MONTHLY WRAP SEPTEMBER 2024

UNITED NATIONS SECURITY COUNCIL

S/RES/2750(2024)

The Security Council ton 11 September extended sanctions against Sudan - including asset freezes, travel bans and an arms embargo - until 12 September 2025.
Unanimously adopting resolution 2750 (2024) under Chapter VII of the Charter of the United Nations, the 15-member organ decided to roll over those measures for another year, with a decision on their further renewal to be made no later than 12 September 2025.

UNITED NATIONS GENERAL ASSEMBLY

A/ES-10/L.31/REV.1

The United Nations General Assembly on 18 September voted overwhelmingly to adopt a resolution that demands that Israel "brings to an end without delay its unlawful presence" in the Occupied Palestinian Territory. The resolution calls for Israel to comply with international law and withdraw its military forces, immediately cease all new settlement activity, evacuate all settlers from occupied land, and dismantle parts of the separation wall it constructed inside the occupied West Bank.
The General Assembly further demanded that Israel return land and other "immovable property", as well as all assets seized since the occupation began in 1967, and all cultural property and assets taken from Palestinians and Palestinian institutions.
The resolution stems from the advisory opinion issued by the International Court of Justice (ICJ) in July, in which the Court declared that Israel's continued presence in the Territory "is unlawful", and that "all States are under an obligation not to recognize" the decades-long occupation.
The Assembly "strongly deplored the continued and total disregard and breaches" by the Government of Israel of its obligations under the UN Charter, international law and UN resolutions, stressing that such breaches "seriously threaten" regional and international peace and security. It also recognized

IECLO DIRECTOR: Prof. Anna ORIOLO
Department of Legal Sciences
(School of Law)
University of Salerno
Via Giovanni Paolo II, 132
84084 Fisciano (SA) - Italy
www.ieclo.org
info@ieclo.org

that Israel "must be held to account for any violations" of international law in the Occupied Palestinian Territory, including of international humanitarian and human rights laws. The General Assembly highlighted the need for the establishment of an international mechanism for reparations to address damage, loss, or injury caused by Israel's actions. It also called for creating an international register of damage caused to document evidence and related claims.

UNITED NATIONS SECRETARY-GENERAL

UN chief strongly condemns Mali terrorist attack

UN Secretary-General António Guterres has called for accountability following a "despicable" terrorist attack in Mali.
Scores of people were reportedly killed in the capital, Bamako, on 19 September when Islamic militants attacked several locations, including a military police academy, according to international media reports. The violence forced the authorities to temporarily close the international airport.
The militant group JNIM, which is linked to Al-Qaeda, claimed responsibility.
He called on the Malian transitional Government "to ensure that those responsible for this despicable attack are held to account." The UN maintained a decade-long peacekeeping mission in the country, known as MINUSMA, which ceased operations in December 2023.

UNESCO

Sudan: UNESCO raises the alarm on reports of illicit trafficking of cultural heritage

UNESCO is deeply concerned about the recent reports of possible looting and damage of several museums and heritage institutions in Sudan, including the National Museum, by armed groups. The Organization calls on the international community to do its utmost to protect Sudan's heritage from destruction and illicit trafficking. Since the start of the hostilities in April 2023, UNESCO has been closely monitoring the impact of this crisis on Sudan's heritage, cultural institutions and artists. In recent weeks, this threat to culture appears to have reached an unprecedented level, with reports of looting of museums, heritage and archaeological sites and private collections.
It recalls the obligations of all parties to comply with international humanitarian law by refraining from damaging, looting or using cultural property for military purpose. UNESCO reiterates its call

upon the public and the art market involved in the trade of cultural property in the region and worldwide to refrain from acquiring or taking part in the import, export or transfer of ownership of cultural property from Sudan. Any illegal sale or displacement of these cultural items would result in the disappearance of part of the Sudanese cultural identity and jeopardize the country's recovery.
It will continue to step up its action to prevent such trafficking.

UN HUMAN RIGHTS COUNCIL

Sudan war: Rights probe demands wider arms embargo to end 'rampant' abuse

Top human rights investigators into Sudan's brutal war called on 6 September for a country-wide arms embargo as they recounted harrowing testimony of victims of horrific sexual attacks whose bodies are treated as a "theatre of operation" by fighters acting with total impunity.
In its first report on the crisis after being created by the UN Human Rights Council in Geneva in October 2023, the panel insisted that rival militaries the Sudanese Armed Forces (SAF) and the Rapid Support Forces (RSF), as well as their respective allies, were responsible for large-scale, indiscriminate and direct attacks involving airstrikes and shelling against civilians, schools, hospitals, communication networks and vital water and electricity supplies – indicating a total disregard for the protection of non-combatants. The three independent rights experts leading the work of the Mission - Mohamed Chande Othman, Chair, Joy Ngozi Ezeilo and Mona Rishmawi – emphasized that responsibility for the grave violations lay with "both parties and their respective allies" with many amounting to international crimes. Although the Government of Sudan has refused to cooperate with the fact-finding Mission after rejecting its mandate, investigators have gathered first-hand testimony from 182 survivors, family members and eyewitnesses. The panel's report also offered insight into "large-scale, ethnic-based attacks on the non-Arab civilian population" – and in particular, the Masalit people - in El Geneina, the capital of West Darfur, an ethnically diverse city to around 540,000 people. Highlighting the failure of the Sudanese military to protect civilians in cities and camps for those uprooted by the war, the rights experts urged the international community to extend the current arms embargo on the Darfurs to the whole of the country.

Iran: Repression of women 'intensifying', two years on from mass protests

IECLO DIRECTOR: Prof. Anna ORIOLO
Department of Legal Sciences
(School of Law)
University of Salerno
Via Giovanni Paolo II, 132
84084 Fisciano (SA) - Italy
www.ieclo.org
info@ieclo.org

The Iranian Government has intensified its efforts to suppress the fundamental rights of women and girls and crush remaining initiatives of women's activism, UN Human Rights Council-appointed independent investigators warned in an update released on 13 September. "The Islamic Republic of Iran relies on a system, both in law and in practice, that fundamentally discriminates on the grounds of gender," the update noted, highlighting the far-reaching impacts on women and girls' bodily autonomy, freedom of expression and religion, as well as a wide range of economic, social and cultural rights. Iranian security forces have escalated pre-existing patterns of physical violence, including beating, kicking, and slapping women and girls who are perceived as failing to comply with the mandatory hijab laws and regulations, according to the report from the UN's Independent International Fact-Finding Mission on Iran. State authorities have also increased monitoring of hijab compliance in both the public and private spheres through the increased use of surveillance, including drones. Meanwhile, over the last two years, the death penalty and other criminal laws have been used to terrorise Iranians and discourage them from protesting and expressing themselves freely, investigators said. Amidst such escalation in violence, a "Hijab and Chastity" bill is in the final stages of approval where it is likely to be finalised. The bill will issue harsher penalties for women who do not wear the mandatory hijab, including exorbitant financial fines, longer prison sentences, restrictions on work and educational opportunities, and bans on travel, the independent rights experts contend.

UNITED NATIONS ENVIRONMENT PROGRAM

UNEP addressed the General Assembly on Antimicrobial Resistance

During the High-level meeting of the General Assembly on Antimicrobial Resistance, the UNEP stressed about the concerning on the Antimicrobial Resistance (AMR), soliciting actions against a growing and deadly threat, not only for human health but also for agriculture and the productive system. The High-level meeting, hosted by the World Health Organization, has brought to a political declaration, approved by Global leaders, committing to reduce human deaths associated to AMR via an investment plan worth over 100 million USD.

UN RELIEF AND WORKS AGENCY FOR PALESTINE REFUGEES IN NEAR EAST (UNRWA)

IECLO DIRECTOR: Prof. Anna ORIOLO
Department of Legal Sciences
(School of Law)
University of Salerno
Via Giovanni Paolo II, 132
84084 Fisciano (SA) - Italy
www.ieclo.org
info@ieclo.org

Situation Report #1 on the Lebanon Emergency Response

Following the escalation of the conflict between Israel and Hezbollah on 23 September, Lebanon has faced a humanitarian crisis, with thousands of civilians displaced due to intense airstrikes. Many have fled to the north, and the southern city of Saida is particularly overwhelmed by the influx of displaced people, resulting in shortages of basic supplies like food and water.
UNRWA has stepped in to provide emergency shelter, opening three facilities in Saida and the north by 25 September, sheltering 490 individuals from Lebanese, Syrian, and Palestinian backgrounds, with numbers rising. The agency is providing food, water, and medical support, while preparing additional shelters to accommodate the growing number of displaced people.
The conflict has killed over 550 people and injured more than 1,800, stretching Lebanon's healthcare system to its limit. Despite efforts by the government to use schools as shelters, the scale of the crisis has overwhelmed resources. UNRWA's efforts to provide safe spaces and essential supplies highlight the urgent need for humanitarian aid in the face of this growing displacement crisis.

INTERNATIONAL CRIMINAL COURT

Kony case: Pre-Trial Chamber III postpones confirmation of charges hearing

On 12 September 2024, Pre-Trial Chamber III of the International Criminal Court (ICC) decided to postpone the commencement of the confirmation hearing in the case The Prosecutor v. Joseph Kony to a new date, which will be announced at a later stage. The hearing had been initially scheduled to open on 15 October 2024, in the suspect's absence. The purpose of the confirmation of charges hearing is to determine whether there is sufficient evidence to establish substantial grounds to believe that the person committed each of the crimes charged. The Rome Statute allows for the confirmation of charges proceedings at the Pre-Trial stage in the absence of the suspect, under specific conditions. If the charges are confirmed, the case can only proceed to trial if the accused is present before the Trial Chamber.

ICC and Europol conclude agreements to enhance cooperation

On 18 September 2024, Judge Tomoko Akane, the President of the International Criminal Court, and Catherine De Bolle, the Executive Director of Europol, signed a Memorandum of Understanding on secure communication and a Liaison Agreement at Europol Headquarters in The Hague.

IECLO DIRECTOR: Prof. Anna ORIOLO
Department of Legal Sciences
(School of Law)
University of Salerno
Via Giovanni Paolo II, 132
84084 Fisciano (SA) - Italy
www.ieclo.org
info@ieclo.org

These agreements complement a framework Working Arrangement establishing cooperative relations which was signed between Europol and the ICC on 25 April 2023. The agreements operationalise aspects of the cooperative relations between the ICC and Europol, better enabling the two institutions to enhance their cooperation and encourage the exchange of information, knowledge, experience and expertise.

ICC judges annual retreat discusses the responsibilities of presiding and alternate judges

On 25 September 2024, the judges of the International Criminal Court held their annual judicial retreat in the Hague. The retreat provided the judges of the Court with an opportunity to reflect on best practices regarding the roles of presiding and alternate judges in ICC proceedings with a view to expediting judicial proceedings in the interests of fairness and to the benefit of all parties and participants to Court proceedings. The judges discussed the role of alternate judges under article 74(1) of the Rome Statute. The judges shared experiences and lessons learnt in connection with the use of alternate judges at the Court. They also discussed the recent adoption of rule 140-*ter* of the Rules of Procedure and Evidence. The judges' discussion focussed on the need to ensure the continuity of judicial proceedings at the Court using available legal mechanisms. It was agreed to continue the judges' exchanges on best practices to enable alternate judges to contribute to the efficient conduct of proceedings in accordance with the Court's legal framework. At the retreat, the judges also discussed the role of presiding judges. The judges discussed the role, authority and responsibilities associated with this position at each stage of the proceedings, highlighting the need for open discussion within each Chamber on both the function of the Presiding Judge and on the organisation of the working relationship between the Presiding Judge, all judges and supporting legal staff. The judges engaged in a fruitful exchange on the practices and working methods developed by the Pre-Trial, Trial and Appeals Divisions and different chambers in order to meet the specific needs of the respective divisions. The judges also participated in a session related to the Court's ongoing work on Secondary Trauma, Stress and Burnout Prevention, highlighting their commitment to contributing to the Court's efforts to ensure a safe and supportive working environment for all staff and other personnel at the Court.

Statement of ICC Prosecutor Karim A.A. Khan KC on receipt of a referral by the Republic of Lithuania

"On 30 September 2024, the Republic of Lithuania submitted a referral to my Office exercising its prerogative, as a State Party to the Rome Statute of the International Criminal Court (ICC), under article 14(1) of the Statute. In its referral, the Republic of Lithuania requests my Office to investigate alleged crimes against humanity committed in the Republic of Belarus, a non-ICC State party, stating that part of the elements of the alleged crimes was committed on the territory of Lithuania, an ICC State Party. Specifically, the referral alleges that "beginning in April 2020, and from at least 1 May 2020, partly ongoing to the present day, and continuing, crimes against humanity – including deportation, persecution and other inhumane acts – have been carried out against the civilian population of Belarus, at the behest of senior Belarusian political, law enforcement and military leaders, and that part of the element of these crimes was committed on the territory of Lithuania, bringing such crimes temporally, territorially, and materially (by subject-matter) within the jurisdiction of the Court". As a result, the Government of Lithuania request my Office "to investigate all past, ongoing and future crimes within the Court's jurisdiction, including as referred, as committed in the territory of the Republic of Belarus, and partly on the territory of Lithuania, since at least 1 May 2020". In accordance with the Rome Statute, a State Party may refer to my Office a situation in which one or more crimes within the jurisdiction of the Court appear to have been committed, requesting the Office to investigate the situation for the purpose of determining whether one or more specific persons should be charged with the commission of such crimes. A State Party referral does not automatically lead to the opening of an investigation. I can confirm that my Office will conduct a preliminary examination to examine the request within the limits of the ICC jurisdiction, and to determine, based on statutory requirements, if there is a reasonable basis to proceed with the opening of an investigation."

UNITED NATIONS AD HOC TRIBUNALS

KSC appeals panel imposes new sentence of 15 years imprisonment in Salih Mustafa case

On 10 September 2024, the Court of Appeals Panel in the case of the Specialist Prosecutor v. Salih Mustafa imposed sentences of 8, 13, and 15 years for the war crimes of arbitrary detention, torture, and murder, respectively. The overall sentence was set at 15 years, with credit for time served. This decision followed the guidance of the Supreme Court Panel's ruling from 29 July 2024, which annulled Mustafa's 22-year sentence and sent the case back to the Appeals Panel for reconsideration.

Mustafa was arrested on 24 September 2020. In December 2022, the Trial Panel found him guilty and sentenced him to 26 years in prison. He appealed, leading the Court of Appeals to reduce the sentence to 22 years in December 2023. Mustafa then sought further legal recourse, and in July 2024, the Supreme Court Panel partially granted his request, resulting in the Appeals Panel's recent decision to reduce his sentence.

INTER-AMERICAN COMMISSION OF HUMAN RIGHTS

IACHR: United States must address ethno-racially motivated police violence against persons with psychosocial disabilities

The IACHR observes patterns of excessive use of force against people with psychosocial disabilities of African descent and other ethnic-racial backgrounds, calling on the United States to adopt effective measures to address ethno-racially motivated police violence against persons with disabilities. As indicated in the IACHR's report on African Americans, Police Use of Force, and Human Rights in the United States, there is a larger pattern of excessive use of force by police officers against people of African descent and other marginalized ethnic, racial, and persons with disabilities during mental health crises, often occurring with legal and occupational impunity. According to available research, despite representing only 20% of the population in the United States, people with disabilities make up 30-50% of individuals subject to police use of force. An estimated one-third to one-half of people killed by police are people with disabilities. Civil society has long advocated for alternatives to police as first responders for mental health crises, with some cities having successfully implemented such programs The IACHR notes that persons with disabilities from historically discriminated ethnic-racial groups are especially vulnerable to excessive police force. Institutional biases and lack of mental health care knowledge often led to violations of their rights to non-discrimination, personal integrity, and other human rights. The Inter-American legal framework guarantees equal under the law for all persons and requires States to prevent, eliminate, prohibit, and punish violence motivated by racism or racial discrimination. States are also obliged to adopt legislative and other measures to eliminate discrimination against persons with disabilities. The IACHR urges the United States to collect disaggregated data to properly evaluate the intersection of race, ethnicity, and disability in police encounters, and calls on the State to work with communities to create and efficiently implement culturally appropriate alternative first response programs.

IACHR grants precautionary measures in favour of the legal coordinator of Vente Venezuela, Perkins Rocha Contreras, in Venezuela

On September 2, 2024, the Inter-American Commission on Human Rights adopted Resolution 61/2024, to grant precautionary measures in favour of Perkins Rocha Contreras after considering that he is at serious and urgent risk of irreparable harm to his rights in Venezuela, Perkins Rocha Contreras is the Legal Coordinator of the Vente Venezuela party and representative of the Comando Venezuela before the National Electoral Council, he is also a lawyer and personal advisor to María Corina Machado, National Coordinator of the Vente Venezuela party. Perkins Rocha was detained on August 27, 2024, from that moment on, his location has been unknown. His family learned that the *Contretìras* has been charged with various crimes, such as terrorism and treason. The Commission considers that the proposed beneficiary is in a serious and urgent situation, given that his current location is unknown to date. Therefore, pursuant to the provisions of Article 25 of its Rules of Procedure, the Commission requests that Venezuela: adopt the necessary measures to protect the rights to life and personal integrity of Perkins Rocha Contreras, implement the necessary measures to ensure that the beneficiary can carry out his activities as a member of an opposition party without facing threats, harassment, or acts of violence, and report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring. The granting of this precautionary measure and its adoption by the State of Venezuela do not constitute prejudgment of any petition eventually filed before the inter-American system regarding a possible violation of the rights protected in the applicable instruments.

IACHR grants precautionary measures in favor Eleanger David Navas Vidal, in Venezuela

On September 2, 2024, the Inter-American Commission on Human Rights adopted Resolution 62/2024, to grant precautionary measures in favour of Eleanger David Navas Vidal after considering that he is at serious and urgent risk of irreparable harm to his rights in Venezuela, being community manager of the newspaper Oriental. On August 3, 2024, Vidal was deprived of his liberty by members of the Bolivarian National Police (PNB) and was transferred to the PNB command in that city. On August 7, 2024, the court allegedly charged him with crimes defined under the Organic Law Against Terrorism and imposed a preventive detention measure for 45 days. His family members were informed that Eleanger David was transferred to Yare prison on August 26, 2024. However, at that location, they were informed that the beneficiary was not being held there. To date, the proposed

beneficiary's whereabouts are unknown. Even though his relatives tried to file a complaint for forced disappearance, the officials in charge reportedly refused to receive it. The Commission did not receive information from Venezuela. The Commission has emphasized that, in addition to the current situation in Venezuela, the arrest and subsequent lack of information about the Vidal's whereabouts are closely linked to his role as community manager of the Instagram account for a newspaper with an editorial line that is not aligned with the current Venezuelan government. The Commission identified that the Vidal's whereabouts have been unknown since August 26, 2024. In addition, his family members have not been able to obtain official information about his current whereabouts despite the search actions carried out. They are also reportedly unable to contact Vidal and have not received any information about actions taken by the assigned public defender. The Commission considers that the proposed beneficiary is in a serious and urgent situation, given that his current location is unknown to date. Therefore, pursuant to Article 25 of its Rules of Procedure, it requests that Venezuela: adopt the necessary measures to protect the rights to life and personal integrity of Eleanger David Navas Vidal, detail whether his current situation has been subject to judicial review; report on the detention conditions in which he is held, and report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring. The granting of this precautionary measure and its adoption by the State of Venezuela do not constitute prejudgment of any petition eventually filed before the inter-American system regarding a possible violation of the rights protected in the applicable instruments.

IACHR warns of impacts on access to justice following approval of Peru's law on crimes against humanity

The Inter-American Commission on Human Rights (IACHR) expressed grave concern over the recent enactment of the Law Establishing the Application and Scope of Crimes Against Humanity and War Crimes in Peruvian Legislation (Law 32.017) and its potential impact on the right to access justice for victims of serious human rights violations, including those committed during Peru's internal armed conflict. The IACHR called for the immediate repeal of this law and urged the relevant judicial authorities to prevent its enforcement. On August 9, 2024, the Peruvian State enacted Law 32.017, which restricts investigations into and the prosecution of acts that may constitute crimes against humanity and war crimes committed before 2002. Law 32.017 has faced intense scrutiny from various international legal bodies to which Peru is a party. In its supervision of the Barrios Altos and La

Cantuta cases and responding to a request for provisional measures filed by the victims' representatives, the Inter-American Court of Human Rights (IA Court) urged the Peruvian State to ensure that this law was neither enacted nor enforced. Following the promulgation of Law 32.017, media reports indicated that individuals being investigated for enforced disappearances and extrajudicial executions during Peru's internal armed conflict have already sought the suspension of criminal proceedings. Human rights organizations have condemned the law as re-victimizing, and the UN Human Rights has emphasized that impunity for crimes against humanity violates the rights to truth, justice, reparation, and guarantees of non-repetition for thousands of victims of gross human rights violations in Peru. However, the Peru has argued that it is not the IACHR's role to mandate legislative reforms or prevent the application of legal provisions. The State also reported that the legislative process guaranteed the right of citizen participation, as outlined in Article 23 of the American Convention, through consultations carried out by Congress of the Republic. Additionally, the State noted that the Supreme Prosecutor's Office filed an action of unconstitutionality against Law 32.017 on July 22, 2024, with the Constitutional Court expected to rule on the law's constitutionality. The IACHR strongly urged the Peruvian State to comply with its request concerning Law 32.017 and repeal it, in line with its international and inter-American human rights obligations. The IACHR also called on the competent judicial authorities to refrain from applying the law.

IACHR Issues Report on State of Emergency and Human Rights in El Salvador

The IACHR has released State of Emergency and Human Rights in El Salvador, a report examining the state of emergency that has been in place in El Salvador since 2022 and its implications for human rights. The report examines the longstanding issue of gang violence in El Salvador, which has severely impacted human rights in the country for decades. In this new report, the IACHR notes a significant reduction in violence through December 2020. However, following a wave of violence that resulted in at least 92 deaths between March 24 and 27, 2022, the State declared a nationwide state of emergency as an extraordinary measure to eradicate gang activity. In the report, the IACHR examines Legislative Decree No. 333, enacted on March 27, 2022, and its subsequent extensions also emphasizing that while States are obliged to take measures to combat and eradicate organized crime that are appropriate to the specific circumstances countries may be experiencing, these actions must nonetheless align with their legal and international obligations. The report highlights several legislative changes implemented to enhance citizen security that emphasize a punitive approach: the

mandatory imposition of pretrial detention for specific crimes, the confidentiality of judicial actors' identities during criminal proceedings, and the application of adult prison sentences to minors. The IACHR has received numerous reports of human rights violations, including systematic and widespread illegal and arbitrary detentions, unlawful raids on homes, excessive use of force, and violations of the rights of children and adolescents. The report also addresses delays in judicial reviews of detentions, ineffective habeas corpus proceedings, lack of evidence to support charges, abuses related to pretrial detention, mass trials, restrictions on the right to defence and judicial guarantees, and disregard for due process, also expressing concern about the treatment of children in conflict with the law in response to reports indicating violations of their specific rights and guarantees. These issues are exacerbated by the already precarious conditions of detention in which people deprived of their freedom are held, including severe overcrowding and the excessive use of pretrial detention. The state of freedom of expression and the press in El Salvador during the emergency period are also covered in the report. The IACHR and the Office of the Special Rapporteur for Freedom of Expression review legislative reforms that restrict these freedoms, that include limitations on access to information due to a range of obstacles such as increased classification of public information, lack of periodic, disaggregated data, and denial of information requests. In the report, the IACHR underscores that inter-American standards stipulate that a state of emergency is an exceptional measure that must be necessary, appropriate, and proportionate to the emergency context. It also warns that certain judicial guarantees cannot be suspended under any circumstances and stresses that the duration of the state of emergency should be strictly limited to the period of the emergency. The IACHR calls on the Salvadoran State to make crosscutting efforts to prevent violence, mitigate the risks and damages to vulnerable groups, and restore the social fabric. It has also noted the statistics provided by the State on improvements to citizen security. These appear to demonstrate that the country has moved beyond the state of emergency and that the suspension of rights and guarantees is no longer justified, in accordance with the requirements of the American Convention. The IACHR calls on the Salvadoran government to restore the suspended rights and adopt comprehensive measures to address the root causes and consequences of crime while also engaging in prevention, monitoring, and response efforts from an integrated, crosscutting perspective, the IACHR also urges the Salvadoran State to reinstate the rights and guarantees suspended by the state of emergency decrees, emphasizing that this extraordinary mechanism must not become a permanent feature of the country's citizen security policy.

IACHR expresses concern over Jamaica's continued use of states of emergency

The IACHR expresses concern over Jamaica's continued use of States of Public Emergency (SOEs) and calls on the State to ensure that measures used to prevent and combat crime are implemented in accordance with international human rights standards. On August 14, 2024, the Jamaican government declared an SOE for the parish of Clarendon after a shooting incident in which eight persons were killed and nine injured, under which the Government temporarily grants security forces additional powers, including warrantless searches, arrest and detention. According to the organs of the Inter-American System of Human Rights, the suspension of guarantees is a provision that can be implemented in the extraordinary circumstances indicated in Article 27 of the American Convention. The Court and the Commission have observed that to adopt such measures, States need to justify their reasonableness, necessity, and proportionality in the context of the emergency. Additionally, indispensable judicial guarantees must be maintained in force in all circumstances. Jamaica must abide by the international obligations it has assumed, which establish requirements and limits for adopting such exceptional mechanisms for suspending the rights and guarantees protected by the Convention. The IACHR urges that these measures should not be made part of the country's permanent security policy. The Commission calls on the Jamaican State to address the causes and consequences of crime from a comprehensive and intersectoral perspective, adopting prevention, control, and response measures within the limits and procedures that guarantee respect for human rights, including gender and intersectional approaches. Additionally, the IACHR encourages citizen participation in the formulation, implementation, and accountability of citizen security policies.

IACHR condemns the arbitrary detention of children and adolescents in the aftermath of the elections in Venezuela

The IACHR condemns the arbitrary detention of children and adolescents and violations of their right to presumption of innocence and due process in the aftermath of the presidential elections in Venezuela. Venezuela must guarantee the right of children and adolescents to participate in social protests and matters that affect them. According to reports from the organization Foro Penal, at least 152 minors were arbitrarily detained following the July 28 presidential election in Venezuela, with, as of September 6, only 86 of these individuals have been released.Most of the minors in question were detained during mass protests to challenge the lack of transparency in the election results. These minors were labelled as terrorists by authorities and held in cells alongside adults, in some cases

without proper gender segregation. Additionally, they were denied access to official public defenders, depriving them of the possibility of a fair defence. Several have been tried through online proceedings in terrorism courts without the presence of family members or guardians. The IACHR condemns the current political persecution in Venezuela and its impact on children and adolescents who exercise their right to demonstrate and participate in social protests. It emphasizes that children and adolescents have the right to special, enhanced protection, not to be held in detention with adults, nor to be subjected to situations of violence or arbitrary separation from their families. At the same time, it reiterates that there is no separation or independence of public powers in Venezuela, as evidenced by the lack of effective judicial control over arbitrary detentions and detention conditions. Venezuela must urgently adopt measures to restore democratic rule and undertake to prevent, investigate, prosecute, and punish these human rights violations.

IACHR expresses concerns over judiciary reform in Mexico and warns of threats to judicial independence, access to justice, and rule of law

The IACHR expresses grave concern regarding the approval of Mexico's proposed constitutional reform of the judiciary, warning of its potential impacts on the right to access to justice, guarantees of judicial independence, and the rule of law. The IACHR recognizes the importance of a reform that strengthens the judicial system in Mexico, and has been closely monitoring the judicial reform process, with the reform is part of a broader package of constitutional amendments currently being debated in the legislature. According to publicly available information, the reform includes the cessation of the terms of office for all judicial authorities in Mexico. The IACHR's attention was also drawn to the fact that the hasty nature of the profound modifications could have negative consequences for the guarantees of suitability and meritocratic access to the judicial career. The reform also fails to account for the presence of organized crime in several regions of Mexico and how this might influence the proposed electoral processes. The IACHR has also learned of the inclusion in the constitutional reform of measures to preserve the identity of judges in cases related to organized crime, a practice deemed incompatible with the American Convention on Human Rights by the bodies of the Inter-American system, with other concerns have been raised regarding the creation of a new Judicial Disciplinary Court, which may threaten judicial independence, and the lack of due process guarantees in the disciplinary system. Despite reports from the State regarding national dialogues aimed at ensuring public participation in the reform the IACHR notes that the speed of the legislative

process has hindered meaningful engagement with a sector of the citizenry. The IACHR also underscored the importance of non-discriminatory selection procedures that establish clear criteria rooted in professional competence, merit, and appropriate legal qualifications. These should be carried out through transparent public selection processes that prioritize gender equality and lead to appropriate, predefined terms of office. Similarly, the selection process for judicial disciplinary authorities must include guarantees of independence. The UN Special Rapporteur on the Independence of Judges and Lawyers has also expressed concern over the reform's incompatibility with international human rights obligations. The IACHR urges Mexican authorities to ensure that judicial reforms align with the American Convention on Human Rights and inter-American standards on judicial independence and access to justice.

IACHR files case with IA Court concerning violations of the right to judicial protection of 12 victims in Argentina

On July 12, 2024, the IACHR filed Case 12.926 against Argentina with the Inter-American Court of Human Rights (IA Court). The case concerns violations of the right to appeal a ruling and the right to judicial protection of 12 individuals. The individuals in question were tried and given various prison sentences as part of criminal proceedings under Argentina's Criminal Code. Appeals filed with the National Chamber of Criminal Cassation were dismissed, and a subsequent extraordinary federal appeal to the National Supreme Court was denied. The convictions were issued before the Supreme Court of Argentina reached its landmark "Casal" ruling in 2005, which expanded the grounds for reviewing cases in cassation. In Merits Report 96/22, the IACHR found that the legal reforms and judicial interpretations introduced by the Argentinian State following the "Casal" ruling had not benefited these victims retroactively. It also noted that the ruling did not have widespread, binding effects beyond the specific case it was issued in relation to. Furthermore, until the Federal Criminal Code was enacted in 2014, Argentina did not adopt any legislative reforms to include the "Casal" doctrine in the text of the country's criminal code, nor did it pass any regulations to apply the effects of the doctrine to closed cases. The IACHR noted that the decisions of the National Chamber of Criminal Cassation revealed the absence of a mechanism that would allow a comprehensive review of the victims' convictions. As a result, it concluded that the victims were not guaranteed the right to appeal their sentences in accordance with the standards of the inter-American system. This meant that they did not have access to an appropriate review of their cases and were left without the judicial

protection to which they were entitled. For these reasons, the IACHR concluded that the State of Argentina is responsible for violating the rights to appeal and to judicial protection enshrined in articles 8.2.h and 25.1 of the American Convention on Human Rights, junction with the obligations established in articles 1.1 and 2 of this instrument.
The IACHR recommends that the State of Argentina undertake the following measures of reparation: provide comprehensive material and moral redress for the human rights violations listed in the report, implement measures to allow the victims to appeal their sentences and obtain a comprehensive review, and enact legislative reforms to ensure that domestic laws governing cassation appeals and the mechanisms used by judicial authorities to ensure that appeals adhere to international conventions align with the standards set forth in the IACHR's report.

AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

Lompo Bahlana v. Burkina Faso (application no. 016/2019)

Mr Lompo Bahanla is a national of Burkina Faso who, at the time of the events, was a member of the military, he alleges violation of his rights in connection with domestic legal proceedings.
It emerges from the Application that on 9 March 2013, at around 10 pm, the Gendarmerie was informed that Bernadette Tiendrebeogo had been shot dead at her home. Eyewitness identified the Applicant as the suspect, who admitted having shot Ms. Tiendrebeogo. He avers that, furious that his victim called him "filthy" at her home, he returned to work and took the weapon after which he returned to Ms. Tiendrebeogo's home and shot her. In March 2013, the investigating judge charged him with murder and on 14 August 2013 issued an order transferring the docket to the Public Prosecutor of the Ouagadougou Court of Appeal. On 11 September 2013, the latter referred the case to the Indictments Chamber seeking to indict the Applicant that handed down a judgment committing the Applicant to trial on the charge of murder before the Criminal Division of the Ouagadougou Court of Appeal. By judgment No. 20 of 30 June 2015, the Criminal Chamber of the Court of Appeal found the Applicant guilty of murder and sentenced him to death. The said sentence was subsequently commuted to life imprisonment pursuant to Article 900-1 of the Penal Code. The Applicant avers that he appealed to the Supreme Court on 5 July 2015, pointing out that at the time of filing the present Application, the appeal was still pending.

The Applicant alleges violation of the right to bring an action before domestic courts to challenge any act violating fundamental rights, the right to life, and the right to human dignity.
The Applicant argues that in the burkinabè judicial system, the cassation appeal is not an effective remedy, further submitting that a period of approximately five years elapsed between the filing of his cassation appeal and the filing of the present Application, which is unduly long. He further points out that the rule of exhaustion of local remedies is subject to broad interpretation. In this regard, he cites the case of *De Wilde, Ooms and Versyp v. Belgium*. The Court emphasises that the Burkina Faso judicial system, a cassation appeal is a remedy to be exhausted as far as it is available, effective, and satisfactory. On the cassation appeal, the Court emphasises that although the Applicant does not provide written proof of the remedy, Burkina Faso does not contest its existence. The Court considers that the Applicant did not exhaust local remedies pending at the time of filing the Application.
The Court therefore holds that the Application does not meet the requirement under Rule 50(2)(e). Considering the foregoing, the Court considers that it is not necessary to examine the other arguments advanced by Burkina Faso in support of its objection based on non-exhaustion of local remedies, namely, referral to the Constitutional Court, filing a liability suit with the courts and the request for parole, pardon or amnesty.
Accordingly, the Court declared the Application inadmissible.

Dadu Sumano Kilagela v. United Republic of Tanzania (application no. 017/2018)

Dadu Sumano Kilagela is a national of Tanzania. At the time of filing the Application, he was incarcerated having been sentenced to thirty years' imprisonment for armed robbery. The Applicant alleges a violation of his rights during the proceedings before national courts.
It emerges from the record that on 31 March 2007, the Applicant, in the company of four other individuals, stole money, a cellular phone, maize, and a bicycle from the family home of Stephano Selekwa. During the theft, Mr Selekwa and his wife were beaten and seriously injured. According to the record, the Applicant fired shots in the air. He was subsequently tried and convicted with the offence of armed robbery by the District Court of Kasulu and sentenced to thirty years imprisonment and a fine of TZS 250'000. The Applicant appealed unsuccessfully against his conviction and sentence before the High Court of Tanzania sitting at Tabora, the Court of Appeal, and to the Court of Appeal for review of the said decision. The Applicant alleges that the judgment of the Court of Appeal violated his right protected by Article 2 of the Charter, the Court of Appeal violated his right

protected by Article 3(2) of the Charter by ignoring his additional grounds of appeal, and that his right to a fair trial was violated since he was not represented by an advocate during all domestic proceedings, and the judgments of the domestic courts were all against the weight of the evidence.
The Application was filed on 20 June 2018. Tanzania filed its Response on 19 December 2018. Notwithstanding several reminders, Tanzania did not file submissions on reparations. On the merits, the Applicant prays that the Court: Grant the applicant's application and restore justice by making appropriate orders and grant him any other order(s) that it may deem fit and just to grant in the circumstances of his application.
In the instant case, the Court notes that the Applicant alleges violation of the right to equality and non-discrimination and the right to a fair trial which are all protected under the Charter, to which Tanzania is a party. The Court therefore holds that its material jurisdiction is established.
The Court recalls, that Tanzania is a party to the Protocol and has deposited the Declaration. The Court further recalls that on 21 November 2019, Tanzania deposited an instrument withdrawing its Declaration, which does not apply retroactively and only takes effect twelve months after the instrument of such withdrawal has been deposited, in this case, on 22 November 2020. The Application is thus unaffected.
The Court observes that having been convicted by the District Court sitting at Kasulu, the Applicant appealed to the High Court sitting at Tabora, which dismissed his appeal on 19 April 2013. He then filed another appeal before the Court of Appeal sitting at Bukoba, which also dismissed his appeal on 20 June 2014. His application for review of the Court of Appeal's decision was also dismissed on 25 August 2017. Given that the Court of Appeal is Tanzania's highest judicial organ, the Court concludes that the Applicant exhausted domestic remedies. The Applicant alleges that the judgment of Tanzania's Court of Appeal violated his right protected by Article 2 of the Charter; his right to equal protection before the law under Article 3(2) of the Charter; and his right to a fair trial. The Court recalls that the burden of proof for a human rights violation lies with who alleges. In the instant matter, the Court observes that the Applicant neither makes specific submissions nor provides any evidence that he was discriminated. In these circumstances, the Court finds that there is no basis for finding a violation. The Applicant submits that his right under Article 3(2) of the Charter was violated as far as the Court of Appeal refused to consider his additional grounds of appeal. Tanzania submits that during the proceedings before its Court of Appeal, the Applicant raised additional grounds of appeal without complying with the Court of Appeal Rules. In the circumstances, a bare assertion that the Applicant's

rights were violated by the Court of Appeal's refusal to allow him to argue additional grounds of appeal, without first seeking leave, is unfounded. The Court thus holds that the Applicant fails to prove a violation of his rights under Article 3(2) of the Charter. His allegations are, therefore, dismissed. The Applicant alleges a violation of his right to a fair trial as far as, first, the decisions of domestic courts were based on credible evidence since his conviction was secured by disregarding evidence in his favour; and secondly, as far as he was not afforded legal representation during domestic proceedings. Tanzania submits that the Applicant was convicted based on identification evidence which the trial court found to be satisfactory. The Court observes that ,as it emerges from the record, the domestic courts were particularly mindful of the dangers of convicting on the basis of inaccurate identification evidence The Court finds, therefore, that the manner in which the domestic courts evaluated the evidence leading to the Applicant's conviction does not disclose any manifest error(s) and was not tainted with injustice to the detriment of the Applicant. Accordingly, the Court holds that there are no grounds for interfering with the reasonings of the domestic courts. The Court dismisses the Applicant's allegations and holds that Tanzania did not violate Article 7(1) of the Charter.

The Court observes from the record that the Applicant had personal conduct of his case at all stages of the domestic proceedings. The Court finds that given the gravity of the offence that the Applicant was facing, the interests of justice required that he be afforded legal assistance at all stages of the domestic proceedings. The Court, therefore, holds that Tanzania violated Article 7(1)(c) of the Charter as read together with Article 14(3)(d) of the ICCPR

In the present case, the Court observes that the Applicant merely makes claims and therefore does not substantiate his claims. For this reason, therefore, the Court dismisses the Applicant's request to be paid the sum of TZS 1 020 000 as reparation for material prejudice. in the exercise of its discretion, the Court awards the Applicant the sum of TZS 300 000 as reparation for the moral prejudice sustained because of the violation. Given the Applicant's failure to either particularise his claims or lead evidence in support thereof, the Court concludes that the Applicant fails to establish a case for him to be awarded any non-pecuniary reparations. The Court, therefore, does not make any award for non-pecuniary reparations.

Safinaz Ben Ali and Lamia Jendoubi v. Republic of Tunisia (application no. 009/2023)

Ms. Safinaz Ben Ali and Ms. Lamya Jendoubi are Tunisian nationals who, at the time of filing the Application, had been in preventive detention. They allege violation of their rights to liberty and security in connection with proceedings in domestic courts. The Benin is the Republic of Tunisia.
It emerges from the record that in September 2021, an investigation was opened into digital content creation. The investigation revealed that to protect its interests more effectively, the said firm infiltrated state institutions, regarding appointments to certain positions and securing the support of people linked to the Ennahdha party. Subsequently, a judicial investigation was opened. Having been indicted, Safinaz Ben Ali and Lamia Jendoubi were remanded in custody by the investigating judge of the Sousse II Court of First Instance, on 21 June and 5 July 2022, respectively. They filed several applications for bail was which were dismissed.
The Applicants allege violation of the right to liberty and to security, the right to have one's cause heard, the right to have recourse to national courts against any act violating one's fundamental rights, the right to be presumed innocent, the right to defence, and the right to information and the right to express and disseminate one's opinion within the law.
The Court upholds the Benin's objection and holds that the Applicants did not exhaust local remedies as required by Article 56(5) of the Charter and Rule 50(2)(e) of the Rules.

Boukary Waliss v. Republic of Benin (application no. 021/2018)

Boukary Waliss, is a Beninese national who, at the time of filing this Application, was a staff representative at Bank of Africa, Benin (hereinafter "BOA"). He alleges violation of his right to a fair trial and the right to property in connection with proceedings before domestic courts.
The Application is filed against the Republic of Benin. Following his dismissal, the Applicant referred the matter to the Cotonou Labour Inspectorate which, on 8 May 2007, released a report of non-conciliation. Following these proceedings, the Applicant brought an action before the Cotonou Court of First Instance which dismissed the case by judgment of 29 July 2011. The Applicant further avers that in May 2013, he appealed the said judgment to the Cotonou Court of Appeal, which did not hear the matter. The Applicant avers that Advocates Ahomenou Michel and Balogun Christel, whom he hired to represent him in these various proceedings, failed in their duty of probity, loyalty, and diligence, for which reason he petitioned the Constitutional Court against them for violation of Article 35 of Benin's Constitution and Article 7 of the Charter. He avers that by decision DCC 2016-02 of 2 November 2016, the Constitutional Court declined jurisdiction. The Applicant further avers that on

29 December 2015, he lodged a complaint at the Cotonou Central Police Station against his driver, Mr Zounaïdou Garba Gado, for the wrongful detention of his vehicle. According to the Applicant the police officer in charge of the docket did not refer the complaint to the Cotonou public prosecutor. In this regard, he maintains that he sought the intervention of the Minister of the Interior, but to no avail. The Applicant avers that dissatisfied with the handling of this other case, he filed two petitions with the Constitutional Court, one against the Commissioner of the Cotonou Central Police Station and the Director General of Police, and the other against the Minister of the Interior for violation of his right to a remedy. By decision DCC 16 - 121 of 4 August 2016, the Constitutional Court declined jurisdiction to hear the first petition and dismissed the Applicant's second petition by decision DCC 17-092 of 4 May 2017. Lastly, the Applicant states that in a third set of proceedings, he filed a complaint with the Public Prosecutor's Office of the Cotonou Court against the former President of the Republic for the attempted assassination of his father, which was not heard. He further avers that the current President of the Republic having failed to accept the matter, he filed a petition against him with the Constitutional Court for lying under oath and violation of Articles 35 and 59 of the Constitution. By decision DCC 18-090 of 12 April 2018, the Constitutional Court dismissed the Applicant's petition. The Applicant alleges violation of his rights in connection with the handling of all the cases referred to above before the domestic courts, particularly the right to a fair trial, protected by Article 7(1)(a) of the Charter and the right to property, protected by Article 14 of the International Covenant on Civil and Political Rights (ICCPR).

The Court will examine the only violation alleged by the Applicant in relation to the proceedings against his lawyers, namely, violation of his right to a fair trial. The Applicant maintains that the Benin's Constitutional Court examined his petitions without taking due cognisance of all the issues raised. He concludes that the said Court did not sufficiently rely on the arguments advanced and denounces the approach of the Benin's Constitutional Court. In reply, the Benin submits that the alleged refusal to investigate and receive the Applicant's petitions is unfounded and unsubstantiated. It argues that the Constitutional Court petitioned by the Applicant ruled on the matter, so that there was no violation of the right to a fair trial.

The Court finds that the Applicant's right to fair trial were not violated, dismissing the allegation and holds that Benin did not violated Article 7(1)(a) of the Charter read in conjunction with Article 14 of the ICCPR.

Habyalimana Augustino and Muburu Abdulkarim v. United Republic of Tanzania (application no. 015/2016)

Habyalimana Augustino and Muburu Abdulkarim (hereinafter referred to as "the First Applicant," and "the Second Applicant" respectively; and "the Applicants" jointly) are Burundian nationals and refugees in Tanzania, who at the time of filing this Application were incarcerated at Butimba Central Prison in Mwanza in Tanzania. The Applicants were convicted and sentenced to death by hanging on 31 May 2007 by the High Court of Tanzania at Bukoba for the offence of murder and are currently awaiting execution. They allege the violation of their rights during the proceedings before domestic courts. The Application is filed against the United Republic of Tanzania. It emerges from the file that on the night of 8 May 1999, at about 10 pm, the Applicants shot and killed Ms. Adela Shirima, the wife of a high-ranking Commanding Officer. Records on file indicate that the Applicants were allegedly hired by a Tanzanian woman named Mama Mboya to commit the murder, after she suspected the deceased of having an illicit love affair with her husband. The High Court convicted the Applicants for the offence of murder and sentenced them to death by hanging on 31 May 2007, following which they appealed to the Court of Appeal, the highest court in Tanzania. On 2 March 2012, the Court of Appeal dismissed their appeal and upheld the decision of the High Court.
The Applicants jointly allege violations of the similar provisions of the Charter, namely Articles 2, 3, 4, 5, and 7(1)(c) read jointly with Article 14(3)(d) of the International Covenant on Civil and Political Rights (ICCPR) and Article 36(1) of the Vienna Convention on Consular Relations (VCCR), namely: the right not to be discriminated against on the basis of national origin and immigration status, protected under Article 2 of the Charter, the right to equal protection of the law protected under Article 3 of the Charter, as read together with Article 14(3)(d) of the ICCPR, the right to life, protected under Article 4 of the Charter, the right to freedom from torture, cruel and degrading treatment, protected under Article 5 of the Charter, the right to a fair trial, protected under Article 7(1)(c) of the Charter as read together with Article 14(3)(d) of the ICCPR, the right to be tried within a reasonable time, protected by Article 7 of the Charter, the right to consular services, protected by Article 7(1)(c) of the Charter as read together with Article 36(1) of the VCCR. In addition to the joint allegations made above, the Second Applicant alleges that Tanzania violated the right not to be discriminated against on the basis of national origin, that he suffers from mental illness and therefore should have been ineligible for the death penalty, and that the District Magistrate failed to conduct prompt investigations following his report that he was tortured by the police authorities.

IECLO DIRECTOR: Prof. Anna ORIOLO
Department of Legal Sciences
(School of Law)
University of Salerno
Via Giovanni Paolo II, 132
84084 Fisciano (SA) - Italy
www.ieclo.org
info@ieclo.org

The Court found that:

- Tanzania violated the Applicants' rights to access consular assistance by failing to inform them of their right to access the said services thereby violating Article 7(1)(c) of the Charter as read together with Article 36(1) of the VCCR.
- Tanzania violated Article 7(1)(c) of the Charter, as read together with Article 14(3)(a) of the ICCPR, regarding the alleged failure to provide the Applicants with interpretation services during their arrest, interrogation, detention, and trial.
- Tanzania discharged its obligation to provide the Applicants with effective free legal assistance and finds that Tanzania did not violate Article 7(1)(c) of the Charter as read together with Article 14(3)(d) of the ICCPR.
- Tanzania violated the Applicants right to be tried within a reasonable time as provided for under Article 7(1)(d) of the Charter.
- Tanzania did not violate the Applicant's right to fair trial as enshrined under Article 7(1)(c) of the Charter regarding the Second Applicant's conviction and sentence solely based on a disputed coerced statement.
- Tanzania failed in its duty to investigate allegations of abusive cruel, inhumane, and degrading treatment, provided for under Article 5 of the Charter, due to the inactions of its agent, the District Magistrate.
- Tanzania violated the Applicants right not to be subjected to cruel inhuman and degrading treatment as provided under Article 5 of the Charter through the actions of the police authorities who are agents of the State.
- Tanzania violated the Applicants' right to dignity enshrined in Article 5 of the Charter as far as it kept the Applicants on death row for an extended period of 8 years, 9 months and 8 days which amounts to cruel, inhuman, or degrading treatment or punishment.
- Tanzania violated the Applicants' right to dignity guaranteed under Article 5 of the Charter by subjecting the Applicants to anguish and living in deplorable conditions of detention.
- Tanzania did not violate the Second Applicant's right not to be discriminated against based on national origin and refugee status, provided for under Article 3(2) of the Charter on equal protection of the law.

- Tanzania violated the Applicants' right to life as provided under Article 4 of the Charter, by imposing the mandatory death penalty, thereby limiting the discretion of the judicial officer to sentence the accused.
- Tanzania violated the Applicants right to life as guaranteed under Article 4 of the Charter owing to the domestic courts not been afforded discretion to consider the mental health of the Applicants in imposing the death sentence.

The Court awarded to the Applicants, an amount of Five Hundred Thousand Tanzanian Shillings (TZS 500,000) each for moral damages suffered. The Court also ordered Tanzania to take all necessary measures to remove "hanging" from its laws as the method of execution of the death sentence, within six (6) months of the notification of the present Judgment.

COUNCIL OF EUROPE

PACE President welcomes opening for signature of new AI and human rights convention

PACE President Theodoros Rousopoulos has welcomed the opening for signature of the new Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy, and the Rule of Law, which he hailed as "a major step forward" and a springboard for ongoing discussion about the ramifications of AI in all our lives.

Council of Europe opens first ever global treaty on AI for signature

The Council of Europe Framework Convention on artificial intelligence and human rights, democracy, and the rule of law (CETS No. 225) was opened for signature during a conference of Council of Europe Ministers of Justice in Vilnius. It is the first-ever international legally binding treaty aimed at ensuring that the use of AI systems is fully consistent with human rights, democracy, and the rule of law. The Framework Convention was signed by Andorra, Georgia, Iceland, Norway, the Republic of Moldova, San Marino, the United Kingdom as well as Israel, the United States of America, and the European Union. The treaty provides a legal framework covering the entire lifecycle of AI systems. It promotes AI progress and innovation; while managing the risks it may pose to human rights, democracy, and the rule of law. To stand the test of time, it is technology neutral. The treaty will enter into force on the first day of the month following the expiration of a period of three months

after the date on which five signatories, including at least three Council of Europe member states, have ratified it.

Justice for crimes committed in Ukraine: Ministers of Justice discuss legal cooperation and a special tribunal for the crime of aggression

Meeting under the Lithuanian Presidency of the Committee of Ministers, the Ministers of Justice of Council of Europe member and observer states have adopted a declaration outlining a series of principles to address critical justice and accountability issues related to Russia's aggression against Ukraine.

Committee denounces the human rights situation in Iran and calls for strengthening the protection of Iranians in Europe

The Political Affairs Committee, meeting on 9 September in Paris, expressed its concern about the persecution of human rights defenders in Iran and abroad by the Iranian regime. The report by Max Lucks, adopted by the committee, underlines that many Iranians in exile in Europe, and European citizens of Iranian origin, who are opposed to the Iranian regime, are often faced with threats, intimidation, violence and abductions by the Iranian State structures of repression operating abroad, and are even murdered.

Committee expresses deep concern at harsh treatment of Julian Assange, warns of its chilling effect for the press

PACE's Legal Affairs Committee has warmly welcomed the release of Julian Assange but expressed deep concern at "the disproportionately harsh treatment" he faced and called on the U.S.A. to investigate the alleged war crimes and human rights violations disclosed by him and Wikileaks. Approving a draft resolution based on a report by Thórhildur Sunna Ævarsdóttir, the committee said the failure of the competent US authorities to prosecute the alleged perpetrators of war crimes and human rights violations committed by US state agents, combined with the harsh treatment of Mr Assange and Ms Manning, "creates a perception that the United States government's purpose in prosecuting Mr Assange was to hide the wrongdoing of state agents rather than to protect national security". The committee said it considered "the disproportionately severe charges brought against Julian Assange by the United States of America, as well as heavy penalties foreseen under the

Espionage Act for engaging in acts of journalism" fulfil the requirements set out in a 2012 Assembly resolution on the definition of political prisoner. For their part, the UK authorities had failed to effectively protect Assange's freedom of expression and right to liberty, with his detention far exceeded the reasonable length acceptable for extradition, they added. It urged the U.S.A., a Council of Europe observer state, to "urgently reform" the 1917 Espionage Act to exclude its application to publishers, journalists and whistleblowers who disclose classified information with the intent to raise public awareness about serious crimes.

Monitoring Committee welcomes reforms in Bosnia and Herzegovina, but says there is 'insufficient progress in some areas'

PACE's Monitoring Committee has congratulated the authorities of Bosnia and Herzegovina for the pace of reforms since 2022 – but said it remains concerned about "the lack of, or insufficient, progress in some areas crucial for the functioning of democratic institutions". Approving a draft resolution based on a report by Zsolt Németh and Aleksandar Nikoloski, the committee cited the conclusion of election observers in 2022 that "increasing segmentation along ethnic lines and the corresponding divergent views on the future of the country remain a concern for the functioning of democratic institutions". The parliamentarians lamented the fact that the 2022 elections were held, for the fourth time, under a legal and constitutional framework which was in violation of the European Convention on Human Rights. They also expressed concern at the "deliberate failure" of the Republika Srpska authorities to implement final and binding decisions of the Constitutional Court of Bosnia and Herzegovina, and the obstruction to its functioning, undermining all three basic Council of Europe principles. The committee set out several other recommendations to strengthen democratic institutions and the rule of law, as well as human rights in the country.

Türkiye: concerns remain about the independence of the judiciary, prison conditions and the execution of the Court's judgments

In an information note following his visit to Türkiye, Stefan Schennach, one of the co-rapporteurs on the honouring of obligations and commitments by Türkiye, expressed several concerns relating to the independence of the judiciary, prison conditions, the execution of judgments of the European Court of Human Rights, and the practice of replacing democratically elected mayors by governors. The information notes underline, in particular, the problem of the structure of the Council of Judges and

Prosecutors, most of whose members are appointed and dismissed by the executive and the legislative powers, raising doubts about the independence of the judiciary. The rapporteur also deplores "the resistance of Turkish courts or the Parliament to comply with the case-law of the Constitutional Court," compounded by repeated verbal attacks on the Constitutional Court by public officials. Another area of concern is overcrowding in penitentiary facilities and excessive length of prison sentences and pre-trial detention. Mr Schennach is particularly concerned about the isolation of certain prisoners, the presence of minors accompanying their parents, and the poor situation of the elderly or seriously ill.

Republic of Moldova: PACE delegation concerned about significant foreign interference in forthcoming election

A pre-election delegation from PACE, concluding a visit to the Republic of Moldova on 17-18 September 2024, stressed that the country is at a critical crossroads. The upcoming presidential election and constitutional referendum on 20 October 2024 could be a turning point for democracy and state institutions. Moldovan authorities are faced with the challenging task of ensuring the integrity and security of the vote whilst simultaneously upholding the core values of the Council of Europe. The PACE delegation conducted its mission in Chișinău, meeting with key officials. The delegation acknowledged the 2022 Electoral Code reforms. They also noted positively the increase in the number of polling stations abroad and a new partial postal voting initiative. While Moldova has made significant strides, it was brought to the attention of the delegation that these achievements were under siege from mounting geopolitical pressures. Kremlin-backed disinformation, illicit financing, and alleged vote-buying pose serious threats to Moldova's sovereignty, security, and election integrity. The delegation urged the Moldovan government and the to ramp up public awareness about these threats, while ensuring that efforts to combat disinformation do not stifle free speech or hinder open political competition. The PACE team called on all political actors to respect the Electoral Code and refrain from corruption or illegal tactics.

Implementing ECtHR judgments: Latest decisions from the Committee of Ministers

The CoE's Committee of Ministers has published the case-by-case decisions taken during the Committee's meeting from 17 to 19 September to supervise the implementation of judgments and decisions from the European Court of Human Rights. The Committee also adopted an indicative list

of cases to be examined during its next meeting dedicated to the execution of judgments, which will take place from 3 to 5 December 2024. Under Article 46 of the European Convention on Human Rights, judgments from the European Court of Human Rights are binding on the states concerned. The Committee of Ministers oversees the execution of judgments based on information provided by the national authorities concerned, civil society organisations, National Human Rights Institutions, and other interested parties. Despite its exit from the CoE the Committee of Ministers continues to supervise the execution of the judgments and friendly settlements concerned and the Russian Federation is obliged to implement them.

Poland needs to respect its international human rights obligations on the Belarusian border, says Commissioner O'Flaherty

Commissioner O'Flaherty visited Poland (16-18 September 2024) for a mission focusing on the situation on the Polish-Belarusian border and the human rights of refugees, asylum seekers and migrants. The Commissioner commends Poland for welcoming and assisting millions of people fleeing Russia's war of aggression in Ukraine, also acknowledging the challenges posed by the instrumentalization of migration and destabilising actions of the Belarusian authorities on the Polish-Belarusian border. However, he considers that Poland's current summary return practice at the Polish-Belarusian border does not allow for full respect of international human rights standards. The summary returns of persons across the border to Belarus exposes them to the risk of serious violations of the rights protected by the European Convention on Human Rights. The Commissioner calls on the Polish authorities to put a stop to all summary returns to Belarus and to ensure that every person who wishes to claim international protection on Polish territory is effectively able to do so. In addition, the Commissioner recalls that due attention must be paid to the most vulnerable groups among asylum seekers and migrants.

EUROPEAN COURT OF HUMAN RIGHTS

Shlosberg v. Russia (application no. 32648/22)

In the case of Shlosberg v. Russia (application no. 32648/22) the European Court of Human Rights held, unanimously, that there had been: A violation of Article 3 of Protocol No. 1 (right to free elections) to the European Convention on Human Rights. The case concerned an opposition politician

who stood as a candidate in the 2021 State Duma elections and was disqualified on account of his involvement in an organisation classified as extremist by the Russian authorities. This "involvement," according to the authorities, had consisted in taking part in a peaceful rally in support of Alexei Navalny and in encouraging others to do the same. The Court found that exercising the Convention right to peaceful assembly could not constitute grounds for any sanction, including disqualification from standing for Parliament. This reason had been an arbitrary ground for disqualification. That consideration was even more relevant regarding the action for which the applicant had been criticised, which consisted in merely encouraging other people to take part in this rally. The applicant's disqualification, while formally complying with positive law, had thus been based on arbitrary grounds. The Court held that Russia was to pay the applicant €5'000 in respect of non-pecuniary damage and €7'500 in respect of costs and expenses.

Dianova and Others v. Russia (applications nos. 21286/15, 13140/16, 13162/16, 20802/16, and 24703/16)

The applicants, Olga Dianova, Anastasiya Sheveleva, Leonid Mikhaylov, Roman Roslovtsev, and Valeriya Zenyakina, are five Russian nationals who live in Yekaterinburg, Moscow and Novomoskovsk. The case concerns a hunger strike by Ms Dianova in Yekaterinburg in protest against the treatment of a prisoner in correctional colony IK-63 in Ivdel. It also concerns the other four applicants' making a satirical film about Russian President Vladimir Putin in Vorobyovy Gory Park in Moscow and their subsequent arrest. Relying on Articles 10 on freedom of expression, 11 on freedom of assembly and association, 5 on the right to liberty and security, 6 on the right to a fair trial, and 13 on the right to an effective remedy of the European Convention on Human Rights, the applicants complain, in particular, of the police actions to end the hunger strike and the filmmaking, and the subsequent administrative-offence proceedings.
The Court found a violation of Article 11 in respect of Ms Dianova, a violation of Article 10 in respect of Ms Sheveleva, Mr Mikhaylov, Mr Roslovtsev, and Ms Zenyakina, a violation of Articles 5 § 1 and 6 § 1 in respect of Ms Sheveleva, Mr Mikhaylov, Mr Roslovtsev, and Ms Zenyakina.
The Court held that Russia was to pay the applicant €190 in respect of pecuniary damage, €7'500 to Ms Dianova; €9'750 to Ms Sheveleva, Mr Mikhaylov, Mr Roslovtsev, and Ms Zenyakina, each in respect of non-pecuniary damage; and €2000 to Ms Dianova; EUR 2,000 jointly to Ms Sheveleva, Mr Mikhaylov, Mr Roslovtsev, and Ms Zenyakina.

IECLO DIRECTOR: Prof. Anna ORIOLO
Department of Legal Sciences
(School of Law)
University of Salerno
Via Giovanni Paolo II, 132
84084 Fisciano (SA) - Italy
www.ieclo.org
info@ieclo.org

C.O. v. Germany (application no. 16678/22)

The applicant, Mr C.O., is a German national who was born in 1942 and lives in Hamburg (Germany). He is one of the owners and shareholders of the German private bank W-Bank and, from 2014-2019, was chairman of its supervisory board. W-Bank was involved in the "Cum-Ex" scandal, a large-scale tax fraud scheme in which significant dividend tax refunds were obtained under false pretences. The case concerns criminal proceedings against two persons who were found guilty of committing offences jointly with the applicant and/or aiding and abetting offences committed by him as one of the main perpetrators, even though he had not yet been found guilty of the offences. Relying on Article 6 § 2 on the presumption of innocence and Article 8 § 1 on the right to respect for correspondence of the European Convention on Human Rights, the applicant complains that the written judgments of the Regional Court and the Federal Court of Justice alleging his involvement in the offences amounted to a premature expression of his guilt and stigmatised him, adversely affecting his private and professional life. The Court found no violation of Article 6 § 2

P.J. and R.J. v. Switzerland (application no. 52232/20)

In the case of P.J. and R.J. v. Switzerland (application no. 52232/20) the European Court of Human Rights held that there had been a violation of Article 8 on the right to respect for private and family life of the European Convention on Human Rights. The case concerned a national of Bosnia and Herzegovina's expulsion from Switzerland following his conviction for drug trafficking. The Court found that the national courts had failed to carry out a careful balancing of the individual and public interests in the case. They had focused their assessment on the nature and gravity of the offence, without weighing in the balance other aspects to the case such as the fact that the applicant had no criminal record and had only been given a suspended sentence, the fact that he had secured stable employment after his conviction and had shown good behaviour from then on and the adverse impact of the expulsion on his family. The Court, finding a violation of article 8, held that Switzerland was to pay the applicant €10'000 in respect of nonpecuniary damage and €15'000 in respect of costs and expenses.

Pindo Mulla v. Spain (application no. 15541/20)

In Grand Chamber judgment in the case of Pindo Mulla v. Spain (application no. 15541/20) the European Court of Human Rights held, unanimously, that there had been a violation of Article 8 on

the right to respect for private and family life of the European Convention on Human Rights read in the light of Article 9 on the freedom of thought, conscience and religion. The case concerned blood transfusions administered to the applicant, a Jehovah's Witness, during emergency surgery, despite her refusal to undergo a blood transfusion of any kind. The Court found that the authorisation to proceed with that treatment had resulted from a decision-making process that had been affected by the omission of essential information about the documenting of Ms Pindo Mulla's wishes, which had been recorded in various forms and at various times in writing. Since neither the applicant nor anyone connected with her had been made aware of the decision taken by the duty judge authorising all treatment, it had not been possible to rectify that omission. Neither this issue nor the issue of her capacity to take a decision had been addressed in an adequate manner in the subsequent proceedings. The national system had therefore not responded adequately to her complaint that her wishes had been wrongly overruled. The Court held that Spain was to pay the applicant €12'000 in respect of non-pecuniary damage and, unanimously, that it was to pay the applicant €14'000 in respect of costs and expenses.

M.D. and Others v. Hungary *(application no. 60778/19)*

The applicants are an Afghan family of six, they currently live in Oldenburg (Germany). The case concerns the family's removal from Hungary to Serbia. The family, who had fled Iran, arrived in January 2019 at the Röszke transit zone situated at the Hungarian border with Serbia. The Hungarian authorities rejected their asylum application and ordered their removal to Serbia. Serbia refused to readmit them, and their destination country was changed to Afghanistan. Instead of being expelled to Afghanistan, however, the applicant family allege that in May 2019 they were driven from the transit zone and made to cross the border to Serbia. According to the Hungarian Government, the family had wanted to leave for Serbia. Relying on Article 4 of Protocol No. 4 on the prohibition of collective expulsion to the European Convention on Human Rights, taken alone and in conjunction with Article 13 on the right to an effective remedy of the European Convention, the applicants complain that they were forced to return to Serbia, without a valid decision ordering their expulsion to that State, without regard for the Serbian authorities' refusal to readmit them and without their having had access to an interpreter or a lawyer. The Court found a violation of Article 4 of Protocol No. 4. The Court held that Hungary was to pay €9'000 for non-pecuniary damage to the applicants jointly.

Trapitsyna and Isaeva v. Hungary *(application no. 5488/22)*

The applicants, Elena Trapitsyna, and her daughter, Szofia Isaeva, are Russian nationals who were born in 1965 and 2008. They live in Vienna. The case concerns the decision to expel Ms Trapitsyna from Hungary in 2020 on national security grounds and the ensuing revocation of her and her daughter's permits to stay in the country. Ms Trapitsyna had been living in Hungary since 1995 and her daughter had been born there. Relying on Article 8 on the right to respect for private and family life of the Convention, the applicants allege that the expulsion order was based on classified information that they had no access to and that the immigration authorities did not consider that they were fully integrated into Hungarian society. The Court found a violation of Article 8 and held that Hungary was to pay €10'000 in nonpecuniary damage and €4'000 in costs and expenses.

Morelli v. Italy (application no. 23984/19)

In the case of Morelli v. Italy (application no. 23984/19) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final. The case concerns the obligation for self-employed people who are the commercial managers of their company to register in two separate social-security schemes of the *Istituto Nazionale della Previdenza Sociale*. The Court, in rejecting the case, held that the legislature's intervention clarifying that people in Mr Morelli's situation had to pay into both social-security schemes had been foreseeable and justified on compelling grounds of general interest – protection of the State's financial stability, offsetting of the unexpected effects of the Court of Cassation's judgment of 12 February 2010, and restoration of legal certainty by the re-establishment of the settled administrative practice. The complaint under Article 6 (right to a fair trial) was therefore manifestly ill-founded.

Court elects a new Vice-President of the Court and two Section Presidents

The European Court of Human Rights has today elected a new Vice-President of the Court – Judge Ivana Jelić (elected in respect of Montenegro). She will take up her duties on 1 November 2024. The Court has also today elected two new Section Presidents – Judges Lado Chanturia (elected in respect of Georgia) and Ioannis Ktistakis (elected in respect of Greece). They will also take up their duties on 1 November 2024.

Fabbri and Others v. San Marino (applications nos. 6319/21, 6321/21 and 9227/21)

IECLO DIRECTOR: Prof. Anna ORIOLO
Department of Legal Sciences
(School of Law)
University of Salerno
Via Giovanni Paolo II, 132
84084 Fisciano (SA) - Italy
www.ieclo.org
info@ieclo.org

The case Fabbri and Others v. San Marino (applications nos. 6319/21, 6321/21 and 9227/21) concerned three individuals who participated in criminal proceedings as victims of alleged offences. They complained that they could not have their civil claims adjudicated in those proceedings because delays in the investigations had led to the alleged offences becoming time-barred in 2020. In today's Grand Chamber judgment1 in the case the European Court of Human Rights held, unanimously, that there had been no violation of Article 6 § 1 on the right of access to court of the European Convention on Human Rights as concerned one of the applicants, Mr Forcellini (application no. 9227/21). The Court found that Mr Forcellini had not pursued his interests diligently – only bringing a civil claim in the context of the criminal complaint three and a half years after the alleged offence had been committed and just a few days before the expiry of the limitation period in respect of the alleged offence. In such circumstances it was relevant that other avenues to pursue his civil claims had been open to him such as bringing separate civil proceedings immediately after the alleged offence or when he had been notified of the decision to discontinue the criminal proceedings. The Court also held that applications nos. 6319/21 and 6321/21 were inadmissible. It found that the two remaining applicants had not lodged a formal request via a signed declaration to obtain the status of "civil party", as was required under San Marino law. They had therefore not clearly shown that they attached importance to their right to compensation for any damage sustained.

Missaoui and Akhandaf v. Belgium (application no. 54795/21)

In the case of Missaoui and Akhandaf v. Belgium (application no. 54795/21), the European Court of Human Rights has unanimously declared the application inadmissible. The case concerned two applicants who complained that they had been prohibited from entering a public swimming pool in Antwerp while wearing burkinis, based on a municipal by-law. In the domestic proceedings, the applicants did not lodge an appeal on points of law because a lawyer at the Court of Cassation had given a negative opinion on the chances of lodging a successful appeal. The Court was mindful of the importance of the role of the lawyers who were members of the Court of Cassation Bar, particularly their filtering role at that court. It pointed out, however, that a negative opinion from a lawyer at the Court of Cassation on the chances of lodging a successful appeal did not automatically mean that such an appeal would be "bound to fail" within the meaning of the Court's case-law. The Court indicated that, in deciding whether an appeal was "bound to fail", consideration had to be given to the content of the opinion and the subject matter in issue, having regard also to the wider context. In

the present case, the Court observed that neither the lawyer at the Belgian Court of Cassation in his negative opinion, nor the applicants before the Court, had relied on any domestic case-law or any other relevant materials demonstrating that an appeal was bound to fail. The Court noted that the Court of Cassation had never ruled on the lawfulness of a judicial decision concerning the wearing of a burkini at a public swimming pool. It also observed that there appeared to be divergent case-law on the matter in the lower courts in Belgium. In consequence, the Court considered that the single negative opinion from a lawyer at the Court of Cassation was not, in the circumstances of the case, a valid reason for exempting the applicants from lodging an appeal on points of law with the Court of Cassation for the purposes of Article 35 § 1 of the Convention.

COUNCIL OF THE EUROPEAN UNION

Central African Republic: Council extends the mandate of the EU military training mission for one year

The Council adopted a decision extending the mandate of the EU military training mission in the Central African Republic (EUTM RCA) for a further year, until 19 September 2025, with a budget allocation of over €5 million for this period.

Furthermore, the Council decided that the mission will continue providing strategic advice and education, expanding the latter to leadership development of young military leaders. Since November 2021, the training activities in support of the Central African Armed Forces (Forces Armées Centrafricaines) have been suspended as a temporary operational measure. EUTM RCA was established on 19 April 2016. Its mandate is to contribute to reforming the Central African Republic's defence sector within the framework of broader security sector reforms. In this context, the mission's objective is to support the build-up of modernised, effective, ethnically balanced, and democratically accountable Central African Armed Forces (Forces Armées Centrafricaines). It does this with the support of UNSC Resolution 2709 (2023), which has welcomed the work carried out by EUTM RCA. The mission operates in close coordination and complementarity with other international partners present in the country, such as the UN's Multidimensional Integrated Stabilisation Mission in the Central African Republic (MINUSCA), and the EU Advisory Mission to the Central African Republic (EUAM RCA).

Russia's war of aggression against Ukraine: EU individual sanctions over territorial integrity prolonged for a further six months

The Council decided today to prolong the restrictive measures targeting those responsible for undermining or threatening the territorial integrity, sovereignty and independence of Ukraine for another six months, until 15 March 2025. The existing restrictive measures provide for travel restrictions for natural persons, the freezing of assets, and a ban on making funds or other economic resources available to the listed individuals and entities. Sanctions will continue to apply to over 2200 individuals and entities, many of which are targeted in response to Russia's ongoing unjustified and unprovoked military aggression against Ukraine. In the context of the sanctions' review, the Council also decided not to renew the listings of two individuals and remove five deceased persons from the list. The European Council also called for the full and effective enforcement of sanctions, as well as for further measures to counter their circumvention, and stated that the EU remains ready to further limit Russia's ability to wage war.

Iran: Statement by the High Representative on behalf of the European Union

With the dire human rights situation in Iran, especially suppressing the rights of women, Iranian voices, calling for dignity and equality, must still be heard and respected. The crackdown on the 'Women, Life, freedom' movement by the Iranian authorities caused hundreds of deaths, thousands of unjust detentions and harm and severe limitations to freedom of opinion and expression and other civic freedoms. Iranian judicial authorities used disproportionally harsh sentences, including capital punishment, against protesters. The EU takes the occasion to reiterate its strong and unequivocal opposition to the death penalty at all times, in all places and in all circumstances, especially taking into account the worrying increase in executions recorded in Iran over the past years. The EU also recalls that under international law the prohibition of torture is absolute. There are no reasons, circumstances or exceptions whatsoever that could be invoked as a justification for its use.

The EU continues to call upon Iran to eliminate, in law and in practice, all forms of systemic discrimination against all women and girls in public and private life and to take gender-responsive measures to prevent and ensure protection for women and girls against sexual and gender-based violence in all its forms. The EU believes in and speaks up for fundamental rights such as freedom of expression, including online and offline, and freedom of assembly, which must be respected in all circumstances. A strong and free civil society is essential.

EUROPEAN PARLIAMENT

Human rights breaches in Afghanistan, Belarus and Cuba

European Parliament adopted three resolutions on human rights issues in Afghanistan, Belarus and Cuba. The deteriorating situation of women in Afghanistan due to the recent adoption of the law on the "Promotion of Virtue and Prevention of Vice". Parliament condemns the Taliban's recent decree and enforcement of Sharia law and denounces the erasure of women and girls from public life in Afghanistan. Women are being forced into early marriages, are subjected to sexual violence as well as flogging and stoning to death, MEPs recall, while commending their courage and expressing solidarity with Afghan women. MEPs want the EU to support the recognition of gender apartheid as a crime against humanity and call for Afghanistan's de facto authorities to be held accountable, through the International Criminal Court (ICC) investigation and the establishment of a UN Independent Investigative Mechanism. They also demand new EU sanctions against the Taliban and condemn governments that uphold the Taliban by normalising relations. The resolution urges the EU and donor states to increase humanitarian aid and funding to support basic needs, livelihoods and Afghan civil society. Parliament urges the Cuban regime to immediately and unconditionally release José Daniel Ferrer and all persons politically and arbitrarily detained for exercising their rights to freedom of expression and peaceful assembly, and reiterates MEPs' support for the Cuban people and human rights defenders in Cuba. MEPs condemn the systematic human rights violations and abuses, and the torture and inhuman treatment perpetrated by the Cuban authorities against José Daniel Ferrer García and the other political prisoners. They reiterate their call on the EU member states in the Council to apply the EU Global Human Rights Sanctions Regime, and to adopt sanctions against those responsible for persistent human rights violations in Cuba.

EUROJUST

Eurojust supports major operation against Albanian drug-trafficking ring in Italy: 66 arrests

A large-scale cocaine-smuggling ring was dismantled by authorities in Italy, Albania, Poland and Switzerland, coordinated by Eurojust. During an action day, a total of 45 suspects were arrested, most of them in Italy. Prior to the action day, 21 suspects involved in the sale of cocaine in and around the

IECLO DIRECTOR: Prof. Anna ORIOLO
Department of Legal Sciences
(School of Law)
University of Salerno
Via Giovanni Paolo II, 132
84084 Fisciano (SA) - Italy
www.ieclo.org
info@ieclo.org

city of Brescia were arrested. In total, 66 arrests were made. The Albanian-led organised crime group (OCG) had been selling cocaine from Latin America for at least four years, mainly in the north of Italy. Eurojust set up a coordination centre this week to support and coordinate the actions of all authorities involved. During the investigations and the action day, for an estimated amount of EUR 4 million in cash was seized, as well as 360 kilograms of cocaine, luxury vehicles and watches, telecommunications equipment, arms and ammunition. Investigations into the drug-smuggling network started in 2020. The suspects laundered their illegal profits via an extensive network of enterprises run by an Italian Chinese organisation set up for this purpose, which supplied fake invoices with a total value of around EUR 375 million. The OCG members will be charged with the trafficking of illicit drugs, money laundering and investment fraud.

51 arrests in wide-scale operation to take down encrypted communication platform used by organised crime groups

During a global operation, authorities from around the globe took down an encrypted communication platform used for criminal activities such as drug trafficking, homicide, corruption and money laundering. The wide scale operation, supported by Eurojust and Europol, led to over 50 arrests and the seizing of financial assets. Investigations into the communication platform started when authorities were alerted of a new encrypted service being used in Sweden, France, Spain and the Netherlands. Due to servers being located in France, French authorities started investigations into the platform. The platform's robust encryption made it ideal for criminal networks to use for their activities. It was mostly used for drug trafficking but also for other criminal activities, such as arms trading, homicide, robbery, kidnapping, and money laundering. The communication platform is a fully anonymised service. Users can purchase the solution without any personal information.

By using multiple private servers around the world, third party or government agencies have difficulty tracking the communication solution. As servers were found in France and Iceland, the platform was administered from Australia and Canada, and financial assets were located in the United States, a global operation against the phone service started. A joint investigation team (JIT) between authorities from France and the United States was set up at Eurojust, the second-ever JIT with the United States. This allowed them to exchange information and evidence in real time. Authorities from the Netherlands, Sweden, Canada and Australia were also involved in the investigations. Through coordination among the authorities, hosted by Eurojust, a strategy to take down the encrypted phone

solution was defined. The investigations culminated in a number of joint action days taking place across the globe against the phone service. Suspects were arrested in Australia, Ireland, Italy and Canada.

EU AGENCY FOR FUNDAMENTAL RIGHTS

FRA joins European Commission Antisemitism Working Group discussions

FRA joined a panel on effective prosecution of antisemitic incidents and the role of the International Holocaust Remembrance Alliance definition of antisemitism. It formed part of a meeting of the European Commission Working Group on antisemitism.

FRA presented findings from its third survey on antisemitism. It particularly focused on the rights of victims of hate crime and the application of the Framework Decision on Racism and Xenophobia.

The meeting took place in Budapest on 24 September.

The focus has been primarily on how antisemitism is still a reality for many Jewish people in the EU today. Faced with prejudice and hostility, most feel unable to live openly Jewish lives. This report presents the results of FRA's third EU survey of Jewish people's experiences and perceptions of antisemitism. The survey took place before the Hamas attacks in October 2023 and the war in Gaza; however, it includes evidence from a consultation with national and European Jewish umbrella organisations since. It covers 13 EU Member States that together account for around 96 % of the EU's Jewish population.

Full report: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2024-experiences-perceptions-antisemitism-survey_en.pdf

OLAF

OLAF hosts G7 Sub-Working Group on Export Control Enforcement

The European Anti-Fraud Office (OLAF) hosted a meeting of the G7 Sub-Working Group on Export Control Enforcement. Experts from the Group of Seven countries and OLAF met in Brussels on 24 September 2024 to discuss the latest developments in the fight against the circumvention of sanctions and export controls that restrict Russia's access to technologies and other materials required to sustain its military operations.

The meeting brought together experts from Canada, France, Germany, Italy, Japan, the United Kingdom and the United States, who, together with OLAF investigators, discussed a set of coordinated measures to provide guidance to the industry on how to prevent the diversion of controlled items to Russia, including through third countries. The group decided to publish a join guidance for industry with the aim of facilitating the identification of ever-changing circumvention practices, especially regarding items that pose a heightened risk of diversion.

FRONTEX

EU external borders: Detections down 39% in first 8 months of 2024

The number of irregular border crossing into the European Union fell by 39% to 139 847 in the first eight months of this year, according to preliminary data collected by Frontex.* The largest decreases in irregular border crossings were again recorded on the Western Balkans and Central Mediterranean routes, with 77% and 64%, respectively.

Key highlights fort the first eight months of 2024

- The Central Mediterranean route continues with a significant downward trend in recent month: his migratory route saw a 64% drop in irregular border crossing crossings to 41 250. This was achieved through some preventive measures taken by the Tunisian, Lyban and Turkish authorities. The agreements signed by the EU and individual member States with the main countries of last departure were also significant.
- The Eastern mediterranean are the second most active migratory route to the EU. Recently it saw an increase of 39% to 37 163 so Criminal networks have seen their profits increase. In those areas mugglers are increasingly using speedboats to reach the Greek islands.
- The number of detections on the Western Balkan route also continued to fall significantly in the first eight months of this year and was down as much as 77% to just over 14 669.
- Eastern Land Border and Western African route showed the highest rises of 193% and 123%, respectively.
- Top three nationalities this year: Syria, Mali, Afghanistan.

With 2,900 officers and staff deployed across the continent, Frontex continues to assist Member States in protecting the European Union's external borders

Frontex Strengthens Cooperation with UNHCR for Enhanced Border Management

Frontex and the UNHCR, the UN Refugee Agency, signed on 17 September of 2024 an agreement to enhance collaboration on border management and humanitarian protection across Europe. The two organization agreed to promote and support effective border management. In relation to migration flows, the two organizations aim to ensure Europe's borders remain secure while respecting the rights and dignity of those seeking safety.

This partnership marks a significant commitment to upholding principles guaranteeing access to asylum while ensuring control of migration flows in a humane manner.

The newly agreement focuses on three main area of cooperation:

1. Capacity building and training: Sharing expertise and information to ensure that border management is effective and in accordance with international refugee law and human rights.
2. Information sharing and coordination: Improve communication between the two organizations
3. Complementary communication: promoting a unified approach to deal with migratory flows, border security, and the protection of refugees.

This renewed partnership formalises cooperation that began in 2008 and is now reflected in a formal agreement, paving the way for a stronger working arrangement between the two organizations.

EUROPEAN COMMITTEE OF THE REGION

Regions and cities call for systematic transformation to reach climate neutrality and expect the COP29 to advance multilevel action

Regions and cities suggest that EU's climate policy need a new prospective to promote innovation, to mobilize private and public investment and to engage citizens toward climate neutrality. At meeting in Espoo, Finland local leaders adopted new recommendation and supported the position of sub-national government for COP29. The European Committee of Regions express its regrets that the implementation of the European Green Deal remains insufficient and fragmented. It calls for the new European Commission to lead systematic transformation with a central role for cities and regions in order to accelerating innovation, engaging citizens for change and promoting sustainable production and consumption habits. Markkula highlighted the necessity of establishing new mechanisms to mobilize substantial privet investment and to enhance the effectiveness of EU's cohesion and Horizon

IECLO DIRECTOR: Prof. Anna ORIOLO
Department of Legal Sciences
(School of Law)
University of Salerno
Via Giovanni Paolo II, 132
84084 Fisciano (SA) - Italy
www.ieclo.org
info@ieclo.org

funds in supporting climate initiatives. Also regions and cities also stress that increasing RDI financing and public-private collaboration is necessary to scale up the use of existing technologies and developing new ones for achieving climate neutrality. The opinion is set for final adoption at the plenary session in November. The Consortium of Local and Government Authorities (LGMA) expects COP29 to promote a multi-level action and ambitious target for climate finance, ensuring direct access to local governments. Finally, Finland has joined the Coalition for High Ambitions in Multilevel Partnerships (CHAMP) to improve cooperation between governments and cities in the fight against climate change.

EUROPEAN DEFENCE AGENCY (EDA)

Teaching art of Counter-IED: EU facility looks ahead after first decade

The Joint Deployable Exploitation and Analysis Laboratory (JDEAL) in the Netherlands is celebrating its 10th anniversary. Originally developed for countering improvised explosive devices (IEDs) during multinational operations in Afghanistan, JDEAL has trained over 900 personnel from 14 EU member states. Its expertise is now being considered for broader applications, including the use of Unmanned Aerial Vehicles (UAVs) and Unmanned Underwater Vehicles (UUVs) in Ukraine and to address potential threats across Europe.

JDEAL, which has been managed by the European Defence Agency and lead nation the Netherlands, also brings together Austria, Belgium, Finland, France, Germany, Hungary, Italy, Luxembourg, Portugal, Romania, Spain, and Sweden – as well as Norway. The United States, the United Kingdom, and the NATO Counter-IED Centre of Excellence have also sent observers over the project's lifetime.

JDEA, that began operating in mid-2014, is based on the temporary lab deployed to Kabul in September 2011, comprises a permanent joint training facility in the Dutch town of Soesterberg, and two deployable laboratories equipped with tools such as a Rapid DNA machine.

The Netherlands is now donating one of the deployable laboratories to Ukraine and will partly finance the cost of its replacement to ensure two laboratories for the Member States once again.

EUROPEAN UNION AGENCY FOR CYBERSECURITY (ENISA)

IECLO DIRECTOR: Prof. Anna ORIOLO
Department of Legal Sciences
(School of Law)
University of Salerno
Via Giovanni Paolo II, 132
84084 Fisciano (SA) - Italy
www.ieclo.org
info@ieclo.org

EU Digital Identity Wallet: A leap towards secure and trusted electronic identification through certification

According with Regulation (EU) 2024/1183 to establish the European Digital Identity Framework, the European Commission has requested ENISA to provide support for the certification of European Digital Identity (EUDI) Wallets, including the development of a candidate European cybersecurity certification scheme in accordance with the Cybersecurity Act (Regulation (EU) 2019/881).

EPPO

Spain: Five directors of two companies indicted for evading anti-dumping duties on steel sheets

The European Public Prosecutor's Office (EPPO) in Madrid (Spain) is seeking a sentence of more than eight years of imprisonment and fines of over €25 million in an indictment filed on September 17th against two companies and their five directors. They are suspected of evading the payment of anti-dumping duties on five import operations of steel sheets from China, in 2017 and 2018.

The imported steel sheets, being finished products, are subject to the payment of the extra customs duties introduced by the EU's 2019 new anti-dumping regulation, but the defendants declared the imported goods as slabs, which are intermediate or semi-finished iron or steel products with a lower level of processing and rolling than sheets. By doing so, they mislead the customs authorities and evaded the payment of the corresponding duties. In the indictment, the damage caused to the financial interests of the European Union as a result of this tax evasion is estimated at just under €10 million.

COURT OF JUSTICE OF THE EUROPEAN UNION

Restrictive measures against Russia: the confiscation of the entire proceeds of a brokering transaction covered by the prohibition on providing brokering services for military equipment is permitted

Neves 77 Solutions SRL (Neves), a Romanian aeronautics company, acted as an intermediary in a transaction involving radio sets between a Ukrainian company, *SFTE Spetstechnoexport*, and an Indian company, with some of the equipment being manufactured in Russia. In 2019, Romanian authorities informed Neves that EU sanctions, prohibiting brokering services for military equipment to Russian operators due to the Ukraine conflict, applied to the transaction. Despite this, Neves received nearly €3 million for its services, leading to a fine of 30,000 RON (around €6,000) and the

IECLO DIRECTOR: Prof. Anna ORIOLO
Department of Legal Sciences
(School of Law)
University of Salerno
Via Giovanni Paolo II, 132
84084 Fisciano (SA) - Italy
www.ieclo.org
info@ieclo.org

confiscation of the payment. A Romanian court sought clarification from the Court of Justice of the EU on whether the prohibition applied, even if the military equipment never entered the EU, and whether the national sanctions were compatible with Neves' property rights. The Court confirmed its jurisdiction to interpret the EU law governing the sanctions and ruled that the prohibition applies regardless of whether the goods pass through EU territory, as otherwise the rules could be easily bypassed. The Court also upheld the confiscation of the full payment, acknowledging the limitation on Neves' property rights but deeming it proportionate to achieve the EU's goal of protecting Ukraine's territorial integrity.
The full text and, as the case may be, an abstract of the judgment is published on the CURIA website.

Fair trial: minors subject to criminal proceedings must have the practical and effective opportunity to be assisted by a lawyer

Criminal proceedings against three minors were brought before a Polish court. They were charged with having broken into the buildings of a disused former holiday centre.
During those proceedings, it was found that the suspects had been questioned by the police in the absence of a lawyer. Before they were first questioned, neither they nor their parents had been informed of their rights or the conduct of the proceedings. The court-appointed lawyers therefore requested that previous statements made by the suspects be removed from the file as evidence.
The national court, questioning the effectiveness of the procedural guarantees in place for minors during the pretrial phase, made a reference to the Court of Justice. The national court is uncertain whether, in particular, the national provisions comply with EU law 1 and what conclusions should be drawn from any incompatibility. The Court holds that children who are suspects or accused persons must have the practical and effective opportunity to be assisted by a lawyer – a court-appointed lawyer where necessary. That obligation must be fulfilled before they are first questioned by the police or another law enforcement or judicial authority and, at the latest, from the time of that questioning. In principle, those authorities cannot carry out questioning of a child who does not actually receive such assistance. The Court notes that minors must be informed of their procedural rights as soon as possible, at the latest before they are first questioned. The information must be communicated in a simple and accessible way, adapted to their specific needs.

IECLO DIRECTOR: Prof. Anna ORIOLO
Department of Legal Sciences
(School of Law)
University of Salerno
Via Giovanni Paolo II, 132
84084 Fisciano (SA) - Italy
www.ieclo.org
info@ieclo.org

Economic sanctions against Russia: the Council has the power to establish reporting and cooperation obligations to ensure the effectiveness of fund freezing measures

The names of Elena Timchenko, Gennady Timchenko, Mikhail Fridman, Petr Aven, and German Khan were included on the EU's sanctions list following Russia's invasion of Ukraine. To counter increasingly complex schemes to evade sanctions, the EU Council adopted a regulation on 21 July 2022, requiring the reporting of funds and cooperation with national authorities. Failure to comply is treated as a circumvention of fund-freezing measures, aiming to prevent the use of complex financial arrangements to hide resources.

The individuals affected challenged these obligations in the General Court of the European Union, arguing that such obligations were not authorized under the common foreign and security policy (CFSP) and that the regulation represented a misuse of power, asserting that enforcement should be left to Member States.

The General Court dismissed their actions entirely. The court ruled that the Council can adopt regulations to implement sanctions and ensure uniform application across Member States. The Council's adoption of reporting and cooperation obligations was lawful, even though not explicitly outlined in the related decision. The Court also noted that the Council did not overstep by interfering with Member States' authority to define penalties, which remain within national jurisdiction, whether they be criminal, civil, or administrative.