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**International & European
Criminal Law Observatory**

ON CULTURAL ISSUES, HUMAN RIGHTS AND SECURITY

MONTHLY WRAP DECEMBER 2023

UN GENERAL ASSEMBLY

[A/78/443](#)

On 17 November 2023, the Sixth Committee recommended to the General Assembly the adoption of a draft resolution entitled “*Measures to eliminate international terrorism*”. In particular, the draft resolution aims to condemn all acts, methods and practices of terrorism in all its forms and manifestations as criminal and unjustifiable, wherever and by whomsoever committed and calls upon all Member States, the United Nations and other appropriate international, regional and subregional organizations to implement the United Nations Global Counter-Terrorism Strategy, as well as the resolutions relating to the subsequent reviews of the Strategy, in all its aspects at the international, regional, subregional and national levels without delay, including by mobilizing resources and expertise. The draft resolution, also, expresses grave concern over the acute and growing threat posed by foreign terrorist fighters, namely, individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning or preparation of, or participation in, terrorist acts or providing or receiving terrorist training. Finally, emphasizes the need for States to cooperate resolutely against international terrorism by taking speedy and effective measures to eliminate this scourge and reminds States of their obligations under relevant international conventions and protocols.

[A/78/440](#)

On 17 November 2023, the Sixth Committee recommended to the General Assembly the adoption of a draft resolution entitled “*The scope and application of the principle of universal jurisdiction*”. The draft resolution, after taking notes of the constructive dialogue in the Sixth Committee about the diversity of views expressed by States, including concerns expressed in relation to the abuse or misuse of the principle of universal jurisdiction, and acknowledging, in order to make progress, the need for continuing discussions on the scope and application of the principle of universal jurisdiction in the Sixth Committee; Invites the working group of the Sixth Committee, to be established at its seventy-ninth session, to consider and comment on the question “on the relevant elements of a working concept of universal jurisdiction”. The draft resolution, also, invites Member States and relevant



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observers to the General Assembly, as appropriate, to submit, before 26 April 2024, information and observations on the scope and application of universal jurisdiction, including, where appropriate, information on the relevant applicable international treaties and on their national legal rules and judicial practice, and requests the Secretary-General to submit a report to the Assembly at its seventy-ninth session reviewing all the submissions of Member States and relevant observers.

Global cooperation critical to combat transnational organized crime

The UN Secretary-General called for stronger action to fight the growing challenge of transnational organized crime in an address to the Security Council on 7 December.

Transnational organized crime is a multi-billion-dollar industry that encompasses illicit financial flows, the illicit trade in firearms, and trafficking in humans, drugs, natural resources, wildlife and other commodities – all of which are increasingly interlinked. Despite these many forms, “*the ramifications are the same: weakened governance, corruption and lawlessness, open violence, death, and destruction,*” said Mr. Guterres.

Furthermore, transnational organized crime and conflict feed off each other, he added, thus undermining the authority and effectiveness of State institutions, eroding the rule of law, and destabilizing law enforcement structures.

Although the Security Council has long recognized the danger posed by transnational organized crime to international peace and security “*we must do more to strengthen our defences,*” he said, urging action in three priority areas. The Secretary-General urged Member States to fully implement the UN Convention against Transnational Organized Crime and its three additional protocols, and to work together on investigations and prosecutions.

UN General Assembly votes by large majority for immediate humanitarian ceasefire during emergency session.

The UN General Assembly met on 12 December in Emergency Special Session on the decades long Israel-Palestine conflict and as the ongoing crisis in Gaza shows no signs of abating.

Member States adopted a resolution, demanding an “immediate humanitarian ceasefire”, the immediate and unconditional release of all hostages and well as “ensuring humanitarian access”.

It passed with a large majority of 153 in favour and 10 against, with 23 abstentions.

The resolution also reiterated the General Assembly’s demand that all parties comply with their obligations under international law, including international humanitarian law, “notably with regard to the protection of civilians”. In particular, the General Assembly, demands an immediate humanitarian



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ceasefire and demands the immediate and unconditional release of all hostages, as well as ensuring humanitarian access.

Justice served: Lebanon's Special Tribunal closes

The UN Secretary-General praised the hard work of judges and staff of the Special Tribunal for Lebanon, which closed on Sunday following efforts to try those responsible for a 2005 attack that killed 22 people, including former Lebanese Prime Minister Rafik Hariri, and injured 226 people. Established by Security Council resolution 1757 in 2007, the Special Tribunal's jurisdiction also extended to other attacks that were judicially determined to be connected to the Beirut attack on 14 February 2005.

Inaugurated in 2009, the independent tribunal was based in the outskirts of The Hague in the Netherlands and comprised Lebanese and international judges. It prosecuted suspects using Lebanese law but was not part of Lebanon's justice system nor was it a UN tribunal.

"The Secretary-General expresses his deep appreciation for the dedication and hard work of the judges and staff at the Special Tribunal throughout the years and for the support provided by the Government of Lebanon, the Government of the Netherlands as the host State, and the Member State donors," he said.

UN SECURITY COUNCIL

UN Security Council extends Taliban sanctions oversight for another year.

On 14 December, members of the United Nations Security Council, in a meeting, approved Resolution 2716, requesting the Sanctions Monitoring Team to support the committee established by Resolution 1988. The U.S. Ambassador to the UN considered the continuation of sanctions against the Taliban as support for peace and security in Afghanistan.

Despite their opposition to the sanctions against the Taliban, China and Russia did not call for a review of the sanctions on the group. They did not veto the continuation of the monitoring team's work. The United Nations Security Council has also asked the Sanctions Monitoring Committee to collect information on non-compliance with sanctions. These sanctions include freezing funds and assets, travel bans, and prohibiting the supply or transfer of arms and equipment. The United States representative in the Security Council welcomed the extension of the mission of the Sanctions Monitoring Team against the Taliban administration.



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Linda Thomas-Greenfield, the United States representative in the Security Council, has added that the reports of the Sanctions Monitoring Team are vital for understanding the impact of the sanctions and the reality in Afghanistan.

[S/RES/2719](#)

On 21 December, the Security Council, adopted a resolution (2719) about Cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security. The Council, enhancing its partnership with the African Union, also acknowledged that such operations, including peace enforcement, can be deployed quickly with a mandate limited in time and exit strategy defined from the outset.

Also through the text, the Council determined that support provided to African Union-led peace support operations will be delivered in accordance with the UN's Human Rights Due Diligence Policy for non-United Nations security forces and within the regulatory and administrative framework established by the General Assembly. By the terms of the resolution, the support extended to African Union-led peace support operations will include costs and reimbursement of all categories of support as negotiated between the troop-police contributing country, the African Union and the United Nations.

INTERNATIONAL CRIMINAL COURT

[Statement of the Prosecutor of the International Criminal Court, Karim A.A. Khan KC, announcing his decision to conclude the investigation phase in the Situation in Uganda](#)

On 29 July 2004, following a referral from the Government of Uganda, the Office opened an investigation concerning the [Situation in Uganda](#) in relation to alleged crimes against humanity and war crimes within the jurisdiction of the Court committed between 1 July 2002 and 31 December 2005. On 29 July 2004, following a referral from the Government of Uganda, my Office opened an investigation concerning the [Situation in Uganda](#) in relation to alleged crimes against humanity and war crimes within the jurisdiction of the Court committed between 1 July 2002 and 31 December 2005. Today it was decided that, apart from the case pending against Mr Kony, the Office would not pursue new lines of investigation into the situation in Uganda. Consequently, in the absence of a significant change in circumstances and without prejudice to all the work necessary to support the ongoing judicial process, the investigation phase on the situation in Uganda is concluded. The competent authorities of the Republic of Uganda were notified of the decision.



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ICC Prosecutor, Karim A. A. Khan KC, concludes first visit to Israel and State of Palestine by an ICC Prosecutor: “We must show that the law is there, on the front lines, and that it is capable of protecting all”.

The visit to Israel was conducted at the request of family members and friends of Israeli citizens killed or taken hostage by Hamas and other Palestinian armed groups on 7 October 2023.

The attacks on innocent Israeli civilians on 7 October represent some of the most serious international crimes that shake the conscience of humanity, crimes for which the ICC was established to address. In meeting with the families of the victims of these attacks, the message was clear: "we are ready to work in collaboration with them as part of our ongoing work to hold those responsible to account." The office is also ready to dialogue with the competent national authorities in line with the principle of complementarity at the heart of the Rome Statute. Regarding humanitarian access, the position is critical and the law admits no doubts. The United Nations, the World Health Organization and the International Committee of the Red Cross and the Red Crescent have continued to highlight the terrible humanitarian situation in Gaza. It has been repeatedly stressed that civilians must have access to the basic food, water and medical supplies they desperately need, without further delay, quickly and on a large scale.

Office of the Prosecutor of the International Criminal Court publishes new Policy on Gender-based Crimes: Statement by ICC Prosecutor Karim A.A. Khan KC

Gender-based crimes are extremely underestimated. Survivors are often reluctant to talk openly about their experiences for many reasons, including stigma, fear of retaliation and rejection, or familiarity with criminal prosecution. Yet many are hungry for justice. Everything possible must be done to create a safe space where survivors can come forward and teach us what they know, what they have experienced. Then you have to take the matter to court, building the strongest cases possible. It's a moral obligation. The Policy represents a fundamental renewal of the 2014 OTP Policy Paper on sex and gender crimes. Through it, the Office articulates its position that essentially all crimes under the Rome Statute may involve forms of sexual, reproductive or other violence, regardless of whether they have traditionally been seen as such.

Office of the Prosecutor of the International Criminal Court publishes new Policy on Children: Statement by ICC Prosecutor Karim A.A. Khan KC

As we witness the suffering of children globally, the Prosecutor's Office has launched a new policy on children to help remedy their historic under-representation and lack of involvement in international



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criminal justice processes. This policy is a fundamental step to realize the constant commitment of the Prosecutor to adopt an attentive approach to minors in investigations and judicial proceedings, articulating how we can proactively and explicitly consider their experiences in all cases.

Children have the right to participate in judicial processes involving them. The position of this Office is that the voices of children will be heard in any case, in any situation. The interaction with a single child will obviously depend on that child's abilities, consent and greater interest. But at the level of chance, the Office will actively and constructively seek to engage with children so that they can better understand how they are targeted and influenced by the crimes provided for in the Rome Statute.

Assembly of States Parties concludes its twenty-second session

The Assembly of States Parties to the Rome Statute of the International Criminal Court ("the Assembly") held its twenty-second session from 4 to 14 December 2023 at the United Nations Headquarters in New York. The Assembly was attended by States Parties, Observer States, the Court, international and regional organizations as well as non-governmental organizations. The Assembly held two thematic plenary sessions: one on cooperation and one on the Review of the International Criminal Court and the Rome Statute system. The Assembly adopted eight resolutions by consensus on the following topics: cooperation; the Review of the International Criminal Court and the Rome Statute system; the 2024 budget of the Court; amendments to the Rules of Procedure and Evidence; an amendment to article 39 of the Rome Statute; the implementation of a tenure policy; the election of members of the Committee on Budget and Finance; and the "omnibus" resolution which, inter alia, included the adoption of a due diligence procedure for candidates for elected officials of the International Criminal Court.

INTERNATIONAL CRIMES

Four Russia-Affiliated Military Personnel Charged with War Crimes in Connection with Russia's Invasion of Ukraine.

Charges of war crimes against four military affiliated with Russia have been opened in the eastern district of Virginia. The charges include torture, inhuman treatment and illegal imprisonment of a US citizen in Ukraine following Russia's large-scale invasion of Ukraine in February 2022. Suren Seiranovich Mkrtychyan, 45, Dmitry Budnik, Valerii LNU (surname unknown) and Nazar LNU were each accused of illegally detaining an American citizen in the context of the armed conflict between Russia and Ukraine. The defendants allegedly questioned, severely beaten and tortured the victim. They would also threaten to kill the victim and conduct a mock execution.



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[Bosnia Arrests Seven for Mass Killings After Fall of Srebrenica](#)

The State Investigation and Protection Agency in Bosnia and Herzegovina, SIPA, arrested seven people suspected of committing or participating in the 1995 genocide in eastern Bosnia. According to SIPA, they are suspected of committing criminal acts under individual and command responsibility, as well as aiding genocide. SIPA said the arrested individuals will be handed over to the Prosecutor's Office of Bosnia and Herzegovina after criminal processing. It mentioned that they are all former commanders and members of the Zvornik Brigade of the Army of Republika Srpska, VRS.

[Argentine justice has launched an investigation against former Colombian president Álvaro Uribe for crimes against humanity](#)

Federal Prosecutor Carlos Stornelli opened an investigation against former Colombian President Álvaro Uribe Vélez, who was charged with "war crimes and crimes against humanity" between 8 August 2002 and 31 December 2008, during his government and as part of the fight against guerrilla warfare. The official has promoted the investigation for the principle of "universal justice" and with the aim that the crimes denounced "do not remain unpunished for all those responsible", according to the complaint filed at the court of Comodoro Py by a group of relatives of the victims. According to the complaint, Uribe Vélez "allowed, authorized, incited and even promoted" crimes against humanity, "with a budget of 6,112 cases of extrajudicial executions and forced disappearances of people falsely presented as falls in combat in guerrilla actions "against the Colombian army".

COUNCIL OF EUROPE

[Implementing ECtHR judgments: Latest decisions from the Council of Europe's Committee of Ministers](#)

The Council of Europe's Committee of Ministers has published the [case-by-case decisions](#) taken during the Committee's meeting from 5 to 7 December to supervise the implementation of judgments and decisions from the European Court of Human Rights.

Also, for the first time, with a view to increasing the efficiency and transparency of the supervision process, the Committee of Ministers also published an [indicative work program for 2024](#) in which it highlights cases that are likely to be examined in detail during the Committee's quarterly meetings next year in order to supervise the implementation of the European Court's judgments.

Under Article 46 of the European Convention on Human Rights, States Parties undertake to comply with the judgments of the European Court of Human Rights.



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The Committee of Ministers oversees the implementation of the judgments based on information provided by the national authorities involved, civil society organizations, national human rights institutions and other interested parties.

[Council of Europe joins forces with the UN to urge Russia to implement ECtHR judgments](#)

Even though Russia was excluded from the Council of Europe in March 2022 and has stopped all communication with the organisation on the execution of judgments from the European Court of Human Rights, it is still a member of the United Nations and subject to its monitoring procedures.

The Council of Europe is actively [working](#) with UN bodies to remind Russia of its unconditional legal obligation to implement ECtHR judgments.

How the UN can help to ensure that Russia implements ECtHR judgments and the latest developments on pending Russian cases were discussed at the [latest quarterly meeting of the Committee of Ministers](#) of the Council of Europe on the execution of ECHR judgments from 5-7 December.

In the interstate [Georgia v. Russia \(II\)](#) case, which concerns the August 2008 armed conflict between Georgia and the Russian Federation, the European Court ruled in April 2023 that Russia should pay the Georgian government more than 129 million euros within three months.

After the Committee of Ministers noted that no payment had been made and that the total amount owed by the Russian Federation, including accrued interest, amounted to about 133.4 million euros, it again urged the Russian authorities to pay the sum without delay.

The Committee of Ministers stressed Russia's unconditional obligation to pay the "just satisfaction" granted by the Court and to fully implement the judgments. Information on the implementation of these cases will be brought to the attention of the UN and the EU.

The Secretary General of the Council of Europe, Marija Pejčinović Burić, also wrote again to the Minister of Foreign Affairs of the Russian Federation urging the authorities to comply with the binding international law obligation under the European Convention on Human Rights to fully abide by the judgments of the European Court.

OSCE

[Trafficking of cultural property in BiH may represent a serious security threat, concluded the panelists at discussion in Tuzla](#)



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The OSCE Mission in Bosnia and Herzegovina, in co-operation with the Center against Trafficking in Works of Art (CPKU), hosted the exhibition "Missing Works of Art," which was followed by a discussion on combatting illicit trafficking in cultural property in BiH.

This was an opportunity for the public to see reproductions of missing works of art from galleries, museums, and private collections in Bosnia and Herzegovina. Following the exhibition, representatives of law enforcement agencies, ministries of culture, justice, representatives of the academic community, experts, and representatives of nongovernmental organizations discussed the illegal trade in artworks in BiH and abroad and the proposed initiatives and conclusions aimed at combating illegal trade in cultural property, organized crime and terrorism, and crimes financed by illegal trade in artworks.

The exhibition and discussion were organized on the occasion of the International Day of Combating Illicit Trafficking in Cultural Property, first adopted by UNESCO in 2019 to commemorate the signing of the 1970 Paris Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, as the major international legal instrument for combating illicit trafficking of cultural property.

[Promoting good economic governance and anti-corruption measures in focus of OSCE-organized event on the sidelines of Conference of State Parties to the United Nations Convention against Corruption \(UNCAC\)](#)

On December 11, the Office of the Co-ordinator of OSCE Economic and Environmental Activities (OCEEA) organized a side event "Catalyzing Change: Political will in fighting corruption" on the Conference of State Parties to the United Nations Convention against Corruption (UNCAC) in Atlanta, Georgia. At the event, the OCEEA presented the OSCE's work in promoting good economic governance and anti-corruption measures to ensure security and stability in the OSCE region, emphasizing the essential role of political will in combating corruption. The OSCE spoke, emphasizing the Organization's commitment to fulfilling its mandate in the field of good governance and anti-corruption, and its support for participating states in implementing their commitments under the United Nations Convention Against Corruption (UNCAC).

EUROPEAN COUNCIL

[Cyber solidarity act: member states agree common position to strengthen cyber security capacities in the EU](#)



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To strengthen EU's solidarity and capacities to detect, prepare for and respond to cybersecurity threats and incidents, member states' representatives (Coreper) reached a common position on the so-called 'cyber solidarity act'. The draft regulation establishes EU capabilities to make Europe more resilient and reactive in front of cyber threats, while strengthening cooperation mechanisms.

The main objectives of the Commission proposal, known as the "cyber solidarity act," are as follows: Support Detection and Awareness: Enhance detection and awareness of significant or large-scale cybersecurity threats and incidents.

Bolster Preparedness and Protection: Strengthen preparedness measures to protect critical entities and essential services, including hospitals and public utilities.

EU-Level Solidarity and Crisis Management: Strengthen solidarity at the EU level, enhance concerted crisis management, and improve response capabilities across member states.

Ensure a Safe and Secure Digital Landscape: Contribute to ensuring a safe and secure digital environment for citizens and businesses.

The proposal establishes a 'European cyber shield,' which is a pan-European infrastructure comprising national and cross-border Security Operations Centres (SOCs) across the EU. These SOCs will utilize advanced technologies, such as artificial intelligence and data analytics, to quickly detect and share warnings on cyber threats and incidents. The aim is to facilitate a more efficient and effective response to major incidents.

The proposal also includes the creation of a cyber emergency mechanism to increase preparedness and incident response capabilities in the EU. This involves preparedness actions, the establishment of an EU cybersecurity reserve, and mutual financial assistance between member states.

Additionally, the draft regulation introduces a cybersecurity incident review mechanism to enhance EU resilience by reviewing and assessing significant incidents after they occur. This involves drawing lessons learned and issuing recommendations to improve the EU's cyber posture. The EU's cybersecurity agency (ENISA) may review certain incidents and provide reports with recommendations.

The Council's amendments to the proposal focus on clarifying terminology, adapting the text to member states' specificities, and reinforcing the role of ENISA. The voluntary nature of member states' involvement in the proposed mechanisms is emphasized, and improvements are made in areas such as procurement, funding, information sharing, and the incident review mechanism.

The agreement on the Council's common position paves the way for negotiations with the European Parliament to finalize the legislation. The proposal responds to the need for improved cybersecurity measures, as highlighted in the EU cybersecurity strategy and subsequent discussions among member



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states' telecommunications ministers. The European cyber shield is financed through the digital Europe program, with a total budget of €1.1 billion. Approximately two-thirds of this budget will be funded by the EU.

EUROPEAN COURT OF HUMAN RIGHTS

[F.S. v. Croatia](#) (Application no. 8857/16)

The applicant was born in 1991 in Rome and lived since 1998 in Croatia: the case concerned the Croatian national authorities' decision to expel him from the Country on security grounds. He applied for Croatian citizenship, but he was informed he was a security risk by the national intelligence agency, leading to the denial of his citizenship application and triggering the termination of his permanent resident status and the decision to expulsion. The Court found a violation of Article 1 of Protocol No. 7 (procedural safeguards relating to expulsion of aliens) to the European Convention of Human Rights, as the applicant was not informed of the reasons why he was considered a national security threat.

[H.A. v. the United Kingdom](#) (Application no. 30919/20)

The applicant is a stateless person of Palestinian origin who lives in Swansea, UK. After being raised in a refugee camp in Lebanon he went to the UK, where he requested asylum and humanitarian protection reeling on several grounds (one of them was the risk of harm if he refused to join extremist armed group). The British courts found that he had not shown proofs that he or his family were at any risk of harm if he refused the draft. Relying on Article 3 (prohibition of inhuman or degrading treatment), the European Court of Human Rights held that there will not be a violation of the Convention if the applicant should be deported to Lebanon.

[Jasuitis and Simaitis v. Lithuania](#) (Application nos. 28186/19 and 29092/19)

The case concerned the applicant's conviction for trafficking in human beings. They had hired several women to work as "web models" placing a job advertisement online. One of the women who started working for the applicants made a complaint to the police, stating she had been victim of threats and psychological violence by the applicants: she had initially agreed to communicate with clients online but later had been told to show her clients naked and pornography contents. A Lithuanian regional court, after a large investigation, found the applicants guilty of trafficking in human beings: the court confirmed that psychological violence and threats, along with making the victims depending on them



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and recruiting them under false premises, had been part of the operating method of the applicants. The Lithuanian Supreme Court found the applicants guilty of trafficking in human beings too. The European Court of Human Rights found no violation of Article 7 (no punishment without law) of the Convention: the national law and the application by the courts had been clear and the applicants should have been able to see that their actions would have come under the definition of trafficking in human beings. The Court concluded that the relevant provision (Article 147 § 1 of the Lithuanian Criminal Code) was not ambiguous, and the Lithuanian Supreme Court's interpretation had been precise and consistent, and had not been so expansive so as to be arbitrary.

[M.L. v. Poland](#) (Application no. 40119/21)

In the Chamber judgement, the Court found a violation of Article 8 (right to respect for private and family life) of the European Convention of Human Rights concerning restrictions on abortion rights in Poland. The applicant, a Poland national, alleged that she had been banned from having access to a legal abortion in the case of foetal abnormalities and, unable to have an abortion in Poland, she had to travel to a private clinic abroad for the procedure. The Court found that the Poland legislative amendments in question had a significant psychological impact on the applicant and her family: such interference with her rights had created a situation which had deprived her of proper safeguards against arbitrariness.

[Narayan and Others v. Azerbaijan](#) (Application nos. 54363/17, 54364/17 and 54365/17)

The applicants are the Armenian nationals, and the case concerns the killing of applicants' relatives by an Azerbaijani soldier who allegedly crossed the border into Armenian territory and shot them. The Court found a violation of Article 2 (right to life) of the European Convention of Human Rights as the applicants complain that their relatives were killed unlawfully, given that there was no ongoing armed conflict at the time, and that they were discriminated because of their ethnicity and national origin.

[Matkava and Other v. Russia](#) (Application no. 3963/18)

The applicants are a family of Georgian nationals, complaining against the unlawful killing of their relative by a border guard of *de facto* Republic of Abkhazia, a region of Georgia which is currently outside the control of Georgian Government. Relying on Article 2 (right to life) and Article 13 (right to an effective remedy) of the European Convention, the Court found that the applicants' relative was killed unlawfully and that there was no effective investigation into the killing.



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[*O.J. and J.O. v. Georgia and Russia*](#) (Applications nos. 42126/15 and 42127/15)

In the Chamber judgement, the European Court of Human Rights found that there had been a violation of Article 5 § 1 (right to liberty and security) and Article 6 §§ 1 and 3 (right to a fair trial) of the European Convention by the Russian Federation; the Court found no violation by Georgia. The concerned the arrest, detention and sentencing of two men on spying charges in the Autonomous Republic of Abkhazia, a region of Georgia which is currently outside the *de facto* control of Georgian Government. The Court found that Russia had exercised continued effective control over the area and thus had jurisdiction in respect of the matters complained of: as Georgian authorities had taken pertinent measures within their power to continue to guarantee the rights and freedom under the Convention of those living in Abkhazia, the Russian authorities had made no efforts to address the applicants' complaints once they had been notified on them. The applicants were arrested by the *de facto* security services of the Republic of Abkhazia, who found two hand grenades and a knife in the applicants' house when searched it. Criminal proceedings for espionage were brought against them and they were found guilty as charged by the Supreme Court of Abkhazia, which found as the applicants acted under the instructions of the Military Intelligence Department of the Georgian Ministry of Defence. The applicants complain as they had been ill-treated by the security services during their arrest and statements extracted under torture were used as part of the evidence for their conviction by the Supreme Court of Abkhazia.

INTERPOL

[Vienna Declaration: Historic INTERPOL meeting closes with call to action on tackling organized crime](#)

In the face of increased connectivity among criminal groups and the parallel expansion of illicit activities, the Vienna Declaration calls on leaders to treat transnational organized crime as a national security priority, redouble international police cooperation efforts, and increase investment in the tools available to law enforcement.

The Declaration sets out priority actions to ensure that law enforcement is better supported in this fight, first and foremost there is a need for international cooperation based on shared strategies and the building of bridges between separate sources of information.

As the only police organization operating globally, INTERPOL plays a unique role in supporting international efforts to safeguard communities and make the world a safer place.



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ON CULTURAL ISSUES, HUMAN RIGHTS AND SECURITY

[INTERPOL operation reveals further insights into 'globalization' of cyber scam centres](#)

In the first INTERPOL operation targeted specifically at the phenomenon [of human trafficking-fuelled fraud](#), after five months of investigative coordination, law enforcement agencies from participating countries conducted more than 270,000 inspections and police checks at 450 human trafficking and migrant smuggling hotspots from 16-20 October.

The cyber scam cases uncovered during Operation Storm Makers II demonstrate a wide geographic expansion, in fact most cases remain concentrated in Southeast Asia, expanding to Latin America.

Victims were often lured through fake job ads and forced to commit online fraud on an industrial scale, suffering heinous physical abuse. Fraud schemes include fake cryptocurrency investments, as well as scams related to work-from-home jobs, lotteries, and online gambling.

In addition to the cyber scam centres, law enforcement uncovered a number of other crimes of human trafficking and migrant smuggling.

The operation resulted in the arrest of 281 individuals for offences such as human trafficking, passport forgery, corruption, telecommunications fraud, and sexual exploitation; the rescue of 149 human trafficking victims; and more than 360 investigations opened, many of which remain ongoing.

Prevention was also a key focus of the operation, with member countries rolling out awareness campaigns to help potential victims avoid being trafficked.

EUROPOL

[Violent hate crimes targeted in joint action day](#)

On 14 December 2023, Europol supported a third joint action day targeting violent hate crimes, both online and offline. The operational activities, coordinated by Spain's ONDOD (National Office Against Hate Crimes), involved law enforcement authorities from Austria, France, Germany, and Italy. They targeted 209 individuals, mainly left- and right-wing extremists, for their alleged involvement in serious offences related to the spread of violent hate speech, incitement to commit violent hate crimes, and death threats. Officers from participating countries implemented several actions, including raids at various locations and seizures of electronic devices, cell phones, weapons, and propaganda materials. Europol provided operational coordination and facilitated the exchange of information among participating authorities.

[Europol publishes IOCTA spotlight report on online fraud schemes](#)



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Europol publishes IOCTA [spotlight report on online fraud](#) schemes in which it highlights that online fraud schemes pose a serious criminal threat in the EU and beyond, as online fraudsters generate billions in illicit profits each year at the expense of individuals, businesses, and public institutions. From ATM attacks and account embezzlement to skimming and shimming, the wide availability of crime-as-a-service has made this criminal activity more accessible, and the techniques used by fraudsters have become increasingly complex.

Europol's mission is to support EU member states and cooperation partners in preventing and combating all serious forms of organized and international crime, cybercrime, and terrorism. In fact, in 2013 Europol established the European Cybercrime Center (EC3) to provide dedicated support for cybercrime investigations in the EU and help protect European citizens, businesses, and governments from online crime through operational, strategic, analytical, and forensic support to member state investigations.

[Action against digital skimming reveals 443 compromised online vendors](#)

Europol, law enforcement agencies from 17 countries, and the European Union Agency for Cybersecurity (ENISA) have joined forces with private sector partners, including Group-IB and Sansec, to combat digital skimming attacks.

Digital skimming is the act of stealing credit card information or payment card data from customers of an online store, then offering it for sale on illicit darknet marketplaces.

This action, led by Greece, falls under the [EMPACT](#) priority and allowed Europol and its partners to notify 443 online merchants that their customers' credit or payment card data had been compromised.

EUROPEAN PUBLIC PROSECUTOR'S OFFICE

[EU Court of Justice confirms EPPO's approach to faster and more efficient cross-border investigations](#)

The Court of Justice of the European Union ruled on 21 December 2023 in case C-281/22, GK and others. This is the first case in which a national court (the *Oberlandesgericht Wien* – Higher Regional Court, Vienna, Austria) has requested a preliminary ruling from the Court of Justice to interpret the provisions of Regulation (EU) No. 1017/1939 of the Council – “EPPO Regulation”. The ruling confirms that the EPPO Regulation has created an advanced system of cooperation between prosecutors in the fight against cross-border crime, which allows the EPPO to carry out its investigations in a timely and efficient manner, while ensuring the protection of the rights of the



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persons concerned. The provisions of Articles 31 and 32 of the EPPO Regulation establish the conditions for the cross-border gathering of evidence by the EPPO. Under these provisions, EPPO European Delegated Prosecutors did not have to rely on the Union's ordinary legal instruments on mutual recognition, or on traditional cross-border cooperation between prosecutors, to obtain evidence within the EPPO area. Instead, they were able to ask fellow European Delegated Prosecutors from other participating Member States to undertake specific investigative measures. The Court of Justice was asked to clarify this rule, applied to the authorization by a judge of certain investigative acts. The compliant national judge asked the Court of Justice to clarify the powers of the judges of the Member State in which the European Delegated Prosecutor responsible for assisting in the execution of the measure is based. In particular, according to the Austrian judge, the wording of Article 31(2) was ambiguous as to whether the judge or court of the Member State of the assisting European Delegated Prosecutor can examine the substantive grounds for ordering in full the extent of the investigation, or whether they would limit themselves to a more limited examination. In the ruling, the Court of Justice ruled that the substantive reasons for the justification and adoption of the investigative measure must be assessed exclusively according to the law of the member state of the European Delegated Prosecutor in charge of the case. They may be subject to judicial review or, if necessary, prior judicial authorisation, only in that Member State. On the contrary, judicial review by a judge of the Member State of the assisting European Delegated Prosecutor must be limited to the elements relating to the execution of that measure. The ruling helps to clarify a central provision of the EPPO Regulation. Due to the mandate of the European Public Prosecutor's Office and the cross-border nature of many European Public Prosecutor's Office cases, the cross-border evidence collection system provided for in Article 31 is essential for its work. The ruling confirms the approach that the EPPO has taken since the start of its operations in June 2021, believing that this system had to be much faster and more efficient than ordinary judicial cooperation between different member states. It allows the EPPO to function as a single prosecutor's office with highly effective cross-border investigations, adopting cross-border investigative measures subject to the control and authorization of a single judicial authority on their substantive conditions.

[Statement regarding the legislative amendments proposed by the Slovak government](#)

On 18 December 2023, the European Chief Prosecutor addressed a letter to the European Commission in line with Recitals 9, 16 and 17[1] of Regulation (EU) 2020/2092 of 16 December 2020 on a general regime of conditionality for the protection of the budget of the European Union (Conditionality Regulation), pointing at recent legislative amendments proposed by the Slovak government concerning the Criminal Procedure Code, the Criminal Code, the Act on the Public Prosecutor's



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Office and the Act on the Protection of Whistle-blowers. Based on a thorough analysis of the combination of the proposed amendments, the European Chief Prosecutor concluded that they constitute a serious risk of breaching the rule of law in the meaning of Article 4(2)(c) of the Conditionality Regulation: they would minimize detection of potential fraud affecting the financial interests of the EU; disrupt functional reporting lines established between the EPPO and the Special Prosecution Service; cut the EPPO from the specialized investigators of the National Criminal Agency, without adequate replacement; reroute most of the EPPO cases from the Specialized Penal Court to lower courts, with little expertise in crimes under the competence of the EPPO; and constitute a de facto amnesty in a substantial number of active investigations into fraud affecting the financial interests of the EU in the Slovak Republic. As a consequence, the EPPO's ability to effectively investigate and prosecute offences under its competence would be seriously affected and the level of protection of the financial interests of the EU in the Slovak Republic would decrease steeply. In this context, the European Chief Prosecutor also noted that the speed with which the Slovak government intends to proceed with these amendments casts serious doubts as to its compliance with its obligation of sincere cooperation (Article 4(3) TEU). Finally, given that the proposed amendments would decrease the criminal law deterrence as regards offences falling under the competence of the EPPO, the Slovak government's intention to fulfil its duty to effectively protect the Union budget (Article 325 TFEU) is also put into question.

EUROPEAN UNION AGENCY FOR CRIMINAL JUSTICE COOPERATION - EUROJUST

[Eurojust update to EU's Justice and Home Affairs Council](#)

On 4 December, Mr Ladislav Hamran (President of Eurojust) informed the EU's Justice and Home Affairs Council on the latest developments at Eurojust on working towards accountability for Russian war crimes in Ukraine. Ministers were updated on the state of play of the Joint Investigation Team's work (JIT), the International Centre for the Prosecution of the Crime of Aggression against Ukraine (ICPA) as well as on the Core International Crimes Evidence Database (CICED). Eurojust continued to support Member States who have joined the JIT (EE, LT, LV, PL, RO, SK) with legal advice, logistic arrangements financial assistance amounting to nearly 300.000 EUR in grants at present. With investigations currently ongoing, the JIT can further rely on the support of Eurojust, Europol, the International Criminal Court and the United States. On the ICPA, President Hamran informed ministers about a USD 1 million contribution to its operations by the United States. The financial support comes in addition to the US Special Prosecutor at the ICPA who joined the ICPA in September



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2023. Finally, the President reported on the CISED data base, which is now fully operational less than 18 months after Eurojust was entrusted with setting it up. CISED serves to preserve, store and analyse evidence and will be crucial in establishing the scale and systemic approach of the suspected war crimes. Mr. Hamran called on Member States to contribute with any evidence their prosecution services may hold.

COURT OF JUSTICE OF THE EUROPEAN UNION

[European Public Prosecutor's Office: the Court clarifies the exercise of judicial review of cross-border investigation measures by national courts](#)

The European Public Prosecutor's Office, in the context of an investigation into fraud related to the importation of biodiesel into the European Union, has involved judges from different Member States. The jurisdiction of judges in the Member State of the prosecuting authority responsible for the investigation concerns the adoption and justification of investigative measures, while judicial oversight of measures taken in other Member States is limited to aspects related to the execution of such measures. In the case of serious infringements of fundamental rights during investigative measures, such as searches, the Member State of the prosecuting authority must ensure, within its legal system, adequate and sufficient guarantees, including the possibility of prior judicial review. The European Public Prosecutor's Office is competent to identify and prosecute offenses that harm the financial interests of the Union and operates on two levels: a central level and a decentralized level with European Delegated Prosecutors (EDPs) in the Member States. In the specific case, the European Court of Justice has ruled that the control of the assisting EDP (in the Austrian case) must be limited to issues related to the implementation of cross-border investigative measures. The adoption and justification of measures fall within the jurisdiction of the law of the Member State of the prosecuting authority responsible for the case (in the German case), while the execution is governed by the law of the Member State of the assisting EDP.

The Court emphasized that, despite the limitation on the control of the assisting EDP, in the case of serious infringements of fundamental rights, the Member State of the prosecuting EDP must provide adequate guarantees at the national level, such as prior judicial review, to ensure the legitimacy and necessity of investigative measures. The press release indicates that the preliminary reference allows national judges to consult the Court regarding the interpretation of Union law or the validity of Union acts, but the Court does not resolve national disputes, leaving it to the national judge to decide in accordance with the Court's decision.



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The full text [and, as the case may be, an abstract](#) of the judgment are published on the CURIA website on the day of delivery.

CORTE COSTITUZIONALE

Regeni Case

The Constitutional Court has declared the unconstitutionality of Article 420-*bis*, paragraph 3, of the Code of Criminal Procedure, insofar as it does not provide for the judge to proceed *in absentia* for crimes committed through acts of torture as defined by the Convention against Torture. The judgment emphasizes that when, due to the lack of assistance from the accused's home country, it is impossible to prove that the accused, despite being aware of the proceedings, has been informed of the pending trial, the judge may proceed in absentia. However, the right of the accused to a new trial in person for a review of the merits of the case is preserved. The decision has significant implications in the context of the Regeni case and situations where human rights violations occur, particularly concerning acts of torture.



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