war crimes against persons and property

Current status

Under investigation; detained

Facts

In 2011, the Syrian regime brutally repressed opponents' demonstrations, giving rise to the beginning of the present armed conflict. Various armed groups, including Hezbollah, aligned themselves with the Syrian government.

Ammar A. was an alleged member of the local Hezbollah militia in the Syrian town of Busra al-Sham between 2012 and 2013. In August 2012, reportedly acting under the suspect's directives, he and other members of Hezbollah allegedly forcibly broke into the houses of civilians and stole numerous items before setting the houses ablaze. The residents endured physical abuse and one person succumbed to a gunshot wound.

In April 2013, Ammar A., along with other Hezbollah members, allegedly arrested a civilian in Busra al-Sham and hit him several times before delivering him and two other prisoners to military intelligence personnel in another city. The military secret service employees beat the three victims with electrical cables, allegedly in the presence of the suspect. The victims were then held captive in the military intelligence prison for several weeks in inhumane conditions and were subjected to severe physical abuse by prison guards.

Procedure

On 27 November 2023, the Federal Court of Justice issued an arrest warrant against Ammar A. for the crimes against humanity of torture and deprivation of liberty and for war crimes against persons and property.

On 12 December 2023, Ammar A. was arrested in the Rhein-Neckar district. The Federal Court of Justice ordered him to be placed in pre-trial detention.

NEW CASE!

ARREST OF ALLEGED MEMBER OF SYRIAN REGIME-AFFILIATED MILITIA ON SUSPICION OF CRIMES AGAINST HUMANITY AND WAR CRIMES

Ahmad H.

Country of commission

Syria

Jurisdictional basis

Universal jurisdiction

Suspect

Ahmad H., Syrian national, former local leader of the *Shabiha* militia

Country of residence of suspect

Germany

Charges

Crimes against humanity and war crimes, including through torture and enslavement

Current status

Under investigation; detained

Facts

Ahmad H. allegedly acted as the local leader of a "*Shabiha* militia" incorporated into the National Defense Forces in the Damascus district of Tadamon from 2012 to 2015. On behalf of the Syrian regime, this militia violently suppressed opposition efforts in Tadamon together with the Syrian Military Intelligence's Division 227. To this end, the militia operated checkpoints where it arbitrarily arrested people to extort money, to force them into forced labor or to torture them. In addition, the militiamen looted houses and apartments of suspected opponents of the regime on a large scale and sold the stolen goods on their own account.

The defendant allegedly participated in the mistreatment of civilians on several occasions. In one incident in 2013, he is said to have punched a man detained by the militia in the face and instructed other members of the group to brutally beat the detainee with plastic pipes over a period of hours. In the fall of 2014, Ahmad H., along with other militiamen and Syrian Military Intelligence personnel, allegedly repeatedly beat and kicked a civilian at a checkpoint, grabbed the victim by the hair and slammed his head on the sidewalk. Ahmad H. then allegedly tied up the man before he was taken away by the militia. On two occasions between December 2012 and early 2015, the defendant reportedly arrested 25 to 30 people at a checkpoint and forced them to transport sandbags to the nearby front for a day. There, the detainees worked under repeated fire and without supplies of food and water. They were also beaten by the accused and other militia members.

Procedure

On 2 August 2023, the federal criminal police, acting on an arrest warrant issued by the investigating judge of the Federal Court of Justice on 26 July 2023, arrested Ahmad H. in Bremen. The defendant is suspected of having committed crimes against humanity and war crimes, including through torture and enslavement.

On 3 August 2023, Ahmad H. was brought before the investigating judge of the Federal Court of Justice who had issued the arrest warrant for him and who ordered him to be placed in pre-trial detention.

LIFE SENTENCE FOR SYRIAN MEMBER OF THE FREE PALESTINE ARMED GROUP FOR INDISCRIMINATE GRENADE ATTACK ON CIVILIANS IN DAMASCUS

Moafak D.

Country of commission

Syria

Jurisdictional basis

Universal jurisdiction

Suspect

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

Country of residence of suspect

Germany

Charges

War crimes; murder; dangerous bodily harm

Current status

Convicted; sentenced to life imprisonment; detained; awaiting appeal trial

Facts

Moafak D. was allegedly a member of the armed group Free Palestine Movement in Syria. Previously, he had belonged to the Popular Movement for the Liberation of Palestine General Command. After the beginning of the 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. The court stated the defendant acted out of revenge after his nephew was killed two days earlier by shots fired by members of the Free Syrian Army in the context of fighting over Yarmouk.

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.

The Syrian Center for Legal Studies and Research provided evidence to prosecution authorities and secured the legal representation of co-plaintiffs together with the European Center for Constitutional and Human Rights (ECCHR).

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, Moakak D.'s trial began before the Higher Regional Court of Berlin.

DEVELOPMENTS IN 2023

On 23 February 2023, the Higher Regional Court of Berlin sentenced Moafak D. to life imprisonment for the killing of four persons, attack on civilians as a war crime, the attempted killing of at least two persons and dangerous bodily harm. The court further ruled that the defendant bears a particular gravity of guilt, which negatively affects the chances of a possible request by the defendant for release on parole after 15 years.

Moafak D. appealed the conviction.

FORMER MEMBER OF GAMBIAN PARAMILITARY CONVICTED FOR CRIMES AGAINST HUMANITY

Bai L.

Country of commission

The Gambia

Jurisdictional basis

Universal jurisdiction

Suspect

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

Country of residence of suspect

Germany

Charges

Crimes against humanity of murder and attempted murder

Current status

Convicted; sentenced to life imprisonment; 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. In July 2005, Jammeh's officials allegedly detained over 50 west African migrants and summarily executed them. To commit those crimes, then-President Jammeh relied on the paramilitary armed group the Junglers, which was considered one of the most brutal enforcement arms of Jammeh's regime.

Bai L. was a member of the paramilitary Junglers death squad. According to his conviction, he was a driver for the Junglers from December 2003 until December 2006.

In that context, Bai L. is presumed to have been 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, he is suspected of having driven 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 Junglers' 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. was alleged to have 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, Bai L. presumably transported the other perpetrators to the location of the shooting.

In 2013-2014, Bai L. gave interviews to Gambian journalists, providing details on these murders.

Procedure

On 16 March 2021, Bai L. 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, in execution of an arrest warrant, Bai L. was placed in detention.

In March 2022, Bai L. 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 three joint-plaintiffs: the son of the journalist assassinated, a former employee of said journalist's newspaper and one of the sons of Dawda Nyassi. One of the daughters of Ousman Sillah was also able to testify in late 2022. Other witnesses included German investigators, a German expert on The Gambia's history, the accused's former trainer in the army who testified that Bai L. was a Jungler, the German asylum judge who interviewed Bai L. and to whom he described his role in the Hydara killing and other acquaintances of Bai L. who placed him as a member of the Junglers.

DEVELOPMENTS IN 2023

Further witnesses were heard, called either by the defense or by the civil parties. The federal prosecutor's closing arguments took place on 16 November 2023, while the joint-plaintiffs made their closing arguments on 17 November 2023. The defense made its closing argument by the end of November 2023.

On 30 November 2023, the Court ruled that Bai L. was guilty of murders and attempted murders as crimes against humanity for the killing of Deyda Hydara and Dawda Nyassi and for the attack against Ousman Sillah. He was therefore sentenced to life imprisonment.

ALLEGED FORMER ISIS MEMBERS

This year saw the continuation and start of 17 cases against 19 alleged former members of the Islamic State (ISIS), which led to six convictions in 2023. Ten cases are based on the active personality principle as the suspects are German nationals returning from Syria or Iraq. Seven proceedings are conducted against alleged foreign ISIS members on the basis of universal jurisdiction. Regarding the investigative focus, the vast majority of cases include charges of war crimes against property, four cases include charges for crimes against humanity and two cases have been opened over charges of genocide against the Yazidi community.

NEW CASE!

Abdel J. S.

Country of commission

Iraq

Jurisdictional basis

Universal jurisdiction

Suspect

Abdel J. S., Iraqi national, alleged former member of the Islamic State (ISIS)

Country of residence of suspect

Germany

Charges

Membership in a foreign terrorist organization; war crimes of killing, mutilation, torture and punishment without due process

Current status

Under investigation; detained

Facts

Abdel J. S. allegedly joined ISIS in Iraq in June 2014. Between June and October 2014, he is said to have participated on two occasions in public punishment actions by ISIS in the locality of Al-Qaim. One occasion involved the execution of death sentences against at least six prisoners. The defendant allegedly took one of the prisoners to the execution site, supervised the proceedings, and gave the go-ahead for the execution by firing his pistol. Another occasion involved the public amputation of the hand of an alleged thief. In addition, in early fall 2014, Abdel J. S., along with other ISIS fighters, allegedly arrested a person in Al-Qaim and harmed him in custody with punches and kicks to extort information.

Procedure

On 11 October 2023, the police arrested Abdel J. S. in Wuppertal on the basis of an arrest warrant issued by the investigating judge of the Federal Court of Justice on 28 September 2023. The accused is suspected of membership in a foreign terrorist organization, and of participating in war crimes of killing, mutilation, torture and punishment without due process.

On the same day, the accused was brought before the investigating judge of the Federal Court of Justice who ordered his pre-trial detention.

NEW CASE!

Amer A. and Basel O.

Country of commission

Syria

Jurisdictional basis

Universal jurisdiction

Suspects

Amer A. and Basel O., Syrian nationals, alleged former members of the Liwa Jund al-Rahman armed group, subsequently assimilated to the Islamic State (ISIS)

Country of residence of suspects

Germany

Charges

Membership in foreign terrorist organizations; war crimes

Current status

Under investigation; detained

Facts

Amer A. allegedly founded the association Liwa Jund al Rahman (Brigade of Soldiers of Mercy) in the Syrian province of Deir ez-Zor in February 2013 and acted as its leader from then on. Liwa Jund al-Rahman was an armed rebel group with the goal of toppling the Syrian regime by force. It initially declared its allegiance to the Free Syrian Army, but then pursued an Islamist agenda. Since 2013, the association has repeatedly taken part in combat operations against the Syrian army.

In June 2013, the Liwa Jund al-Rahman armed group reportedly led by Amer A. together with Jabhat al-Nusra and other jihadist groups raided the village of Hatlah near Deir ez-Zor. The operation, described as a "purge", targeted the Shiite population living there. Up to 60 Shiite residents were killed, and the remaining individuals were compelled to flee to other areas of Syria or abroad. Pillaging and looting were also committed. The outcome of this operation was the eradication of Shiite presence in Hatlah.

In July 2014, Amer A. is said to have joined ISIS and placed the Liwa Jund al-Rahman armed group, including all fighters, equipment and finances, under ISIS command. During the ISIS capture of the city of Al-Mayadin and the military action against the Al-Shu'aytat tribe in the Deir ez-Zor region at the end of July 2014, the suspect allegedly led the fighters of his former association.

Basel O. allegedly held a leading military position within the Liwa Jund al-Rahman armed group since at least the end of 2013. On various occasions, he is said to have commanded combat troops of the group in battles against Syrian forces, in particular at the military airport of Deir ez-Zor in December 2013 and April 2014.

Procedure

On 6 September 2023, the Federal Public Prosecutor's Office, acting on warrants issued by the investigating judge of the Federal Court of Justice on 22 August 2023, arrested Amer A. and Basel O. in Kiel and Munich, respectively. In addition, the premises of the defendants were searched.

On the same day, the defendants were brought before the investigating judge of the Federal Court of Justice, who ordered their pre-trial detention.

NEW CASE!

Deniz B.

Countries of commission

Syria and Iraq

Jurisdictional basis

Active personality

Suspect

Deniz B., German national, alleged former member of ISIS

Country of residence of suspect

Germany

Charges

Membership in a terrorist organization abroad; war crimes against property and other rights

Current status

Indicted; on trial

Facts

According to the indictment, Deniz B. left Germany in spring 2016 to travel to Syria via Turkey together with his wife. Having reached Syria, both are said to have joined ISIS. Shortly thereafter, the couple allegedly travelled to Mosul, Iraq, where the defendant is said to have undergone military training.

The defendant allegedly performed combat missions and guard duties for the organization, and subsequently held a responsible position in the field of logistics. For his work, Deniz B. allegedly received monthly support

from the organization. During his stay in Iraq, the defendant allegedly lived in different residential buildings provided to him and his wife by ISIS, after the lawful residents had fled the approaching forces of the group.

Since his arrest by Kurdish security forces in August 2017, the defendant was in custody in Erbil (northern Iraq) until his repatriation to Germany.

Procedure

On 20 December 2022, after he returned to Germany, Deniz B. was arrested on a warrant of the Federal Court of Justice dated 13 March 2022, and held in pre-trial detention.

On 16 March 2023, the Federal Public Prosecutor's Office filed an indictment before the Higher Regional Court in Frankfurt am Main bringing charges against Deniz B. He is accused of membership in a terrorist organization abroad and war crimes against property and other rights.

By order of the Higher Regional Court of Frankfurt am Main dated 31 March 2023, the arrest warrant was suspended subject to conditions.

On 27 July 2023, the Court opened the main proceedings and admitted the indictment. The trial started on 15 December 2023 and is scheduled to last until March 2024.

NEW CASE!

Marcia M.

Countries of commission

Syria and Iraq

Jurisdictional basis

Active personality

Suspect

Marcia M., German national, former member of Islamic State (ISIS)

Country of residence of suspect

Germany

Charges

Membership in a terrorist organization abroad; war crime against property

Current status

Convicted; sentenced to eight years and six months' imprisonment; detained

Facts

According to the conviction, in September 2015, Marcia M. and her husband traveled from Germany to Turkey and then to Syria to join ISIS. The defendant underwent ideological training of the organization in Raqqa and received instructions in the use of firearms. In December 2015, she and her husband reportedly moved into a house provided by ISIS in the vicinity of Mosul, Iraq. Its lawful residents had fled ISIS or been driven out by the organization.

The couple returned to Raqqa in February 2016 and Marcia M. allegedly joined an ISIS women's battalion and declared her willingness to carry out suicide attacks. At the unit, she underwent firearms training and was taught how to make explosives. Subsequently, she is said to have manufactured explosive belts herself. In addition, the defendant translated propagandistic writings for ISIS. She managed the household for her husband, which also served to enable him to participate in combat missions. For their activities, the couple received monthly support from the group.

In the fall of 2016, ISIS members residing in Syria planned a terrorist attack on a German music festival and recruited fighters to be smuggled into Germany. Marcia M. was reportedly involved in the plan and recruited two women residing in Germany who were supposed to marry and house the assassins in Germany in order to enable them to live an inconspicuous life there until the attack was committed. The departure of the two selected ISIS fighters failed because the border was no longer passable.

Marcia M. was held in the custody of Kurdish forces in Syria since October 2017.

Procedure

Upon her return to Germany, on 5 October 2022, Marcia M. was arrested at Frankfurt airport and placed in pre-trial detention.

On 15 February 2023, the Federal Public Prosecutor's Office brought charges before the Higher Regional Court of Celle against Marcia M. The defendant was accused of membership in a terrorist organization abroad and a war crime against property.

On 17 April 2023, the trial begun and Marcia M. pleaded guilty to almost all charges. On 4 September 2023, the Higher Regional Court of Celle sentenced Marcia M. to a total term of imprisonment of eight years and six months for membership in a terrorist organization abroad and a war crime against property.

NEW CASE!

Mohammad A. and Asmael K.

Country of commission

Syria

Jurisdictional basis

Universal jurisdiction

Suspects

Mohammad A. and Asmael K., Syrian nationals, alleged former ISIS members

Country of residence of suspects

Germany

Charges

Membership in foreign terrorist organizations; war crimes of hostage taking and murder

Current status

Indicted; awaiting trial; detained

Facts

In the fall of 2012, Mohammad A. allegedly founded an armed combat unit in Damascus, which included up to 50 fighters. With this unit, he reportedly joined the foreign terrorist organization Ahfad al-Rasul Brigades (AR) in November 2012. The AR was a military organization with around 15'000 members aimed at overthrowing the Syrian regime. To achieve its goal, the AR repeatedly carried out explosive attacks on state facilities in Syria. As the leader of his unit, Mohammad A. is believed to have planned and commanded an attack on a Syrian security forces building in the Damascus district of Yarmouk in March 2013.

Mohammad A. reportedly joined ISIS by the end of 2013 at the latest. He was allegedly closely associated with the local leaders of ISIS and exercised command over around 200 ISIS fighters.

Asmael K. also allegedly joined ISIS as a fighter in Damascus in 2013.

At the end of 2013, Mohammad A. and the ISIS fighting unit he commanded reportedly abducted two opponents of the organization on different occasions in Damascus. The victims were held in ISIS detention centers and executed together with ten other prisoners in mid-January 2014. Asmael K. is said to have taken part in the arrest of one of the victims. He also allegedly guarded the twelve prisoners at the execution site and shot at least one person.

Procedure

Mohammad A. was arrested on 8 March 2023 in Wiesbaden, and Asmael K. on 20 March 2023 in Essen.

On 8 December 2023, the Federal Public Prosecutor's Office brought charges before the Higher Regional Court of Düsseldorf against the two Syrian nationals. The defendants are suspected of membership in one or more terrorist organizations abroad. They are also accused of the war crimes of hostage-taking resulting in death and, in the case of Asmael K., of the killing of persons protected under international humanitarian law and murder. Both are still in pre-trial detention.

Monika K.

Countries of commission

Syria and Iraq

Jurisdictional basis

Active personality

Suspect

Monika K., German woman, former member of ISIS

Country of residence of suspect

Germany

Charges

War crimes; membership in a foreign terrorist organization

Current status

Convicted; sentenced to three years and six months juvenile term; detained

Facts

According to the conviction, Monika K., aged 19, together with her husband, travelled to Syria and joined ISIS in February 2014.

While her husband was deployed as a fighter in Syria and Iraq, Monika K. reportedly 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 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. successively married two other ISIS fighters. 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, she was smuggled out of al-Hol by a higher-ranking ISIS member and became his second wife after a religious marriage. 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. In September 2020, Monika K. was arrested by Turkish forces and remained in Turkish custody until her return to Germany on 11 March 2022.

Procedure

Upon arrival in Germany, she was arrested and placed in custody.

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

DEVELOPMENTS IN 2023

On 14 February 2023, the Higher Regional Court in Düsseldorf convicted Monika K. of membership in a terrorist organization abroad and war crimes against property and other rights and sentenced her to a juvenile sentence of three years and six months. The years she spent in Kurdish detention were considered in this sentence. The Court maintained the detention order against the defendant.

NEW CASE!

Moustafa M.

Country of commission

Syria

Jurisdictional basis

Universal jurisdiction

Suspect

Moustafa M., Syrian national, alleged former member of ISIS

Country of residence of suspect

Germany

Charges

Membership in a terrorist association abroad; war crimes against persons including murder and hostage-taking

Current status

Under investigation; detained

Facts

Moustafa M. allegedly joined ISIS in Syria as a member in May 2015. Among other activities, he is said to have performed guard duties for the organization and participated in the arrest of civilians.

At the end of May 2015, the suspect, together with other ISIS members, allegedly held a young man for more than an hour in order to make his father surrender to the organization. In the process, the group threatened to kill the young man.

In June 2015, Moustafa M. reportedly participated in the execution of two Free Syrian Army (FSA) fighters after ISIS had imposed death sentences on them. He allegedly transported the two prisoners to the execution site and guarded them there until they were shot. He also reportedly assigned seats to those present, whom ISIS had gathered as an audience. A few days later, Moustafa M. allegedly brought two more FSA fighters captured by ISIS to their execution. One of the victims was killed on the spot by gunshots to the head. The other prisoner was tied to the back of a vehicle with a rope and dragged through the city at speeds of 40 km per hour or more. It has not yet been possible to determine whether this resulted in the death of the victim.

Procedure

On 21 March 2023, officers of the Rhineland-Palatinate State Criminal Police, acting on an arrest warrant issued by the investigating judge of the Federal Court of Justice on 13 March 2023, arrested Moustafa M. in Mainz.

On the same day, Moustafa M. was brought before the investigating judge of the Federal Court of Justice, who ordered that he be placed in custody.

Nadine K.

Countries of commission

Syria and Iraq

Jurisdictional basis

Active personality

Suspect

Nadine K, German national, former member of ISIS

Country of residence of suspect

Germany

Charges

Crimes against humanity of enslavement, deprivation of liberty, persecution, extermination, sexual violence; genocide by extermination; war crimes against persons by sexual violence and expulsion; membership in a terrorist organization abroad; trafficking in human beings for the purpose of labor exploitation; exploitation by taking advantage of a deprivation of liberty and severe deprivation of liberty

Current status

Convicted; sentenced to nine years and three months' imprisonment; detained

Facts

Nadine K. left Germany in December 2014 to join ISIS, following her husband.

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

In the house, Nadine K. and her husband reportedly stored a large number of explosives and weapons, including hand grenades, Kalashnikov assault rifles and a Glock pistol. In addition, they allegedly set up a reception center for single female ISIS members, with the approval and financial support of ISIS. They provided the women with board, lodging and support regarding marriages or divorces before the Sharia court.

From spring 2016, Nadine K. and her husband reportedly kept a Yazidi woman and forced her to do unpaid housework and child care. According to the conviction, the husband regularly raped and beat the enslaved woman, which Nadine K. knew. Nadine K. made sure that the woman could not escape. The woman had to conduct daily prayers in accordance with Islamic rules and observe fasting times during Ramadan. All this served the declared aim of ISIS to destroy the Yazidi faith.

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. Upon her return to Germany, she was arrested on 31 March 2022 and was placed in custody.

On 16 September 2022, the federal public prosecutor formally indicted Nadine K. The criminal trial began in January 2023 at the Higher Regional Court of Koblenz.

DEVELOPMENTS IN 2023

On 21 June 2023, the Higher Regional Court of Koblenz convicted Nadine K. of membership in a terrorist organization abroad, crimes against humanity by enslavement, deprivation of liberty and persecution, aiding and abetting genocide by extermination, aiding and abetting crimes against humanity by extermination, expulsion and sexual violence, aiding and abetting war crimes against persons by sexual violence and expulsion, trafficking in human beings for the purpose of labor exploitation, exploitation by taking advantage of a deprivation of liberty and severe deprivation of liberty. She was sentenced to a total term of nine years and three months of imprisonment.

NEW CASE!

Nadja R.

Countries of commission

Syria and Iraq

Jurisdictional basis

Active personality

Suspect

Nadja R., 39-year-old German and Lebanese national, alleged former member of ISIS

Country of residence of suspect

Germany

Charges

War crimes against property; membership in a foreign terrorist organization

Current status

Convicted; sentenced to three years and three months in prison; detained

Facts

Nadja R. was convicted of having traveled from Germany to Syria in the summer of 2014 and having joined ISIS there. Shortly after her arrival in Syria, she religiously married an ISIS fighter. She allegedly took over all household management tasks in order to enable her husband to participate in combat operations and subsequently to work in an ISIS telecommunications office. In August 2014, she reportedly posted a message on her Facebook page to women who were willing to get married and offered them her support in leaving Germany or Europe for the territory of ISIS.

Between May 2015 and January 2017, the couple were assigned by ISIS to successively occupy two lodgings in the city of Tal Afar, Iraq, whose lawful residents had fled from the approaching ISIS troops. Nadja R. also received a monthly living allowance from ISIS.

In June 2017, Nadja R. was captured in Raqqa by a Kurdish People's Defense unit and was taken to a prison camp. Until her return to Germany in autumn 2022, Nadja R. stayed in various Kurdish camps.

Procedure

Nadja R. returned to Germany on 5 October 2022 and arrested after landing at Frankfurt airport. She was continuously held in pre-trial detention from that time.

The main hearing before the Higher Regional Court of Frankfurt am Main was held on 8 September 2023 and the trial lasted until December 2023.

On 24 January 2024, the Court found Nadja R. guilty of participating in a terrorist organization and war crimes against property, and sentenced her to three years and three months in prison. Her full confession as well as her five-year stay in the Kurdish camps, were taken into account in her favor when determining the sentence. The Court also mentioned that Nadja R.'s childhood was marked by traumatic experiences such as being kidnapped by her own father and taken to Lebanon at the age of six and her later forced marriage to a Lebanese cousin at the age of 14.

Raed E.

Country of commission

Syria

Jurisdictional basis

Universal jurisdiction

Suspect

Raed E., Syrian national, former member of ISIS

Country of residence of suspect

Germany

Charges

Crimes against humanity of torture, serious deprivation of liberty and persecution; war crimes against persons of torture and dangerous bodily harm; membership in a foreign terrorist organization

Current status

Convicted; sentenced to 11 years imprisonment; detained

Facts

According to the conviction, Raed E. joined ISIS in Deir ez-Zor, 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 through 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.

Between mid-September and November 2014, Raed E. and other ISIS members reportedly 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, Raed E., together with other ISIS members, 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. reportedly transported him from one ISIS prison to another. On another occasion, Raed E. is said to have 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 pulled up to the ceiling with a rope until only his toes touched the floor. Raed E. allegedly then hit the prisoner with a water hose all over his body with the exception of his head.

Raed E. would also have performed other tasks for ISIS, 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.

Raed E. was active in ISIS until February 2015 and then left Syria for Germany.

Procedure

Raed E. was arrested in Germany 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.

DEVELOPMENTS IN 2023

On 11 July 2023, the Higher Regional Court of Berlin found Raed E. guilty of membership in a terrorist organization abroad; the crimes against humanity of torture, serious deprivation of liberty and persecution and the war crimes against persons of torture and dangerous bodily harm. It sentenced him to 11 years in prison.

NEW CASE!

Samra N.

Country of commission

Syria

Jurisdictional basis

Universal jurisdiction

Suspect

Samra N., French national

Country of residence of suspect

Germany

Charges

Membership in foreign terrorist organizations; war crimes against property

Current status

Under investigation; detained

Facts

Samra N. reportedly travelled to Syria in September 2013 and initially joined the foreign terrorist organization Jabhat al-Nusra. She entered a religious marriage with a combatant of the organization, and in November 2013, the couple joined ISIS. She allegedly advertised on the internet encouraging people in Germany to travel to Syria to join Jabhat al-Nusra. According to prosecuting authorities, Samra N. gave shelter to a woman who had been persuaded to leave the country in this way, and she ran the household for her husband and helped him procure military equipment for ISIS. On two occasions when her husband was away on combat missions, she reportedly stayed in women's houses that ISIS had occupied after driving out the original residents. Samra N. returned to Germany at the beginning of 2014, but allegedly remained a member of ISIS until at least February 2015.

Procedure

The investigating judge of the Federal Court of Justice issued an arrest warrant against Samra N. on 17 November 2023.

On 29 November 2023, the Federal Public Prosecutor's Office arrested her in Trier. She is suspected of having participated in two terrorist organizations abroad as an adolescent as well as war crimes against property.

On the same day, the suspect was brought before the investigating judge of the Federal Court of Justice, who ordered her to be held in pre-trial detention.

NEW CASE!

Sara B.

Country of commission

Syria

Jurisdictional basis

Active personality

Suspect

Sara B., German and Algerian national, alleged former member of the Junud al-Sham armed group, alleged former member of ISIS

Country of residence of suspect

Germany

Charges

War crimes against property; membership in two terrorist organizations abroad; violation of the duty of care or education; violation of the War Weapons Control Act

Current status

Indicted; awaiting trial; detained

Facts

Sara B. is suspected of having traveled to Syria in May 2013 with her daughter, who was only a few months old at the time, in order to become a member of the armed group Junud al-Sham. Together with her husband, a fighter working for Junud al-Sham, she allegedly moved into a house that the organization had occupied after the original residents were expelled. In February 2014, the couple is believed to have joined ISIS.

In both the Junud al-Sham armed group and ISIS, Sara B. allegedly ran the household for her husband and raised their children in line with the ideology of the organization. She is said to have had a semiautomatic firearm and a rapid-fire rifle at her disposal and had herself taught how to use them. After the death of her husband, she married religiously a wounded ISIS fighter. She nursed him and managed the joint household. For her activities with ISIS, Sara B. allegedly received financial benefits from the organization. She returned to Germany in March 2018.

Procedure

On 20 June 2023, on the basis of an arrest warrant issued by the investigating judge of the Federal Court of Justice on 5 June 2023, the Federal Criminal Police arrested Sara B. in Kiel.

On 21 June 2023, she was brought before the investigating judge of the Federal Court of Justice who had issued the arrest warrant and who ordered the execution of pre-trial detention.

On 12 October 2023, the federal public prosecutor filed charges against Sara B. before the Higher Regional Court in Hamburg. She is accused of membership in two terrorist organizations abroad; war crimes against property; violation of the duty of care or education; and violation of the War Weapons Control Act.

NEW CASE!

Sarah K.

Country of commission

Syria

Jurisdictional basis

Active personality

Suspect

Sarah K., German national

Country of residence of suspect

Germany

Charges

Membership in a terrorist organization abroad; war crimes against property; violation of a duty of care

Current status

Convicted; sentenced to three years juvenile term

Facts

According to the Court's findings, Sarah K. traveled to ISIS territory near Aleppo, Syria, at the end of October 2013 together with her husband, who had previously worked for ISIS, and their minor child. Due to the war, she went back to Turkey with the child in January 2014. Her husband remained in Syria and continued to operate as an ISIS fighter.

In April 2014, the Sarah K. entered Syria again with her daughter. She reportedly joined ISIS there and, together with her family, moved into living quarters in Manbij and Set Faruq, which ISIS had made available to them free of charge after driving out the lawful owners. In addition, the family received monthly monetary payments from the terrorist group. In August 2014, Sarah K. had another daughter. After the death of her first husband in December 2014, she married another ISIS fighter in Syria in August 2015 and a son was born of this marriage.

In November 2017, Kurdish security forces arrested Sarah K. and her three children during an attempt to enter Turkey and took them to camps controlled by Kurdish forces. She lived there until she was brought back to Germany in March 2022.

Procedure

Upon Sarah K.'s return to Germany in March 2022, the general prosecutor in Düsseldorf issued an arrest warrant against her.

The defendant admitted the charges via her defense counsel. She stated that she had acted primarily out of love for her first husband.

On 14 February 2023, the Higher Regional Court of Düsseldorf sentenced Sarah K. to a unified juvenile sentence of three years for membership in a terrorist organization abroad, including a violation of the duty of care, and war crimes against property. In sentencing the defendant, who has no prior criminal record, the Court took into account the fact that she had largely confessed and has since turned her back on the ISIS organization. The fact that she was interned in Kurdish camps for almost four and a half years, in which the general and medical care was desolate, had a mitigating effect on her sentence. One aggravating factor was the considerable danger to the child that the defendant brought to Syria. The Court lifted the arrest warrant and the defendant was released from custody.

Taha A. J.

Country of commission

Iraq

Jurisdictional basis

Universal jurisdiction

Suspect

Taha A. J., Iraqi citizen, former member of ISIS

Country of residence of suspect

Germany

Charges

Genocide; crimes against humanity of enslavement, torture, infliction of serious bodily or mental harm and deprivation of liberty; war crimes of displacement and bodily injury resulting in death, murder and human trafficking; and membership in a terrorist organization

Current status

Conviction confirmed on appeal; sentenced to life imprisonment; detained

Facts

Taha A. J. joined the Islamic State (ISIS) in Iraq in March 2013. In August 2014, Jennifer W. left Germany for Iraq and joined ISIS there (see following case, p. 86).

Jennifer W. and Taha A. J. shared a household in Fallujah. In summer 2015, Taha A. J. "purchased" a Yazidi woman and her five-year-old daughter. They were both from a group of Yazidis taken captive during an attack in the region of Sindjar, directed towards the oppression and extinction of the Yazidi religion. Taha A. J. brought the woman and her daughter to his house in Fallujah. Taha A. J. and Jennifer W. kept the Yazidi woman and her daughter as slaves and exposed them to inhumane living conditions. Taha A. J. prohibited them from exercising their religion, forced them to convert to Islam and severely and repeatedly beat them. To punish the five-year old for wetting the bed and as a measure to "discipline" the girl, Taha A. J. chained her outdoors in scorching heat, which subsequently led to the child's death.

Procedure

In 2019, the investigation regarding the crimes committed by ISIS against the Yazidi community in Syria and Iraq led to arrests, formal indictments and trials against several former members of ISIS based on accusations of crimes against humanity, war crimes, genocide and other crimes.

On 18 April 2019, the Federal Court of Justice issued an arrest warrant against Taha A. J. He was arrested in May 2019 in Greece and was extradited to Germany on 9 October 2019. He was accused of genocide, crimes against humanity, war crimes against persons, human trafficking for labor exploitation and the murder of the five-year-old Yazidi girl.

The mother of the Yazidi child that died participated in the proceedings against Taha A. J. as a co-plaintiff after the NGO Yazda identified her, located her in Iraq and facilitated her participation in the proceedings.

On 30 November 2021, the Higher Regional Court of Frankfurt am Main found Taha A. J. guilty of genocide, crimes against humanity, war crimes, aiding and abetting a war crime and bodily harm resulting in death. According to the conviction decision, through the physical and psychological damage caused to his Yazidi slaves, Taha A. J. wanted to make a purposeful contribution to ISIS's declared goal of destroying the Yazidi faith and its members – who he deemed "worthless" – in order to establish an Islamic caliphate. He was sentenced to life imprisonment. In addition, he must pay the joint plaintiff and mother of the deceased child EUR 50'000 as compensation for the non-material damage she suffered. Taha A. J. appealed his conviction.

DEVELOPMENTS IN 2023

On 30 November 2022, the Federal Court of Justice rejected the appeal filed by Taha A. J. and confirmed his conviction and life sentence.

Jennifer W.

Country of commission

Iraq

Jurisdictional basis

Active personality

Suspect

Jennifer W., German national, former member of ISIS

Country of residence of suspect

Germany

Charges

Crimes against humanity of enslavement and murder; war crime of murder; membership in a terrorist organization

Current status

Conviction confirmed on appeal; sentenced to 14 years' imprisonment; detained

Facts

In August 2014, Jennifer W. left Germany for Iraq and joined ISIS there.

Between June and September 2015, she conducted the so-called daily "moral patrols" in ISIS-occupied Fallujah and Mossul by inspecting whether women's behavior and clothing complied with the rules set by ISIS. While conducting such patrols, Jennifer W. carried various lethal weapons with her. For this, she received remuneration from ISIS.

Jennifer W. and Taha A. J. (see previous case, p. 85) shared a household in Fallujah. In summer 2015, Taha A. J. "purchased" a Yazidi woman and her five-year-old daughter. They were both from a group of Yazidis taken captive during an attack in the region of Sindjar, directed towards the oppression and extinction of the Yazidi religion. Taha A. J. brought the woman and her daughter to his house in Fallujah. Taha A. J. and Jennifer W. kept the Yazidi woman and her daughter as slaves and exposed them to inhumane living conditions. Taha A. J. prohibited them from exercising their religion, forced them to convert to Islam and severely and repeatedly beat them. To punish the five-year old for wetting the bed and as a measure to 'discipline' the girl, Taha A. J. chained her outdoors in scorching heat, which subsequently led to the child's death. Jennifer W. reportedly witnessed her husband's acts and did not undertake any steps to prevent the death of the child.

Procedure

In 2019, the investigation regarding the crimes committed by ISIS against the Yazidi community in Syria and Iraq led to arrests, formal indictments and trials against several former members of ISIS based on accusations of crimes against humanity, war crimes, genocide and other crimes.

On 13 December 2018, Jennifer W. was indicted for membership in a terrorist organization. The court subsequently added the charges of murder as a war crime and the crime against humanity of enslavement.

On 25 October 2021, the Higher Regional Court of Munich found Jennifer W. guilty of membership in a foreign terrorist organization, aiding and abetting attempted murder as well as attempted war crimes and a crime against humanity. She was sentenced to ten years in prison. The Federal Public Prosecutor subsequently appealed the sentence, demanding life imprisonment.

DEVELOPMENTS IN 2023

On 9 March 2023, the Federal Court of Justice ruled on the appeal against Jennifer W.'s conviction, holding that the lower instance court erred when qualifying aiding and abetting the crime against humanity of enslavement as a "less serious case" and ordered a new sentencing hearing before the regional court. On 29 August 2023, the Higher Regional Court of Munich extended the sentence to a total of 14 years of imprisonment.

Name withheld – German woman

Country of commission

Syria

Jurisdictional basis

Active personality

Suspect

German national, alleged former member of ISIS

Country of residence of suspect

Germany

Charges

Membership in a foreign terrorist organization

Current status

Convicted; sentenced to two years juvenile term

Facts

The defendant, then a tenth-grade high school student, reportedly left Germany in December 2014 to travel to Syria and join ISIS.

She married a German-Tunisian ISIS fighter, with whom she had three children. The indictment stated that they had moved into various apartments that ISIS had illegally appropriated and made available to its followers free of charge. The defendant supported her husband and thus allegedly enabled him to participate in hostilities. In addition to housing, they reportedly 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 hand grenades.

Procedure

After her capture by Kurdish forces in 2019, the defendant and her children were repatriated to Germany by officials of the Federal Criminal Police Office in March 2022. Upon arrival in Germany, she was arrested and placed in custody on 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.

DEVELOPMENTS IN 2023

In January 2023, the Higher Regional Court of Naumburg found the defendant guilty of membership in a terrorist organization abroad and dropped the charges regarding war crimes. She was sentenced to a juvenile term of two years. The Court suspended the execution of the juvenile sentence.

FOLLOW-UP ON OTHER CASES

- Anwar Raslan (see UJAR 2023, p. 56): sentenced to life imprisonment, awaiting appeal trial.
- Leonora M. (UJAR 2023, p. 64): sentenced to two years' imprisonment, awaiting appeal trial.

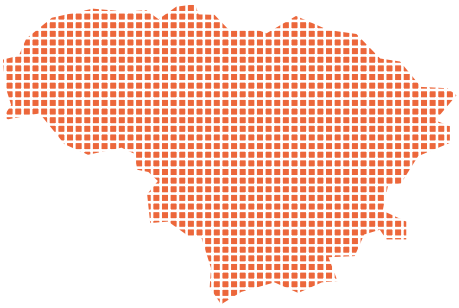
ONGOING STRUCTURAL INVESTIGATIONS

- Structural investigation since 2015 regarding crimes in eastern Ukraine and since March 2022 regarding international crimes committed in Ukraine.
- Structural investigation regarding crimes committed by the Syrian regime.
- Structural investigation regarding crimes by rebel armed groups in Syria.
- Structural investigations regarding ISIS crimes and ISIS crimes against the Yazidis.

LITHUANIA

FOLLOW-UP ON OTHER CASES

- Belarusian regime officials (UJAR 2022, p. 70): the investigation is ongoing.
- Killing of Mantas Kvedaravičius (UJAR 2023, p. 71): the investigation is ongoing.



NETHERLANDS



ETHIOPIAN RED TERROR CONVICTION ON APPEAL BEFORE THE SUPREME COURT

Eshetu Alemu

Country of commission

Ethiopia

Jurisdictional basis

Universal jurisdiction

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

Netherlands

Charges

War crimes of arbitrary detention, inhuman treatment, torture and murder

Current status

Conviction upheld on appeal; sentenced to life in prison; awaiting appeal trial before the Supreme Court; detained

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 Red Terror period gave rise to 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 17-year period.

As a former member of the Provisional Military Administrative Council, Eshetu Alemu was convicted for ordering the summary execution of 75 persons, torturing nine persons and controlling the illegal detention of more than 300 persons 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, of 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 nine years after his conviction in Ethiopia, in September 2015. In September 2016, 15 Ethiopian witnesses residing in the United States and Canada were interviewed 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, an initial 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.

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

DEVELOPMENTS IN 2023

Eshetu Alemu filed an appeal before the Supreme Court. No date has been set for the hearing.

NEW CASE!

SECURITY CHIEF FOR JABHAT AL-NUSRA AND ISIS ARRESTED IN WAR CRIMES INVESTIGATION

Ayham al-S.

Country of commission

Syria

Jurisdictional basis

Universal jurisdiction

Suspect

Ayham al-S., Syrian citizen, alleged security chief in Jabhat al-Nusra (2013-2015) and the Islamic State (ISIS) (2015-2018) responsible for maintaining public order in and around the Yarmouk refugee camp south of Damascus

Country of residence of suspect

Netherlands

Charges

Participation in a criminal organization aimed at committing war crimes

Current status

Indicted; detained

Facts

According to the prosecution, Ayham al-S. held a senior managerial position in the security service of ISIS from 2015-2018, leading the unit responsible for maintaining public order. For two years prior to that, he allegedly carried out the same work for Jabhat al-Nusra. Both functions were held in and around the Yarmouk refugee camp south of Damascus, and the accused was allegedly responsible for making arrests.

Ayham al-S. applied for asylum in the Netherlands in 2019 and settled in Arkel in 2020.

Procedure

Ayham al-S. was arrested in Arkel on 17 January 2023 and placed into custody. Information that led to his arrest was based on research and victim interviews conducted by the Syrian Center for Media and Freedom of Expression (SCM). He was charged with participation in a criminal organization aimed at committing war crimes. The case is at the pre-trial stage.

NEW CASE!

FIRST TRIAL FOR CRIMES AGAINST THE YAZIDIS TO BE HELD IN THE NETHERLANDS

Hasna Aarab

Country of commission

Syria

Jurisdictional basis

Active personality

Suspect

Hasna Aarab, 31-year-old Dutch national, alleged former member of the Islamic State (ISIS)

Country of residence of suspect

Netherlands

Charges

Crime against humanity of slavery; membership in a foreign terrorist organization

Current status

Indicted; detained

Facts

In 2015, Hasna Aarab allegedly travelled to Syria from the Netherlands with her four-year-old son and married a Moroccan ISIS fighter. Between 1 May and 1 August 2015, she stayed at her husband's acquaintance's house in Raqqa, Syria. A Yazidi woman, Z., allegedly performed domestic work at their home as forced labor.

In November 2022, Hasna Aarab returned from the camps located in the Kurdish autonomous area in northern Syria, along with other 11 women who were also repatriated to the Netherlands.

Procedure

The Yazidi victim, Z., provided testimony to the UN Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD).

Hasna Aarab was arrested after arrival in the Netherlands in November 2022. An initial hearing was held in February 2023. She was charged with the crime against humanity of slavery, and with membership in a foreign terrorist organization. The case is at the pre-trial stage, and according to a spokesperson of the prosecutor's office, it will probably be heard on its merits in 2024.

NEW CASE!

DUTCH ISIS RETURNEE ARRESTED FOR ALLEGED WAR CRIME AND CRIMES AGAINST HUMANITY IN SYRIA

Krista van T.

Country of commission

Syria

Jurisdictional basis

Active personality

Suspect

Krista van T., Dutch national, alleged former member of the Islamic State (ISIS)

Country of residence of suspect

Netherlands

Charges

Crime against humanity of slavery; war crime of pillaging; membership in a foreign terrorist organization

Current status

Indicted; detained

Facts

In 2014, Krista van T. travelled to Syria and joined ISIS with her husband. They allegedly lived in two houses in Raqqa and Tabqa, after the owners of the houses were allegedly killed or chased away. In February 2019, her husband was killed.

In November 2022, Krista van T. returned from the camps located in the Kurdish autonomous area in northern Syria, along with 11 other women who were also repatriated to the Netherlands.

Procedure

Krista van T. was arrested in the beginning of 2023. She was charged with the crime against humanity of slavery, the war crime of pillaging, and membership in a foreign terrorist organization. The case is at pre-trial stage and will likely be heard on its merits in 2024.

FIRST CONVICTION IN THE NETHERLANDS OF A SYRIAN PRO-REGIME FIGHTER

Mustafa A.

Country of commission

Syria

Jurisdictional basis

Universal jurisdiction

Suspect

Mustafa A., 34-year-old Syrian national, alleged former member of Liwa al-Quds

Country of residence of suspect

Netherlands

Charges

Crimes against humanity of serious deprivation of liberty and torture; war crimes of serious deprivation of liberty and torture; participating in an organization whose aim is to commit international crimes

Current status

Convicted; sentenced to 12 years in prison; 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.

According to the conviction, Mustafa A. was born in the al-Nayrab camp and was part of the militia Liwa al-Quds. In January 2013, he 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.

Mustafa A. had been living in the Netherlands since 2020 and had applied for asylum there.

Procedure

In 2020, the Syrian Center for Media and Freedom of Expression (SCM) shared information regarding the allegations against Mustafa A. with the Dutch war crimes unit.

The Dutch police arrested Mustafa A. in Kerkrade on 24 May 2022. He was later charged with war crimes and crimes against humanity committed in Syria in 2013. In August and October 2022, The Hague District Court decided there were sufficient compelling reasons to keep him in custody.

DEVELOPMENTS IN 2023

In the pre-trial hearings on 27 January, 20 April and 13 July 2023, the Hague District Court extended the pre-trial detention of the accused.

The trial started on 30 November and continued on 4 December 2023 in The Hague. The SCM and the Nuhanovic Foundation cooperated with the Office of Public Prosecutor to facilitate the participation of victims and witnesses in court proceedings.

The prosecution requested that the defendant be sentenced to 17 years in prison. The defendant denied his involvement in the commission of the crimes, but reportedly did not deny his membership of Liwa al-Quds. The hearings were public and livestreamed, with simultaneous interpretation in Arabic.

On 22 January 2024, the Hague District Court sentenced Mustafa A. to 12 years in prison for crimes against humanity and war crimes in the form of deprivation of liberty and torture in detention, as well as for his participation as a leader in a criminal organization, Liwa Al Quds, which aims at committing crimes against humanity and war crimes. These specifically relate to the violent arrest and subsequent torture of a civilian in January 2013 in the al-Nayrab camp outside of Aleppo.

NEW CASE!

WAR CRIMES CONVICTION FOR DUTCH FORMER MEMBER OF ISIS

Yousra Lemouesset

Country of commission

Syria

Jurisdictional basis

Active personality

Suspect

Yousra Lemouesset, 33-year-old Dutch woman, alleged former member of the Islamic State (ISIS)

Country of residence of suspect

Netherlands

Charges

Preparation for and facilitation of a terrorist offense; participation in an organization aimed at committing terrorist offenses and war crimes; publicly inciting terrorist offenses and war crimes; war crime of outrage upon personal dignity

Current status

Convicted; sentenced to six years' imprisonment; awaiting appeal trial; detained

Facts

According to the conviction, Lemouesset was one of the hosts of GreenB1rds, a Telegram group used as a channel to spread ISIS ideology.

Lemouesset also reportedly distributed a video of captured ISIS victims being burned alive, adding dehumanizing comments to the video.

Procedure

On 10 October 2019, the police arrested Lemouesset at her house in Uithoorn. The Dutch prosecution charged her with inciting terrorist crimes, distributing inciting jihadi materials and membership of a terrorist organization. Later, war crimes charges were added to that indictment.

On 29 June 2021, The Hague District Court found Lemouesset guilty of preparation for and facilitation of a terrorist offense, participation in an organization aimed at committing terrorist offenses and war crimes, publicly inciting terrorist offenses and war crimes and the war crime of outrage upon personal dignity. She was sentenced to six years in prison and detention under a hospital order, including compulsory psychiatric treatment.

For the first time, The Hague District Court concluded that ISIS was not only a terrorist organization, but also a criminal organization with an aim to commit core international crimes.

Lemouesset has appealed the Court's decision to the Supreme Court.

NEW CASE!

FIRST-EVER SEXUAL VIOLENCE CHARGES BROUGHT AGAINST A SYRIAN FORMER MEMBER OF THE NDF PARAMILITARY GROUP

Name withheld

Country of commission

Syria

Jurisdictional basis

Universal jurisdiction

Suspect

Fifty-five-year-old Syrian national, former head of the interrogation department of the National Defence Force (NDF)

Country of residence of suspect

Netherlands

Charges

Crimes against humanity of torture and sexual violence; torture

Current status

Charged while under investigation; detained

Facts

In 2013 and 2014, the accused allegedly served as the head of the interrogation department of the National Defence Force (NDF) in Salamiyah, Syria. The NDF is a paramilitary group that comprises several pro-regime militias, fighting on the side of the Syrian government. According to the International Crimes Team of the Dutch National Police, in his position as head of the NDF, the suspect allegedly committed acts of torture and sexual violence against civilians, as crimes against humanity.

In July 2021, the accused arrived in the Netherlands, obtained a temporary asylum permit, and settled in Druten with his family.

Procedure

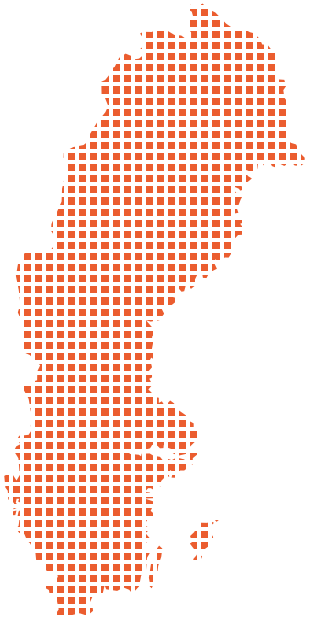
On 8 December 2023, the suspect was arrested in Druten, in the province of Gelderland. Shortly after his arrival in the Netherlands, the International Crimes Team had been informed that a person with this name had worked as the chief interrogator at the NDF in Salamiyah. The suspect was charged with complicity in torture in an official capacity with specific intent, complicity in torture as a crime against humanity and complicity in various forms of sexual violence as a crime against humanity.

On 11 December 2023, he was brought before the examining magistrate for a procedural hearing.

FOLLOW-UP ON OTHER CASES

- Abdul Razaq Arif (UJAR 2023, p. 72): convicted of war crimes in 2022; awaiting appeal trial.
- 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): convicted of war crimes; awaiting appeal trial.
- Ahmad al-Y. (UJAR 2023, p. 74): convicted on appeal for terrorism and acquitted of core international crimes in 2022; awaiting appeal trial before the Supreme Court.

SWEDEN



CONFIRMATION ON APPEAL OF LIFE SENTENCE FOR IRANIAN FORMER OFFICIAL FOR KARAJ PRISON MASS EXECUTION

Hamid Noury

Country of commission

Iran

Jurisdictional basis

Universal jurisdiction

Suspect

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

Country of residence of suspect

Iran, arrested while travelling to Sweden, detained in Sweden

Charges

War crimes; murder

Current status

Convicted; sentenced to life imprisonment; sentence confirmed on appeal; detained

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 precise 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 travelling to Sweden, after Iranian dissidents in Sweden filed complaints against him.

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.

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.

DEVELOPMENTS IN 2023

The appeal trial started on 11 January and lasted for 11 months. On 19 December 2023, the Svea Court of Appeal confirmed the conviction and life sentence of Noury for war crimes and murder.

SWISS AND SWEDISH OIL BUSINESSMEN ON TRIAL FOR COMPLICITY IN SUDANESE WAR CRIMES

Alex Schneiter and Ian Lundin

Country of commission

Sudan (now South Sudan)

Jurisdictional basis

Universal jurisdiction and active personality

Suspects

Alex Schneiter, Swiss national and CEO of Orrön Energy; Ian Lundin, Swedish national and Chairman of Orrön Energy

Countries of residence of suspects

Switzerland and Sweden

Charges

Complicity in war crimes

Current status

Two individuals indicted; on trial

Facts

The second Sudanese civil war took place between the Government of Sudan, the Sudanese People's Liberation Army (SPLA) and other armed groups from 1983 to 2005. According to a report published in 2010 by the European Coalition on Oil in Sudan, the company Lundin Petroleum (later renamed Lundin Energy and Orrön Energy) signed a contract in 1997 through a subsidiary 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.

Lundin Petroleum 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 1999 and 2003, around 160'000 civilians were forcedly 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.

Schneiter was the head of exploration during the relevant time period, and Lundin, the Chairman of the company. According to the prosecution, these two executives supported the government of Omar al-Bashir in conducting warfare in a way that entailed the Sudanese army and regime allied militias systematically carrying out systematic attacks against civilians.

In April 2020, Lundin Petroleum changed its name to Lundin Energy.

In July 2022, Norway's Aker BP acquired 98% of the shares of Lundin Energy. The remaining 2%, renamed Orrön Energy, would carry the full responsibility of the Sudanese legacy. Several NGOs denounced the fact that the takeover by Aker BP will make it very difficult for the victims to ever receive compensation, and that it constitutes an abuse of company law to deny war crimes victims their rights.

Procedure

In 2010, the European Coalition on Oil in Sudan submitted to the Swedish International Public Prosecution Office its report indicating that Lundin Petroleum may have been complicit in international crimes committed in Sudan between 1997 and 2003. Swedish prosecutors opened a preliminary investigation the same year. Schneiter and Lundin became formal suspects after being questioned by prosecutors in 2016.

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

On 11 November 2021, Schneiter and Lundin were indicted for aiding and abetting war crimes committed in Sudan between 1999 and 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 Petroleum.

Later that month, Schneiter requested the District Court to reject the indictment against him claiming that Swedish courts have no jurisdiction over him due to his Swiss nationality. The District

Court rejected his request and Schneiter appealed to the Svea Court of Appeal, which agreed with the lower court's decision.

The criminal liability of private companies does not exist in Sweden, so the company cannot be charged as a legal entity. However, when a company makes a profit from a crime, that profit can be confiscated. The prosecution has therefore asked for the confiscation of around SEK 1'400'000'000 (EUR 117'000'000) from Lundin Energy, which reportedly corresponds to the profit the company made from the sale of the business in 2003. In addition, the prosecution asked for a fine of SEK 3'000'000 (EUR 252'000).

On 28 February 2022, Schneiter 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 by national authorities. However, it concluded that the connection to Sweden of the crimes allegedly committed by Schneiter was sufficient for a trial to be held by Swedish courts and that there was no obstacle to it in international law. The Supreme Court hence confirmed Schneiter's indictment.

DEVELOPMENTS IN 2023

In August 2023, the claim to confiscate around SEK 1'400'000'000 was raised to SEK 2'381'300'000 (around EUR 200'000'000).

On 5 September, the trial of the two former executives began in Stockholm. It is scheduled to last for approximately two and a half years, concluding in early 2026. Thirty-two victims have joined the proceedings as civil parties, and 57 witnesses will be heard, including a former Swedish prime minister, and a former German interior minister.

At the end of November 2023, the Stockholm District Court decided that 27 plaintiffs will not be able to have their damage claims tried within the framework of the criminal trial. Rather, the issue of compensation for the victims will be addressed in separate civil cases. The Court grounded its decision on the delays that those civil claims would bring to the trial, and on the fact that the civil claims had been submitted belatedly. As a result of this decision, if the victims lose these civil cases, they will be responsible for paying Lundin and Schneiter's legal costs. Additionally, non-EU citizen plaintiffs must furnish a security deposit to cover the estimated legal costs of the defendants, set at SEK 500'000 each (approximately EUR 44'000).

FOLLOW-UP ON OTHER CASES

- 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.

ONGOING STRUCTURAL INVESTIGATIONS

- Structural investigations into Syrian chemical attacks (UJAR 2022, p. 74).

SWITZERLAND

FORMER ALGERIAN MINISTER OF DEFENSE PASSED AWAY AFTER INDICTMENT FOR WAR CRIMES AND CRIMES AGAINST HUMANITY DURING ALGERIA'S "DIRTY WAR"

Khaled Nezzar



Country of commission

Algeria

Jurisdictional basis

Universal jurisdiction

Suspect

Khaled Nezzar, Algerian national, 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 from 1992 to 1994

Country of residence of suspect

Algeria

Charges

Crime against humanity of murder; war crimes of torture, inhumane treatment, arbitrary detention and wrongful conviction

Current status

Case closed due to the death of the suspect

Facts

From 14 January 1992 to 31 January 1994, as minister of defense and member of the High Council of State, 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 interrogated by the OAG. His lawyers challenged the jurisdiction of the OAG, in particular on the grounds that Nezzar would benefit from jurisdictional immunity. His arrest warrant was lifted and he was allowed to leave the country.

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 into 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 remained free.

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

DEVELOPMENTS IN 2023

In early 2023, a complaint was closed because the victim, living in Algeria, could no longer be contacted. Amongst the remaining four plaintiffs, another victim passed away in 2023.

On 28 August 2023, the OAG indicted Nezzar for the war crimes of torture, inhumane treatment, arbitrary detention and wrongful conviction and the crime against humanity of murder committed between January 1992 and January 1994, and referred the case to the Federal Criminal Court.

On 21 December 2023, the OAG informed the parties that the trial would be held from 17 June to 19 July 2024.

On 29 December 2023, Nezzar passed away, which extinguished the criminal proceedings. The case has thus been closed.

NEW CASE!

FORMER MEMBER OF PRESIDENT LUKASHENKA'S HIT SQUAD ACQUITTED BY A SWISS COURT FOR ENFORCED DISAPPEARANCES

Yuri Harauski

Country of commission

Belarus

Jurisdictional basis

Universal jurisdiction

Suspect

Yuri Harauski, Belarus national, former member of the Special Rapid Response Unit (SOBR), an elite unit of the Internal Troops of the Belarusian Ministry of Internal Affairs created by President Aliaksandr Lukashenka

Country of residence of suspect

Switzerland

Charges

Acquitted of participation in the enforced disappearances of two emblematic figures of the opposition to the Lukashenka regime and of a businessman

Current status

Acquitted

Facts

Since Lukashenka was first elected president of Belarus in 1994, political opponents, human rights activists, lawyers, journalists and ordinary citizens have been deprived of their fundamental rights and subjected to massive and systematic state violence, ill-treatment, torture, arbitrary arrest and detention. Enforced disappearances have been one of the tools used by the government to shut down any contestation.

In 1998, Lukashenka created the SOBR composed of elite officials of the Internal Troops of the Ministry of Internal Affairs which received orders from the highest government levels, and was unofficially tasked with surveilling, kidnapping and eliminating political opponents. Harauski was a member of the SOBR.

Between May and September 1999, in Minsk, several leading figures of the opposition disappeared allegedly after being abducted by members of the SOBR in circumstances that are still not clear. Amongst them were Yury Zakharenka, former minister of interior; Viktar Hanchar, former deputy prime minister during the early years of Lukashenka's presidency; and Anatoly Krasouski, a businessman and close friend of Hanchar. The families of the victims made numerous attempts to obtain information on the whereabouts of their relatives. However, law enforcement authorities in Belarus systematically refused to prosecute perpetrators and to hold them accountable.

Procedure

On 4 June 2021, after Harauski's location in Switzerland was confirmed, relatives of disappeared persons along with the International Federation for Human Rights (FIDH), TRIAL International and the national NGO Human Rights Center *Viasna* filed criminal complaints for the crime of enforced disappearances committed in 1999 with the Office of the Prosecutor of St. Gallen (the Swiss canton where the suspect was residing).

The suspect was arrested on 16 July 2021 and made a full confession, providing detailed descriptions of the crimes for which he was being investigated. He was released the same day. In October 2021, Harauski was again interrogated and provided statements consistent with the ones made earlier.

On 2 May 2022, the Office of the Prosecutor concluded the investigation and indicted the suspect with enforced disappearances.

DEVELOPMENTS IN 2023

The trial of Yuri Harauski took place on 19 and 20 September 2023 before the District Court of Rorschach (canton of St. Gallen, Switzerland).

On 28 September, during the oral sentencing, the Court acquitted Harauski of the enforced disappearances, even though he had publicly and repeatedly confessed to and apologized for having participated in the kidnappings and murders in question. The Court held that his participation in the crimes could not be established beyond reasonable doubt.

FIRST CONVICTION IN SWITZERLAND FOR LIBERIAN WAR CRIMES AND CRIMES AGAINST HUMANITY CONFIRMED ON APPEAL

Alieu Kosiah

Country of commission

Liberia

Jurisdictional basis

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 of murder; war crimes of murder, rape, inhumane treatment, looting and the use of child soldiers

Current status

Sentence of 20 years in prison confirmed on appeal; detained

Facts

During the first Liberian civil war (1989-1996), Kosiah joined the armed group ULIMO, which comprised 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 used 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. It eventually 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; 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.

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.

DEVELOPMENTS IN 2023

The appeal hearing began on 11 January 2023 and lasted until 3 February 2023 at the Swiss Federal Criminal Court of Bellinzona, Ticino.

On 1 June 2023, the Appeals Chamber of the Swiss Federal Criminal Court confirmed the first instance proceedings sentence and found Kosiah guilty of multiple counts of war crimes of murder, rape, inhumane treatment, looting and the use of child soldiers and added to the conviction multiple counts of the crime against humanity of murder.

ARREST WARRANT ISSUED AGAINST FORMER SYRIAN VICE-PRESIDENT INVESTIGATED FOR WAR CRIMES IN 1982

Rifaat al-Assad

Country of commission

Syria

Jurisdictional basis

Universal jurisdiction

Suspect

Rifaat al-Assad, Syrian national, 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 lives.

Charges

As the case is at the investigation stage, the suspect has not been formally charged. The investigation focuses on the war crimes perpetrated 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 Syrian regime led an armed uprising 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. In addition to the high number of casualties, entire 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 (FCC). The Court ordered the OAG to hear Rifaat al-Assad without delay, and a short hearing took place, during which Rifaat al-Assad decided to remain silent.

In 2016, three other plaintiffs joined the criminal proceedings.

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

In September 2017, four years after the official opening of the investigation, one of the plaintiffs filed a petition alleging a denial of justice. The FCC 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.

The investigation into war crimes continued, however at a slow pace. Only one witness, whose hearing had been postponed in 2021, was heard in March 2022.

DEVELOPMENTS IN 2023

In early 2023, two complaints were closed as the plaintiffs could no longer be reached.

In August 2023, the FCC made public its order of 19 July 2022 to the Federal Office of Justice to issue an international arrest warrant that had been delivered by the OAG in November 2021 for Rifaat al-Assad. In the same order, the FCC confirmed that the Swiss authorities had jurisdiction to prosecute Rifaat al-Assad and to request his extradition to Switzerland.

One witness was heard in September.

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 of euros.

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.

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.

FORMER GAMBIAN MINISTER OF INTERIOR ON TRIAL FOR CRIMES AGAINST HUMANITY OVER WIDESPREAD REPRESSION OF POLITICAL OPPONENTS

Ousman Sonko

Country of commission

The Gambia

Jurisdictional basis

Universal jurisdiction

Suspect

Ousman Sonko, Gambian national, 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

Crimes against humanity of murders, torture, severe deprivation of liberty and rapes allegedly committed between 2000 and 2016

Current status

Indicted; on trial; 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, Ousman Sonko was appointed minister of the interior. He held this position until September 2016, when he was dismissed from office and left The Gambia.

In December 2016, Jammeh refused to recognize the result of the presidential election which saw the victory of the opposition candidate Adama Barrow. The Economic Community of West African States launched a military intervention in The Gambia to enforce the election results, which led to Jammeh stepping down as president in January 2017 and going to exile in Equatorial Guinea.

In 2018, a Truth, Reconciliation and Reparations Commission (TRRC) was set up to investigate the crimes committed during the Jammeh regime. In its final report published late 2021, the 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 filed 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.

Between 2017 and 2022, the Office of the Attorney General (OAG) heard Sonko on multiple occasions. Ten Gambian victims filed individual 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 their investigation to gather evidence in the framework of mutual judicial cooperation, including to hear witnesses.

DEVELOPMENTS IN 2023

In April 2023, the OAG indicted Sonko for crimes against humanity committed in The Gambia and referred the case to the Federal Criminal Court, which set the trial for January 2024.

Sonko's trial opened on 8 January 2024. He is tried for the killing of a perceived political opponent in 2000, for acts of sexual violence committed between 2000 and 2002 as well as in 2005, for having participated in acts of torture (including physical assault and sexual violence) and deprivation of liberty committed against individuals who were suspected of having plotted a coup in March 2006 and for the murder of a politician in 2011. He is also being tried for having co-perpetrated deprivation of liberty and acts of torture – which led to the death of Solo Sandeng, one of the leading figures of the opposition party (the United Democratic Party) of peaceful demonstrators in 2016, when he was minister of the interior.

NEW CASE!

FEDERAL PROSECUTOR'S OFFICE OPENS INVESTIGATION INTO ATTACK OF SWISS JOURNALIST IN UKRAINE

Unknown

Country of commission

Ukraine

Jurisdictional basis

Passive personality

Suspect

Unknown

Country of residence of suspect

Unknown

Charges

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

Current status

Under investigation

Facts

On 6 March 2022, press photographer Guillaume Briquet was ambushed by a Russian commando. He was driving from Kropyvnytsky to Mykolaïv when his vehicle – which had Geneva license plates and had "PRESS" written on both sides – was shot twice on the drivers' side, and twice on the passenger's side. Briquet was injured on his arms and his head by broken glass as a result of the attack.

Procedure

On 17 August 2022, the Ukrainian NGO Truth Hounds, assisted by Civitas Maxima, filed a complaint with the Office of the Attorney General of Switzerland (OAG).

On 26 March 2023, the spokesperson for the OAG, confirmed in a press article that criminal proceedings for war crimes were being initiated for the attack against Briquet by an alleged Russian commando, and that further investigation will be carried out.

FOLLOW-UP ON OTHER CASES

- Ongoing proceedings regarding the illegal trade of minerals from the DRC (UJAR 2020, p. 82): the investigation is ongoing.
- Swiss-based company (UJAR 2023, p. 86): the investigation is ongoing.
- Timber trafficking across the Gambia and Senegal (UJAR 2023, p. 83): the investigation is ongoing.

UNITED KINGDOM

NEW CASE!

AFGHAN NATIONAL ARRESTED OVER ALLEGED CRIMES AGAINST HUMANITY COMMITTED IN 2015

Name withheld



Country of commission

Afghanistan

Jurisdictional basis

Universal jurisdiction

Suspect

Name withheld, Afghan national

Country of residence of suspect

United Kingdom

Charges

As the case is at the investigation stage, the suspect has not been formally charged. The investigation focuses on murder as a crime against humanity under Section 51 of the International Criminal Court Act 2001.

Current status

Under investigation

Facts

The suspect is alleged to have been responsible for a murder in Afghanistan in 2015.

Procedure

On 3 March 2022, officers from the Metropolitan Police War Crimes Team arrested a suspect in the northwest of England. He was released under investigation and enquiries regarding crimes against humanity committed in Afghanistan are ongoing.

NEW CASE!

ANGOLAN NATIONAL ARRESTED OVER ALLEGED WAR CRIMES COMMITTED BETWEEN 1991 AND 1994

Name withheld

Country of commission

Angola

Jurisdictional basis

Universal jurisdiction

Suspect

Name withheld, Angolan national

Country of residence of suspect

United Kingdom

Charges

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

Current status

Under investigation

Facts

The suspect is alleged to have been responsible for the murder and torture of a number of victims in Angola between 1991 and 1994.

Procedure

In 2023, an investigation was opened into grave breaches of the Geneva Conventions, committed in Angola between 1991 and 1994 and an Angolan national has been arrested.

NEW CASE!

OPENING AND CLOSURE OF INVESTIGATION REGARDING ALLEGED CRIMES AGAINST HUMANITY AND TORTURE COMMITTED IN ERITREA BETWEEN 1988 AND 2000

Name withheld

Country of commission

Eritrea

Jurisdictional basis

Universal jurisdiction

Suspect

Name withheld, Eritrean national

Country of residence of suspect

United Kingdom

Charges

The investigation focused on crimes against humanity under Section 51 of the International Criminal Court Act of 2001 and torture contrary to Section 134 of the Criminal Justice Act of 1988.

Current status

Case closed

Facts

The suspect was alleged to have been responsible for the murder and torture of a number of victims in Eritrea between 1988 and 2000.

Procedure

In 2023, officers from the Metropolitan Police War Crimes Team opened an investigation into crimes against humanity committed in Eritrea between 1988 and 2000. On October 2023, police officers arrested and interviewed a suspect at a London Police Station. However, there was insufficient evidence to proceed and no further action was taken against him. The investigation has been closed.

NEW CASE!

IRANIAN NATIONAL ARRESTED OVER TORTURE ALLEGEDLY COMMITTED BETWEEN 2010 AND 2012

Name withheld

Country of commission

Iran

Jurisdictional basis

Universal jurisdiction

Suspect

Name withheld, Iranian national

Country of residence of suspect

United Kingdom

Charges

As the case is at the investigation stage, the suspect has not been formally charged. The investigation focuses on torture under Section 134 of the Criminal Justice Act of 1988.

Current status

Under investigation

Facts

The suspect is alleged to have been responsible for the torture of a number of victims in Iran between 2010 and 2012.

Procedure

In 2023, an investigation was opened into torture committed in Iran between 2010 and 2012 and an Iranian national has been arrested.

CLOSURE OF INVESTIGATION INTO ALLEGED WAR CRIMES IN IRAQ IN 2016 DUE TO INSUFFICIENT EVIDENCE

Name withheld

Country of commission

Iraq

Jurisdictional basis

Universal jurisdiction

Suspect

Name withheld, 23-year-old Iraqi national

Country of residence of suspect

United Kingdom

Charges

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

Current status

Case closed

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 the suspect in Leeds on suspicion of a war crime, contrary to Article 8 of the International Criminal Court Act 2001. The allegation related to events that occurred in Iraq in 2016.

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

DEVELOPMENTS IN 2023

In 2023, no further action was taken against him as there was insufficient evidence to proceed. The investigation has been closed.

CLOSURE OF INVESTIGATION INTO ALLEGED INTERNATIONAL CRIMES IN LIBERIA DUE TO INSUFFICIENT EVIDENCE

Name withheld

Country of commission

Liberia

Jurisdictional basis

Universal jurisdiction

Suspect

Name withheld, 48-year-old Liberian national

Country of residence of suspect

United Kingdom

Charges

As the case was at the investigation stage, the suspect had not been formally charged. The investigation focused on international crimes contrary to Section 51 of the International Criminal Court Act of 2001.

Current status

Case closed

Facts

The suspect allegedly committed war crimes during the first and second Liberian civil wars (1989-1996 and 1999-2003 respectively).

Procedure

On 27 August 2020, officers from the Metropolitan Police War Crimes Team arrested the suspect on suspicion of war crimes contrary to Section 51 of the International Criminal Court Act of 2001. The man was held in custody while officers searched an address in southeast London. He was questioned at a central London police station and was then released under investigation on 28 August 2020.

DEVELOPMENTS IN 2023

In 2023, no further action was taken against him as there was insufficient evidence to proceed. After three years of investigation, the case was closed.

CLOSURE OF INVESTIGATION INTO ALLEGED WAR CRIMES IN LIBERIA DUE TO INSUFFICIENT EVIDENCE

Name withheld

Country of commission

Liberia

Jurisdictional basis

Universal jurisdiction

Suspect

Name withheld, Liberian national

Country of residence of suspect

United Kingdom

Charges

As the case was at the investigation stage, the suspect had not been formally charged. The investigation focused on charges of war crimes.

Current status

Case closed

Facts

The suspect allegedly committed war crimes during the first and second Liberian civil wars (1989-1996 and 1999-2003 respectively).

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.

The man was held in custody while officers searched an address in southeast London.

DEVELOPMENTS IN 2023

In 2023, no further action was taken against him as there was insufficient evidence to proceed. The investigation was closed.

NEW CASE!

LIBYAN NATIONAL ARRESTED OVER TORTURE ALLEGEDLY COMMITTED BETWEEN 2002 AND 2007

Name withheld

Country of commission

Libya

Jurisdictional basis

Universal jurisdiction

Suspect

Name withheld, Libyan national

Country of residence of suspect

United Kingdom

Charges

As the case is at the investigation stage, the suspect has not been formally charged. The investigation focuses on torture under Section 134 of the Criminal Justice Act of 1988.

Current status

Under investigation

Facts

The suspect is alleged to have been responsible for the torture of a number of victims in Libya between 2002 and 2007.

Procedure

In 2023, an investigation has been opened into torture allegedly committed in Libya between 2002 and 2007, and a Libyan national has been arrested.

CLOSURE OF INVESTIGATION OF WAR CRIMES IN SIERRA LEONE DUE TO INSUFFICIENT EVIDENCE

Name withheld

Country of commission

Sierra Leone

Jurisdictional basis

Universal jurisdiction

Suspect

Name withheld, Sierra Leonean national

Country of residence of suspect

United Kingdom

Charges

As the case was at the investigation stage, the suspect had not been formally charged. The investigation focused on international crimes contrary to Section 51 of the International Criminal Court Act of 2001.

Current status

Case closed

Facts

The suspect was alleged to have committed international crimes during the Sierra Leone civil war between 1994 and 2000.

Procedure

Officers from the Metropolitan Police arrested a 42-year-old man in Leeds on 18 May 2021 as part of ongoing investigations into allegations of atrocities that occurred during the Sierra Leone civil war between 1994 and 2000. The suspect was arrested on suspicion of offenses contrary to section 51 of the International Criminal Court Act 2001, and later released pending further investigation. The Metropolitan Police also carried out searches of a property in Leeds.

DEVELOPMENTS IN 2023

In 2023, no further action was taken against him as there was insufficient evidence to proceed. The investigation was closed.

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

Name withheld

Country of commission

Sri Lanka

Jurisdictional basis

Universal jurisdiction

Suspects

Names withheld, two Sri Lankan nationals

Country of residence of suspects

United Kingdom

Charges

As the case is at the investigation stage, the suspects have not been formally charged. The investigation focuses on international crimes under Section 51 of the International Criminal Court Act 2001.

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. This investigation is also looking into murders and assaults, which took place at a political rally in Naranthani, Sri Lanka in November 2001.

Procedure

On 22 February 2022, following the submission of information from the International Truth and Justice Project, officers from the Metropolitan Police War Crimes Team arrested in Northamptonshire 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 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.

DEVELOPMENTS IN 2023

On 21 November 2023, officers from the Metropolitan Police War Crimes Team arrested another Sri Lankan national in relation to this investigation and the violence at Naranthani in November 2001. The suspect was arrested in south London and taken to a nearby custody suite and has been released under police bail.

NEW CASE!

SYRIAN NATIONAL ARRESTED OVER TORTURE ALLEGEDLY COMMITTED IN 2011

Name withheld

Country of commission

Syria

Jurisdictional basis

Universal jurisdiction

Suspect

Name withheld, Syrian national

Country of residence of suspect

United Kingdom

Charges

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

Current status

Under investigation

Facts

The suspect is alleged to have been responsible for the murder and torture of a number of victims in Syria in 2011.

Procedure

On 3 March 2022, officers from the Metropolitan Police War Crimes Team arrested a suspect in the High Wycombe area. He was released on police bail and enquiries are ongoing.

NEW CASE!

GAMBIAN NATIONAL ARRESTED OVER TORTURE COMMITTED BETWEEN 2000 AND 2011

Name withheld

Country of commission

The Gambia

Jurisdictional basis

Universal jurisdiction

Suspect

Name withheld, Gambian national

Country of residence of suspect

United Kingdom

Charges

As the case is at the investigation stage, the suspect has not been formally charged. The investigation focuses on torture contrary to Section 134 of the Criminal Justice Act 1988.

Current status

Under investigation

Facts

The suspect is alleged to have committed acts of torture in The Gambia between 2000 and 2011.

Procedure

On 29 November 2023, officers from the Metropolitan Police War Crimes Team arrested a man in Liverpool and he was taken to a nearby police station. He was released on police bail.

FOLLOW-UP ON OTHER CASES

- Kuwaiti national (UJAR 2023, p. 90): the investigation is ongoing.
- Vincent Bajinya, Célestin Ugirashebuja, Charles Munyaneza, Emmanuel Nteziryayo and Célestin Mutabaruka (UJAR 2022, p. 89): the investigation is ongoing.

ONGOING STRUCTURAL INVESTIGATIONS

- Structural investigation in relation to core international crimes committed by the Syrian regime since 2011 (opened in October 2023).
- Structural investigation in relation to core international crimes committed against the Yazidis (opened in June 2021).
- Structural investigations in each of the countries under investigation by the ICC (opened in June 2023).

UNITED STATES OF AMERICA

SECOND-EVER CONVICTION IN THE UNITED STATES UNDER THE EXTRATERRITORIAL TORTURE STATUTE

Ross Roggio

Country of commission

Iraq

Jurisdictional basis

Active personality

Suspect

Ross Roggio, US citizen

Country of residence of suspect

United States of America

Charges

Torture, conspiracy to commit torture, conspiracy to commit an offense against the United States, exporting weapons parts and services to Iraq without the approval of the Department of State or the Department of Commerce, smuggling goods, wire fraud and money laundering

Current status

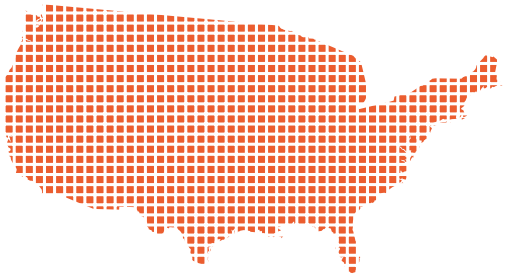
Convicted; awaiting sentencing; detained

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.

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.

According to the judgement, when one of Roggio's employees raised concerns about the weapons production project in Iraqi 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



conviction further states 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. 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.

DEVELOPMENTS IN 2023

On 19 May 2023, a federal jury convicted Roggio of torture, conspiracy to commit torture, conspiracy to commit an offense against the United States, exporting weapons parts and services to Iraq without the approval of the Department of State or the Department of Commerce, smuggling goods, wire fraud and money laundering. His sentencing hearing took place on 17 January 2024. He faces a maximum sentence of life in prison.

TRIAL DATE SET FOR THE FIRST PROSECUTION OF GAMBIAN YAHYA JAMMEH'S JUNGLER

Michael Sang Correa

Country of commission

The Gambia

Jurisdictional basis

Universal jurisdiction

Suspect

Michael Sang Correa, Gambian national, alleged former member of the Junglers death squad

Country of residence of suspect

United States of America

Charges

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

Current status

Indicted; awaiting 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 killings, sexual violence and arbitrary detentions were widespread. The Junglers were a paramilitary unit 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 the indictment against him, Correa and other Junglers tortured suspected coup d'état 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 in a presidential election 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 tortured them.

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 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.

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. In addition, while in pre-trial detention, Correa attempted to file several motions to dismiss the charges against him on his own behalf and without his attorneys, arguing that the case against him resulted from "malicious prosecution" and caused prejudicial delay. However, the motions were denied for improper procedure.

DEVELOPMENTS IN 2023

In October 2023, the US District Court for the District of Colorado scheduled Correa's trial for two weeks starting on 16 September 2024. Correa's defense attorneys stated that they intend to file a motion arguing that the charges are unconstitutional, which the court must resolve before trial.

FOLLOW-UP ON OTHER CASES

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

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 117 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

www.trialinternational.org

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