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**International & European
Criminal Law Observatory**

ON CULTURAL ISSUES, HUMAN RIGHTS AND SECURITY

MONTHLY WRAP MAY 2024

UN GENERAL ASSEMBLY

[UN General Assembly presses Security Council to give ‘favourable consideration’ to full Palestinian membership](#)

The UN General Assembly convened again in New York on 10 May for an emergency special session on the Gaza crisis and overwhelmingly passed a resolution which upgrades Palestine’s rights at the world body as an Observer State, without offering full membership. It urged the Security Council to give “favourable consideration” to Palestine’s request.

By adopting this resolution the General Assembly will upgrade the rights of the State of Palestine within the world body, but not the right to vote or put forward its candidature to such organs as the Security Council or the Economic and Social Council (ECOSOC). Granting Palestinian membership requires a recommendation from the Security Council. At the same time, the Assembly determines that the State of Palestine is qualified for such status and recommends that the Security Council “reconsider the matter favourably”.

Some of the changes in status that Palestine will have a right to later this year:

- To be seated among Member States in alphabetical order
- Make statements on behalf of a group;
- Submit proposals and amendments and introduce them;
- Propose items to be included in the provisional agenda of the regular or special sessions and the right to request the inclusion of supplementary or additional items in the agenda of regular or special sessions;
- The right of members of the delegation of the State of Palestine to be elected as officers in the plenary and the Main Committees of the General Assembly;
- Full and effective participation in UN conferences and international conferences and meetings convened under the auspices of the General Assembly or, as appropriate, of other UN organs.

UNITED NATIONS OFFICE ON DRUG AND CRIMES

[Trafficking in the Sahel: Cracking down on illicit drugs](#)

Cocaine, cannabis and opioids are getting easier to buy as criminal networks and armed groups capitalise on the fragile Sahel region’s “natural stopover point” to Europe on trafficking routes from



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South America, but authorities with help from the UN are taking down criminal networks and making a record number of seizures of illicit drugs.

According to a new report from the UN Office on Drugs and Crime (UNODC), drug trafficking in the Sahel continues to hinder security, economic development and the rule of law while jeopardising public health.

“Drug trafficking is well-established in the Sahel region – with detrimental consequences both locally and globally,” said Amado Philip de Andres, who heads the agency’s West and Central Africa regional office.

“Increased drug flows to West Africa and the Sahel undermine peace and stability in the region,” he said. “This is not only a security issue as armed groups are deriving revenue to finance their operations, it is also a public health issue as criminal groups tap into population growth to expand illicit drug markets.”

In some Sahelian countries – Burkina Faso, Chad, Mali, Mauritania and Niger – cannabis resin remains the internationally trafficked drug most commonly seized, followed by cocaine and pharmaceutical opioids.

The new report found that drug trafficking continues to provide financial resources to armed groups in the region.

Meanwhile, traffickers are using money-laundering to disguise their illicit proceeds in a growing number of sectors, from gold to real estate. That makes financial transactions more difficult to track while giving traffickers greater economic leverage and “a veneer of legitimacy”, the report found.

Combatting terrorist groups operating in the Sahel was in the spotlight at the recent High-Level African Counter-Terrorism Meeting, held in Abuja, Nigeria, in late April. Among concerns raised by Heads of State across the region were the increasing links between terrorism and organised crime.

[‘Untold harm to nature’ from wildlife trafficking, warns UN crime agency](#)

Despite two decades of worldwide efforts, more than 4,000 precious wildlife species still fall prey to trafficking every year, a new report by the UN crime and drugs prevention office, UNODC, showed on Monday.

“Wildlife crime inflicts untold harm upon nature and it also jeopardizes livelihoods, public health, good governance and our planet’s ability to fight climate change,” said Ghada Waly, UNODC Executive Director.

The agency’s World Wildlife Crime Report takes stock of the efforts to counter poaching worldwide. Although there are positive signs that trafficking of some iconic species has decreased, including elephants and rhinoceroses – thanks to the dismantling of large trafficking networks and the suppression of demand in key markets – the overall picture is still gloomy for thousands of protected plants and animals.



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Wildlife crime has a profound global impact whose ramifications aren't always clearly understood, UNODC insists.

Despite its significant role in driving the extinction of numerous rare species such as orchids, succulents, reptiles, fish, birds, and mammals, wildlife trafficking often goes unnoticed by the public, according to UN experts in wildlife crime prevention.

In addition to directly threatening species populations, wildlife trafficking can disrupt delicate ecosystems and their functions, particularly undermining their ability to mitigate climate change.

Furthermore, experts in human and animal health have consistently raised concerns about the disease risks associated with wildlife trade in recent decades.

INTERNATIONAL COURT OF JUSTICE

[Gaza: World court orders Israel to halt military operations in Rafah](#)

The International Court of Justice (ICJ) on 24 May issued new provisional measures that order Israel to immediately end military operations in Rafah in southern Gaza and to open the governate's border crossing for urgent aid deliveries.

This follows a request from South Africa in a pending case accusing Israel of violating its obligations under the Genocide Convention.

Israel's military response has, to date, killed nearly 36,000 Palestinians and caused widespread destruction and a looming famine in the besieged and bombarded enclave.

Given the worsening conditions on the ground since Israel's incursion into Rafah on 7 May, the court decided, also by votes of 13 in favour to two against, the new provisional measures shall require Israel to open the Rafah crossing for the unhindered delivery of urgent humanitarian aid and ensure unimpeded access for fact-finding missions to investigate allegations of genocide.

In addition, the ICJ ordered Israel to submit a report within one month on steps taken to implement these provisional measures. Court reiterates call to release hostages.

INTERNATIONAL CRIMINAL COURT

[ICC seeking arrest warrants for Hamas leaders and Israel's Netanyahu](#)

Arrest warrants are being sought for the leaders of Hamas and Israel for alleged war crimes and crimes against humanity linked to the war in Gaza, the International Criminal Court (ICC) said on 20 May.

In a statement, ICC Prosecutor Karim Khan said that there were reasonable grounds to believe that Hamas's Yahya Sinwar, Mohammed Diab Ibrahim Al-Masri (Deif) and Ismail Haniyeh "bear criminal



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responsibility” for murder, extermination and taking hostages – among numerous other crimes – since the Gaza conflict erupted in the wake of Hamas-led attacks in southern Israel on 7 October.

There are also reasonable grounds to believe that Prime Minister of Israel Benjamin Netanyahu and Yoav Gallant, Israeli Minister of Defense, are responsible for other crimes and crimes against humanity “committed on the territory of the State of Palestine”.

These include “starvation of civilians as a method of warfare as a war crime...intentionally directing attacks against a civilian population [and] extermination and/or murder”.

Although the ICC is not a UN organization, it has an agreement of cooperation with the United Nations. And when a situation is not within the court's jurisdiction, the UN Security Council can refer the situation to the ICC, granting it jurisdiction.

On the issue of the liability of the top Israeli officials Mr. Netanyahu and Mr. Gallant, the ICC Prosecutor alleged “starvation as a method of war”.

This and other crimes against humanity were allegedly committed “as part of a widespread and systematic attack against the Palestinian civilian population pursuant to State policy”.

[Statement of ICC Prosecutor, Karim A. A. Khan KC, to the United Nations Security Council on the Situation in Libya, pursuant to Resolution 1970 \(2011\)](#)

ICC Prosecutor Karim A.A. Khan KC briefs the UN Security Council on the Situation in Libya on 14 May 2024 in New York. He remarked that only in the last six months, as is clear from the report that was submitted to the Secretariat, the Libya Unified Team has completed 18 missions in three geographical areas. They collected over 800 evidence, including video and audio material. They collected more than 30 statements: interviews statements, screening statements. And there has been significant progress compared to the period 2014-2020 in terms of alleged crimes committed in detention centers during that period. They continued to provide concrete, tangible and meaningful support in relation to national proceedings involving crimes against migrants.

[Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for arrest warrants in the situation in the State of Palestine](#)

The ICC Prosecutor requests an arrest warrant before the Preliminary Chamber I of the International Criminal Court in the situation in the State of Palestine.

On the basis of evidence gathered and examined by the office, he has good reason to believe that Yahya SINWAR (head of the Islamic Resistance Movement ("Hamas") in the Gaza Strip), Mohammed Diab Ibrahim AL-MASRI , more commonly known as DEIF (commander-in-chief of Hamas military wing, known as Al-Qassam Brigades) and Ismail HANIYEH (head of Hamas political office) are criminally responsible for the following war crimes and crimes against humanity committed on the territory of Israel and the State of Palestine (in the Gaza Strip) at least since 7



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October 2023: Extermination as a crime against humanity, Murder as a crime against humanity, Torture as a crime against humanity, Other inhumane acts as a crime against humanity, Outrages upon personal dignity as a war crime.

AND ALSO: On the basis of the evidence gathered and examined by the Office, he has reasonable grounds to believe that Benjamin Netanyahu, the Israeli Prime Minister, and Yoav Gallant, the Israeli Defense Minister, are criminally responsible for the following war crimes and crimes against humanity committed on the territory of the State of Palestine (in the Gaza Strip) at least since 8 October 2023: Starvation of civilians as a method of warfare as a war crime, Intentionally directing attacks against a civilian population as a war crime, Persecution as a crime against humanity, Wilfully causing great suffering, or serious injury to body or health, or cruel treatment as a war crime.

It is stressed once again that international law and laws on armed conflict apply to all. No foot soldier, no commander, no civilian leader - no one - can act with impunity. Nothing can justify the voluntary deprivation of human beings, including so many women and children, of the basic necessities necessary for life. Nothing can justify taking hostages or attacking civilians.

INTERNATIONAL CRIMES

[Un-backed court issues warrant for central african ex-leader](#)

Bozize, 77, took power in Central Africa Republic (CAR) in 2003 with a coup before being overthrown 10 years later. He now heads the country's main rebellion and has been in exile in Guinea-Bissau since March 2023.

The CAR Special Criminal Court of is charged with investigating war crimes committed since 2003 in the country, which has endured civil wars and authoritarian regimes since independence from France in 1960.

Court magistrates are investigating possible "crimes against humanity" committed by Bozize's presidential guard between February 2009 and March 2013 in a civilian prison and military training facility in the central city of Bossembele.

A UN-backed court has announced that it has issued an arrest warrant against former President of the Central African Republic François Bozize for possible crimes against humanity committed by the military between 2009 and 2013.

[Syria/Dabbagh case: First trial in France of the crimes of the Syrian authorities](#)

Paris, 2 May 2024. A historic trial will open on 21 May before the Paris Criminal Court. For the first time, the French courts will address the crimes of the Syrian authorities and will try the older members of the authorities who have ever been prosecuted since the outbreak of the Syrian revolution in March



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2011, which led to a brutal repression orchestrated by Bashar. al Assad government. In October 2016, Obeida Dabbagh, brother and uncle of the victims, along with FIDH and LDH, filed a lawsuit in France, with the active support of SCM, following the disappearance of Patrick and Mazzen Dabbagh. After seven years of investigations conducted by the War Crimes Unit of the Court of Justice of Paris, Ali Mamlouk , close advisor to Bashar al-Assad and former head of the National Security Office, Jamil Hassan, former director of the Syrian Air Force's secret services, and Abdel Salam Mahmoud, former head of investigation for the aforementioned service at the Mezzeh military airport in Damascus, were indicted before the Paris Criminal Court in March 2023.

[Gambian former minister of interior Ousman Sonko sentenced to 20 years in prison for crimes against humanity in historic Swiss trial](#)

Ousman Sonko, former Interior Minister of The Gambia, was convicted of crimes against humanity by the Swiss Federal Criminal Court (FCC). The FCC found him guilty of multiple crimes committed between 2000 and 2016, under the government of former Gambian president Yahya Jammeh, and sentenced him to 20 years in prison. Sonko is the highest-ranking official ever convicted in Europe of international crimes under the principle of universal jurisdiction. It was also the second trial for crimes against humanity in Swiss judicial history.

This condemnation is another step on the long road to justice for all victims of the atrocities committed during Jammeh's reign of terror from 1994 to 2016. This was the second trial based on the principle of universal jurisdiction for crimes committed in The Gambia. The first was the case of Bai L., a former member of a paramilitary unit known as the "Junglers", created by the former president. He was sentenced to life imprisonment by a German court for crimes against humanity in November 2023. Another alleged member of the same death squad, Michael Correa, will be tried in the United States in September 2024. He's charged with torture and conspiracy to commit torture.

COUNCIL OF EUROPE

[Council of Europe adopts guidelines on emergency responses to terrorist attacks](#)

The Committee of Ministers adopted a set of [guidelines](#) addressed to its 46 member states to help public authorities and the public sector strengthen emergency responses to terrorist attacks. The guidelines, prepared by the Committee on Counter-Terrorism ([CDCT](#)) in the framework of the [Council of Europe Counter-Terrorism Strategy \(2023-2027\)](#) provide practical advice on key aspects of national emergency responses, including cooperation and coordination between services, planning joint actions and response plans, training of relevant personnel, and communication with the public and the media.



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[Stricter regulation needed to prevent corruption in top executive functions of central governments, says GRECO](#)

The Council of Europe's Group of States against Corruption ([GRECO](#)) called on governments to adopt stricter rules to prevent corruption and promote integrity in high-level executive functions in central governments. In its [annual report](#) for 2023, GRECO expresses concern about the slow implementation of its recommendations on preventing corruption among parliamentarians, compared to other professional groups. It also emphasises that several judicial systems need further reform to ensure the independence of judges and prosecutors and to strengthen the integrity rules applied to them. GRECO's president, Marin Mrčela, said: "There is no transparency without accountability, as impunity only aggravates the risk of corruption and undermines public trust. More regulation and rigour are needed to tackle corruption risks related to the highest executive functions..". GRECO believes that states should ensure that their institutional and legislative frameworks on integrity apply fully and directly not only to high-level civil servants, but also to ministers, their political advisors, other officials holding political office and some heads of state; it also emphasises that states should do more to ensure that corrupt behaviour and lack of integrity are adequately addressed at all levels of the hierarchy and to prevent unwarranted government interference in policing. Comprehensive anti-corruption and integrity policies for the police need to be adopted, as well as improved management of conflicts of interest and secondary employment, protection of whistleblowers, and recruitment, promotion and dismissal processes.

OSCE

[OSCE and Council of Europe leadership stress the importance of strengthened co-operation to protect the principles and values of the Organizations](#)

The leadership of the Council of Europe and the Organization for Security and Co-operation in Europe met in Strasbourg on the margins of the 133rd Session of the Council of Europe's Committee of Ministers in Strasbourg on 16 and 17 May 2024. Since their establishment, both the Council of Europe and the OSCE continue to play a crucial role in overseeing and safeguarding the laws, rules and norms that underpin international peace, stability and cooperation, based on respect for human rights, democracy and the rule of law. Participants discussed the efforts of both organisations to promote and protect their common values while ensuring accountability and justice for Ukraine and its people, reiterating their call for continued support for Ukraine in addressing the many challenges it faces. The leaders of both organisations agreed that it is essential to continue to uphold the



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principles, standards and commitments upheld by both organisations, emphasising the complementary nature of their mandates and the need for greater coordination to streamline resources and ensure a more comprehensive response to the challenges on the ground.

EUROPEAN COURT OF HUMAN RIGHTS

[Oleg Balan v. the Republic of Moldova](#) (Application no. 25259/20)

The applicant, Oleg Balan, is a Moldovan national, who served as Minister of the Interior between 2015 and 2016. In November 2015 Mr Renato Usatîi, mayor of Bălţi published an “information note” on his Facebook page. The document bore the letterhead of the Security and Information Service (SIS), dated May 2015, and addressed to the President of the Republic of Moldova, alerting the President to criminal activity conducted by Mr Balan. The news of Mr Usatîi’s post was published by several news portals. The same day the SIS declared that it had nothing to do with the note posted, followed, the day after, by the President’s office that stated that it never received that note. Mr Balan asked Mr Usatîi to formally declare the note ad false, asking also for a public apology and 500’000 Moldovan lei. Mr Balan received no answer, so he lodged a court action also naming the media outlets who had relayed the defamatory statements as defendants in the case, case in which the Chişinău District Court found in Mr Balan’s favour. The Chişinău Court of Appeal subsequently sent the case to re-evaluation, with the Chişinău District Court finding in Mr Balan’s favour and the Chişinău Court of Appeal finding in Mr Balan's favour. The Supreme Court of Justice overturned the lower courts’ judgements, rejecting Mr Balan’s claims. Relying on Article 8 of the ECHR, Mr Balan complained that the Supreme Court’s rejection of his claim had amounted to a breach of his right to the protection of his honour, dignity, and reputation. Relying on Article 13 taken together with Article 6, he complained that he had not been able to respond to the reasoning given by the Supreme Court of Justice. The Court found that there had been a violation of Article 8 because the Court was not convinced that the Supreme Court had struck a fair balance between the competing rights involved under the Convention. The Court rejected Mr Balan’s complaint under Article 13 taken together with Article 6 as inadmissible. The Court held that the Republic of Moldova was to pay the applicant 1’500€ in respect of non-pecuniary damage.

[Amar v. France](#) (Application no. 4028/23)

The applicant, Patrice Amar, is a French National. As First Deputy Prosecutor at the PNF, Mr Amar worked in proceedings against Mr Sarkozy on a charge of bribing a member of the Court of Cassation.



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During the investigations, the Central Anti-Corruption Office noticed that Mr Sarkozy was using a phone line set up under an assumed name, phone line placed under surveillance. Subsequently, the police became convinced that Mr Sarkozy had been informed of the tapping, this brought the PNF to open a preliminary investigation to identify who had potentially committed a breach of professional secrecy. The CSM delivered a reasoned opinion on 19 October 2022, finding that the applicant had committed no disciplinary offence. The applicant, relying on Article 6 § 1, submitted that the CSM had not addressed his arguments, and he also complained of the lack of a decision after the CSM's finding, which in his view had merely been an opinion. Relying on Article 8, Article 10 and Article 13, the applicant also submitted that by finding that he had acted unethically the CSM had infringed on his right to moral integrity and his right to freedom of expression. The Court found that the right of access to a court for the purposes of Article 6 of the Convention could not be interpreted so as to guarantee the right to a decision amenable to appeal should disciplinary proceedings be discontinued, or should the competent authorities find that no disciplinary offence had been committed, so, this part of the application had to be declared inadmissible. Regarding the complaint under Article 8 the Court holds that only disciplinary proceedings and sanctions against judges could trigger the applicability of that provision, furthermore, in the present case, the alleged negative effects of the proceedings could not be the result of any sanction, as no such measure had been imposed. The applicant could not therefore claim to be a victim of a violation of Article 8. Concerning the complaint under Article 10 the Court reiterated that no sanctions had been imposed on the applicant, he thus could not claim to be a victim of a violation of Article 10. Lastly, Article 13 would not apply if the applicant were able to claim to have been a victim of a violation of another Convention right. For these reasons, the Court unanimously declared the application inadmissible.

A.K. v. Russia (Application no. 49014/16)

The applicant, A.K., is a Russian national, who, from 2011 worked as a music teacher in a state school. In 2014 she was informed of a “dossier” on her private life prepared by a non-governmental organisation; owing to “her propaganda of non-traditional sexual orientation” and bringing the vocation of a teacher into disrepute, she was asked to resign her position, she refused, but later she was dismissed because of “immoral acts incompatible with continued performance of teaching activities”, dismissal later found to be valid by the Kirovskiy District Court of St. Petersburg. An appeal and two cassation appeals by her were unsuccessful. Relying on Article 8 and Article 14, the applicant complained of the decision to terminate her contract on the grounds of sexual orientation. The Court found that the dismissal had been an interference with her right to respect for her private



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life and, therefore, there had been a violation of Article 8, and Article 14 in conjunction with Article 8. The Court held that Russia was to pay the applicant a total of 22'500€.

Mitrevska v. North Macedonia (Application no. 20949/21)

The applicant, Mirijana Mitrevska, is a national of North Macedonia who was adopted as a child. In 2017 Ms Mitrevska submitted two requests to the Skopje social services for information about her adoption for medical reasons. She sent the same request to the Ministry of Labour and Social Policy's Adoption Commission. Both the social services and the Commission told her that it was impossible to share information on completed adoptions. She brought a claim in the administrative courts, which was unsuccessful. Relying on Article 8, the applicant complained that she could not obtain information about her adoption, arguing that the authorities had not attempted to strike a balance between her interest in knowing about her origins and her biological mother's right to withhold information about her. The Court found that, not providing an exception to the secrecy rule on medical grounds, there had been a violation of Article 8. The Court held that North Macedonia was to pay the applicant a total of 5'940€.

Contrada v. Italy (no. 4) (Application no. 2507/19)

The applicant, Bruno Contrada, is an Italian national; he is a former senior police officer and Deputy Director of the SISDE. Mr Contrada was convicted for supporting a mafia-type organisation, for having systematically contributed to the activities and the achievement of the criminal aims of "Cosa Nostra." In 2017 the public prosecutor's office ordered the urgent tapping of five telephone lines used by Mr Contrada, but Mr Contrada was not a suspect. In 2018 the public prosecutor's office also ordered a search of the applicant's home and two other properties used by him, searches that took place on 29 June 2018. Mr Contrada complained of an unjustified interference with his rights under Article 8 and the lack of an effective judicial review of the contested measures, which had been ordered during proceedings to which he had not been a party. In that regard, he claimed to be a victim of Article 6 and Article 13. The Court noted that the applicant could claim to be a victim of a violation of Article 8 as the Italian law did not afford adequate and effective guarantees against abuse to individuals who had been subjected to an interception measure but who, since they were not suspected or accused of involvement in an offence, were not parties to the proceedings. In view of its shortcomings, the Court found that Italian law did not meet the "quality of law" requirement and was incapable of keeping the interference to what was "necessary in a democratic society," so there had accordingly been a violation of Article 8. The Court held that there was no need to examine the



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complaint under Articles 6 and 13. The Court held that Italy was to pay the applicant 9'000€ in respect of non-pecuniary damage.

[Domenjoud v. France](#) (*Applications nos. 34749/16 and 79607/17*)

As a preventive measure taken to ensure the security of the COP21 summit, the French Minister of the Interior placed Cédric and Joël Domenjoud under home curfew for 16 days, indicating the applicants as leaders of the “black bloc” movement. On 27 November 2015, the applicants both lodged urgent applications for the interim protection of a fundamental freedom with the aim of having the execution of their home-curfew orders stayed, applications dismissed by the competent administrative courts. Cédric and Joël Domenjoud lodged two separate appeals with the *Conseil d'État*, appeals that were rejected. Relying on Article 5 and on Article 2 of Protocol No. 4, the applicants complained about being placed under home curfew, arguing that those measures were not covered by Article 15. The Court found that the complaint under Article 5 had to be rejected because the measures had not deprived the applicants of the ability to have a social life and maintain relations with the outside world. The Court also found that the measures taken against Cédric Domenjoud had not been disproportionate to the aims pursued, whilst the measures taken against Joël Domenjoud could be not considered as “necessary in a democratic society”, holding that the measure had not fully met the substantive and procedural requirements of Article 2 of Protocol No. 4. The Court held that France was to pay Joël Domenjoud a total of 11'500€.

[Patricolo and Others v. Italy](#) (*Applications nos. 37943/17, 54009/18 and 20655/19*)

The applicants are four Italian nationals, Mario Patricolo, Milvia Brutti, Marcella Angeloni and Fausto Roda and one limited liability company, Immobiliare Il Castelletto S.R.L. The applicants lodged appeals on points of law with the Court of Cassation, which were declared inadmissible for failure to lodge with that court's registry a notice of service of the decisions they wanted to appeal against. In 2017 the Bologna Court of Appeal overturned a judgement and declared a contract of sale to be ineffective, they appealed on points of law to the Court of Cassation, which rejected their application on 5 October 2018. Relying on Article 6 § 1, the applicants complained that the decisions of the Court of Cassation had amounted to excessive formalism and had unjustifiably restricted their right of access to a court. The Court found that, in applications no. 54009/18 and 20655/19, there had been a violation of Article 6 § 1.

[Pietrzak and Bychawska-Siniarska and Others v. Poland](#) (*Applications nos. 27038/17 and 5237/18*)



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The case concerned a complaint by five Polish nationals about Polish legislation authorising a secret-surveillance regime covering both operational control and the retention of telecommunications, postal and digital communications data for potential future use by the relevant national authorities. They alleged that there was no remedy available under domestic law allowing persons who believed that they had been subjected to secret surveillance to complain about that fact and to have its lawfulness reviewed. The Court held that there had been three violations of Article 8 in respect of the complaints concerning the operational-control regime, the retention of communications data for potential use by the relevant national authorities, and the secret-surveillance regime under the Anti-Terrorism Act. Given the secret nature and wide scope of the measures provided for by the Polish legislation and the lack of effective review by which persons who believed that they had been subjected to surveillance could challenge this alleged surveillance, the Court found it appropriate to examine the legislation at issue *in abstracto*. It considered that the applicants could claim to be the victims of a violation of the Convention, and that the mere existence of the relevant legislation constituted an interference with Article 8. The Court then held that national legislation did not provide sufficient safeguards against excessive recourse to surveillance and undue interference with individuals' private life. In its view, the national operational-control regime, taken as a whole, did not comply with the requirements of Article 8. It further considered that the national legislation, under which ICT providers were required to retain communications data in a general and indiscriminate manner for possible future use by the relevant national authorities, was insufficient to ensure that the interference with the applicants' right to respect for their private life was limited to what was "necessary in a democratic society". Lastly, the Court concluded that the secret-surveillance provisions in the Anti-Terrorism Act also failed to satisfy the requirements of Article 8 of the Convention, noting, among other points, that neither the imposition of secret surveillance nor its application in the initial three-month period were subject to any review by a body that was independent and did not include employees of the service conducting that surveillance. The Court held that Poland was to pay a total of 3'155,5€.

[Saakashvili v. Georgia](#) (*Application nos. 6232/20 and 22394/20*)

The case concerned two separate sets of criminal proceedings brought against Mikheil Saakashvili, former President of Georgia. The first set of proceedings concerned an attack in 2005 on a member of parliament, while the second set concerned his granting a pardon in 2008 to four former high-ranking officers of the Ministry of the Interior who had been convicted of murder. Both sets of proceedings took place after the newly formed government in 2012 officially declared that investigating the wrongdoings of the past would be a key priority. In the case the Court that there had been no violations of Article 6 §§ 1 and 3 as concerned either the way in which the national courts



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had dealt with the evidence against Mr Saakashvili or the alleged lack of independence or impartiality of the judge who had examined the second criminal case against him; and that there had been no violation of Article 7. Mr Saakashvili could have foreseen, in the circumstances of the case, that using his power of clemency to pervert the course of justice in a murder case would render him criminally liable under Georgian law. The Court also rejected as inadmissible Mr Saakashvili's complaints under Article 18, it found that he had not substantiated his allegation that there had been an ulterior motive – hindering his participation in Georgian politics – behind his prosecution. The Court considered in this respect that the charges brought against Mr Saakashvili had been serious and well-founded, that there had been a significant body of both direct and concordant circumstantial evidence against him in the case file, that the national courts had conducted fully adversarial proceedings during which his lawyer had been able to confront all the major witnesses and otherwise contest the evidence against him and that, above all, the court decisions had been duly reasoned.

Zarema Musayeva and Others v. Russia (Application nos. 4573/22)

In the case the Court held that there had been violations of Article 2, 3, 5 § 1, 6 § 1 and 18. The case concerned Zarema Musayeva, wife of a former Chechen Supreme Court judge, who was forcibly removed in January 2022 by the police from her home in the Nizhniy Novgorod region in Russia and taken 2,000 km away to Grozny in Chechnya, as well as her subsequent detention and the administrative and criminal proceedings brought against her there. It also concerned the ill-treatment that Ms Musayeva and her husband and daughter had been subjected to by the Chechen police, against the background of repeated public death threats against them by high-ranking Chechen officials, including the President Ramzan Kadyrov, who had promised to “hunt them down” and “cut their heads off”. The Court found that the Russian authorities, whose representatives had been the source of the death threats, had to have been aware of but had done nothing about the real and immediate risk to the lives of Ms Musayeva, her husband, and their daughter. It also found that they had been ill-treated by the Chechen police and that Ms Musayeva's arrest and detention had been arbitrary and intended as retaliation against her family, who engaged in human-rights work and opposition activities in Chechnya. The hurried administrative proceedings against her, without legal representation and while she was quite obviously unwell, had breached fair trial guarantees. Lastly, the Court held, unanimously, that in early March 2022 the Russian authorities had stopped providing updates on medical treatment given to Ms Musayeva, who is diabetic, despite an interim measure it had issued, in violation of Article 34. The Court held that Russia was to pay a total of 65,000€.

The J. Paul Getty Trust and Others v. Italy (Application no. 35271/19)



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In the case the Court held that there had been no violation of Article 1 of Protocol No. 1. The case concerned a confiscation order, issued by the Italian authorities, aimed at the recovery of a cultural heritage object, specifically the “Victorious Youth,” a bronze statue dating from the classical Greek period attributed to Lysippus. The statue, which had been allegedly illegally purchased by the J. Paul Getty Trust, is currently housed at the Getty Villa Museum in Malibu. The Italian authorities acted with the purpose of recovering an unlawfully exported piece of cultural heritage. The Court reiterated that the protection of a country’s cultural and artistic heritage was a legitimate aim for the purposes of the Convention. It furthermore noted that several international instruments stressed the importance of protecting cultural goods from unlawful exportation. As to the protection afforded by the Convention, the Court considered that that the legitimacy under of State measures aimed at protecting cultural heritage against unlawful exportation from the country of origin, or at ensuring its recovery and return therein in cases where the unlawful act had nonetheless taken place, in both cases with a view to facilitating in the most effective way wide public access to works of art, could not be called into question. The Court further held that owing, in particular, to the Getty Trust’s negligence or bad faith in purchasing the statue despite being aware of the claims of the Italian State and their efforts to recover it, the confiscation order had been proportionate to the aim of ensuring the return of an object that was part of Italy’s cultural heritage.

EUROPOL

[New network to target migrant smugglers in the digital domain](#)

On 29 and 30 April 2024, experts from law enforcement, prosecution, the judiciary, the EU and international organisations met at Europol headquarters to discuss the digital aspect of migrant smuggling, the first in a series of meetings the [Global Alliance to Counter Migrant Smuggling](#) launched in November. The meeting was attended by over 100 participants from 23 EU Member States and 12 non-EU countries, as well as representatives from the European Commission, Eurojust, the European External Action Service, Frontex, Interpol and UNODC. Discussions at the meeting focused on prevention, response, international cooperation and how to work with the private sector to counter migrant smuggling activities enabled by the use of online platforms. Digitalisation enhances all aspects of this type of crime, such as recruitment, advertising and coordination of smuggling activities, as well as the laundering of illicit profits, and enables criminal actors to organise their illegal activities under the radar of law enforcement agencies. Combating migrant smuggling in the digital space presents significant challenges for law enforcement and judicial authorities. Migrant traffickers have identified easily accessible, often free, digital tools whose use facilitates their illegal



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operations. This tool used by traffickers consists of online platforms, including social media applications, encrypted communications and cryptocurrencies. During the conference, participants identified common needs to more effectively address the challenges posed by the online component of migrant trafficking activities.

[Largest ever operation against botnets hits dropper malware ecosystem](#)

Between 27 and 29 May 2024 Operation Endgame, coordinated from Europol's headquarters, targeted droppers including, IcedID, SystemBC, Pikabot, Smokeloader, Bumblebee and Trickbot. Malware droppers are a type of malware designed to install additional malware on a target system. They are used during the first phase of a malware attack, during which they allow criminals to bypass security measures and deploy additional malware, such as viruses, ransomware or spyware. Droppers can enter systems through various channels, such as e-mail attachments, compromised websites, they can also be associated with legitimate software. After that, the dropper installs additional malware on the victim's computer, without the victim's knowledge. The operation, initiated and led by France, Germany and the Netherlands, was also supported by Eurojust and involved Denmark, the United Kingdom and the United States. In addition, Armenia, Bulgaria, Lithuania, Portugal, Romania, Switzerland and Ukraine also supported the operation with various actions, such as arrests, interrogation of suspects, searches and seizures or removal of servers and domains. Europol facilitated the exchange of information and provided analytical, crypto-tracking and forensic support to the investigation. To support the coordination of the operation, Europol organised more than 50 coordination calls with all countries, as well as an operational sprint at its headquarters. Actions focused on disrupting criminal services by arresting high-value targets, demolishing criminal infrastructure and freezing illegal proceeds. After the days of action, eight wanted fugitives from Germany, connected to these criminal activities, will be added to Europe's most wanted list on 30 May 2024. The persons are wanted for their involvement in serious cybercrime activities. Operation Endgame does not end here. The new actions will be announced on the Operation Endgame website. In addition, suspects involved in these and other botnets, who have not yet been arrested, will be held directly accountable for their actions.

COUNCIL OF THE EUROPEAN UNION

[Council sets higher tariffs on Russian and Belarusian grain products](#)



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The EU's imports of grain products from Russia have significantly increased since Russia's full-scale invasion of Ukraine on 24 February 2022. While the Russian Federation remains a relatively small supplier of those products to the EU market, it is a leading world-wide producer and exporter of those products.

Given its current volumes of exports to the world, the Russian Federation could reorient significant volumes of supplies of those products to the EU, causing a sudden inflow from its large existing stocks, thereby disrupting the EU market. Moreover, there is evidence that the Russian Federation is currently illegally appropriating large volumes of such products in territories of Ukraine, which it illegally occupies, and routing them to its export markets as allegedly Russian products.

The Council adopted a regulation that aims to levy prohibitive tariffs on grain products imported from Russia and Belarus. The regulation increases import tariffs for cereals, oilseeds and derived products as well as beet-pulp pellets and dried peas from the Russian Federation, as well as from the Republic of Belarus, for which, at present, importers pay no or low tariffs. In addition, those goods will be barred from access to the Union's tariff rate quotas. These measures concern products originating in or exported directly or indirectly from the Russian Federation or the Republic of Belarus to the EU. They will not affect transit through the EU from both countries to other third countries.

[Russia: EU sets up new country-specific framework for restrictive measures against those responsible for human rights violations, and lists 20 persons](#)

The EU has established a new framework of sanctions against those responsible for serious human rights violations, repression of civil society and democratic opposition in Russia, as well as actions that undermine democracy and the rule of law. This new regime was proposed by Josep Borrell, representative for foreign affairs and security policy, after the death of the opponent Alexei Navalny in a Siberian prison in February. Sanctions will allow the EU to target those who provide financial, technical or material support for human rights violations in Russia or are associated with such violations. In addition, trade restrictions will be introduced on the export of materials that can be used for internal repression, information security, control and interception of telecommunications.

The Council also decided to list one entity and 19 natural persons under the new regime as the Federal Penitentiary Service of the Russian Federation and several judges, prosecutors and members of the judiciary, who played a key role in the imprisonment and ultimate death of Alexei Navalny.

EPPPO

[Croatia: former deputy minister arrested in investigation involving the University of Zagreb](#)



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At the request of the European Public Prosecutor's Office (EPPO) in Zagreb (Croatia), former Deputy Minister at the Ministry of Culture and Media, currently Conservative Head of the Cultural Heritage Directorate, he was arrested today on charges of corruption, as part of an investigation at the Faculty of Geodesy of the University of Zagreb. The former dean of the Faculty of Geodesy and a former professor of the same faculty were also arrested. The facts date back to the time of the earthquake that struck Zagreb on 22 March 2020, causing serious damage to cultural heritage buildings. The then Deputy Minister at the Ministry of Culture and Media was appointed team leader of an investigation to identify buildings damaged by the earthquake, which included three-dimensional documentation of the destruction. According to the investigation, the former deputy minister agreed with the Dean of the Faculty of Geodesy to entrust these documentation tasks to the Faculty, in exchange for a cash reward. It is understood that he, as a public official of the Ministry of Culture and Media, was aware that the Faculty did not have sufficient qualified personnel or equipment to carry out these tasks and that he would hire a company to carry them out. According to the evidence, that company was controlled by the principal and the professor, who were the real beneficiaries of the arrangement. It is understood that, in agreement with the former deputy minister, the Faculty of Geodesy issued invoices to the Ministry of Culture and Media for a much higher price than that at which the same work would be performed by companies equipped with the necessary personnel and equipment. It is estimated that the overpayment of the works caused damage of more than 1 million euros to the State Budget of the Republic of Croatia, due to inflated prices. Due to the lack of work done and in some cases the absence of 3D scans, the tasks had to be performed again by other companies, which resulted in additional costs. For this reason it was necessary to pay an additional 31,681.39 euros, causing damage to the EU Solidarity Fund, which financed these additional works, for an amount of 17,699.70 euros, and to the State Budget of the Republic of Croatia, for an amount of 17,699.70 euros. of € 13 981,68.

[Italy: EPPO seizes assets as part of an investigation into a €650,000 fraud involving agricultural funds](#)

At the request of the European Public Prosecutor's Office (EPPO) in Palermo (Italy), the *Guardia di Finanza* has carried out a freezing order against two farmers suspected of fraud on agricultural funds, with an estimated damage of 650,000 euros. The suspects, owners of a farm in Scordia, allegedly falsely declared, between 2017 and 2023, the ownership and possession of land in the municipalities of Vittoria and Acate, in order to obtain community agricultural funds. It is understood that in doing so they deceived the Italian Agency for Agricultural Payments (AGEA) and unduly received over 650,000 euros of EU subsidies. The timing of the investigation allowed to block the payment of at



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least 50 thousand euros. At the request of the delegated European Prosecutors, the judge of the Court of Caltagirone ordered the seizure of assets, including bank accounts, real estate and cars, corresponding to the sum unduly received - measure executed last 21 May by the delegated European Prosecutor.

EUROJUST

[Eurojust continues to support the EU's judicial response to the war in Ukraine, says the Agency's 2023 Annual Report](#)

Leading the European Union's judicial response to the war in Ukraine and digitising criminal justice were at the heart of Eurojust's work in 2023, and will continue to be so, says the Agency's annual report, published on 30 May 2024. 2023 saw the launch of the Core International Crimes Evidence Database (CICED) of Eurojust and the International Centre for the Prosecution of the Crime of Aggression against Ukraine (ICPA). These unique mechanisms support the crucial work of the joint investigation team (JIT) on the alleged international crimes committed in Ukraine and represent a turning point in ensuring accountability for the atrocities of Russia's war of aggression. The Eurojust Digital Criminal Justice Programme, also launched in 2023, enables faster and closer cooperation between the Agency, Member States, partners and third countries, facilitating cross-border justice. While the work of Eurojust in 2023 continued to focus strongly on supporting the judicial response of Member States and partners to the war in Ukraine, At the same time, the Agency has fully fulfilled its mandate to combat all serious cross-border crimes, increasingly handling more than 13,000 cases. Eurojust's operational activity increased by 14% in 2023 compared to 2022. The Agency has contributed to the arrest of more than 4,200 suspects and the seizure and freezing of criminal assets worth more than EUR 1 billion. Eurojust has also contributed nearly EUR 26 billion to the seizure of medicines, which is more than double the amount it helped to seize in 2022. Reflecting the growing scale of the challenge, the number of victims affected by cases handled by the Agency in 2023 increased by 12%, as did the number of cases involving organised crime groups. In 2023, Eurojust supported 9% more joint investigation teams than in 2022, demonstrating the trust and trust of national authorities in the Agency's services to facilitate judicial cooperation.

[Important operation to eliminate dangerous malware systems](#)

In an unprecedented operation against aggressive and dangerous malware, the authorities of the European Union and other countries have taken action against droppers including IcedID, Pikabot,



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Smokeloader, Bumblebee and Trickbot, who infiltrated computers via email. The measures focused on the interruption of criminal services through the arrest of suspects, the freezing of illegal proceeds and the deactivation of botnets, coordinated by Eurojust. The operation, conducted with the support of Europol, follows the successful removal of the Emotet malware system in 2021. In the course of simultaneous actions in Germany, the Netherlands, France, Denmark, Ukraine, the United States and the United Kingdom, 4 suspects who offered malware as a professional blackmail service to other criminals were arrested. Some of the suspects were involved in the management of Emotet in the past. Through the so-called "sinkholing" techniques, namely the use of tools to access the systems of the operators behind the malware, investigators have managed to block and dismantle the botnets. Malware droppers are types of malicious software that download viruses, ransomware, or spyware onto computers. They are usually installed via email with infected links or Word and PDF attachments, such as shipping invoices or order forms, to gain access to personal data and/or bank accounts of computer users. It is mainly businesses, authorities and national institutions that remain victims of the series of malware systems that have now been removed. Eurojust has set up a coordination centre at its headquarters to manage simultaneous actions in all the countries concerned. The Agency also assisted national authorities in the preparation and execution of European arrest warrants, European investigation orders and mutual legal assistance requests, and organised five coordination meetings.

CORTE DI CASSAZIONE

[Requirement for the EU Member State to inform the citizenship State in case of extradition](#) (*sent. 21955/24*)

The Sixth Criminal Section of the *Corte di cassazione* has stated, in matter of extradition toward non-EU State, that the requested State, if EU Member, has to inform about the citizenship State of the subject, in application of the notification mechanism required by the CJEU's "*Petruhhin*" judgement. As stated by the Court, the extraditing State has to notify the citizenship State even if only the national law of the citizenship State includes the citizenship as prohibitive condition for extradition. The *ratio* behind the principle is to allow the citizenship State to prosecute the citizen, asking the extradition itself via European Arrest Warrant.



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