TRIAL International

Make way for Justice #3

Universal Jurisdiction Annual Review 2017

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ECCHR EUROPEAN CENTER FOR CONSTITUTIONAL AND HUMAN RIGHTS

REDRESS Ending Torture, Seeking Justice for Survivors

FIBGAR

Syria conflict ©AFP

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KEYS

Syrian cases

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CLOSING THE NET ON IMPUNITY

Five years of conflict, hundreds of thousands of dead. In Syria, large-scale war crimes are committed in all impunity. The international community has proved incapable to prevent the bombing of humanitarian convoys and medical facilities, the starvation of civilians and the use of chemical weapons.

Effective prosecution of these crimes has been repeatedly impeded at the international level : the idea of a hybrid tribunal has never seen the light of day, while referral to the International Criminal Court (ICC) has been vetoed by China and Russia, both permanent members of the United Nations Security Council.

Is this synonymous with a judicial deadlock for victims ? Not necessarily, as justice is taking an audacious path: universal jurisdiction.

Throughout 2016, authorities in Austria, Finland, France, Germany and Sweden have brought charges for alleged crimes in Syria. Investigations are ongoing in Norway, Switzerland and The Netherlands. Last year alone, 11 Syrian cases have seen significant judicial advances, including 3 convictions for war crimes.

The movement is here to stay

The advances of universal jurisdiction go beyond crimes committed in Syria. In 2016, 13 countries cases opened 47 cases based on the principle – 7 more than the previous year, and 10 more than in 2014. Despite constant attacks, universal jurisdiction continues to be a significant tool in the fight against impunity. For victims, it is often the only way to justice.

While this tendency is very encouraging, we cannot rest on our laurels. If 47 suspects were investigated, prosecuted or judged in 2016, how many more are walking free ? And while 11 Syrian suspects were arrested or prosecuted in 2016, all of them were low-to mid-level perpetrators. High-ranking suspects predominantly remain protected by powerful political allies. These challenges will not be overcome until specialised units in charge of these cases receive sufficient means.

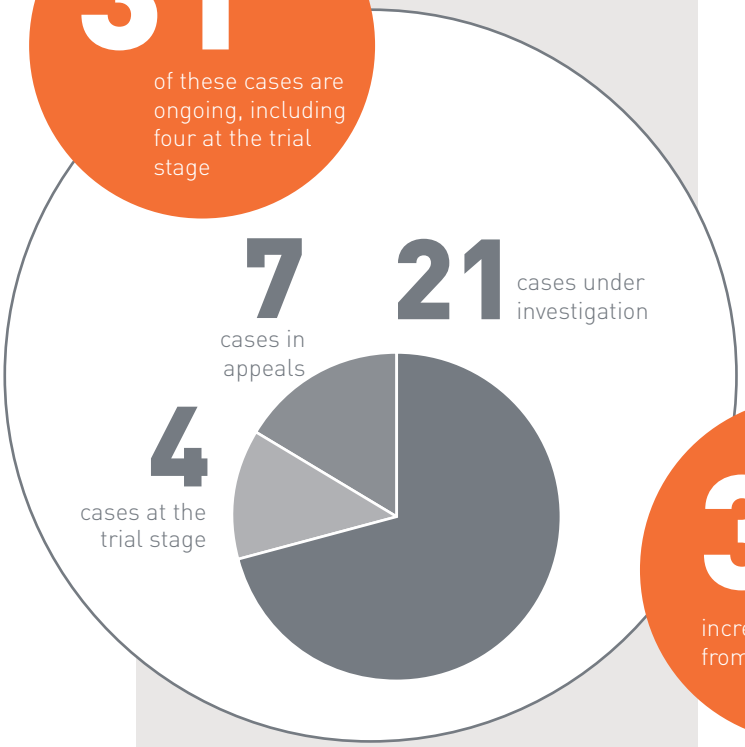
The coming years will bring great opportunities for domestic courts to step up their efforts and assert their jurisdiction. The International Criminal Tribunals have established a transition mechanism (MICT) to help national jurisdictions take over the prosecution of international crimes committed in the former Yugoslavia and in Rwanda. The recently created mechanism on crimes committed in Syria will have a similar mission. The establishment of these institutions sends a strong signal to domestic jurisdictions worldwide : closing the net on impunity is in your hands.

Philip Grant
TRIAL International Director

KEY FINDINGS

47 cases of universal jurisdiction in **13** countries

31 of these cases are ongoing, including four at the trial stage



30% increase from last year

14 charges of torture

6 charges of genocide

15 charges of crimes against humanity

charges of war crimes have jumped up by **55%**

While every effort has been made to ensure the accuracy of the information presented in each case, readers are invited to alert the author to any inaccuracies or updates on the information cited. The author would like to remind that any person charged by national or international authorities is presumed innocent until proven guilty.

ARGENTINA

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ARGENTINA
JUDICIAL DEVELOPPMENT

FRANCO DICTATORSHIP CASE

Context

Ongoing proceedings in Argentina against former Spanish officials and other actors of the Franco dictatorship for alleged serious crimes under international law committed in Spain between 1936 and 1977.

Suspects

Former Spanish officials and other actors of the Franco dictatorship (including González Pacheco, former police officer, Jesús Muñecas Aguilar, former captain of the civil guard and former government ministers Rodolfo Martín Villa and Jose Utrera Molina)

Country of residence of suspects

Spain

Charges

Crimes against humanity, including torture, extrajudicial killings and enforced disappearances

Developpments in 2016

On 19 January 2016, the corpse of Timoteo Mendieta was exhumed. The mass grave contained approximately 22 bodies. Bone and teeth samples from the skeletons, along with saliva swabs from relatives, were sent to Argentina to be tested in order to establish their identities. Timoteo Mendieta's remains were not identified in this mass grave. Further exhumations are expected to take place.

The initial case filed on 14 April 2010 has been expanded to include additional complaints. An international women's organisation based in Spain, Women's link Worldwide, filed a complaint with the Argentinean court on 16 March 2016, calling for the investigation into systematic gender-based crimes committed against women during the Franco regime.

In August 2016, Judge Servini de Cubría opened an investigation into the death of Spanish poet Federico García Lorca, pursuant to a complaint filed by the Spanish Association for the Recuperation of Historical Memory (Asociación para la Recuperación de la Memoria Histórica). García Lorca is believed to have been executed during the Civil War in 1936.

Current status

Under investigation

Procedure in Spain

In December 2006, the Spanish investigating judge Baltasar Garzón opened an investigation into allegations of crimes against humanity committed during the Franco dictatorship. In October 2008, he ruled that the 1977 Spanish law granting amnesty for crimes committed during the Franco dictatorship did not apply owing to the nature of the crimes. However, the Supreme Court overturned this decision, while Judge Baltasar

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Garzón was judged for prevarication for his alleged unfair interpretation of the amnesty law. He was finally acquitted but the amnesty law remains applicable, and the crimes committed by the Franco dictatorship cannot be investigated or prosecuted in Spain.

Procedure in Argentina

On 14 April 2010, Spanish and Argentinean human rights organisations filed a criminal complaint with the Argentinean investigating judge Servini de Cubría on behalf of Spanish victims. On 18 September 2013, the Argentinean judge issued arrest warrants against four former officials of the Franco dictatorship (including González Pacheco and Jesús Muñecas Aguilar) and requested their extradition for crimes against humanity, including acts of torture allegedly committed in Spain between July 1936 and June 1977.

On 24 April 2014, the Spanish National Court (Audiencia Nacional, Sala de lo Penal) rejected an extradition request issued on 18 September 2013 by Judge Servini de Cubría against González Pacheco and Jesús Muñecas Aguilar. On 30 October 2014, notwithstanding the Court's decision, the Argentinean investigating judge issued detention orders against twenty of the accused in order to request their extradition to Argentina.

In 2015, the Argentinean judge Servini de Cubría sent a second rogatory commission to the local tribunal of Guadalajara in Spain, requesting the exhumation of the corpse of Timoteo Mendieta, who was reportedly executed in 1939. It also provided for a DNA test of his daughter, Ascensión Mendieta, victim and plaintiff in the case. On 24 November 2015, the Tribunal of Guadalajara authorized the exhumation which started on 19 January 2016..

Read more about the franco dictatorship case

AUSTRIA

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AUSTRIA
JUDICIAL DEVELOPPMENT

SYRIA : 27-YEAR OLD ARRESTED IN TIROL

Based on information from asylum seekers, a young syrian national was arrested in Tirol on 17 June 2016 for allegedly killing wounded Syrian army soldiers while fighting in the country's civil war. The defendant, a former member of the rebel group Farouq Brigades, is accused of executing several government soldiers who were severely injured during battles near Homs in 2013 and 2014. He reportedly confessed to the killings initially but later retracted his confession.

On 10 November 2016, the suspect was formally charged with 20 counts of murder with terrorist intent, which is punishable by life imprisonment. The trial is scheduled to take place before the Regional Court of Innsbruck in early 2017.

BELGIUM

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BELGIUM
JUDICIAL DEVELOPPMENT

MICHEL DESAEDELEER

Context
Closed proceedings against a dual Belgian/American citizen allegedly implicated in enslavement and the looting of "blood diamonds" in Sierra Leone, between 1999 and 2001.

Suspects
Businessman

Country of residence of suspects
United-States of America

Charges
Enslavement as a crime against humanity and looting as a war crime

Developpments in 2016
On 28 September 2016, Michel Desaedeleer died in custody in Belgium. On the same day, the Belgian press reported that he was to be formally charged within the next few weeks, and his trial likely would have begun in early 2017. It would have been the first trial to deal with international crimes allegedly committed in connection with the "blood diamonds" trade.

Current status
Closed

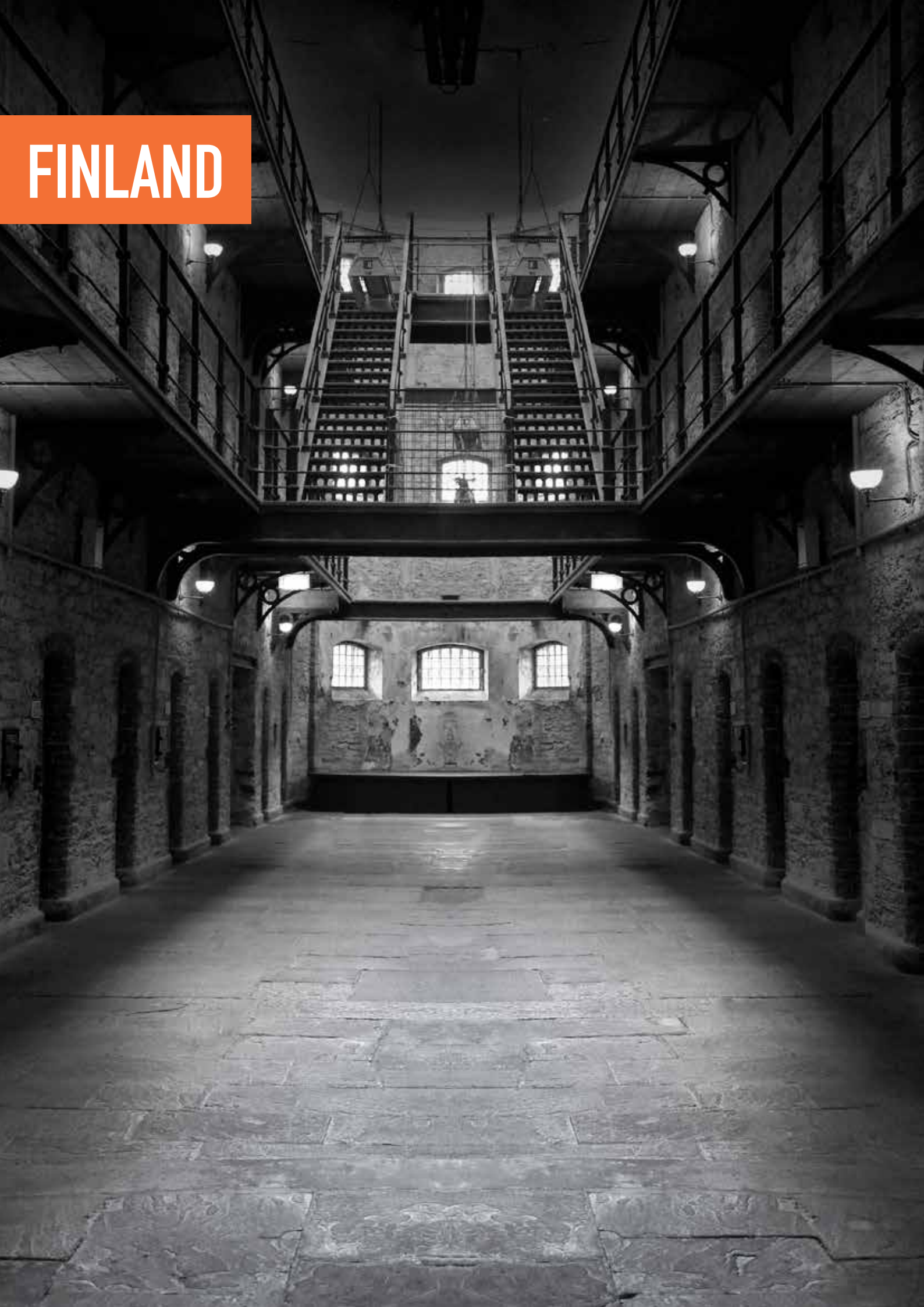
Facts
During the civil war in Sierra Leone, Michel Desaedeleer allegedly participated, with the Revolutionary United Front (RUF), in the enslavement of civilians in order to mine diamonds in Kono district mines. Those diamonds were then sent to the former Liberian President, Charles Taylor, and sold on the international market. Indeed, between 1999 and 2001, it is alleged that the Belgian/American businessman was working with Charles Taylor and the RUF, which needed him to provide money, machines and other material. It is alleged that he helped Charles Taylor and the RUF to export the diamonds outside the country.

Procedure
In January 2011, citizens of Sierra Leone who had been forced to work in the mines during the civil war filed a complaint in Brussels against Michel Desaedeleer, who was then living in the United States. The competent Belgian authorities opened an investigation into the complaint, leading to the issuing of a European arrest warrant targeting Michel Desaedeleer.

On 28 August 2015, Michel Desaedeleer was arrested in Malaga in Spain, following the European Arrest Warrant issued against him by the Belgian authorities. On 8 September 2015, he was transferred to Belgium, where he was indicted for crimes against humanity and war crimes and placed in preventive custody. He died in custody on 28 September 2016.

Read more about Michel Desaedeleer

FINLAND



FINLAND
JUDICIAL DEVELOPPMENT

THE IRAQI TWIN BROTHERS

Context

Ongoing proceedings in Finland against Iraqi twin brothers for their alleged implication in the Camp Speicher massacre, near Tikrit, Iraq, in June 2014.

Suspects

Iraqi nationals and alleged Islamic State (IS) fighters

Country of residence of suspects

United-States of America

Charges

War crimes, murder and aggravated assault committed with terrorist intent

Developpments in 2016

On 30 November 2016, the Iraqi twin brothers were charged with war crimes, murder and assault with terrorist intent. Their trial began on 13 December 2016 before the Pirkanmaa District Court. The prosecution is seeking life imprisonment for the defendants, both of whom have pleaded not guilty to the charges.

Current status

On trial

Facts

In June 2014, 1'700 unarmed Iraqi army recruits were arrested at Camp Speicher, near Tikrit, Iraq, by members of the Islamic State (IS). The victims were laid on the ground and shot one by one. The Iraqi twin brothers are alleged to have murdered 11 of them.

Procedure

The 24-year-old Iraqi twin brothers entered Finland in September 2015 as asylum seekers. They were arrested in Forssa, Finland, by the National Bureau of Investigation on suspicion of involvement in the Camp Speicher massacre committed on behalf of IS in Iraq. They appeared before the District Court of Pirkanmaa for a detention hearing on 11 December 2015 and were held in custody. Their trial started on 13 December 2016.

Read more about the Iraqi twin brothers

JEBBAR SALMAN AMMAR

Context

Closed proceedings for war crime committed in Iraq.

Suspects

Former member of a Shi'ite Muslim militia in Iraq

Country of residence of suspects

Finland

Charges

War crimes

Developpments in 2016

On 8 March 2016, the 29-year old Iraqi national Jebbar Salman Ammar was charged with one count of war crime by the Finnish Prosecution Service. He was accused of desecrating the corpse of an enemy combatant who was under the protection of international humanitarian law. On 19 March 2016, Jebbar Salman Ammar was found guilty of a war crime and given a 16-month suspended sentence by the Pirkanmaa District Court.

Current status

Under a 16-month suspended sentence

Facts

As a member of a Shi'ite militia, Jebbar Salman Ammar fought Islamic State (IS) fighters during the ongoing civil war in Iraq. Following a battle in the city of Tikrit, he posed for three photos with a decapitated IS fighter, which he later posted publicly on Facebook. During his trial, Jebbar Salman Ammar admitted to posting the images but denied any responsibility for the enemy fighter's death, claiming he had died during battle.

Read more about Jebbar Salman Ammar

HADI HABEEB HILAL

Context

Closed proceedings for war crime committed in Iraq in 2015.

Suspects

Former member of the Iraqi Armed Forces

Country of residence of suspects

Finland

Charges

War crimes

Developpments in 2016

On 8 March 2016, Iraqi national Hadi Habeeb Hilal was charged with committing war crimes by the Finnish Prosecution Service. The accused, who arrived in Finland in 2015, was charged with desecrating the corpse of an enemy combatant as a war crime. On 22 March 2016, the Kanta-Hame District Court found Hadi Habeeb Hilal guilty and handed down a suspended prison sentence of 13 months.

Current status

Under a 13-month suspended sentence.

Facts

Hadi Habeeb Hilal was a sergeant in the Iraqi army and fought in the country's ongoing civil war. In April 2015, he posted a photograph of himself holding a decapitated IS fighter on a public Facebook page. Hadi Habeeb Hilal admitted to posing for the photograph but denied any involvement in the man's death, claiming he had died in a suicide attack on Iraqi forces.

Read more about Hadi Habeeb Hilal

FRANCE

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FRANCE
JUDICIAL DEVELOPPMENT

PASCAL SIMBIKANGWA

Context

The trial of Pascal Simbikangwa was the first in France of a Rwandan citizen allegedly involved in the 1994 genocide in Rwanda.

Suspects

Head of the *Service Centrale des Renseignements* (SCR), the Central Intelligence Service in Rwanda

Country of residence of suspects

France

Charges

Genocide, aiding and abetting genocide and aiding and abetting crimes against humanity

Developpments in 2016

The appeal hearings took place from 24 October to 3 December 2016. On 3 December 2016, the French Criminal Court (Cour d'Assises de Bobigny) confirmed the verdict on appeal and upheld his sentence of 25 years imprisonment for genocide and complicity in crimes against humanity. His defense lawyers announced their intention to appeal to the Supreme Court.

Current status

Sentenced to 25 years; sentence confirmed on appeal.

Facts

Pascal Simbikangwa who allegedly supplied weapons and other material to Hutu officers or militia, was said to be responsible for roadblocks in the capital and to have instructed and encouraged militiamen to actively participate in the crimes.

On 28 October 2008, he was arrested by French Police in Mayotte for trafficking fake identity cards, under the false identity of "Safari Senyamuhara". His correct identity was discovered during his detention.

Procedure

On 13 February 2009, the Collectif des Parties Civiles pour le Rwanda (CPCR) filed a criminal complaint in Mayotte. On 1 March 2013, the Office of the Prosecutor of the French specialized unit for the prosecution of genocide, crimes against humanity, war crimes and torture within the Paris Tribunal (hereinafter "the specialized unit") requested the indictment of Pascal Simbikangwa for aiding and abetting genocide and aiding and abetting crimes against humanity committed in Rwanda between April and July 1994. He was indicted for these crimes on 29 March 2013.

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Pascal Simbikangwa's trial opened on 4 February 2014 before the Paris Criminal Court (Cour d'Assises). The Prosecutor requested a life sentence. On 14 March 2014 the Court sentenced Simbikangwa to 25 years imprisonment for his participation in the genocide and for aiding and abetting crimes against humanity. On 18 March 2014, he filed a notice of appeal. His sentence was upheld on appeal on 3 December 2016.

Read more about Pascal Simbikangwa

and discover our OP-ED

THE MOHAMED BROTHERS

Context

Appeal pending in France against two Algerian militia leaders for alleged crimes of torture and enforced disappearances, committed in the province of Relizane during the Algerian civil war in the 1990s.

Suspects

Abdelkader Mohamed (who has both Algerian and French citizenship) and Hocine Mohamed (Algerian citizenship), allegedly led the Relizane militia (Group of Self-Defense) during the Algerian civil war.

Country of residence of suspects

France

Charges

Torture

Developpments in 2016

On 20 January 2016, the Investigation Chamber of the Court of Appeal in Nîmes (Chambre de l'instruction de la Cour d'Appel de Nîmes) repealed the investigating judge's decision of 26 December 2014 to send Hocine and Abdelkader Mohamed for trial. The civil parties appealed this decision before the French Supreme Court (Cour de Cassation).

Current status

Case dismissed; ongoing appeal

Facts

In the 1990s, Algeria was in the throes of a very violent internal armed conflict, between state-armed militias and armed Islamic groups. Between 1993 and 1994, the Algerian authorities started to arm militias, called "Self-Defense groups" to fight the armed opposition. These militias allegedly committed numerous abuses on the civilian population, including extrajudicial killings, torture, rapes and enforced disappearances.

Led by the Mohamed brothers, the Relizane Group of Self-Defense is allegedly responsible for more than one hundred cases of extrajudicial killings and two hundred and eight cases of enforced disappearances committed in the province of Relizane between 1994 and 1998.

Procedure

On 10 October 2003, FIDH and its member organization in France, the Ligue des Droits de l'Homme (LDH) filed a complaint for torture and crimes against humanity before the Office of the Prosecutor with the Nîmes Tribunal (Tribunal de Grande Instance de Nîmes). On 11 December 2003, the Tribunal launched an investigation for crimes of torture.

On 29 March 2004, the Mohamed brothers were arrested, indicted and placed in custody. On 30 March 2004, they were released and placed under judicial surveillance.

On 18 June 2004, the investigating judge within the Nîmes Tribunal mandated an international rogatory commission to investigate the crimes committed in Algeria. On 19 July 2005, the Algerian authorities refused to collaborate with the investigating judge. Between 2006 and 2013, the investigation nevertheless continued, and confrontations between the victims and the accused were organized. In July 2013, the Office of the Prosecutor at the Nîmes Tribunal called for the Mohamed brother's case to be refered to the Criminal Court.

On 26 December 2014, the investigating judge of the Nîmes Tribunal issued a final order to bring the two accused to trial before the Nîmes Criminal Court (Cour d'Assises de Nîmes). The defendants appealed this decision. On 29 July 2015, the Chief Prosecutor called on the investigating chamber to order a complementary investigation into the case.

Read more about Abdelkader Mohamed

and Hocine Mohamed

OCTAVIEN NGENZI AND TITO BARAHIRA

Context

The case against Octavien Ngenzi and Tito Barahira is the second trial in France of Rwandan nationals suspected of involvement in the 1994 genocide in Rwanda.

Suspects

Former Rwandan Mayors

Country of residence of suspects

France

Charges

Genocide and crimes against humanity

Developpments in 2016

The trial began on 10 May 2016 before the Paris Criminal Court. On 6 July 2016, Octavien Ngenzi and Tito Barahira were convicted of genocide and crimes against humanity for overseeing a "massive and systematic practice of summary executions" of ethnic Tutsis. Both were sentenced to life imprisonment. On 7 July 2016, lawyers for the defendants announced their intention to appeal against the conviction.

Current status

Sentenced to life imprisonment; appeal pending

Facts

The two accused were convicted for participating in the massacre of hundreds of Tutsis, including those who had sought refuge in a church in Kabarondo on 13 April 1994.

Procedure

On 2 June 2010, the Collectif des parties civiles pour le Rwanda (CPCR) filed a complaint against Octavien Ngenzi with the Office of the Prosecutor at the Mamoudzou Tribunal (Tribunal de Grande Instance de Mamoudzou, Mayotte). On 4 June 2010, Octavien Ngenzi was arrested and detained in Mayotte.

In October 2010, Tito Barahira was indicted by the National Public Prosecution Authority (NPPA) in Rwanda for his alleged participation in the genocide and for alleged incitement to commit genocide. Pursuant to an arrest warrant issued in Rwanda, he was arrested on 3 April 2013 in Toulouse (France). However, the French authorities denied the Rwandan extradition request and the two cases were joined on 16 July 2013. Fourteen civil parties have joined the case.

On 13 May 2014, the Office of the Prosecutor at the Paris Tribunal (Tribunal de Grande Instance de Paris) sought the prosecution of Octavien Ngenzi and Tito Barahira before the Paris Criminal Court (Cour d'Assises de Paris). On 28 May 2014, the investigating judge referred their case to the Paris Criminal Court. The defendants appealed this decision but the French Supreme Court (Cour de Cassation) dismissed the appeal on 7 January 2015.

The trial before the Paris Criminal Court opened on 10 May 2016 and lasted eight weeks, concluding on 6 July 2016 with the conviction of both Octavien Ngenzi and Tito Barahira for genocide and crimes against humanity.

Read more about Octavien Ngenzi

and Tito Barahira

NORBERT DABIRA

Context

Ongoing proceedings before the French specialized unit for the prosecution of genocide, crimes against humanity, war crimes and torture within the Paris Tribunal (hereinafter "the specialized unit") for alleged crimes committed in Brazzaville, Republic of the Congo, in 1999.

Suspects

Congolese General, Overall Superintendent of the Armed Forces and the Gendarmerie

Country of residence of suspects

France

Charges

Torture and crimes against humanity

Developpments in 2016

On Friday 13 May 2016, a hearing on a request submitted by the defence for the annulment of Norbert Dabira's interrogation of 5 December 2014 was held before the Paris criminal procedural Chamber ("Chambre de l'instruction de la Cour d'Appel de Paris"). The defence argued that the investigating magistrate had violated his right to remain silent.

On 3 June 2016, the Chamber dismissed Norbert Dabira's request. The investigation is ongoing.

Current status

Indicted; under investigation

Facts

During the 1998-1999 internal armed conflict in the Democratic Republic of the Congo (DRC), the governments of Congo and the DRC and the High Commissioner for Refugees reached an agreement aimed at facilitating the voluntary repatriation of Congolese civilians who had been forced into exile by the violence.

Between 5 and 14 May 1999, 6599 refugees from Kinshasa, voluntarily crossed the River Congo, towards Brazzaville Beach. These refugees were separated into groups: soldiers, women, and able-bodied men. The latter were taken out of the line and transferred to secret locations from which they disappeared.

Procedure in Congo

A trial began before the Brazzaville Criminal Court on 19 July 2005. On 17 August 2005, after a reportedly flawed process, the fifteen accused were found not guilty. The judge recognized, however, the disappearances of more than eighty-five people and ordered the Congolese government to pay reparation to the eligible claimants of each missing person whose name figured on a list established by the High Commissioner for Refugees.

Procedure in France

FIDH and its member organizations in France the Ligue des droits de l'homme (LDH) and in DRC (the Observatoire congolais des droits de l'Homme) filed a complaint on 5 December 2001 against Norbert Dabira and other high profile officials, including President Denis Sassou Nguesso and Minister of the Interior Pierre Oba. An investigation was opened in January 2002 for crimes against humanity, torture and enforced disappearances.

Norbert Dabira was arrested in May 2002 and interrogated by the investigating judges on 16 September 2002. Nonetheless, in November 2004, the President of the Paris criminal procedural Chamber suspended the investigation. The civil party appealed this decision before the French Supreme Court (Cour de Cassation) which annulled this decision and reopened the investigation on 10 January 2007.

On 22 August 2013, Norbert Dabira was again arrested while travelling in France. He was indicted for crimes against humanity and placed under judicial supervision. On 9 October 2014, the Paris criminal procedural Chamber confirmed the indictment of Norbert Dabira for crimes against humanity. On 5 December 2014, he was interrogated by the investigating judge.

Read more about Norbert Dabira

AMESYS CASE

Context

Ongoing proceedings before the French specialized unit for the prosecution of genocide, crimes against humanity, war crimes and torture within the Paris Tribunal (hereinafter "the specialized unit") for allegedly aiding and abetting crimes of torture committed in Libya during the Muammar Gaddafi regime (from 1969 to 2011)

Suspects

French company AMESYS

Country of residence of suspects

France

Charges

Aiding and abetting acts of torture, by selling surveillance material to the Muammar Gaddafi regime in Libya

Developpments in 2016

The judicial investigation is still ongoing. In March 2016 it was revealed that new evidence – consisting of dozens of documents from Muammar Gaddafi's security services – had come to light, reportedly showing the regime's extensive use of the surveillance technologies provided by AMESYS to track, arrest, and torture political opposition.

Current status

Under investigation

Facts

In 2007, AMESYS signed a contract with the Government of Libya to provide surveillance technologies for the purposes of intercepting communication, processing data and analysis. These materials allegedly allowed the Muammar Gaddafi regime to repress the opposition and to commit serious forms of human rights abuse.

Procedure

On 19 October 2011, FIDH and its member organization in France, the Ligue des Droits de l'Homme (LDH), launched a criminal complaint as civil parties before the investigating judge at the Paris Tribunal (Tribunal de Grand Instance de Paris) against AMESYS and its management, denouncing their alleged role as accomplices in acts of torture and other cruel, inhumane or degrading treatment, on the basis of universal jurisdiction.

On 26 March 2012, the Office of the Prosecutor at the Paris Tribunal issued an order not to open a criminal investigation, arguing that there were insufficient grounds to open an investigation. However, the investigating judge of the specialized unit decided on 23 May 2012 to open a formal criminal investigation. On 15 January 2013, the Paris Court of Appeal (Cour d'Appel de Paris) decided to allow the investigation to be opened. In January 2013, five Libyan victims joined the proceedings as civil parties. They were heard in June and July 2013 by the specialized unit. Another Libyan victim joined the case and was heard by the investigating judge on 11 December 2015.

Read more about the case

PASSIVE PERSONALITY : THE GUANTANAMO CASE

Context

Ongoing proceedings in France against former Guantanamo commander Geoffrey Miller and other unknown perpetrators for alleged torture committed against French citizens at the US detention centre in Guantanamo Bay, Cuba.

Suspect

Former Guantanamo Commander Geoffrey Miller and other unknown US officials

Country of residence of suspects

United States of America (USA)

Charges

Torture

Developpments in 2016

On 20 January 2016, the investigating judge of the Paris Tribunal (Tribunal de Grande Instance de Paris) issued a subpoena requesting Geoffrey Miller to appear before the judge on 1 March 2016, regarding his alleged involvement in torture committed against Guantanamo Bay detainees. However, Geoffrey Miller failed to appear before the judge. On 20 July 2016, the claimants' lawyer requested that an international arrest warrant be issued against Geoffrey Miller.

Current status

Under investigation

Facts

Mourad Benchellali, Nizar Sassi and Khaled Ben Mustapha are French citizens who were detained at Guantanamo between 2002 and 2004-2005 where they were subjected to physical and psychological abuse. Geoffrey Miller was commander of the Joint Task Force Guantanamo and reportedly oversaw interrogations and detainee treatment during the plaintiffs' detention.

Procedure

In November 2002, a criminal complaint and a claim for damages were filed in France in connection with the arrest, abduction, detention, false imprisonment and arbitrary detention of Mourad Benchellali and Nizar Sassi. Investigatory proceedings were opened in June 2005. The scope of the investigation was later expanded to include torture allegations submitted by the plaintiffs after their release from Guantanamo, and to include both the criminal complaint and civil claim brought by the third plaintiff, Khaled Ben Mustapha.

In January 2012, the investigating judge sent an international rogatory commission to the United States requesting that the US authorities conduct – in the presence of French officials – investigations into the case and question any persons who had contact with the plaintiffs during their detention at Guantanamo.

After this request and several follow-up reminders were ignored by the United States, the plaintiffs filed a motion in February 2014 requesting that the investigating judges summon General Miller for questioning. The request was initially denied. On 2 April 2015, the Paris Court of Appeal reversed this decision, ruling that General Miller must be summoned to give evidence on the acts in question and his role in the treatment of detainees at Guantanamo.

Read more about Geoffrey Miller

and read more about the case

SYRIA : INVESTIGATIONS STILL ONGOING

A former photographer – codenamed Caesar – within the military police of the Syrian regime sought refuge in Europe after fleeing Syria with thousands of pictures of dead and abused bodies, attesting to the torture committed in the jails of the regime of Bashar Al-Assad. In September 2015, on the basis of these pictures, the French Ministry of Foreign Affairs requested the Paris Prosecutor of the French specialized unit for the prosecution of genocide, crimes against humanity, war crimes and torture within the Paris Tribunal (Tribunal de Grande Instance de Paris) to open a preliminary investigation for crimes against humanity, war crimes and torture. France has jurisdiction over these alleged crimes if one or more of the victims is French or, if a suspect has established his habitual residence on French territory, or, in the case of the crime of torture, if a suspect is located on French territory. Investigations are ongoing.

In early July 2016, Syrian-French national Mustafa Abdul Rahman lodged a criminal complaint with the Paris Tribunal against the regime of Bashar al-Assad, alleging torture, forced disappearance, and homicide. The complaint concerns the death of his brother Hicham, a Syrian doctor, who died in a prison near Damascus at the end of 2014.

On 24 October 2016, another complaint was filed with the Paris Tribunal by Obeida Dabbagh, a Syrian-French national, on behalf of his brother and nephew, Mazen and Patrick Dabbagh, both Syrian-French nationals. Obeida Dabbagh alleged that they were arrested in 2013 in Syria by the Air Force Intelligence Services and brought to the Investigative Branch in Mezze (Damascus). They have been disappeared ever since. A judicial investigation for torture, crimes against humanity, and enforced disappearances has been opened before the French specialized unit for the prosecution of genocide, crimes against humanity, war crimes and torture within the Paris Tribunal

UPCOMING : POTENTIAL INVESTIGATION FOR TORTURE IN MAURITANIA

Context

Complaint filed in November 2016 before the French specialized unit for the prosecution of genocide, crimes against humanity, war crimes and torture within the Paris Tribunal (hereinafter «the specialized unit») against Mauritanian officials accused of torture and cruel treatment of anti-slavery activists.

Suspects

Twenty unnamed high-level officials in the Mauritanian Government

Country of residence of suspects

Mauritania

Charges

Torture and cruel treatment

Developpments in 2016

On 14 November 2016, three French lawyers representing 13 Mauritanian anti-slavery activists lodged a complaint before the specialized unit against 20 high-level government officials who are allegedly known to be architects of a "torture program" in Mauritania.

Current status

Ongoing investigations

Facts

Thirteen Mauritanian anti-slavery activists were sentenced to between 3 and 15 years in jail in August 2016 as part of the country's crackdown on human rights defenders. On 18 November 2016, 10 of the activists were released by an appellate court, but 3 remain behind bars. While in detention, the activists were allegedly subjected to torture and ill treatment, including being deprived of water, tied up and suspended, beaten with iron wires, and forced to sign confessions and false statements.

ACTIVE PERSONALITY: INVESTIGATION FOR FINANCING TERRORISM IN SYRIA

LAFARGE CASE

Context

Separate proceedings against the cement company LafargeHolcim on the one hand for alleged illegal purchase of oil, and on the other hand for financing terrorism and for complicity in war crimes and crimes against humanity committed by the Islamic State (IS) in Syria.

Suspects

French-Swiss cement company LafargeHolcim Group (crimes allegedly committed by the French company Lafarge prior to its 2015 merger with Swiss-based Holcim), its current CEO, its subsidiary Lafarge Cement Syria, and its two former CEOs, all French nationals.

Country of residence of suspects

France and Switzerland (headquarters)

Charges

Illegal oil purchase, financing of a terrorist enterprise, complicity in war crimes, complicity in crimes against humanity, deliberate endangerment of people, exploitative labor work and forced labor.

Developpments in 2016

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

On 15 November 2016, eleven former Syrian employees, and the human rights groups Sherpa and ECCHR filed a criminal complaint as civil parties before the investigating judge at the Paris Tribunal (Tribunal de Grand Instance de Paris) against Lafarge, Lafarge Cement Syria, a current CEO and two former, for financing the terrorist group IS and complicity in that group's crimes committed in Syria.

Current status

Regarding the complaint filed by the Finance Minister: ongoing investigation

Regarding the complaint filed by Syrian former employees and human rights groups: a decision is awaited.

Facts

The complaint filed by the human rights groups and former employees alleges crimes committed in Syria between 2013 and 2014, in relation to Lafarge's cement factory in Jalabiya, northern Syria, in an area where ISIS was operating. Lafarge allegedly entered in negotiation with IS to purchase oil and pozzolan from them, as well as to obtain official IS passes for the crossing of checkpoints in order to maintain its production in the area.

Read more about the case

GERMANY

GERMANY
JUDICIAL DEVELOPPMENT

IGNACE MURWANASHYAKA & STRATON MUSONI

Context

Ongoing proceedings in Germany against former officials of the Democratic Forces for the Liberation of Rwanda (Forces Démocratiques de Libération du Rwanda - FDLR), for alleged serious crimes under international law committed in the Democratic Republic of the Congo (DRC). The FDLR, formerly the Armée de Libération du Rwanda (Liberation Army of Rwanda) was created in 2001 and has been operating in eastern DRC since then. Some of its members have been accused of participating in the 1994 genocide in Rwanda.

Suspects

Ignace Murwanashyaka has been head of the FDLR since 2001. Straton Musoni has been his deputy since 2004.

Country of residence of suspects

Germany

Charges

Ordering and coordinating crimes against humanity and 16 counts of war crimes, committed by the FDLR on Congolese territory between January 2008 and November 2009; belonging to a terrorist group.

Developpments in 2016

Under appeal

Current status

Sentenced to prison for 8 and 13 years; detained in Germany; under appeal.

Facts

In 2009, Rwanda and the DRC led a joint military operation, aiming at neutralizing the FDLR. This operation resulted in various retaliatory attacks by the FDLR on Congolese civilians, including women, children and other vulnerable persons. The two suspects are accused of having coordinated attacks that resulted in the death of civilians, pillage, recruitment of child soldiers, rape and other forms of sexual violence.

Procedure

Ignace Murwanashyaka and Straton Musoni were arrested in Germany on 17 November 2009, following an arrest warrant issued by the German Federal Court of Justice on 16 November 2009. Their trial before the Higher Regional Court in Stuttgart began on 4 May 2011 and ended after hearings of 320 days of hearings on 28 September 2015. During the proceedings 11 of the 16 initial charges of war crimes and crimes against humanity were dropped.

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The Higher Regional Court of Stuttgart issued its first instance verdict on 28 September 2015, convicting Ignace Murwanashyaka for aiding and abetting war crimes on 5 counts and for leading a foreign terrorist organization, sentencing him to 13 years in prison. Straton Musoni was sentenced to 8 years imprisonment for his role as leader in a foreign terrorist organization. The judgment was appealed.

Read more about Straton Musoni

and Ignace Murwanashyaka

Read more about the general case

ONESPHORE RWABUKOMBE

Context

Closed proceedings in Germany against a former Rwandan official for his alleged participation in the 1994 Rwandan genocide.

Suspects

Rwandan Mayor of the Muvumba commune, member of the local executive committee of the former governing party of Rwanda (MRND).

Country of residence of suspects

Germany

Charges

Genocide

Developpments in 2016

His appeal was dismissed on 20 September 2016.

Current status

Sentenced to life imprisonment; detained in Germany; appeal dismissed.

Facts

During the 1994 genocide in Rwanda, Onesphore Rwabukombe allegedly incited the Hutu residents of Muvumba to kill Tutsi, and allegedly actively participated in killings in the nearby Murambi district. In particular, he is allegedly responsible for the death of at least 1200 people during the massacre in the Kiziguro church, on 11 April 1994.

Procedure

In 2007, Rwandan authorities issued an international arrest warrant against Onesphore Rwabukombe. In March 2008, he was arrested in Germany, pending extradition to Rwanda. However, in November 2008, the German authorities denied the extradition request, on grounds that the fairness of his trial in Rwanda was in doubt. Consequently, Onesphore Rwabukombe was released.

On 26 July 2010 he was arrested near Frankfurt am Main and placed in pre-trial custody. On 8 December 2010, the Higher Regional Court of Frankfurt am Main confirmed the charges against Onesphore Rwabukombe. His initial trial began on 18 January 2011 and ended in February 2014 with Onesphore Rwabukombe being sentenced to 14 years in prison for aiding and abetting genocide.

Following an appeal procedure before the German Supreme Court, during which the court found that he had committed genocide as a direct co-perpetrator, his sentence was increased to life imprisonment on 29 December 2015 by the Higher Regional Court of Frankfurt. His appeal to the Federal Supreme Court was dismissed on 20 September 2016.

Read more about Onesphore Rwabukombe

RAMI K

Context

Ongoing proceedings in Germany for war crimes allegedly committed during the Iraqi Civil War in 2015.

Suspects

Former member of the Iraqi Armed Forces

Country of residence of suspects

Germany

Charges

War crimes

Developpments in 2016

On 29 August 2016, German police arrested Iraqi national Rami K on strong suspicion of war crimes. The 27-year old is accused of having treated persons, who are required to be protected under international humanitarian law in a gravely humiliating or degrading manner.

Current status

Remanded in custody, ongoing investigation

Facts

As a member of the Iraqi Armed Forces, Rami K reportedly fought in the Iraqi Civil War in 2015. Following a battle against members of the terrorist organization Islamic State (IS) north of Baghdad, the suspect allegedly posed for a photo holding the severed heads of two IS fighters, who had been killed in combat. The photo was later posted on social media. The suspect confessed to the crime.

Read more about Rami K

IBRAHIM AL F

Context

Ongoing proceeding in Germany for war crimes allegedly committed in Syria in 2012

Suspect

Alleged former member of Ghurabaa al-Sham (part of the Free Syrian Army)

Country of residence of suspects

Germany

Charges

War crimes and abduction for the purpose of blackmail

Developpments in 2016

On 6 April 2016, German authorities arrested a Syrian national, Ibrahim Al F, in the Westphalia region. He was formally charged with war crimes and abduction for the purpose of blackmail at the Higher Regional Court of Düsseldorf on 27 October 2016.

Current status

Detained pending trial

Facts

Ibrahim Al F is accused of leading the militia Ghurabaa al-Sham, which has been fighting government forces as part of the rebel group "Free Syrian Army", in the Syrian civil war since summer 2012. Ibrahim Al F and more than 150 men under his command allegedly controlled a district in northern Aleppo and frequently looted the surrounding areas. According to the charges, the defendant personally tortured and oversaw the torture (in at least one case to death) and abduction of several residents who resisted the looting.

Read more about Ibrahim Al F.

SULIMAN AL-S

Context

Ongoing trial in Germany for war crimes allegedly committed in Syria in 2013

Suspects

Alleged former member of Jabhat al-Nusra

Country of residence of suspects

Germany

Charges

War crimes, abduction for the purpose of blackmail, unlawful imprisonment, attempted blackmail and use of force or threats against life or limb and membership of a terrorist organization abroad.

Developpments in 2016

On 21 January 2016, the 25-year old Syrian national Suliman Al-S was arrested in his Stuttgart apartment on suspicion of war crimes committed during the Syrian civil war. On 27 June 2016, charges of war crimes, abduction for the purpose of blackmail, unlawful imprisonment, attempted blackmail and use of force or threats against life or limb and membership of a terrorist organization abroad were filed against him in the Higher Regional Court of Stuttgart. As a member of the Syrian terrorist organization Jabhat al-Nusra, Suliman Al-S allegedly participated in the abduction of a UN peacekeeper in 2013.

The trial began on 20 October 2016 and is set to continue through March 2017.

Current status

On trial

Facts

On 17 February 2013, the Canadian national Carl Campeau, who had been working as a legal adviser to UN forces (UNDOF) in the Golan Heights, was allegedly abducted by the terrorist organization Jabhat al-Nusra in the Damascus area. As a member of this terrorist organization, Suliman Al-S allegedly participated in the abduction by keeping the victim under surveillance between March and June 2013. Carl Campeau was then held captive for 8 months until he managed to escape in October 2013. During this time his captors issued death threats against him and tried unsuccessfully to obtain a ransom for his release.

Read more about Suliman Al S.

ACTIVE PERSONALITY : GERMAN NATIONALS SENTENCED FOR WAR CRIMES IN SYRIA

On 12 July 2016, Germany concluded its first war crimes trial relating to offenses committed in Syria under the principle of active personality jurisdiction. The Higher Regional Court in Frankfurt sentenced Aria L., a German national, to 2 years imprisonment for war crimes. Aria L. was accused of treating a person who is required to be protected under international humanitarian law in a gravely humiliating or degrading manner, after photos surfaced depicting him posing in front of the severed heads of murdered members of Assad's forces.

Another case under active personality jurisdiction was opened on 31 May 2016. Abdelkarim El B., a German national, was charged with the war crime of treating a person who is required to be protected under international humanitarian law in a gravely humiliating or degrading manner. The trial began on 22 August 2016 before the Higher Regional Court in Frankfurt. On 8 November 2016, Abdelkarim El. B was found guilty of committing a war crime, of being member of a terrorist organization and of violation of the Military Weapons Control Law (KWKG) and sentenced to 8 years and 6 months imprisonment.

TORTURE CASE IN THE USA

Context

Monitoring procedure (preliminary examination) in Germany regarding torture and other crimes committed by US officials in CIA detention and other US overseas detention centres.

Suspects

Unknown US officials

Country of residence of suspects

United States of America (USA)

Charges

Torture, other related crimes

Developpments in 2016

The European Center for Constitutional and Human Rights (ECCHR) submitted further information about witnesses and suspects on 28 June 2016 concerning torture in Guantánamo and Abu Ghraib.

Current status

Monitoring procedure (preliminary examination)

Facts

The USA planned, developed and exercised torture and other acts of cruel, inhuman, or degrading treatment in its response to international terrorism from 2001. The CIA and the armed forces arrested suspects in different locations worldwide, brought them to US detention facilities located outside mainland US territory or rendered them to other states. As part of the interrogation and detention program, US officials reportedly tortured detainees in these various detention centres.

Procedure

On 9 December 2014, the German Federal Public Prosecutor opened a monitoring procedure in response to the publication of the executive summary of the US Senate Select Committee Intelligence report on the CIA detention and interrogation program and the criminal complaint filed by ECCHR on 17 December 2014. The monitoring procedure is still underway.

ECCHR submitted further information about witnesses and suspects concerning CIA-torture on 28 July 2015.

Read more about the case

SENEGAL

SENEGAL
JUDICIAL DEVELOPPMENT

HISSENE HABRE

Context

Ongoing proceedings against the former President of Chad for alleged serious crimes under international law, committed in Chad between 1982 and 1990.

Suspects

President of Chad from 1982 to 1990

Country of residence of suspects

Senegal

Charges

Crimes against humanity, war crimes and systematic use of torture

Developpments in 2016

Closing arguments before the Extraordinary African Chambers (EAC) in Senegal took place between 8 and 12 February 2016. On 30 May 2016, the Court found Hissène Habré guilty of war crimes, crimes against humanity, torture and sex crimes, including rape and sexual slavery, and sentenced him to life imprisonment. This decision marks the first time a former head of state has been convicted for such crimes by an African court.

On 10 June 2016, Hissène Habré's defense lawyers filed an appeal against this conviction, arguing that the length of the sentence was too severe as it failed to account for extenuating circumstances. However, the lodging of the appeal had no immediate legal bearing on the ongoing reparation proceedings in favour of the victims of torture, sexual crimes and bereavement.

Accordingly, the main trial chamber of the EAC granted the civil party victims reparations of up to 20 million West African Francs ($33,898) each on 29 July 2016. On 28 September 2016, the African Union appointed the four judges of the EAC's appeals chamber. The appeal trial started on 9 January 2017 and is due to conclude in April 2017.

Current status

Detained in Cape Manuel of Dakar; ongoing appeal

Facts

Hissène Habré was president of Chad from 1982 to 1990, establishing a regime which relied on its intelligence agency, the Directorate of Documentation and Security (DDS), to act as a tool for political repression. Through this agency, the regime committed widespread human rights violations and carried out collective arrests and mass murders, based on ethnic origin. In 1992, the Truth Commission established by Hissène Habré's successor, Idriss Deby, accused Hissène Habré of 40,000 political assassinations and systematic torture.

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Procedure in Belgium

On 30 November 2000, victims of Hissène Habré's regime who were living in Belgium filed a complaint against Hissène Habré in Brussels, alleging crimes against humanity, torture, arbitrary detention and enforced disappearances. On 19 September 2005, Judge Daniel Fransen of the District Court of Brussels issued an international arrest warrant against Hissène Habré and requested his extradition to Belgium.

On 15 November 2005, the Senegalese authorities arrested Hissène Habré in Dakar. However, on 25 November 2005, the Dakar Court of Appeal decided that it had no jurisdiction to rule on the extradition request in light of Habré's purported immunity as a former head of state.

Procedure in Senegal

On 26 January 2000, seven victims and one victims association (the Association of the Victims of Crimes and Political Repression (AVCRP) in Chad) filed a complaint against Hissène Habré before the Regional Tribunal of Dakar for acts of torture and crimes against humanity. On 3 February 2000, a Senegalese judge, Demba Kandji, indicted Hissène Habré for torture, barbarous acts and crimes against humanity.

On 4 July 2000, the Dakar Court of Appeal ruled that Senegalese courts could not pursue the charges because the crimes were not committed in Senegal. The victims appealed. On 20 March 2001, the Senegalese Supreme Court (Cour de cassation) confirmed the first instance decision that Senegalese authorities did not have jurisdiction over the case, because the alleged crimes were not committed in Senegal.

Procedure before the EAC

On 2 July 2006, the African Union requested that Senegal prosecute Hissène Habré, to which Senegalese President Abdoulaye Wade agreed. On 31 January 2007, the Senegalese National Assembly adopted a law allowing Senegalese courts to prosecute the crimes with which Hissène Habré is charged, even if committed outside Senegal.

On 16 September 2008, fourteen victims filed a new complaint against Hissène Habré for crimes against humanity and torture before Senegalese jurisdictions. However, from 2008 to 2010, Senegal refused to advance with the case unless it received full funding for the trial. On 20 July 2012, following a submission from Belgium, the International Court of Justice ordered Senegal to either prosecute Hissène Habré or extradite him to Belgium without delay.

On 22 August 2012, Senegal and the African Union signed an agreement which created the EAC within the Senegalese court system, with a mandate of "prosecuting and trying the person or persons mainly responsible for crimes and serious violations of international law, international custom, and international conventions ratified by Chad and committed in Chadian territory during the timeframe starting from 7 June 1982 to 1 December 1990".

On 2 July 2013, the EAC indicted Hissène Habré. In February 2015, following an investigation, the four judges of the EAC ruled that there was sufficient evidence to send Hissène Habré to trial for crimes against humanity, war crimes, and torture. His trial started on 20 July 2015, but was postponed the next day by the judges of the Chamber, because the defense lawyers decided to boycott the trial and did not appear in Court. The President of the EAC decided to appoint three new defense lawyers and gave them 45 days to prepare the case. During 52 days of witness hearings, 98 witnesses, mostly from Chad, were heard. More than 4000 victims registered as civil party.

In parallel, the trial of former Habré-era officials began in Chad on 14 November 2014. On 25 March 2015, the High Court of N'Djamena convicted twenty security agents from Habré's former regime on charges of murder, torture, kidnapping and arbitrary detention, while acquitting four others. In addition, the criminal court ordered the payment of $125 million in reparations, half of which is to be paid by the convicted persons, with the other half by the Chadian government.

Read more about Hissène Habré

SPAIN

SPAIN
JUDICIAL DEVELOPPMENT

THE JESUIT MURDER CASE

Context

Ongoing proceedings against former Salvadoran officials for alleged serious crimes under international law committed in El Salvador during the 1980-1992 internal armed conflict.

Suspects

Seventeen Salvadoran military officials (of the twenty original suspects, one has died and two others have been dismissed from the investigation)

Country of residence of suspects

El Salvador and United States of America (USA)

Charges

Crime against humanity; murder and terrorism

Developpments in 2016

On 5 and 6 February 2016, four Salvadorian officials were arrested by the civil national police from El Salvador pursuant to the international arrested warrant issued by the criminal chamber of the Spanish National Court (Audiencia Nacional, Sala de lo penal): Colonel Guillermo Alfredo Benavides Moreno, former director of the military school; Sergeant Ramiro Ávalos Vargas; Sergeant Tomás Zárpate Castillo and Corporal Ángel Pérez Vásquez.

On 13 July 2016 the Salvadoran Supreme Court ruled that the Amnesty Law adopted after the conflict was unconstitutional. Yet, on 18 and 26 August 2016, the extradition requests from Spain for the four accused were respectively denied on 18 and 26 August 2016. They were released from detention. The Salvadoran Supreme Court decided that Benavides should nonetheless be held in prison to complete a 30 years sentence he received in El Salvador in 1991 for murder and terrorism.

Current status

Under investigation

Facts

From 1980 to 1992, El Salvador was divided by an internal armed conflict between the rebel Farabundo Martí National Liberation Front (FMLN) and the Government, led by the Nationalist Republican Alliance (ARENA). In this context, on 16 November 1989, six Jesuit priests, their housekeeper and her 16 year old daughter were killed at the Pastoral centre of José Simeón Cañas Central American University in San Salvador.

Following the ratification of the Chapultepec Peace Accords on 16 January 1992, a Truth Commission was established to investigate crimes committed during the war. The Truth Commission investigated the murder of the six Jesuits, their housekeeper and her daughter. It concluded that these crimes were ordered by Salvadoran officials and executed by the Salvadoran armed forces.

Procedure

On 13 November 2008, the Spanish Association for Human Rights (APDHE) and the Centre for Justice and Accountability (CJA) filed a complaint before the Spanish National Court against former Salvadoran President Alfredo Cristiani Burkard and fourteen former military officers and soldiers.

On 13 January 2009, Judge Eloy Velasco charged fourteen former officers, including Colonel Ponce, former head of the Armed Forces at the time of the murders, General Rafael Humberto Larios, former Minister of Defence, Colonel Juan Orlando Zepeda, former Vice Minister of Defence, and Colonel Inocente Orlando Montano, former Vice Minister for Public Safety, with murder, crimes against humanity and terrorism. On 30 May 2011, six new defendants were added to the indictment, and international arrest warrants were issued. One of the defendants, Colonel Ponce, died of a heart attack in May 2011.

On 6 October 2014, the criminal chamber of the Spanish National Court ruled that Spain has jurisdiction to investigate and to prosecute the murder of the six Jesuits and their employees as a crime against humanity and for terrorism.

On 16 December 2015, Judge Eloy Velasco issued a new international arrest warrant against suspects in El Salvador.

On 4 January 2016, the Spanish judge sent a request for a Red Notice to Interpol, requesting the arrest of 17 former soldiers allegedly involved in the murders of the Jesuits.

Four of the accused were arrested in February 2016. They were released in October 2016 as the Salvadoran Supreme Court ruled that the Amnesty Law was unconstitutional.

Read more about Guillermo Alfredo Benavides

Antonio Avalos Vargas

Tomas Zarpate Castillo

and Angel Perez Vasquez

INOCENTE ORLANDO MONTANO

Context

Ongoing proceedings for serious crimes under international law allegedly committed in El Salvador, during the 1980-1992 internal armed conflict.

Suspects

Officer in the military, Vice-Minister for Public Security (from 1 June 1989 to 2 March 1992) in El Salvador

Country of residence of suspects

The United States of America (USA)

Charges

Crimes against humanity

Developpments in 2016

On 5 January 2016, a Judge from the Eastern District of North Carolina granted the extradition request for Inocente Orlando Montano to Spain. On 1 April 2016 Montano Montano's lawyers filed a petition seeking to reverse the extradition order. The last hearing took place on 16 September 2016 and the defendant is now awaiting the final decision on his extradition.

Current status

Detained in the USA for immigration fraud and perjury

Facts

See above, "the Jesuits Murder Case"

Procedure

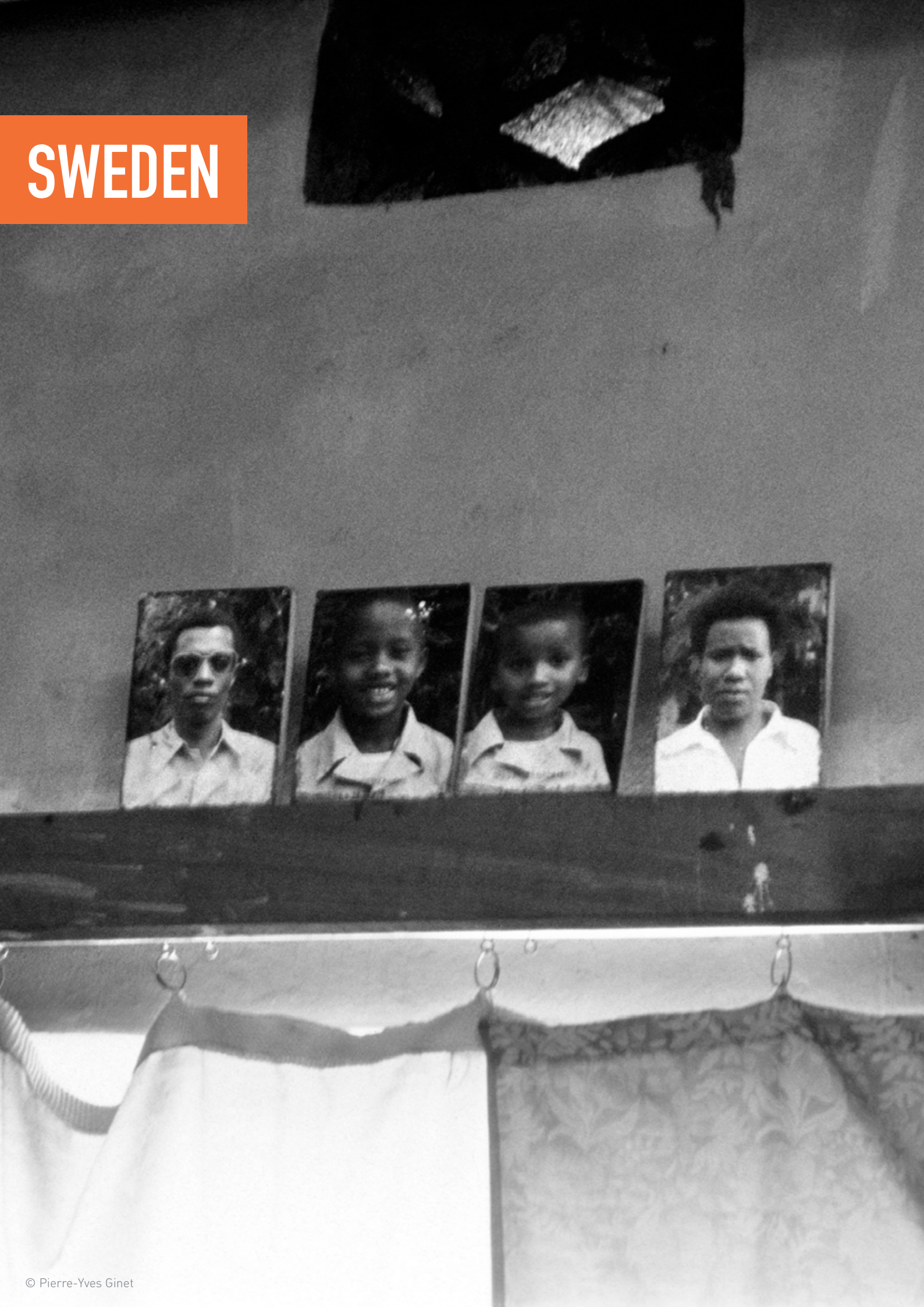
On 23 August 2011, US authorities arrested Inocente Orlando Montano under charges of federal immigration fraud. He was indicted on 10 February 2012 for false declarations to the US authorities regarding the date of his entry to the territory and his military training in El Salvador.

On September 2012, he pled guilty, acknowledging he had given false statements. His trial took place in August 2013 and he was sentenced to 21 months in prison on 27 August 2013. On 23 July 2014 the criminal chamber of the Spanish National Court (Audiencia Nacional, Sala de lo penal) submitted a supplemental brief to the US authorities in support of a pending request for extradition issued on 4 November 2011.

In this request, Spain urged the US authorities to allow the extradition of Inocente Orlando Montano from the USA to Spain to face trial for the murder of the six Jesuits, their house keeper and her daughter, committed in El Salvador on 16 November 1989.

Read more about Inocente Orlando Montano Morales

SWEDEN



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SWEDEN
JUDICIAL DEVELOPPMENT

TABARO THEODORE

Context

Ongoing proceedings in Sweden for crimes allegedly committed during the 1994 Rwandan genocide.

Suspects

Naturalized Swedish national originally from Rwanda

Country of residence of suspects

Sweden

Charges

Genocide, serious crimes against international law

Developpments in 2016

On 25 October 2016, Rukeratabaro Tabaro Theodore was arrested in his home in Orebro on suspicion of involvement in the 1994 Rwandan genocide. The accused was subsequently remanded in custody by the Stockholm District Court and the war crimes unit of the Swedish police took over the investigation.

Current status

Under investigation

Facts

Tabaro Theodore was allegedly involved in the 1994 Rwandan genocide against ethnic Tutsi, in which 800'000 people were killed. He arrived in Sweden in 1998 and became a Swedish citizen in 2006.

Read more about Tabaro Theodore

ACTIVE PERSONALITY : LIFE SENTENCE FOR CLAVER BERINKIDI

Context

Closed proceedings in Sweden against Claver Berinkindi for crimes allegedly committed during the 1994 Rwandan genocide.

Suspect

Alleged leader in attacks against Tutsi in Southern Rwanda during the 1994 Rwandan genocide. He obtained Swedish citizenship.

Country of residence of suspects

Sweden

Charges

Genocide, crimes against international law and gross offence

Current status

Sentenced to life imprisonment; confirmed on appeal

Developpments in 2016

On 16 May 2016 the Stockholm District Court found Claver Berinkindi guilty of genocide and gross crime under international law for murder, kidnapping and attempted murder, sentencing him to life imprisonment. The District Court also awarded damages to 15 victims in Rwanda, ranging from 3 million Rwandan francs ($3'781) to 10 million francs ($12'602).

On 15 February 2017, the Svea Court of Appeal upheld his sentence.

Facts

Between 18 April and 31 May 1994, Claver Berinkindi allegedly led attacks and participated in the killings of ethnic Tutsi in five different locations, in the village of Nyamiyaga and the surrounding area in the prefecture of Butare in Rwanda.

Procedure

On 24 September 2014, Claver Berinkindi and another suspect, both originally from Rwanda, were arrested in Sweden for their alleged participation in the genocide in Southern Rwanda. On 26 September 2014, the other suspect was released while Claver Berinkindi was held in prison awaiting trial.

On 4 September 2015, he was indicted and his trial started on 16 September 2015 before the Stockholm District Court. He pleaded not guilty. Following his conviction on 16 September 2016, Claver Berinkindi appealed his sentence before the Svea Court of Appeal. The appeal judgment issued on 15 of February 2017 upheld his sentence.

Claver Berinkindi had already been tried in absentia in Rwanda by a Gacaca court and sentenced to 30 years in jail.

Read more about Claver Berinkindi

HAISAM OMAR SAKHANH

Context

Ongoing proceedings in Sweden for war crimes of murder allegedly committed during the Syrian Civil War in 2012.

Suspect

Alleged former member of a Syrian rebel group

Country of residence of suspects

Sweden

Charges

War crimes

Developpments in 2016

On 11 March 2016, Syrian national Haisam Omar Sakhanh was arrested in the Swedish town of Karlskoga on suspicion of war crimes committed in Syria. On 14 March 2016, he was remanded in custody by a court in Orebro, pending further investigation. Haisam Omar Sakhanh was formally charged with war crimes by the Swedish prosecutor's office on 29 December 2016.

His trial before the District Court of Stockholm was held from 11 January until 23 January 2017. On 16 February 2017, the District Court of Stockholm sentenced Sakhanh to life in prison for his participation in the massacre of 7 soldiers in Syria in 2012.

Current status

Sentenced to life in prison

Facts

In February 2012, Haisam Omar Sakhanh was arrested by Italian police during a riot at the Syrian embassy in Rome, where he was protesting against the Syrian regime. After being questioned and released, he reportedly travelled to Syria to fight Syrian government forces. In May 2012, he allegedly participated in the execution of seven captured Syrian soldiers in Idlib, north-western Syria. Haisam Omar Sakhanh acknowledged that he took part in the executions, but claims that the victims had been sentenced to death by a legitimate court after a fair trial.

Read more about Haisam Omar Sakhanh

MOHAMED ABDULLAH

Context

Closed proceedings for war crimes allegedly committed during the Syrian civil war that started in 2011.

Suspects

Member of the Syrian government forces

Country of residence of suspects

Sweden

Charges

War crimes

Developpments in 2016

Syrian national Mohamed Abdullah was arrested in Stockholm on 23 February 2016. The 31-year old was accused of committing war crimes in Syria and remanded on 25 February 2016. Mohamed Abdullah, who came to Sweden in July 2015, admitted that he had been working for the Syrian regime during the time in question but denied taking part in the fighting. In March 2016, he was released without charge due to a lack of corroborating evidence.

Current status

Case closed due to lack of evidence

Facts

The accused allegedly committed war crimes while fighting with Syrian government forces in the country's civil war between March 2012 and July 2015.

Read more about Mohamed Abdullah

MOUHANNAD DROUBI

Context

Closed trial in Sweden against a Free Syrian Army (FSA) militant for war crimes and aggravated assault committed during the Syrian civil war in 2012.

Suspects

Member of the Free Syrian Army (FSA)

Country of residence of suspects

Sweden

Charges

War crime and aggravated assault

Developpments in 2016

On 26 February 2016, the Court of Appeal annulled the decision of first instance and ordered a new trial, after a Swedish journalist had identified a previously unknown victim (see below).

On 11 May 2016, the District Court in Huddinge dismissed the war crime charge as it found that there was no nexus, after it emerged that the victim was not a pro-regime soldier but a member of the FSA, like Droubi himself. The court sentenced Droubi to 7 years imprisonment for aggravated assault. The court also ordered his deportation as soon as he has served his sentence and banned him from the country for life.

On 5 August 2016, the Svea Court of Appeal overturned this decision, considering that the crime denounced must be qualified as a war crime and aggravated assault. Mouhannad Droubi was sentenced to 8 years of imprisonment and the Court ordered his deportation as soon as he has served his sentence and banned him from the country for life.

Current status

Sentenced to 8 years imprisonment for war crimes and aggravated assault. The decision is final.

Facts

In spring 2012, Mouhannad Droubi was recruited by the FSA, an armed group taking part in the Syrian civil war between the Syrian government and several armed groups. In June 2012, Mouhannad Droubi and other FSA militants allegedly assaulted a man formerly affiliated with the Syrian state's armed forces. The victim was repeatedly hit and kicked in the head and on the body with a truncheon, a whip, a pair of pliers and with bare hands. The assault was recorded and later uploaded on Mohannad Droubi Facebook page.

Procedure

Mouhannad Droubi arrived in Sweden as a refugee in September 2013. He was granted asylum status and a permanent residency in December 2013. In 2014, Swedish police discovered Mouhannad Droubi's video of the assault. He was arrested in Sweden on 4 October 2014 and indicted on 2 February 2015.

His trial before the Södertörn District Court began on 10 February 2015 and lasted two days. Mouhannad Droubi pleaded not guilty to the charges. On 26 February 2015, he was convicted of "extremely gross assault and violation of international law" for violating the Common article 3 of the Geneva Conventions, and customary international humanitarian law. He was sentenced to five years in prison, and appealed the judgment.

Read more about Mouhannad Droubi

RAED ABDULKAREEM

Context

Ongoing proceedings in Sweden against an Iraqi national for war crimes allegedly committed in Iraq in 2015.

Suspects

Former member of the Iraqi government forces

Country of residence of suspects

Sweden

Charges

War crimes

Developpments in 2016

In September 2016, Iraqi national Raed Abdulkareem was charged with committing a war crime for allegedly posing with dead bodies of Islamic State (IS) fighters in Iraq. The authorities had discovered incriminating photos during a separate investigation into a robbery, for which Raed Abdulkareem is currently serving a 42-month sentence.

The 24-year old admitted to being in the photos but denied any wrongdoing, claiming he had been forced to pose for them. However, on 6 December 2016, Raed Abdulkareem was found guilty of war crimes and sentenced to 6 months imprisonment by the Blekinge District Court.

The judgment has been appealed both by the prosecutors and the defendant.

Current status

Sentenced to 6 months imprisonment ; under appeal

Facts

While fighting IS militants as a member of the Iraqi armed forces in spring 2015, Raed Abdulkareem posed for pictures with the dead bodies of enemy fighters. The photos, which he posted on Facebook in July 2015, show the 24-year old standing in military uniform among several decapitated bodies and a severed head on a plate.

Read more about Raed Abdulkareem

SWITZERLAND

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SWITZERLAND
JUDICIAL DEVELOPPMENT

KHALED NEZZAR

Context

Ongoing proceedings against the former Algerian Minister of Defence for alleged war crimes, committed in Algeria between 1992 and 1994.

Suspects

General in the Algerian army, Minister of Defence in Algeria from 1990 to 1994 and Member of the High Council of State (HCS) from 1992 to 1994.

Country of residence of suspects

Algeria

Charges

Various war crimes: torture, extrajudicial killings, enforced disappearances and other grave breaches of international humanitarian law

Developpments in 2016

Early January 2017, the Office of the Attorney General (MPC) of Switzerland dismissed the case, considering that the alleged acts committed by the former Minister of Defense could not be considered as war crimes on the grounds that there was no war in Algeria when the facts occurred.

On 18 January 2017, the civil parties appealed the decision before the Federal Criminal Court.

Facts

From 1992 to 1994, as Minister of Defence and member of the HCS, Khaled Nezzar allegedly incited, authorized and ordered military and public agents to commit acts of torture, murders, extrajudicial killings, enforced disappearances and other grave violations of international humanitarian law. The dirty war caused the death of around 200'000 persons, and the disappearance of some 20'000 others.

Procedure

Three torture victims filed a first complaint against Khaled Nezzar in France in 2001, but he managed to leave the country before judicial action could be initiated. In October 2011, TRIAL filed a new criminal complaint as he was travelling to Geneva. Two victims of torture joined the procedure. He was arrested in October 2011 and interrogated by the Swiss Attorney General. He appealed the procedure before the Federal Criminal Court. In a decision from 25 July 2012, Khaled Nezzar's appeal was rejected: the court considered that immunities could not be invoked for international crimes.

Early January 2017, the case was dismissed. The civil parties appealed this decision.

Read more about Kkaled Nezzar

ACTIVE PERSONALITY: LAST RECOURSE FOR ERWIN SPERISEN

Context

Ongoing proceedings for serious crimes under international law allegedly committed in Guatemala in 2005 and 2006.

Suspect

Head of National Civilian Police (NCP) of Guatemala from 2004 to 2007. He has dual Swiss and Guatemalan citizenship.

Country of residence of suspects

Switzerland

Charges

Extrajudicial executions in 2005 (the killing of three inmates who had escaped from the Infiniernito prison) and in 2006 (the killing of of seven inmates at the Pavón prison) in Guatemala.

Current status

Appeal pending before the Swiss Federal Tribunal

Developpments in 2016

Erwin Sperisen remains detained in Champ-Dollon prison in Geneva, where he is awaiting the decision in his ongoing appeal before the Swiss Federal Tribunal. The defense lodged an appeal in 2015, arguing that the first and second instance proceedings had violated fair trial standards.

Facts

In October 2005, nineteen prisoners escaped from Infiernito, a high security prison in Guatemala City. Erwin Sperisen allegedly set up a plan aimed at finding and executing the escaped prisoners; this was known as the "Gavilan Plan". Nine prisoners were captured and three allegedly executed as a result.

In September 2006, Erwin Sperisen, along with 3000 NCP officers and members of the army, intervened in the Pavón prison, a high security prison controlled by prisoners, to restore State authority. This intervention ended in the arrest and the alleged extra-judicial execution of seven prisoners.

Procedure

In 2008, several Swiss organizations filed a criminal complaint against Erwin Sperisen with the Office of the Prosecutor in Geneva, after discovering that he was living in Switzerland. He was arrested on 31 August 2012 in Geneva. In March 2013, the mother of one of the victims filed a complaint and joined the criminal proceedings. Fourteen witnesses travelled from Spain, France and Guatemala to be heard by the Swiss authorities.

His trial opened on 15 May 2014 in Geneva. He was convicted on 6 June 2014 and sentenced to life imprisonment for the crimes he committed in the Pavón prison, but he was acquitted for his alleged involvement in the "Gavilan Plan".

Erwin Sperisen appealed the conviction and his appeal trial took place from 4 to 8 May 2015 before the Criminal Chamber of the Geneva Court of Appeal. On 12 May 2015, the criminal Chamber upheld the life imprisonment sentence. In addition to the seven extra-judicial executions for which Erwin Sperisen was found guilty in the first instance, he was condemned for the murder of three fugitives from the prison "El Infiernito" as jointly responsible, but not as a direct perpetrator.

Arguing that his right to a fair trial had been violated, Erwin Sperisen lodged an appeal against the conviction, which is currently pending before the Criminal Chamber of the Swiss Federal Tribunal in Lausanne.

Read more about Erwin Sperisen

ALI BIN FADHUL AL-BUAINAIN

Context

Ongoing proceedings against the Attorney General of Bahrain for torture allegedly committed in Bahrain in 2010.

Suspect

Attorney General of Bahrain, Vice-President of the International Association of Prosecutors (IAP) Executive Committee.

Country of residence of suspects

Bahrain

Charges

Torture

Developpments in 2016

In June 2016, torture survivor Jaafar Al-Hasabi gave testimony to prosecutors in Bern concerning the Bahraini Attorney General's alleged complicity in acts of torture. In November 2016, the Swiss prosecutors made an application to the Federal Office of Justice (FOJ) seeking to transfer the case to prosecution authorities in Bahrain. Representatives for the complainant are challenging this move.

Ali Bin Fadhul Al-Buainain was expected to visit Ireland to attend a conference in Dublin between 11 and 16 September 2016. Before this visit, Jaafar Al-Hasabi made an application to the District Court in Dublin on 13 September 2016 requesting that the Attorney General be summoned in connection with the allegations of torture. The complaint was rejected, with the judge arguing that a sufficient link between the acts of torture and the alleged involvement of the accused had not been established.

The Irish police opened a parallel investigation into the matter that is still ongoing. Mr Jaafar Al-Hasabi's complaint was supported by the NGOs GLAN (Global Legal Action Network), BIRD (Bahrain Institute for Rights and Democracy) ECCHR and REDRESS.

Current status

Under investigation

Facts

Jaafar Al-Hasabi, a British citizen born in Bahrain, was detained and tortured in Bahrain in 2010. He and 22 other political activists were arrested and charged with belonging to a "terrorist network" aiming to overthrow the government. The group of detainees became known as "the Bahraini 23".

During his incommunicado detention, Jaafar Al-Hasabi was subjected to electric shocks, beatings on the soles of the feet and stress positions. Despite the fact that the United Nations expressed their concerns regarding Jaafar Al-Hasabi's secret detention and the risk that he could endure torture, the Attorney General of Bahrain authorized the extension of his detention.

Procedure

On 8 September 2015, Jaafar Al-Hasabi filed a criminal complaint in Bern against the Attorney General of Bahrain, Ali Bin Fadhul Al-Buainain, for facilitating torture. He was supported by ECCHR, REDRESS, BIRD and TRIAL International. On 13 September 2015, an application was filed with the Bern prosecutor, calling for the Attorney General to be summoned for interviewing. The complaint was filed in anticipation of his attendance at the IAP's annual conference being held that year in Switzerland from 13 to 17 September, at which he was elected vice president of the organization.

On 15 September 2015, the prosecutor issued a decision stating that an investigation would be opened but that the evidentiary threshold for a summons had not yet been met. Ali Bin Fadhul Al-Buainain was allowed to return to Bahrain without questioning.

Read more about Ali Bin Fadhul al Buainain

and read more about the general case

THE NETHERLANDS

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THE NETHERLANDS
JUDICIAL DEVELOPPMENT

ACTIVE PERSONALITY : A DUTCH NATIONAL ON TRIAL FOR THE ETHIOPIAN RED TERROR

ESHETU ALEMU

Context
Ongoing proceedings against a Dutch national originally from Ethiopia for alleged war crimes committed in Ethiopia during the Red Terror in the late 1970s.

Suspects
Former member of the Provisional Military Administrative Council, also known as the Dergue, during Mengistu Haile Mariam's regime.

Country of residence of suspects
The Netherlands

Charges
War crimes, including unlawful imprisonment, torture, and murder of alleged opponents to the regime.

Developpments in 2016
Following his arrest in the Netherlands in September 2015, a Dutch judge and a prosecutor in September 2016 questioned eleven Ethiopian witnesses residing in the United States of America.

The trial of Eshetu Alemu was supposed to start on 21 November 2016 in The Hague. Yet, the accused decided to change his lawyer, and the opening of his trial was postponed.

Current status
Detained; on trial

Facts
In 1974, the Communist military regime, known as the Dergue, overthrown the Emperor Haile Selassie I and seized power in Ethiopia. The regime effectively ruled the country for 17 years. In February 1977, the Red Terror was officially declared and the mass killings, arrests, torture and disappearances of suspected political opponents began.

Eshetu Alemu is accused of ordering the execution of 75 people, of torturing 9 people, and of controlling the illegal detention of more than 300 people in cruel and inhuman conditions in Ethiopia's Gojjam province during the Red Terror.

In 1991 he fled to The Netherlands, and he became a Dutch citizen in 1998.

Procedure in Ethiopia
On 12 December 2006, Ethiopia concluded a 12-year trial of former Dergue officials, convicting Eshetu Alemu and 57 other regime officials of genocide and crimes against humanity. Eshetu Alemu was judged in absentia and received a death sentenced.

Procedure in The Netherlands
Eshetu Alemu was arrested in The Netherlands in September 2015. The Ethiopian government has forwarded its trial documents to the Dutch prosecution office.

Read more about Eshetu Alemu

THE UNITED KINGDOM

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THE UNITED KINGDOM
JUDICIAL DEVELOPPMENT

COLONEL KUMAR LAMA

Context

Trial of a former Nepali State official for torture allegedly committed in Nepal in 2005, during a non-international armed conflict.

Suspect

Colonel in the Nepalese Army and Senior Military Liaison Officer with the United Nations Mission in South Sudan.

Country of residence of suspects

Nepal

Charges

Torture

Developpments in 2016

On 2 August 2016, a jury acquitted Kumar Lama of one of the two counts of torture he was facing. The jury could not reach a verdict on the other count of torture. On 6 September 2016, he was acquitted of all charges.

Current status

Acquitted

Facts

Colonel Kumar Lama was accused of having participated in the torture of two detainees at an army barracks that were under his command in 2005. The torture was alleged to have taken place during the nine-year-long internal armed conflict between the Nepali Government and Maoist Insurgents.

The conflict ended in 2006 following the signing of a Comprehensive Peace Agreement. Since the end of the conflict, no effective action has been taken and impunity remains deeply entrenched for serious human rights violations committed during the conflict.

Procedure

Colonel Kumar Lama was arrested in the United Kingdom on 3 January 2013 when he was on leave from United Nations peacekeeping duty in South Sudan. His lawyers argued that he could not be prosecuted as he was entitled to immunity as a United Nations peacekeeper, and as he had already been convicted and punished in Nepal under the Nepalese Torture Compensation Act. The Court of Appeal rejected both arguments. Kumar Lama was released on bail on 15 March 2013 and remained in the UK during his trial.

The Metropolitan Police's investigation into the crimes allegedly committed by Kumar Lama was closed in 2014. His trial began on 24 February 2015 in London, before the Old Bailey (London's central criminal court). His trial was subsequently adjourned on 17 March 2015 because of problems with interpreters. The trial re-started on 6 June 2016. After eight weeks of evidence and argument, the jury acquitted him on one charge, but could not reach a verdict on the second count. On 5 September 2016, the Crown Prosecution Service told the trial judge that it would not proceed with a re-trial on this second charge, and the following day the accused was acquitted on that count, too.

Read more about Kumar Lama

and discover our OP-ED

TZIPI LIVNI

Context

War crimes investigations in the United Kingdom for war crimes allegedly committed during the Operation Cast Lead in Gaza in 2008 ad 2009

Suspects

Israeli former foreign minister and deputy prime minister

Country of residence of suspects

Israel

Charges

War crimes and violations of the Geneva Conventions

Current status

Closed investigation

Developpments in 2016

On 30 June 2016, Tzipi Livni was summoned for questioning by the British Police, while she was visiting London for a conference organized by Haaretz Newspaper and the British Jewish community. The summons was issued to question Tzipi Livni about suspected war crimes and violations of the Geneva Conventions committed during the 2008-2009 Operation Cast Lead. After diplomatic talks, the summons was withdrawn and Tzipi Livni was granted special diplomatic immunity.

In January 2017, Tzipi Livni canceled a trip to Belgium as a domestic Court had ordered her arrested for interrogation regarding her involvement in the Operation Cast Lead.

Facts

From 27 December 2008 to 18 January 2009, Israel launched Operation Cast Lead, a military assault on the Gaza Strip. The operation started with a week of intense aerial bombing followed by two weeks of a joint air and land assault. It is reported that around 1'400 Palestinians, mostly civilians, were killed during Operation Cast Lead. At the time, Tzipi Livni was Israel's foreign Minister and a member of the Prime Minister Ehud Olmert's security cabinet and allegedly played a key role in the decisions made before and during the three-week offensive.

Procedure

In 2009, the Palestinian Centre for Human Rights (PCHR) filed 490 criminal complaints to the Israeli Military Prosecutor against senior Israeli officials, including Tzipi Livni, for the alleged war crimes committed during the Operation Cast Lead. No investigations were opened.

On 12 December 2009, at the request of lawyers representing Palestinian victims, a British court issued an arrest warrant against Tzipi Livni. The warrant was withdrawn on 14 December 2009 after it was confirmed she would not be visiting the United Kingdom.

In October 2011, the PCHR and the British law firm Hickman & Rose, acting on behalf of Palestinian victims, requested the arrest of Tzipi Livni as she was visiting the country. The Foreign and Commonwealth Office granted her diplomatic immunity, preventing her arrest.

Read more about Tzipi Livni

THE UNITED STATES OF AMERICA

THE UNITED STATES OF AMERICA
JUDICIAL DEVELOPPMENT

PEDRO PABLO BARRIENTOS NUÑEZ

Context

Civil proceedings against a former Chilean army officer for serious crimes under international law allegedly committed during the 1973 military coup in Chile.

Suspects

Former lieutenant in the Chilean Army during the Pinochet regime

Country of residence of suspects

United States of America (USA)

Charges

Torture and extrajudicial killing of Chilean musician and activist Víctor Jara

Developpments in 2016

The trial began on 13 June 2016 in Orlando. On 27 June 2016, Pedro Pablo Barrientos Nuñez was found liable for the torture and extrajudicial killing of Víctor Jara and ordered to pay $28 million in damages to the victim's family.

Facts

In the aftermath of the 1973 coup d'état led by Augusto Pinochet, the Chilean Army detained, tortured and killed thousands of civilians on suspicion of opposition to the new military regime. Pedro Pablo Barrientos Nuñez, at the time a lieutenant in the Chilean army, was charged with overseeing the detention of approximately 1'000 students and staff of the State Technical University in the Estadio Nacional stadium in Santiago.

Among the detainees was Víctor Jara, a lecturer at the university, well-known musician and political activist. On 15 September 1973, Pedro Pablo Barrientos Nuñez allegedly ordered his soldiers to interrogate and torture Víctor Jara before shooting him in the back of the head at point blank range.

Procedure

Pedro Pablo Barrientos Nuñez immigrated to the USA in 1989. On 4 September 2013, the Centre for Justice and Accountability (CJA), acting on behalf of Víctor Jara's family, filed a civil suit against him before the US District Court for the Middle District of Florida. After an initial finding of jurisdiction in April 2015, his trial opened on 13 June 2016 in Orlando.

Read more about Pablo Barrientos Nunez

PASSIVE PERSONALITY : HOLDING ASSAD'S REGIME RESPONSIBLE FOR WAR CRIMES ?

Marie Colvin, a renowned American war correspondent, was covering the siege of Homs, Syria, for London's Sunday Times newspaper in early 2012. She was killed in an attack against a media centre carried out by Syrian government forces on 22 February 2012. The French photographer Rémi Ochlik was also killed in the attack, and three others were injured.

On 9 July 2016, the Center for Justice & Accountability (CJA) and co-counsel Shearman & Sterling LLP filed a lawsuit against the government of Syria for the murder of Marie Colvin, on behalf of Colvin's family. The suit was filed in the U.S. District Court of Columbia under the Foreign Sovereign Immunities Act (FSIA), a federal law that allows victims to sue designated state-sponsors of terrorism, including Syria, for the murder of U.S. citizens.

The complaint names nine Syrian officials and agents – including Ali Mamluk, Director of Syria's National Intelligence Bureau; Rafiq Shahadah, former Director of Military Intelligence; and Major General Issam Zahreddine of the Republican Guard – who allegedly planned and authorised the attack on Marie Colvin and other journalists.

UNIVERSAL JURISDICTION
AT A GLANCE

What is universal jurisdiction?

A State is usually competent to judge crimes if they have been committed on its territory, or by or against its citizens. However, some international crimes are so serious that they constitute offenses against all humankind, thereby warranting special measures.

Among these measures is the principle of universal jurisdiction, based on the notion that the fight against impunity is borderless. Under this principle, States have the option – and at times the obligation – to prosecute alleged criminals who are on their territory, regardless of where the crimes may have been committed or of the nationality of the perpetrators and the victims.

The crimes covered by this principle include genocide, crimes against humanity, war crimes, torture and enforced disappearances. Universal jurisdiction, is a powerful tool in the service of international justice, and is gaining increasing credence through the recognition that the fight against impunity has no borders.

How has this principle has evolved through time?

Universal jurisdiction did not come into being overnight, but started to gain acceptance in the aftermath of the Second World War. It acquired further recognition in the four Geneva Conventions of 12 August 1949, aimed at protecting populations in armed conflict. These rules, which are still applicable today, commit States to prosecuting and punishing the perpetrators of serious crimes, even if they are committed outside the territory of the State in question.

With time, this principle was further consolidated and reinforced through other international conventions, in particular the UN Convention Against Torture (1984) and the UN Convention Against Enforced Disappearance (2006), which oblige States parties to prosecute or extradite suspects of these crimes.

On 17 July 1998, a further advance was made with the signing of the Rome Statute of the International Criminal Court, which provided for a permanent international Court responsible for prosecuting individuals who commit serious international crimes, which can exercise its jurisdiction only if States are unable or unwilling to investigate or prosecute those persons alleged to be responsible for crimes enshrined in the Rome Statute. The principle of complementarity has reinforced expectations on national justice systems to play a central role in the fight against impunity.

The obligation to extradite or prosecute has today acquired a solid foundation in international law.

Landmark cases

Far from being an abstract principle, universal jurisdiction has already opened the way for concrete improvements in international justice. Many States have initiated proceedings on the basis of this principle: Australia, Canada, the United States Denmark, France, Germany, the United Kingdom, Israel, Switzerland, Belgium, the Netherlands, Sweden, etc. Famous milestones include the following cases.

AUGUSTO PINOCHET

Chile/United Kingdom
arrested in 1998

It was with the arrest of Augusto Pinochet that universal jurisdiction became widely known. The former head of the Chilean military junta and former president was arrested in London on 16 October 1998. The Spanish judge Baltasar Garzon requested that he be extradited to Spain, invoking the principle of universal jurisdiction. This request was granted. In the end, the extradition did not take place due the suspect's ill health, and Pinochet returned unimpeded to Chile. Even though justice was not served, it was the first time that a State former President had been arrested on the basis of this principle.

HISSÈNE HABRÉ

Chad/Senegal
Trial from 2015 to 2016

Hissène Habré's regime is considered to have committed hundreds of thousands of crimes in Chad between 1982 and 1990. Following his overthrow, the former dictator sought refuge in Senegal. He was indicted there in 2013 for crimes against humanity, torture and war crimes. After a lengthy judicial procedure, he was finally sentenced in 2016 to life imprisonment for war crimes, crimes against humanity, torture and sexual crimes, including rape and sexual slavery. His appeal trial took place in January 2017 and the verdict is expected in late April 2017. This is the first trial based on universal jurisdiction to have been conducted in Africa. (Read more about Hissène Habré)

2016 CASES OVERVIEW

This table provides an overview of the pending universal jurisdiction cases in 2016. Click on a case to be directed to its page.

COUNTRY OF PROSECUTION	CASE	COUNTRY OF COMMISSION	CHARGES					CURRENT STATUS
			TORTURE	GENOCIDE	CRIMES AG. HUMANITY	WAR CRIMES	OTHER CHARGES	
Argentina	Franco dictatorship	Spain	•		•		•	Under investigation
Austria	Syrian cases	Syria				•		Under investigation : indicted
Belgium	Michel Desaedeleer	Liberia			•	•		Deceased
Finland	The Iraqi twin brothers	Iraq				•	•	On trial
Finland	Jebbar Salman Ammar	Iraq				•		Sentenced; 16 month suspended sentence
Finland	Hadi Habeeb Hilal	Iraq				•		Sentenced; 13 month suspended sentence
France	Pascal Simbikangwa	Rwanda		•	•			Sentenced to 25 years; Confirmed on appeal
France	Mohamed brothers	Algeria	•					Case dismissed; on appeal
France	Octavien Ngenzi & Tito Barahira	Rwanda		•	•			Sentenced to life imprisonnement
France	Amesys	Lybia	•					Active personality case; Under investigation
France	Norbert Dabira	Democratic Republic of Congo	•		•			Under investigation
France	The Guantanamo case	Cuba (Guantanamo Bay Us detention centre)	•					Under investigation
France	Syrian cases	Syria	•		•	•		Under investigation
France	Mauritanian complaint	Mauritania	•					potential upcoming case
France	Lafarge case	Syria			•	•		Active personality case; Under investigation
Germany	Ignace Murwanashyaka & Straton Musoni	Congo			•	•		Sentenced; on appeal
Germany	Onesphore Rwabukombe	Rwanda		•				Sentenced; Confirmed on appeal
Germany	Rami K	Iraq				•		Under investigation; provisional detention
Germany	Ibrahim Al .F	Syria				•	•	Indicted; Detained
Germany	Suliman A.S	Iraq				•	•	On trial

2016 CASES OVERVIEW

This table provides an overview of the pending universal jurisdiction cases in 2016. Click on a case to be directed to its page.

COUNTRY OF PROSECUTION	CASE	COUNTRY OF COMMISSION	CHARGES					CURRENT STATUS
			TORTURE	GENOCIDE	CRIMES AG. HUMANITY	WAR CRIMES	OTHER CHARGES	
Germany	Aria L.	Syria				•		Active personality case; Sentenced
Germany	Abdelkarim El.B	Syria				•		Active personality case; Sentenced
Germany	Torture case in the USA	Different locations	•					Under investigation
Senegal	Hissène Habré	Chad	•		•	•		Sentenced: on appeal
Spain	The Jesuits Murder	El Salvador			•		•	Extradition to Spain denied
Spain	Inocente Orlando Montana	El Salvador			•			Pending extradition to Spain
Sweden	Tabaro Theodore	Rwanda		•			•	Active personality case; Under investigation; indicted provisional detention
Sweden	Claver Berindinki	Rwanda		•			•	Active personality case; Sentenced; Confirmed on appeal
Sweden	Haisam Omar Sakhanh	Syria				•		Under investigation; indicted; provisional detention
Sweden	Mohamed Abdoullah	Syria				•		Case dismissed
Sweden	Mouhannad Droubi	Syria				•	•	Sentenced
Sweden	Raed Abdulkareem	Iraq				•		Sentenced
Switzerland	Kalhed Nezzar	Algeria				•		Case dismissed; on appeal
Switzerland	Erwin Sperisen	Guatemala					•	Active personality case; Sentenced on appeal; Last appeal pending
Switzerland	Ali Bin Fadhul Al-Buainain	Barhain	•					Under investigation
The Netherlands	Eshetu Alemu	Etiopia				•		Active personality case; On trial; detained
The United Kingdom	Colonel Kumar Lama	Nepal	•					Acquitted
The United Kingdom	Tzipi Livni	Israel/ Gaza strip				•	•	Case dismissed
The United States	Barrentos Nunez	Chili	•				•	Found liable
The United States	Syrian case	Syria					•	Ongoing case

WHO WE ARE

This report has been researched and written by Valérie Paulet, Project Coordinator at TRIAL International, in collaboration with the International Foundation Baltasar Garzon (FIBGAR), the European Centre for Constitutional and Human Rights (ECCHR), the International Federation for Human Rights (FIDH) and REDRESS. The organizations are grateful to the following persons for their assistance and collaboration: Alain Werner for his precious expertise, Una Schamberger and Nora Godkin for their thorough research, and the volunteers who helped with research and proofreading (Neli Hristozova, Tom Grant, Lucy Robertson and Florencia Cornu).

TRIAL International

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

ECCHR

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

FIDH

FIDH takes action for the protection of victims of human rights violations, the prevention of violations and to bring perpetrators to justice. A broad mandate: FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights. A universal movement: FIDH was established in 1922, and unites 184 member organisations in 112 countries around the world. An independent organisation: FIDH is not linked to any party or religion and is independent of all governments.

FIBGAR

The International Foundation Baltasar Garzón (FIBGAR) is a private, social, non profit foundation, deeply committed to the defense and promotion of Human Rights and Universal Jurisdiction. Although FIBGAR is located in Spain, Colombia, Argentina and Mexico, its global vocation encourages us to design and implement projects with a wider scope. In 2015, FIBGAR launched the Madrid – Buenos Aires Principles of Universal Jurisdiction.

REDRESS

REDRESS is an international human rights non-governmental organisation with a mandate to assist victims of torture and related international crimes to seek justice and other forms of reparation. REDRESS collaborates with partners around the world to ensure that victims' rights to justice and reparation are enforced in practice. It accomplishes this through a combination of litigation, advocacy and capacity building.

TRIAL International

TRIAL International
P.O Box 5116
1211 Geneva 11
Switzerland

t: +41 22 321 61 10
e: info@trialinternational.org
trialinternational.org
@trial

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