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Watch

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War Crimes Prosecution Watch is a bi-weekly e-newsletter that compiles official documents and articles from major news sources detailing and analyzing salient issues pertaining to the investigation and prosecution of war crimes throughout the world. To subscribe, please email [warcrimewatch@pilpg.org](mailto:warcrimewatch@pilpg.org) and type "subscribe" in the subject line.

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## Contents

### AFRICA

#### NORTH AFRICA

##### Libya

- **Libya: human rights abuses must be addressed, says UN probe (UN News)**

#### CENTRAL AFRICA

##### Central African Republic

- **U.S. toughens sanctions against Russia's Wagner mercenary group (Reuters)**
- **The Epitome of Impunity in Central African Republic (Human Rights Watch)**

##### Sudan & South Sudan

##### Democratic Republic of the Congo

#### WEST AFRICA

##### Côte d'Ivoire (Ivory Coast)

## **Lake Chad Region – Chad, Nigeria, Niger, and Cameroon**

- U.N. concerned over Cameroon press safety after second journalist killed (Reuters)

## **Mali**

## **Liberia**

# **EAST AFRICA**

## **Uganda**

- ICC prosecutor to slap more charges against LRA's Kony (The Daily Monitor)

## **Kenya**

- Kenyan court convicts Venezuelan diplomat of murdering ambassador (Al Jazeera)
- Kenyan police sentenced for murder of rights lawyer (The Africa Report)
- Meta fails to stop work conditions case in Kenya (Yahoo!)

## **Rwanda**

- DR Congo: UN envoy draws attention to 'alarming reports' of ethnic violence (The New Times)
- Regional Leaders Urge Immediate Cease-fire in Eastern Congo (VOA News)
- Rwanda: Two Genocide Suspects to Appear in Brussels Court (All Africa)
- DR Congo: Atrocities by Rwanda-Backed M23 Rebels (Human Rights Watch)

## **Somalia**

- ATMIS probes killing of civilian in Somalia (The Star)
- Separatist Somaliland troops continue shelling Las Anod city, killing hundreds (People's Dispatch)

## **Ethiopia**

- One Chinese citizen killed in Ethiopia's Oromiya region – embassy (Reuters)
- Ethiopia Asks U.S. Support to Terminate Mandate of UN Human Rights Experts (All Africa)

# **EUROPE**

## **Court of Bosnia & Herzegovina, War Crimes Chamber**

- Dusan Culibrk sentenced to Twenty Years in Prison for War Crime (Sarajevo Times)
- Serbia Convicts Wartime Fighters of Bosnia Train Abductions (Balkan Transitional Justice)

## **International Criminal Tribunal for the Former Yugoslavia**

- Man Charged with Immigration Fraud for Concealing War Crime Charge in Croatia (United States Department of Justice)

## **Domestic Prosecutions In The Former Yugoslavia**

## **Turkey**

## **Kosovo Specialist Chambers**

- **Hague Court Reduces Kosovo War Veterans' Leaders' Sentences (Balkan Transitional Justice)**

## **Azerbaijan**

- **International Association of Genocide Scholars issues statement condemning the Azerbaijani blockade of Artsakh (Nagorno-Karabakh) (The Armenian Weekly)**
- **Armenia calls for international investigation of Azerbaijan's war crimes (Public Radio of Armenia)**

## **Russia**

- **Germany has evidence of war crimes in Ukraine 'in three-digit range,' prosecutor says (Reuters)**
- **Putin's forces 'using rape as instrument of war', says Ukraine war crimes investigator (The Times UK)**

## **MIDDLE-EAST**

### **Iraq**

### **Syria**

### **Yemen**

### **Special Tribunal for Lebanon**

### **Israel & Palestine**

### **Gulf Region**

## **ASIA**

### **Afghanistan**

- **ABC has to defend war crimes reports after defamation finding (In Daily)**
- **Pakistani troops kill 2 militants in raid near Afghan border (AP News)**

### **Extraordinary Chambers in the Courts of Cambodia**

- **Khmer Rouge-era head of state Khieu Samphan transferred to Kandal prison (Phnom Penh Post)**

### **Bangladesh International Crimes Tribunal**

- **Bangladesh arrests two fugitives condemned to death for war crimes (Bdnews24)**
- **Bangladesh: 12 leaders, activists of Jamaat detained in Feni (The Print)**

### **War Crimes Investigations in Myanmar**

- **Australia's Inaction on Myanmar Helps the Junta (Human Rights Watch)**

# AMERICAS

**North & Central America**

**South America**

**Venezuela**

## TOPICS

**Truth and Reconciliation Commission**

**Terrorism**

- **Already devastated by earthquake, Turkey faces increased threat of terrorism (The Jerusalem Post)**

**Piracy**

**Gender-Based Violence**

**Commentary and Perspectives**

- **The Long – Yet Still Uneven – Arc of International Justice (Human Rights Watch)**
- **France Should Change its Laws to Fight Impunity for Serious Crimes (Human Rights Watch)**

**Aiding and Abetting**

- **UK gov't facing High Court battle over arms sales to Saudi Arabia (Al Jazeera)**
- **Israeli, Lebanese Companies Aid and Abet Myanmar Military Regime (fanack.com)**
- **Already Complicit in Libya Migrant Abuse, EU Doubles Down on Support (Human Rights Watch)**

## WORTH READING

- **Patrycja Grzebyk: Escalation of the Conflict between Russia and Ukraine in 2022 in Light of the Law on Use of Force and International Humanitarian Law**

## AFRICA

### NORTH AFRICA

**Libya**

**Libya: human rights abuses must be addressed, says UN probe (UN News)** January 30, 2023

**The United Nations on Tuesday said it was concerned about the safety of journalists in Cameroon after a radio presenter was killed last week, days after the murder of another journalist that shook the central African nation.**

The UN Independent Fact-Finding Mission on Libya was established by the Human Rights Council in June 2020, to investigate alleged abuses of international human rights law and international humanitarian law committed in Libya since 2016.

The panel's latest official visit to Libya which ended on Sunday heard testimony from victims' relatives of extrajudicial killings, torture, arbitrary detention, enforced disappearances, human trafficking, internal displacement, the existence of mass burial sites and morgues containing corpses that families cannot access.

Justice long overdue

"The families of these victims have waited far too long for justice," said Mohammad Auajjar, Chair of the FFM, which also includes fellow independent human rights experts, Tracy Robinson and Chaloka Beyani. "Libyan authorities owe it to them to share information about their loved ones, to meet them and give them answers. Silence is unacceptable."

"We, too, have asked repeatedly for answers to the status of multiple investigations concerning serious human rights violations, but to date there has been no satisfactory response," Mr. Auajjar added.

Ms. Robinson maintained that the State's efforts to strengthen the rule of law "have not produced justice for the victims and their families".

Call for release of Iftikhar Boudra

They also called for the immediate release of Iftikhar Boudra, who was detained in Benghazi four years ago, following critical comments she made on social media about militarization in eastern Libya.

Ms. Boudra is reportedly critically ill and her relatives say that they have not been allowed to visit her for months.

The Mission thanked the Libyan Ministry for Foreign Affairs and the Libyan Permanent Mission to the UN in Geneva, for facilitating its visit, which included meetings with other senior officials including the Chief of General Staff of the Libyan Armed Forces, and the President of the Supreme Judicial Council.

ICC Prosecutor Karim Khan visits the landfill site in Tarhunah, Libya, where over 250 have been identified across a number of mass graves. Mission continues

The FFM welcomed the invitation from high-ranking Government officials to continue its investigations and its cooperation with the internationally-recognized Government.

The Fact-Finding Mission was established by the Human Rights Council in June 2020 with a mandate to investigate alleged violations and abuses of international human rights law and international humanitarian law committed in Libya since 2016.

[\[back to contents\]](#)

## CENTRAL AFRICA

### Central African Republic

Official Website of the International Criminal Court  
ICC Public Documents - Cases: Central African Republic

**U.S. toughens sanctions against Russia's Wagner mercenary group (Reuters)** By Daphne Psaledakis and Steve Holland  
January 26, 2023

**The United States on Thursday stepped up sanctions against the Wagner Group, labeling the Russian mercenary company fighting in Ukraine as a transnational criminal organization responsible for widespread human rights abuses.**

Wagner has been locked in a battle to take the towns of Bakhmut and Soledar in Ukraine's eastern Donetsk region, where Western and Ukrainian officials have said it is using convicts as cannon fodder.

The U.S. Treasury Department, as part of action targeting dozens of people and entities in an effort to degrade Russia's ability to wage the war, said it designated Wagner Group as a "significant transnational criminal organization" on Thursday.

"Wagner personnel have engaged in an ongoing pattern of serious criminal activity, including mass executions, rape, child abductions, and physical abuse in the Central African Republic (CAR) and Mali," the Treasury said in a statement.

It had previously designated Wagner under its Russia and Ukraine sanctions programs.

Russia's embassy in Washington did not immediately respond to a request for comment.

Washington also designated other entities it accused of supporting the Wagner Group's military operations, including Russia-based technology firm Joint Stock Company Terra Tech (Terra Tech), and targeted Russia's defense industrial complex.

"These images were gathered in order to enable Wagner combat operations in Ukraine," Treasury said.

A source told Reuters this week that the United States has determined that some Chinese companies are providing non-lethal assistance to Russia for use in Ukraine.

China's embassy in Washington did not immediately respond to a request for comment. A representative for Spacety China could not immediately be reached for comment.

"Today's expanded sanctions on Wagner ... will further impede (Russian President Vladimir) Putin's ability to arm and equip his war machine," Treasury Secretary Janet Yellen said in the statement.

White House national security spokesperson John Kirby last week said Putin has been increasingly turning to Wagner for military support, causing some tensions in Moscow.

He said the United States assesses Wagner has about 50,000 personnel deployed to Ukraine, including 40,000 convicts recruited from Russian prisons.

A Reuters investigation into recent burials in Southern Russia matched the names of at least 39 prisoners who have died for Wagner in Ukraine to Russian court records. They included a contract killer, murderers, career criminals, the news agency reported on Thursday.

Thursday's U.S. action is the latest raft of sanctions targeting Russia over its invasion of Ukraine, which has killed or wounded thousands and reduced cities to rubble.

Separately, the U.S. State Department on Thursday also designated entities and individuals with links to Wagner and its owner Yevgeny Prigozhin.

The State Department also targeted more of Vladimir Potanin's assets, tightening the screw on one of Russia's richest men, but stopping short of the jewel in his investment crown, mining giant Nor Nickel.

Last month the White House said Wagner had taken delivery of an arms shipment from North Korea to help bolster Russian forces in Ukraine, in a sign of the group's expanding role in that conflict.

North Korea's foreign ministry called the report groundless. Prigozhin denied taking delivery of arms from North Korea.

**The Epitome of Impunity in Central African Republic (Human Rights Watch)** By Lewis Mudge  
January 31, 2023

**Last week, Hassan Boubacar Sangha, the minister of livestock and animal health in the Central African Republic, gave a press conference while on a ministerial trip. He was in**

**Ngakobo, a town in the Ouaka province. He spoke of increased violence by armed groups in the region, saying it was “unacceptable” and calling for “justice.”**

But he of all people should be facing justice.

Bouba helped lead the Union for Peace in the Central African Republic (Unité pour la Paix en Centrafrique, UPC), a rebel group that committed serious crimes across the Ouaka province for years. The authorities arrested him in November 2021 on war crimes and crimes against humanity charges brought by the Special Criminal Court, the country’s hybrid war crimes court based in the domestic justice system. Later that month, national gendarmes escorted Bouba out of prison and took him to his home, which the Special Criminal Court described as an “escape.”

Since then, he has remained a fugitive while serving as minister, becoming the embodiment of impunity in the country.

That Bouba gave a press conference in Ngakobo adds insult to injury. From 2014 to 2017, Human Rights Watch documented 246 civilians killed and 2,050 homes destroyed by Bouba’s UPC fighters in the Ouaka province. These numbers are conservative; we could not verify hundreds of cases.

The UPC attacked camps for displaced people, including at Ngakobo. The mother of a child killed during an attack there in 2015 told us, “We all laid on the ground as the bullets whistled above us. It was a few minutes after the shooting started that I heard Junior say, ‘I’m dying.’ I saw that he was not breathing and had been shot in the head.” The UPC also raped scores of women and girls.

Bouba should face justice for his alleged role in overseeing or failing to prevent serious crimes. There is a warrant for Bouba’s arrest, and if he genuinely cared about justice, he would surrender to the authorities. The government’s failure to support the Special Criminal Court and secure Bouba’s arrest shows a lack of political will to enforce its stated commitment to justice. The government should rearrest Bouba on behalf of the victims of Ngakobo and many others who are entitled to see him held to account. Otherwise, justice would be the empty words Bouba assumes them to be.

[\[back to contents\]](#)

## **Sudan & South Sudan**

**Official Website of the International Criminal Court  
ICC Public Documents - Situation in Darfur, Sudan**

[\[back to contents\]](#)

## **Democratic Republic of the Congo**

**Official Website of the International Criminal Court  
ICC Public Documents - Situation in the Democratic Republic of the Congo**

[\[back to contents\]](#)

## **WEST AFRICA**

# Côte d'Ivoire (Ivory Coast)

Official Website of the International Criminal Court  
ICC Public Documents - Situation in the Republic of Côte d'Ivoire

[\[back to contents\]](#)

## Lake Chad Region – Chad, Nigeria, Niger, and Cameroon

**U.N. concerned over Cameroon press safety after second journalist killed (Reuters) February 8, 2023**

**The United Nations on Tuesday said it was concerned about the safety of journalists in Cameroon after a radio presenter was killed last week, days after the murder of another journalist that shook the central African nation.**

Radio presenter Jean-Jacques Ola Bebe was found dead outside his home in the capital Yaounde on Feb. 2, allegedly gunned down by unknown assailants, U.N. Human Rights spokesperson Seif Magango said in a statement.

His killing occurred 11 days after the mutilated remains of prominent journalist Martinez Zogo, an outspoken critic of suspected state graft, were discovered near Yaounde.

Both used their media outlets to denounce alleged embezzlement and misappropriation of public funds. Ola Bebe worked closely with Zogo, who directed a private radio station, and had been advocating for justice after his murder.

"Cameroonian authorities must take all necessary measures to create an enabling environment for journalists to work without fear of reprisal," Magango said.

France says it wants stronger ties with Algeria despite envoy recall "We note that President (Paul) Biya has ordered investigations into Martinez Zogo's killing, and certain arrests have been made," Magango added, calling for Ola Bebe's killing to be dealt with in the same manner.

A Cameroonian businessman was arrested on Monday in connection with the murder of Zogo, who was kidnapped on Jan. 17 by unknown assailants after trying to enter a police station to escape his attackers. His body was found on Jan. 22.

The president's office said last week that several suspects had been arrested, but gave no details.

Attacks on journalists appear to be on the rise in Cameroon, where Biya - Africa's second-longest serving leader - has cracked down on dissent since he came to power over four decades ago.

At least three other Cameroonian journalists reported that they had received credible threats from unidentified people last month, according to the United Nations.

[\[back to contents\]](#)

## Mali

[\[back to contents\]](#)



# Liberia

[[back to contents](#)]

## EAST AFRICA

### Uganda

**Official Website of the International Criminal Court  
ICC Public Documents - Situation in Uganda**

**ICC prosecutor to slap more charges against LRA's Kony (The Daily Monitor)** By Anthony Wesaka  
January 31, 2023

**The Office of the Chief Prosecutor of the International Criminal Court (ICC) has said they are considering slapping more charges against the rebel leader of the Lord's Resistance Army (LRA), Joseph Kony.**

Mr Dahirou Sant-Anna, the International Cooperation Adviser, from the office of the Chief Prosecutor, revealed that more investigations are being carried out to back up the new charges and also support their case against Kony when the hearing of the confirmation charges session starts.

"We are also exploring the possibility of bringing more charges against Kony to the earlier 33 charges that were brought against him. The idea is to extradite those charges and identify other locations that will be featured in his case at the trial at any stage," Mr Dahirou said while addressing the media on Friday in Kampala.

Kony, who is wanted by the ICC in connection with the two-decade war in northern Uganda, is facing 33 charges. He is also the longest suspect at the ICC at large.

Mr Dahirou also said as the prosecution, they are waiting for the judges of the court to inform them of when they will start the hearing of the confirmation charges.

On November 24, last year, the Office of the Prosecutor of the ICC led by Mr Karim A.A. Khan, made an application to the judges of the court seeking to have Kony tried in absentia for having eluded justice for the past 17 years.

The Hague-based ICC issued an arrest warrant for Kony in 2005 on allegations of war crimes and crimes against humanity.

But according to Mr Dahirou, they are now awaiting the judges of the court to give them the timelines of when the hearing of the confirmation charges will be conducted.

"After the prosecution submitted the request for confirmation charges against Kony in absentia, there is an independent office representing the accused within the court, it's called the public office of the defence, which has also made submissions to the judges in respect to the Office of the Prosecutor's request. So we are still waiting on the judges of the court to give us timelines on when the hearing of the confirmation charges will take place. It may be next week, next month..." Mr Dahirou said.

"As you may recall, a warrant of arrest was issued against Joseph Kony in 2005 and that warrant is bearing 33 charges for crimes he allegedly committed in Northern Uganda," she added.

"If the charges are confirmed, but Kony is not arrested, we [will] just stop there because we can't prosecute a non-existing person."

Article 61 (2)b of the Rome Statute allows the prosecutor to request the chamber to carry out the hearing when the suspect has fled, or cannot be found and that all reasonable steps have been taken to ensure that he appears before the judges.

Kony terrorised northern Uganda for more than three decades, a rebellion that left more than 100,000 people killed and more

than 2 million others displaced.

One of his top commanders, Dominic Ongwen, had his 25-jail term upheld by the appeals chambers of the ICC late last year. The ICC investigation into the situation in Uganda was opened in 2004.

This saw an arrest warrant issued against Kony, the founder and leader of the LRA issued in 2005 for 33 counts of war crimes and crimes against humanity.

The allegations against Kony, who is believed to be hiding in the jungles of the Central African Republic, include murder, cruel treatment, enslavement, rape, and attacks against civilian population.

However, this arrest warrant remains unexecuted to this day, and it is why the ICC chief prosecutor is seeking court's indulgence to have his charges confirmed even in his absence.

[\[back to contents\]](#)

## Kenya

### **Official Website of the International Criminal Court ICC Public Documents - Situation in the Republic of Kenya**

#### **Kenyan court convicts Venezuelan diplomat of murdering ambassador (Al Jazeera) January 26, 2023**

**A court in Kenya has found a Venezuelan diplomat guilty of murdering the Latin American nation's acting ambassador about 10 years ago at her home in an upmarket Nairobi neighbourhood.**

Dwight Sagaray, who was the first secretary at the embassy, was found guilty of the July 2012 killing of Olga Fonseca, Judge Roselyn Korir said in her ruling on Wednesday.

The court also convicted three Kenyan nationals who had been charged alongside Sagaray, saying they were involved in a common plan to carry out the murder.

Another suspect who fled after the murder is still at large and the court said his arrest warrant should remain in force.

Sagaray, who wore a suit and tie in the dock, clasped his hands and held them against his face when the verdict was read. Sagaray could be tried for the murder because he did not enjoy diplomatic immunity after Venezuela waived it following the crime, the court ruled.

Fonseca, 57, was found strangled in her bedroom less than two weeks into her posting to Nairobi, which followed the abrupt departure of the previous ambassador after he was accused by his domestic staff of sexual harassment.

Sagaray, who had been heading the mission before the arrival of Fonseca, was angered by her presence since he wanted to continue overseeing the embassy, the court found.

He intended to be the main beneficiary of the crime, Korir said, adding there was evidence he had tried to interfere with Fonseca's ability to take over as the head of the embassy before she was killed.

"From the evidence, it is clear that the first accused [Sagaray] resisted the taking of over of the embassy by Ms Fonseca," local daily the Nation reported quoting Korir.

Sagaray and his co-accused will be sentenced at a later date, the judge said.

#### **Kenyan police sentenced for murder of rights lawyer (The Africa Report) February 3, 2023**

**Three Kenyan police officers were Friday served sentences ranging from 24 years in jail to the death penalty for the brutal murder of a rights lawyer and two other people.**

The bodies of lawyer Willie Kimani — who had criticised police abuse — as well as his client Josephat Mwenda and driver Joseph Muiruri were found wrapped in sacks and dumped in a river outside Nairobi in June 2016.

The torture and killing of the three men sparked furious protests in Kenya, where many people fear the police.

In July last year, a high court judge had found three officers, including a woman, as well as a police informer guilty of murder. A fourth policeman was acquitted.

Judge Jessie Lessit on Friday sentenced former policeman Fredrick Leliman to death. Two other police officers were sentenced to 30 and 24 years in prison.

The informer was given a 20-year term.

Abuse of office The “court finds the murder most foul with its meticulous planning and execution,” Lessit said.

She singled out Leliman for acting “in flagrant abuse of his office” and masterminding the murder.

Kimani had been defending a motorbike taxi driver who accused Leliman of shooting him for no reason at a traffic stop in 2015.

When authorities found his body, Kimani’s wrists were bound with rope, three of his fingers had been chopped off and his eyes appeared to have been gouged out.

Cliff Ombeta, a lawyer for the three officers, said all would appeal the sentencing.

“This judgment cannot stand the test of any court of appeal judges,” he said.

Extra-judicial killings are rife in Kenya, and justice is rare with few examples of police being held to account.

Hit squads Police have been accused of running hit squads targeting those — including activists and lawyers — investigating alleged rights abuses by officers.

In October, Kenya’s new President William Ruto disbanded a feared 20-year-old police unit accused of extrajudicial killings and vowed an overhaul of the security sector.

Prosecutors also announced in October they would charge police with crimes against humanity over a deadly crackdown on post-election protests in 2017, a landmark decision hailed by the UN’s rights chief Volker Turk.

The charges cover rape, murder and torture and include the case of a six-month-old baby girl whose death became a symbol of police brutality during the bloody election aftermath.

Kenya’s parliament established the International Police Oversight Authority (IPOA) in 2011 to provide civilian scrutiny of a powerful institution also reputed to be among the country’s most corrupt.

Only a handful of officers have been convicted as a result of IPOA investigations, even though the watchdog has examined more than 6,000 cases of alleged police misconduct, according to data covering the period from its inception to June 2020.

Activists largely defend IPOA’s record, saying police often frustrate inquiries by refusing to cooperate.

Although the death penalty is still handed out, Kenya has not carried out an execution after 1987.

**Meta fails to stop work conditions case in Kenya (Yahoo!)** February 6, 2023

### **A Kenyan court on Monday rejected a bid by Facebook’s parent company Meta to stop a case accusing it of exploitation and poor working conditions.**

The suit was filed by a former content moderator at Sama, a company contracted by Meta to review Facebook posts, and alleges that workers in Kenya were subjected to inhumane conditions, including forced labour, irregular pay and no right to unionise.

Meta sought to have the case struck down, arguing that the local employment and labour relations court had no jurisdiction over it because it is neither based in nor trades in Kenya.

But High Court judge Jacob Gakeri on Monday dismissed the request.

"My finding is that (the) second and third respondent shall not be struck from the proceeding," Gakeri said, referring to Meta Platforms Inc and Meta Platforms Ireland Ltd.

The judge said the companies were "proper parties" in the case, with the court now due to meet on March 8 to discuss how it will proceed to a hearing.

Meta could not be immediately reached for comment.

British-based legal activist firm Foxglove, which is supporting the case, said it was "extremely pleased" with the ruling.

"We think it's right that this trial be heard in Kenya, where the abuses happened," Foxglove director Cori Crider said in a statement.

Amnesty International Kenya also welcomed the decision, saying it was "a significant step that ensures the authority of Kenyan courts to protect and enforce fundamental human rights."

Meta has faced scrutiny over the working conditions of content moderators who say they spend hours focused on hateful, disturbing posts with little regard given to their well-being.

The company is facing another lawsuit in Kenya filed by two individuals and a rights group accusing the tech behemoth of responding inadequately to hateful content on its platform, especially in relation to the war in Ethiopia's northern Tigray region.

The petitioners are asking the court for the establishment of a 200-billion Kenyan shillings (\$1.6-billion) compensation fund for victims of hate and violence incited on Facebook.

In late 2021, Rohingya refugees sued Facebook for \$150 billion, claiming the social network failed to stem hate speech directed against them.

The Rohingya, a mainly Muslim minority, were driven from Myanmar in 2017 into neighbouring Bangladesh by security forces in a crackdown now subject to a UN genocide investigation.

AFP is involved in a partnership with Meta providing fact-checking services in Asia-Pacific, Europe, the Middle East, Latin America and Africa.

[\[back to contents\]](#)

## **Rwanda (International Criminal Tribunal for Rwanda)**

**Official Website of the ICTR**

**DR Congo: UN envoy draws attention to 'alarming reports' of ethnic violence (The New Times)** By Edwin Musoni  
January 26, 2023

**A top UN envoy on genocide prevention has renewed her call to end violence against civilians in DR Congo's eastern regions, citing "alarming reports" of multiple attacks against civilians along ethnic lines.**

Alice Wairimu Nderitu, the United Nations Special Advisor on Genocide Prevention, who last month made a similar appeal and warned of possible genocidal killings against Rwandophones in DR Congo, this week expressed concerns over ongoing violence in Ituri province.

"Whilst the situation in North and South Kivu requires immediate action, so does the situation in Ituri. Civilians are being massacred based on ethnic identity, yet again. The conditions necessary for the commission of atrocity crimes continue to be present in a region where a genocide happened in 1994," she said in a statement released early this week.

Her statement came just before the M23 rebels said they found themselves compelled to intervene and stop the genocide in

eastern DR Congo after the international community failed to render assistance to a community under threat of extermination.

In a statement issued on Thursday, January 26, the rebels outlined incidents and areas where Congolese Tutsi are targeted and brutally massacred because of their ethnicity. They pointed at killings in Ituri, North Kivu and South Kivu provinces.

“We have warned the world many times that DR Congo Government is preparing a genocide in Ituri, North Kivu, and South Kivu, unfortunately, the worst and feared is happening right now under the watchful eyes of the world. Genocide against Congolese Tutsi is underway in Kitchanga, Burungu, Kilolirwe and their surroundings perpetrated by DR Congo Government's coalition including their killing machine FDLR,” read the M23 statement.

Consequently, the rebels said, they are compelled to intervene and stop another Genocide in the Great Lakes Region of Africa, since “the world is failing to render assistance to a community under threat of extermination.”

On her part, Nderitu said her concerns included mass killings, sexual violence, and attacks against IDP camps.

In December 2022, the M23 rebel group had issued another warning, calling on the international community and United Nations Prevention of Genocide, to thoroughly “investigate the ongoing Genocide in Masisi.”

Masisi is a territory in North Kivu Province in eastern DR Congo.

The concerns expressed by M23 in december 2022 also followed another statement issued by Nderitu condemning the escalation of violence in eastern DR Congo.

Several organisations of survivors of the 1994 Genocide against the Tutsi in Rwanda and internationally-renowned scholars have also expressed concern over what they termed as a rapidly growing hate speech targeting Kinyarwanda speakers in the DR Congo.

### **Regional Leaders Urge Immediate Cease-fire in Eastern Congo (VOA News) February 4, 2023**

#### **Regional heads of state have called for an immediate cease-fire by all parties in eastern Congo, where tensions have grown amid talk of war as Congo and neighboring Rwanda trade allegations of backing armed rebels.**

The communique issued Saturday at the end of an East African Community summit also directed troop-contributing countries to immediately deploy more troops to a regional force created and sent to eastern Congo last year. It also directed defense chiefs to meet within one week and called for more dialogue and de-escalation of tensions.

The heads of state of both Congo and Rwanda attended in a "cordial and friendly atmosphere," the communique said.

Some observers fear the toll and regional effects if the two countries slide again into all-out conflict as they did in the late 1990s and early 2000s. Alarm soared last month after Rwanda fired on a Congolese military aircraft it alleged violated its airspace. Congo called it "a deliberate act of aggression that equals an act of war" with the goal of sabotaging regional peace efforts.

Congo for months has accused Rwanda of supporting the M23 armed group — whose origins lie in the region's ethnic fighting — and powerful voices in the West have openly agreed. Rwanda denies backing the M23 group, which is one of dozens operating in mineral-rich eastern Congo, and accuses Congo of backing another rebel group that reportedly includes ethnic Hutus who participated in the 1994 Rwanda genocide that killed more than 800,000 ethnic Tutsis and moderate Hutus.

United Nations experts have said they have "substantial evidence" of Rwandan government forces crossing into Congo to reinforce M23 rebels or to conduct operations against the other rebel group. The United States, France and Germany have urged Rwanda to stop supporting the rebels.

Saturday's regional summit occurred days after Pope Francis visited Congo's capital, Kinshasa, to highlight the toll that decades of conflict have taken on the country, particularly eastern Congo, a volatile region rich in minerals critical to much of the world's technology. A planned visit by the pope to Goma in eastern Congo was called off because of the insecurity.

At a Nov. 23 summit in Angola, which included Congo's president and Rwanda's foreign minister, regional leaders called for a cease-fire in eastern Congo to be followed by a withdrawal of rebels from major towns under M23 control. The group said it would leave some of the occupied territories before Jan. 15, but some areas remain under its control and fighting has intensified in some areas.

### **Rwanda: Two Genocide Suspects to Appear in Brussels Court (All Africa) By Esther Favour**

February 5, 2023

## **Two fugitives of the 1994 Genocide against the Tutsi, Pierre Basabose and Seraphin Twahirwa, will appear before court in the Belgium in June this year.**

Basabose was indicted in June 2015 for the crimes of Genocide and extermination. He is a former soldier who had quit the military to venture into business. He owned a foreign exchange bureau in Kigali.

Twahirwa on the other hand worked in the Ministry of public works (Minitrape), which is the current infrastructure ministry.

He was indicted in June 2014, according to information from prosecution. He is accused of Genocide, conspiracy and extermination.

A first hearing is scheduled for June 12. The draw of the jury will take place on October 4 and the trial itself will start on October 9. The two men were arrested in September 2020.

The suspects were arrested during "three searches carried out on September 29 and 30, 2020, in the judicial districts of Brussels and Hainaut," announced the Federal Prosecutor's Office in a statement.

The two files have been merged. Both cases concern crimes committed in Kigali, in the Gikondo and Kacyiru sectors.

### **DR Congo: Atrocities by Rwanda-Backed M23 Rebels (Human Rights Watch) February 6, 2023**

**The Rwanda-backed M23 armed group has committed summary executions and forced recruitment of civilians in eastern Democratic Republic of Congo, Human Rights Watch said today. The Congolese army is responding to the M23's offensive by collaborating with ethnic militias with abusive records.**

The warring parties have increasingly appealed to ethnic loyalties, putting civilians in remote areas of North Kivu province at a heightened risk.

"Rwanda-backed M23 rebels in North Kivu are leaving behind a growing trail of war crimes against civilians," said Thomas Fessy, senior Congo researcher at Human Rights Watch. "Rwanda should end its military support for the M23 while Congolese government troops should prioritize protecting civilians and cease using abusive militias as proxy forces."

Recent investigations by the United Nations Group of Experts on Congo, as well as Human Rights Watch research, provide significant photographic and other evidence that Rwanda is not only giving logistical support to the M23, but that Rwandan troops are reinforcing or fighting alongside the armed group inside Congo. The Rwandan government has denied supporting the M23 rebels.

The renewed hostilities by the M23, the Congolese army, and various other armed groups has forced more than 520,000 people to flee their homes, according to the United Nations. This has exacerbated an already catastrophic security and humanitarian situation in North Kivu and the broader eastern region. The humanitarian organization Médecins Sans Frontières has warned of a potential health disaster as cholera spreads rapidly in camps for displaced people outside Goma, the North Kivu provincial capital.

Between October 2022 and January 2023, Human Rights Watch interviewed in person and by phone 48 survivors and witnesses of abuses as well as victims' family members, local authorities, activists, UN staff, security personnel, members of armed groups, journalists, and foreign diplomats.

A 38-year-old woman said she was at home in Kishishe with her husband and their three children on November 29 when a group of M23 fighters kicked the door open. "They took my husband and our son by force outside, and told me 'Stay in the house, if you come out, we will kill you!'" she said. "So I closed the door behind them. They shot them a few meters away, I could see them through a hole [in the door]." Her husband was seriously injured but survived. Their 25-year-old son died.

Human Rights Watch found that on November 29, M23 rebels summarily killed at least 22 civilians in Kishishe following fighting with factions of Mai-Mai Mazembe, Nyatura and the Democratic Forces for the Liberation of Rwanda (Forces démocratiques de libération du Rwanda, FDLR). Reliable information indicates that the M23 killed at least another 10 civilians while searching for militia members. Further reports by the UN and others conclude that M23 fighters may have unlawfully killed many more people, including captured fighters.

In a December 3 statement, the M23 rejected murder allegations and said that eight civilians had been killed by "stray bullets" during the fighting.

In late 2022, while the M23 expanded control over Rutshuru territory and attempted to capture parts of neighboring Masisi territory, several armed groups organized mostly along ethnic lines deployed in and around the town of Kitchanga, in Masisi.

In May, Congolese President Felix Tshisekedi said he opposed any alliance between Congolese military commanders and the armed groups. However, according to security sources, in late 2022 Congo sent two senior army officers to oversee military operations in Masisi, both of whom are former Hutu militia leaders who have retained close links to ethnic-based militias with poor rights records. This has raised fears of further retaliatory attacks and ethnic violence against civilians on both sides.

On December 16, the rebel commander Guidon Shimirai, who has been sanctioned by the UN, led his fighters from the main Nduma Defense of Congo-Renovated (Nduma Défense du Congo-Rénové, NDC-R) faction into Kitchanga following a meeting with leaders of other militias and army officers. Although Congolese authorities issued an arrest warrant for Guidon in 2019 for recruiting children, insurrection, and the crime against humanity of rape, he was filmed leading his fighters through one of Kitchanga's main thoroughfares, walking alongside Col. Salomon Tokolonga from Congo's national army.

Human Rights Watch recently documented Tokolonga's involvement with a coalition of Congolese armed groups calling itself the Patriotic Coalition. Congolese officers who assist armed groups that commit abuses can be held responsible for aiding war crimes, Human Rights Watch said. Congo has an international legal obligation to investigate alleged war crimes on its territory and appropriately prosecute those responsible.

Hundreds of Tutsi civilians in Kitchanga and nearby villages, often perceived by members of other communities as supporters of the Tutsi-led M23, have fled for fear of reprisals from militias that are using increasingly hostile and threatening rhetoric against them. "The more M23 rebels attack and the more they advance, the more we're being harassed by other communities who link us to them," said a Tutsi community leader in Masisi territory, who for security reasons did not want his name used. On January 26, M23 rebels captured Kitchanga, prompting civilians from other communities to flee for fear of retaliation.

Rwanda has a long history of support for the M23 and its predecessor, the National Congress for the Defense of the People (Congrès national pour la défense du peuple, CNDP). Angolan-led mediation efforts by the African Union between the presidents of Congo and Rwanda have made little progress. The African Union and its member countries should make clear to Rwanda, publicly and privately, that its continued military support for the M23 could implicate Rwanda in M23 abuses as a matter of state responsibility, and that Rwandan officials could be found complicit in M23 war crimes, Human Rights Watch said.

On December 15, United States Secretary of State Antony Blinken said that Rwanda should "use its influence with M23 to encourage" them to withdraw and to "pull back" its own forces. Belgium, France, Germany, and the European Union have also urged Rwanda to stop assisting the M23. The US, the EU, France, the United Kingdom, and other countries should suspend military support to Rwanda so long as it is assisting the M23. The EU should ensure that its recent assistance to the Rwandan Defence Force mission in northern Mozambique is adequately monitored so that the EU is not contributing indirectly to abusive military operations in eastern Congo.

The armed conflict in eastern Congo is bound by international humanitarian law, notably Common Article 3 to the 1949 Geneva Conventions, which prohibits summary executions, forced labor and recruitment, and other abuses. Serious laws-of-war violations committed with criminal intent are war crimes. Individuals also may be held criminally liable for attempting to commit a war crime, as well as assisting in, facilitating, or aiding a war crime. Commanders and civilian leaders may also be prosecuted for war crimes as a matter of command responsibility when they knew or should have known about the commission of war crimes and took insufficient measures to prevent them or punish those responsible.

Congolese authorities should investigate and appropriately prosecute alleged war crimes, including ethnic violence and reprisals against the Tutsi community. Governments should maintain sanctions against senior M23 commanders and expand them to include commanders and officials across the region implicated in serious abuses.

"The Rwandan government's support for the abusive M23 rebels is raising concerns about further ethnic violence in eastern Congo," Fessy said. "Greater international pressure is urgently needed so that Rwanda and Congo take all steps necessary to end abuses and ensure the protection of ethnic groups under threat."

**Killings in Kishishe** The village of Kishishe is in the predominantly Hutu area of Bwito chefferie (chiefdom) in north-western Rutshuru territory. Bwito is home to a headquarters, known as Kazahoro, of the largely Rwandan Hutu armed group FDLR, some of whose leaders took part in the 1994 genocide in Rwanda, and to their families.

Following the capture of Rutshuru-Center and Kiwanja in late October, M23 rebels advanced into Bwito in November, committing atrocities along the way.

Human Rights Watch research corroborated through interviews with family members and witnesses the names of 22 civilians the M23 summarily killed in Kishishe on November 29, including 20 men and two teenage boys. Human Rights Watch

identified 10 other civilians killed that day through secondary sources.

Residents said that M23 rebels first entered Kishishe on November 23. They briefly held the village following two days of fighting against government troops, Nyatura, and FDLR factions in the vicinity. On November 23, M23 fighters killed at least seven civilians outside of Kishishe as they were returning from their fields. The fighters soon left for nearby areas controlled by the FDLR and their allies.

Several residents confirmed that on November 28, fighters from Mai-Mai Mazembe, a Nyatura faction, and the FDLR entered Kishishe. Some of the fighters were wearing civilian clothes and were primarily carrying machetes and hoes, although some had guns. "People got scared and many fled," one villager said. "We begged them to leave for fear that the M23 would target villagers," another resident said. "People started to flee saying [the fighters] wouldn't be able to fight against the M23 and would have us killed [by their presence]."

Early on November 29, M23 rebels in military uniforms with bulletproof vests, carrying guns, again advanced on Kishishe and overran militiamen to capture the village. A Mai-Mai leader known as "Pondu" was killed in the fighting. "I know that other [militiamen] were also killed but I can't say exactly how many," the same resident said. "They exposed people because the M23 rebels accused all young boys and men of collaborating with [their enemy]." When the fighting was over, M23 fighters went door to door searching for men they suspected of being Mai-Mai or FDLR fighters.

A 45-year-old man said he was hiding under a bed when M23 rebels entered his house demanding that all men go outside. Two other villagers who had sought refuge in the house came out. "They asked if anyone else was inside, but my wife said I was away," the man said. "They shot them both in front of the house." The man said he then fled through the forest. He said he saw five bodies while fleeing.

A 21-year-old man said four M23 rebels took him from his house when they first came to Kishishe on November 23 and forced him to carry supplies and ammunition. When they joined with the other fighters outside of the village, he said, there were about 30 other young men who had also been forced to work as porters.

He said M23 rebels went back to Kishishe on November 29 to fight militiamen who were there. After the fighting, those who had been recruited by force were divided into three groups to bury the dead. "On the first day [November 29] we buried 18 people, including my father and my brother," he said. "[W]e buried them both in the same hole with three other people whom I didn't know. There were people whom I knew the faces of but not their names, and others whom I didn't even know."

The young man said he had seen at least three bodies of Mai-Mai fighters with knives and a machete lying next to them. On November 30, he and others buried 11 men, 4 children, and a woman who had all been shot dead behind the church. "We dug only one hole and buried them all there," he said.

A 30-year-old woman said she and her children had sought refuge at her father's house when they started to hear gunfire early on November 29. Her father was hosting six men and their wives who had fled the nearby fighting from the week before. Later in the morning, M23 rebels came to the house. She said:

They were many and I was very scared. They screamed orders that we open the door. I opened and they said that all men must come out of the house. They all did. Three were shot on the spot, and they left with the other three, but they also killed them just a bit further away.

While Congolese authorities claimed that nearly 300 people were killed in Kishishe, the United Nations Stabilization Mission in Congo (Mission de l'Organisation des Nations Unies pour la stabilisation en République démocratique du Congo, MONUSCO) said its preliminary investigation found that M23 rebels had killed 131 civilians.

Other M23 Killings and Abuses Elsewhere in Rutshuru territory, Human Rights Watch confirmed the killings of at least 13 additional civilians by the M23 in October and November.

On October 28, near Rugari, M23 rebels opened fire on a bus and two motorbikes transporting civilians who were fleeing the fighting. A 35-year-old woman said from her hospital bed that she and four of her children were on one motorbike, while her other two children were on another bike. She said her 17-year-old daughter was killed, and her 14-year-old son wounded. At least two other children, ages 5 and 7, were killed in the attack.

Four men, ages 22 to 26, said that M23 rebels forced them to carry supplies and ammunition, do chores at their military camps, and take part in fighting. They said they found themselves with dozens of other young people who had also been forcibly recruited, including some brought in from Rwanda.

"They would whip us and order us to scout for [Congolese military] positions," a 25-year-old said. "We had no shoes. They would beat us and leave us in the rain. I was taken for two months." He escaped at night while on the lookout for government



troops.

A 26-year-old said:

After one month, they took us to Chanzu [near the borders of Rwanda and Uganda]. It must have been like a headquarters as this is where they organized the fighting and there were so many fighters: it was an impressive camp. All fighters come through there, new recruits are trained there before they are sent to the front line. A group of about 50 youth arrived from Rwanda [when I was there]; they had come through the forest. After a week of training, they were given weapons and sent to fight.

On November 21, M23 rebels went through Butare where they forced 10 men to transport goods for them while on their way to Bambo, near Kishishe. The bodies of seven of them were found together in Mburamazi, just outside Bambo, the following day. The brother of one victim said, "I went with family members of four other victims to retrieve their bodies. We buried three on the spot." Three more bodies were found three days later, according to local groups.

On November 26, M23 rebels killed at least three civilians when they opened fire near the market of Kisharo while chasing militiamen. Human Rights Watch received credible reports that another three civilians were also killed by the M23.

In a January 27 statement sent to Human Rights Watch, the M23 spokesperson Lawrence Kanyuka rejected Human Rights Watch's findings and denied that the M23 executed civilians or forcibly recruited men to fight. He added that "civilians may be used to transport food for the military," but "in return for payment as agreed."

**Coalition of Militias and Collaboration with Congolese Army** The resurgence of the M23 rebel group since late 2021 led several Congolese armed groups to form a coalition to fight "the aggressor." Most of these militias are organized along ethnic lines and some were previously rivals. As Human Rights Watch recently documented, this coalition, called the Patriotic Coalition, was formed in Pinga in May 2022, and fought the M23 either alone or alongside Congolese troops until August.

Most of these militias gradually returned to their respective strongholds in August. But following the M23 offensive in late October and its advance into the Bwito chefferie and Masisi territory in November, the coalition resurfaced. It took on a prominent role on the front line with the apparent backing of some senior Congolese army officers.

The armed groups include the Patriots' Alliance for a Free and Sovereign Congo (Alliance des patriotes pour un Congo libre et souverain, APCLS) led by Janvier Karairi; the Nyatura's Coalition of Movements for Change (Coalition des mouvements pour le changement, CMC/FDP) led by Dominique "Domi" Ndaruhuste; the Nduma Defense of Congo-Renovated (Nduma défense du Congo-Rénové, NDC-R) faction under Guidon Mwisa Shimirai; and the Nyatura Abazungu's Alliance of Congolese nationalists for the defense of human rights (Alliance des nationalistes congolais pour la défense des droits humains, ANCDH/AFDP) under Jean-Marie Bonane.

These armed groups have been implicated in serious human rights abuses in their strongholds. Human Rights Watch has previously documented widespread abuses by forces under the command of Guidon, the NDC-R leader, who remains under UN sanctions.

Some of these militias, most notably Nyatura factions and the APCLS, have often fought alongside FDLR fighters.

Several security sources, including a high-ranking army officer, told Human Rights Watch that the Congolese government deployed Gen. Janvier Mayanga Wabishuba and Gen. Hassan Mugabo to oversee military operations in Masisi territory. According to a 2008 UN Group of Experts' report, Mayanga helped organize the Coalition of Congolese Patriotic Resistance (PARECO) in early 2007 and helped channel weapons and ammunition to the armed group.

PARECO has been implicated in raping women and girls, killing civilians who opposed their activities or whom they accused of being collaborators with their enemies, and raiding villages for cattle, goats, and other goods. Mayanga maintained contacts with PARECO as well as the FDLR while the Congolese army fought the M23's first iteration, the CNDP, from 2006 to 2009. Mugabo was one of the founding members of PARECO and its deputy commander.

On December 10, Mayanga and Mugabo met with some of the Patriotic Coalition's leaders at the Hotel Nyarusumba in Kitchanga. Two onlookers confirmed that a second meeting involving Congolese army officers and armed group leaders took place at the Hotel Nyarusumba on December 11. It is unclear whether Colonel Tokolonga participated in these meetings, but he appeared in a December 16 video walking in Kitchanga between Guidon and Deo Bafosse, respectively leader and chief of staff of the NDC-R.

Human Rights Watch has received credible information that more meetings took place in January, allegedly to coordinate operations against the M23 in Masisi. Three security sources, two fighters from Nyatura Abazungu, and one APCLS fighter said that although militia were fighting alone on the front line, they were at times receiving ammunition and food supplies

from Congolese army officers.

“[The situation] is taking on an ethnic dimension in Bwito and Masisi: it’s getting worse,” a high-ranking military officer said. “Rwanda threw oil on the fire by arming the M23 but using these armed groups now [in response] is adding more oil [to the fire].”

Since October, Nyatura and FDLR factions have been responsible for kidnapping for ransom, sexual violence, and murders in areas under their control, according to the Kivu Security Tracker, which tracks violence in the region.

Most armed groups from the Patriotic Coalition took part in the third round of inter-Congolese talks in Nairobi, Kenya between late November and early December, and agreed to demobilize. The Congolese government’s use of these armed groups as proxy forces severely hinders national and regional efforts – so far unsuccessful – to demobilize fighters and militias responsible for abuses, Human Rights Watch said.

On February 5, 2023, Congo’s minister of communication and media, and government spokesman, Patrick Muyaya, told Human Rights Watch that “there is no collaboration between the army and the self-defense militias.” He said: “This would be counterproductive and could only exacerbate tensions and complicate the situation. However, there may be combat situations where our forces may have the same enemies as the militias’. We have to distinguish between collaboration that can be systematic and isolated events, because these are not things that are tolerated or that can be accepted.”

**Abuses Against the Tutsi Community** The M23’s renewed military operations and abuses have stoked ethnic hatred against the Congolese Tutsi community, whom many Congolese in North Kivu consider supporters of the M23, a largely Tutsi-led armed group. Human Rights Watch documented several instances in which people from an ethnic Tutsi background or simply perceived as Tutsi or Rwandan faced hostility, threats and attacks by ethnic-based militia and the communities they claim to represent.

On November 28, Janvier Karairi, the leader of the APCLS, travelled to Kitchanga. Videos of his arrival show chanting crowds escorting his convoy through the town center. Among the chants heard, people repeated slogans hostile to the Tutsi community, such as “Janvier has come home, Tutsi go away!”

In the ensuing days, groups of hostile residents threatened Tutsi families and, in some cases, pelted their houses with stones. Residents also attacked cows belonging to Tutsi farmers, injuring or slaughtering some.

On November 25, a mob stoned to death a Tutsi man accused of spying for the M23 in Kitchanga. Two witnesses confirmed the presence of the Congolese military, which did not intervene. On January 1, an unidentified gunman fatally shot a Tutsi resident in Kilolirwe-Nturo in Masisi territory, just a few hundred meters from a Congolese army position and a position of a Nyatura faction. On January 4, just outside Kitchanga, APCLS fighters killed two Tutsi men, whom they accused of collaborating with the M23.

A senior military judicial source told Human Rights Watch that in the final months of 2022, government troops had arrested scores of villagers perceived to be Tutsi or Rwandan and accused them of collaborating with M23 rebels. “We fear racial profiling,” the source said. “These people are just farmers or herders.... Some are found without any ID and accused of collaborating with the M23.” Dozens remained in detention at Goma’s central prison facing charges such as unlawful “recruitment” or “infiltration.”

Congo’s government has repeatedly condemned hateful speech and violence against ethnic communities. However, most offenses targeting ethnic groups in North Kivu have not been investigated nor led to any prosecution.

President Tshisekedi’s administration should address historical discrimination, land and customary conflicts, and ensure accountability for past abuses, Human Rights Watch said.

[\[back to contents\]](#)

## **Somalia**

**ATMIS probes killing of civilian in Somalia (The Star)** By Hashi  
February 5, 2023

**African Union Transition Mission in Somalia (ATMIS) said Saturday it has launched an independent investigation after one of its soldiers shot and killed a civilian in Mogadishu, the capital of Somalia, on Friday.**

"The findings will be shared with the Federal Government of Somalia," ATMIS said in a statement issued here.

The incident sparked demonstrations in Mogadishu with protesters carrying placards burning tires and blocking the Ceelgaab intersection where the killing took place.

ATMIS said its preliminary investigations revealed that an unidentified person hurled a suspicious object at one of the ATMIS trucks. The person later attempted to mount the truck, prompting a response from ATMIS soldiers who were escorting the vehicle.

"ATMIS commits to protecting the lives of civilians and will continue to uphold and respect the rights of all Somali citizens as prescribed in its mandate and to support the government in ensuring a peaceful and stable Somalia," it said.

**Separatist Somaliland troops continue shelling Las Anod city, killing hundreds (People's Dispatch)**

By Pavan Kulkarni

February 8, 2023

**Hundreds have been killed and several more injured as the troops of Somaliland, a separatist breakaway region of Somalia whose sovereignty claim is not internationally recognized, continued shelling Las Anod, Sool region's capital city, for the fourth day on February 8.**

Nearly 300 have been killed since the troops launched the attack on February 5 to retake the city, which was the epicenter of the ongoing protests calling for reunification with Somalia, according to Hamda Jama, a senior nurse at the city's maternity hospital. Most of the deaths occurred on Wednesday.

"Since yesterday, troops have started shelling the two hospitals in the city. Nearly half of both the general hospital and the maternity hospital of Las Anod are in ruins. Every hour, a shell is landing in the vicinity of the hospitals [which are around 50 feet across each other]. Only minutes ago, another shell landed in front of the maternity hospital," Hamda told Peoples Dispatch in a WhatsApp call at around 5:30 p.m, local time, on the evening of Wednesday.

More than half of both the hospitals are in ruins, according to Hamda. "A pregnant woman in the sixth hour of her labor was killed, along with her unborn child, when a shell hit the maternity ward," she said, adding that several doctors and nurses have also been injured. Surviving patients, several of them with severe injuries, have been evacuated to a safer place, but the medics are unable to reach them due to heavy shelling of the city.

Ambulances with medics trying to reach those who are getting injured are being specifically targeted, she said. Hamda added that Somaliland troops, who are positioned on the mountains around the city, are also targeting schools, residential areas, food stores and all key areas of the city to inflict maximum damage on Las Anod.

Las Anod, which was captured by Somaliland from Somalia's autonomous region of Puntland in 2007, has become the epicenter of ongoing unionist protests since late December, forcing the occupying Somaliland troops to withdraw to the city's outskirts in early January 2023.

In an attempt to take back the city, Somaliland's troops began the ongoing attack on Sunday, February 5, toward the conclusion of the nine-days long 'self-determination conference' that was ongoing in the city from January 28, to chart a path towards reunification with Somalia.

The conference passed the "Las Anod Declaration" on Sunday, proclaiming the Sool, Sanaag, and Cayn (SSC) region, which together make up over a third of the self-declared Republic of Somaliland, to be part of Somalia. It deemed the presence of the "secessionist... Somaliland administration" in the territory as "illegal."

The conference was attended by youth and women's groups, civil society organizations, and leaders of the four clans of the SSC region, which had historically been opposed to secession from Somalia, but allegedly forced into Somaliland in 1991.

This declaration was scheduled to be read out at the conference's conclusion on Sunday. But that session "was disrupted by the Somaliland secessionist forces who attacked the city and targeted innocent civilians, including women and children," Elham Garad, a Somali activist whose unionist parents had migrated out of Somaliland to the UK, told Peoples Dispatch.

"Most of the [people] killed are civilians. Almost 40% of the population has fled from the city," Abdiwahab Sheikh Abdisamad,

chairman of the Institute for Horn of Africa Strategic Studies, told Peoples Dispatch. Over 80,000 people have already been displaced from Las Anod in the current round of violence according to Adam Abdelmoula, UN's Deputy Special Representative of the Secretary-General for Somalia. The supply of water and electricity to the city has also reportedly been cut off.

Nevertheless, youth and local militias supporting the unionist movement for reunification with Somalia remain in the city to defend it from Somaliland's troops. "The people of the region are left with no choice but to defend themselves in this war waged on them by the separatist forces," Abdiwahab said.

"I am concerned by reports that the clashes are continuing today with additional claims of new casualties," UN High Commissioner for Human Rights Volker Türk said in a press release on Tuesday, February 7.

"These potentially unlawful killings come just a month after at least 20,000 people were displaced by clashes in [Las Anod], and could contribute to further displacement, compounding the already fragile humanitarian situation in the region," he added.

These clashes were the result of a violent crackdown on the mass unionist demonstrations calling for reunification with Somalia that began in Las Anod in the last week of December 2022. After killing at least 20 protesters, the Somaliland security forces—who were resisted by local militia supporting reunification—retreated to their barracks on the outskirts of the city.

Protests soon spread across Sool and also to several towns and cities of Sanaag and Cayn, culminating in the 'self-determination' conference where the Las Anod Declaration was issued. The declaration states that territories of the SSC region "are part of the Federal Republic of Somalia and they stand for" a united Somalia, which disintegrated after the civil war in the country ended with the collapse of the federal government in 1990.

In 1991, the Somali National Movement (SNM), which had fought against the federal government in the war, declared that the northwestern region of Somalia, formerly a British protectorate, was a separate country. This broke the union with the rest of Somalia, which was formerly an Italian protectorate.

"We declare that we are not part of the Somaliland Administration and that we have never agreed to or participated in the secession program, although the Somaliland administration is trying to force it upon us contrary to international norms and laws," the Las Anod Declaration states. Demanding the withdrawal of the troops of Somaliland administration from the SSC, it adds, "we are willing and capable to safeguard and maintain the security of our territories."

Apart from Las Anod, Somaliland's troops have also been driven out of "Talex and Buuhoodle and half of Sanaag," Elham said. If the unionist forces succeed in taking over the entirety of the SSC, "the federal government will be left with no choice but to treat it as a federal member state and provide it with services and security," Abdiwahab pointed out.

To govern the SSC region in the interim, until reunification is formally completed, a 33-member body has been elected by the conference, added Elham. The SSC is the largest region taken over by Somaliland. Should it manage to wrest itself free from Somaliland's troops and unite with Somalia, "it will be the end of Somaliland," Abdiwahab opined.

Hamda said: "We plead the International Community to come and see the crimes against humanity committed by Somaliland troops in Las Anod."

[\[back to contents\]](#)

## **Ethiopia**

**One Chinese citizen killed in Ethiopia's Oromiya region – embassy (Reuters)** January 31, 2023

**One Chinese citizen was killed in an attack on Monday in Ethiopia's Oromiya region, the Chinese embassy in the country said, and it warned other citizens in Ethiopia to exercise caution and build up safety awareness.**

Nine Chinese citizens in Gebre Guracha, a town in northern Oromiya, came under armed attack on Monday evening and one was shot dead, the Chinese embassy in Ethiopia said in a statement on Tuesday. It did not identify the perpetrators.

A spokesperson for Ethiopia's foreign ministry was not immediately available for comment.

The Chinese embassy added that border areas between Oromiya and other states have seen frequent armed attacks, kidnappings, and robberies, making security risks extremely high.

Last week, unidentified gunmen briefly abducted dozens of workers of Nigeria's Dangote Cement (DANGCEM.LG) in Oromiya region. They were later released unharmed, a company spokesperson told Reuters in an emailed statement on Monday.

Hailu Adugna, spokesperson, for Oromiya's regional government, did not immediately respond to Reuters' request for comment on the abduction of Dangote Cement's workers.

The violence in Oromiya is separate from a two-year war between the federal government and regional forces in the northern region of Tigray, which stopped in November, when the Ethiopian government and Tigray forces signed an agreement to end the hostilities.

Oromos, Ethiopia's largest ethnic group, had hoped that their lot would improve after they helped Prime Minister Abiy Ahmed, who is of mixed Oromo-Amhara parentage, come to power in 2018. However, many became disenchanted with Abiy and feel neglected by the government.

**Ethiopia Asks U.S. Support to Terminate Mandate of UN Human Rights Experts (All Africa)** February 3, 2023

### **Ethiopia has asked the United States to support its "bid in terminating the mandate" of the International Commission of Human Rights Experts on Ethiopia (ICHREE).**

This was stated during a courtesy call by Ambassador Tracey Ann Jacobson, Chargé d'Affaires at the U.S. Embassy in Ethiopia, to Ambassador Mesganu Arga, State Minister at the Ministry of Foreign Affairs, on 02 February, according to the Ministry. During the discussion, Ambassador Misganu "commended the US for its support for the AU-led Pretoria Peace Deal between the Ethiopian Government and the TPLF," and stated that the government is "fully committed to implementing the terms of the Peace Deal." He called on the United States to provide support for the reconstruction and rehabilitation efforts.

"Reiterating Ethiopia's commitment to address the issues of human rights violations via the Transitional Justice System, Ambassador Mesganu asked the United States to support Ethiopia's bid in terminating the mandate of the highly politicized International Commission of Human Rights Experts on Ethiopia," MoFA's dispatch reads.

In December last year, Ethiopia's draft resolution requesting the Fifth Committee of the UN General Assembly to not approve any resources for the International Commission of Human Rights Experts on Ethiopia (ICHREE) was rejected by a vote of 71 against 32 in favor, whereas 50 members states abstained the vote.

It was the second failed attempt by Ethiopia to have UN's General Assembly to defund resources for the UN rights experts who were appointed by the UN to investigate war-related human rights abuses in Ethiopia. After its opposition to the formation of ICHREE, in April last year, the Ethiopian government voted to block the U.N. funding for it, unsuccessfully.

It is recalled that ICHREE's first report to the UN Human Rights Council presented in September last year on its initial findings of Ethiopia's war covering "the hostilities in Tigray and Amhara regions, concluded that "there are reasonable grounds to believe that violations, such as extrajudicial killings, rape, sexual violence, and starvation of the civilian population as a method of warfare have been committed in Ethiopia since 3 November 2020," and that there were "reasonable grounds to believe that, in several instances, these violations amount to war crimes and crimes against humanity."

However, since the onset of its establishment by the Geneva-based UN Human Rights Council on 17 December 2021, Ethiopia insisted it was established for a political purposes and has had uneasy relationship with it, once accusing it of having "weaponized human rights for political pressure."

The US government and the EU however continued insisting on accountability for human rights violations and abuses as well as implementation of transitional justice as part of the full implementation of the Pretoria CoHA. On 22 December, US Secretary of State Anthony Blinken said that the US was focused on making sure that it can "get independent human rights monitors into Tigray to verify that there are no ongoing atrocities, even as we're looking for accountability for what's already taken place."

During the latest US State Department press briefing held yesterday, Ned Price, Department Spokesperson, said that the US commends the parties for their commitment to the cessation of hostilities agreement and encourage continued implementation, "including ensuring the protection of civilians through international human rights monitoring, as well as following through on accountability for human rights abuses and transitional justice."

# EUROPE

## The Court of Bosnia and Herzegovina, War Crimes Chamber

Official Court Website [English translation]

**Dusan Culibrk sentenced to Twenty Years in Prison for War Crime (Sarajevo Times)** January 26, 2023

**The Appellate Division Panel of the Court of Bosnia and Herzegovina delivered an Appeals Judgment in the Dušan Ćulibrk case, dismissing as ill-founded the appeal filed by defense counsel for the accused Dušan Ćulibrk, and upholding the Trial Judgment of 15 August 2022.**

The Trial Judgment of the Court of Bosnia and Herzegovina found the accused Dušan Ćulibrk guilty of the criminal offense of War Crimes against Civilians under Article 142(1) as read with Article 22 CC SFRY and sentenced him to 20 (twenty) years of imprisonment. According to the same judgment, the time the accused spent in custody, from 14 February 2022 to 21 March 2022, and from 15 August 2022 onwards, shall be credited towards the imposed sentence of imprisonment.

The accused has been found guilty that during the state of war in Bosnia and Herzegovina and the armed conflict between the army and police of the Serb Republic of BiH, subsequently Republika Srpska, and the Army of the Republic of Bosnia and Herzegovina, in the municipality of Bosanska Krupa, between July and September 1992, in his capacity as a member of a reserve police unit at the Bosanska Krupa Public Security Station, in the territory of Bosanska Krupa municipality, acted in violation of the rules of international humanitarian law, and the Geneva Convention, by having participated, as a co-perpetrator, in the killing of 51 Bosniak and Croat civilians.

No appeal lies from this Judgment, announced the Court of Bosnia and Herzegovina.

**Serbia Convicts Wartime Fighters of Bosnia Train Abductions (Balkan Transitional Justice)** By Milica Stojanovic  
February 7, 2023

**Belgrade Higher Court convicted four former Serb fighters of involvement in the abduction of 20 passengers from a train at Strpci station in Bosnia during the war in February 1993.**

Four wartime Serb fighters were sentenced to a total of 35 years in prison at Belgrade Higher Court on Tuesday for participating in the abduction of 20 non-Serb passengers from a train in Strpci station in Bosnia and Herzegovina in 1993. All the captive passengers were subsequently killed.

The court sentenced Gojko Lukic, Dusko Vasiljevic and Jovan Lipovac to ten years in prison each and Dragana Djekic to five years.

The captives, mainly Bosniaks, were seized from the train at Strpci and taken to a school in Prelovo, where they were physically assaulted.

They were then taken to a burned-out house in the village of Musici, where they were executed.

The four defendants were convicted of participating in beating the captives in Prelovo and taking them to the house in Musici.

The indictment said that Gojko Lukic, Dusko Vasiljevic and Dragana Djekic were members of the Avengers paramilitary unit, led by Milan Lukic, who was sentenced to life imprisonment by the Hague Tribunal in 2012 for war crimes in the Bosnian town of Visegrad, but not for the Strpci deaths.

Lipovac, the other defendant in the trial, was a Bosnian Serb Army soldier at the time of the crime.

Judge Snezana Nikolic Garotic said that their guilt was established by witness testimonies, although the defence sought to dispute their claims.

“During the proceedings, the defendants and the defence tried to discredit some witnesses, one of whom was subjected to a medical expert’s examination twice,” she said.

Garotic was referring to Mitrasin Glisic, a key prosecution witness whose testimony incriminated the defendants.

The trial was delayed by arguments about Glisic’s mental health and ability to testify before he was cleared to appear in court by medical experts.

Glisic, who was an assistant cook at the school in Prelovo where the captured passengers were detained before being killed, testified that he knew all the defendants and saw them participating in the beating of the victims.

The victims by name

1. Halil Zupcevic (born in 1944), refugee in Montenegro
2. Senad Djecevic (born in 1975), citizen of Montenegro
3. Esad Kapetanovic (born in 1974), citizen of Montenegro
4. Iljaz Licina (born in 1950), citizen of Montenegro
5. Fehim Bakija (born in 1953), citizen of Montenegro
6. Rifat Husovic (born in 1958), citizen of Montenegro
7. Jusuf Rastoder (born in 1938), citizen of Montenegro
8. Ismet Babacic (born in 1963), citizen of Montenegro
9. Seco Softic (born in 1945), citizen of Montenegro
10. Adem Alomerovic (born in 1936), citizen of Serbia
11. Rasim Coric (born in 1952), citizen of Serbia
12. Fikret Memovic (born in 1957), citizen of Serbia
13. Fevzija Zekovic born in 1939), citizen of Serbia
14. Dzafer Topuzovic born in 1939), citizen of Serbia
15. Muhedin Hanic (born in 1966), citizen of Serbia
16. Safet Preljevic (born in 1969), citizen of Serbia
17. Nijazim Kajevic (born in 1963), citizen of Serbia
18. Zvezdan Zulicic, refugee in Serbia
19. Tomo Buzov (born in 1940), citizen of Serbia
20. Unidentified person described by the Bosnian court as being “of Arabic origin”

During the trial, many of the defence witnesses also tried to portray war criminal Milan Lukic, the leader of the Avengers, as being solely responsible for the Strpci crime. Lukic was indicted for Strpci by the Bosnian state prosecution in 2019.

The judge said that when deciding on the sentences, the court bore in mind that the defendants did not commit any other criminal acts before or after the Strpci crime, that their financial situation was poor, and that Lipovac is in bad health and Djekic was a minor at the time of the crime.

Dusko Vasiljevic’s brother Ljubisa was initially indicted alongside the other defendants but died in July 2021.

Tuesday's verdict can be appealed.

Marina Kljajic, who represented the victims' families, said she was surprised and disappointed by the low sentences.

"We expected a conviction but this level of sentence is shameful for the state of Serbia and for the judiciary," Kljajic said.

[\[back to contents\]](#)

## **International Criminal Tribunal for the Former Yugoslavia (ICTY)**

**Official Website of the ICTY**

**Man Charged with Immigration Fraud for Concealing War Crime Charge in Croatia (United States Department of Justice)** January 26, 2023

**An Ohio man was arraigned today on criminal charges related to his alleged false statements to U.S. immigration and law enforcement officials about his military service and involvement in a politically and ethnically-motivated attack on civilians in Croatia during the civil war in the former Yugoslavia in the 1990s.**

According to the indictment unsealed today, Jugoslav Vidic, 55, of Parma Heights, allegedly made multiple false statements in his successful application to become a lawful permanent resident, including falsely stating that his only past military service was in the Yugoslav Army from 1988 to 1989 and omitting his service in the Serb Army of Krajina and its predecessors from 1991 to 1995. The indictment alleges Vidic falsely stated that he had never been charged with breaking any law even though he had been convicted in absentia in 1998 of a war crime in Croatia, and falsely stated that he had never participated in killing a person because of ethnic origin or political opinion. Vidic also allegedly participated in an attack by ethnic Serb military forces in September 1991 in which Vidic singled out and took away at gunpoint a Croatian civilian who had recently shaken hands with Croatia's then-president, Franjo Tudjman, who supported Croatian independence from Yugoslavia. The victim was never seen alive again and his body was later exhumed from a mass grave.

Vidic immigrated to the United States as a refugee in 1999. His application to become a lawful permanent resident was approved in 2005. Vidic is also accused of lying to law enforcement agents in 2017 when questioned about his immigration application. Vidic is charged with one count of possessing a green card that was procured by means of materially false statements and one count of making false statements to a federal agent. If convicted, he faces a maximum penalty of 10 years in prison for the first charge and a maximum penalty of five years in prison for the second.

Assistant Attorney General Kenneth A. Polite, Jr. of the Justice Department's Criminal Division, First Assistant U.S. Attorney Michelle M. Baeppler for the Northern District of Ohio, Assistant Director Luis Quesada of the FBI's Criminal Investigative Division, Special Agent in Charge Gregory D. Nelsen of the FBI Cleveland Field Office, Acting Executive Associate Director Steve Francis of Homeland Security Investigations (HSI), and Special Agent in Charge Angie Salazar of the HSI Detroit Field Office made the announcement.

HSI and the FBI are investigating the case with coordination provided by the Human Rights Violators and War Crimes Center (HRVWCC), including the FBI's International Human Rights Unit (IHRU). The Department of Justice thanks the Ministry of the Interior and the Ministry of Justice and Public Administration of the Republic of Croatia, which were both instrumental in furthering this investigation.

Trial Attorney Patrick Jasperse of the Criminal Division's Human Rights and Special Prosecutions Section and Assistant U.S. Attorneys Matthew W. Shepherd and Jerome J. Teresinski for the Northern District of Ohio are prosecuting the case. The Justice Department's Office of International Affairs also provided assistance.

Members of the public who have information about human rights violators in the United States are urged to contact U.S. law enforcement through the HSI tip line at 1-866-DHS-2-ICE (1-866-347-2423) or its online tip form at



<https://www.ice.gov/webform/ice-tip-form> or the FBI tip line at 1-800-CALLFBI (1-800-225-5324) or its online tip form at <https://tips.fbi.gov/>.

An indictment is merely an allegation. All defendants are presumed innocent until proven guilty beyond a reasonable doubt in a court of law.

[\[back to contents\]](#)

## **Domestic Prosecutions In The Former Yugoslavia**

[\[back to contents\]](#)

### **Turkey**

[\[back to contents\]](#)

## **Kosovo Specialist Chambers**

### **Hague Court Reduces Kosovo War Veterans' Leaders' Sentences (Balkan Transitional Justice) By**

Xhorxhina Bami

February 2, 2022

**The appeals panel at the Kosovo Specialist Chambers in The Hague on Thursday upheld the convictions of the former leader and deputy leader of the Kosovo Liberation Army War Veterans' Organisation, Hysni Gucati and Nasim Haradinaj, but reduced their sentences by three months.**

The court upheld the original verdict's finding that Gucati and Haradinaj were guilty of obstruction of justice, intimidation and the unauthorised revelation of court information and personal information about protected witnesses in war crimes cases.

However, they were cleared on appeal of obstructing officials in the course of their duty, which led to the sentence reduction.

Presiding judge Michele Picard said the court decided to impose "a sentence of four years and three months' imprisonment including the time spent in detention" since the two men were arrested in September 2020.

"Mr. Gucati and Mr. Haradinaj are to remain in detention at the Specialist Chambers in The Hague until the finalisation of the necessary measures for the transfer to the state they will serve their sentence," judge Picard added.

Acting specialist prosecutor Alex Whiting said in a statement that he welcomes the judgment because it "reinforces the rule of law in Kosovo and sends a clear message to anyone involved in witness intimidation, retaliation against witnesses and obstruction of justice".

Gucati and Haradinaj were originally convicted in May 2022 after the judges concluded that they had the intent to reveal protected information.

The two men were prosecuted after they received batches of legal documents leaked from the Specialist Chambers, which contained confidential information about protected witnesses in cases against KLA ex-guerrillas, including names and personal information.

The boxes of court documents were left in the hallway of the offices of the KLA War Veterans' Organisation in September 2020.

Gucati and Haradinaj then held press conferences to publicise the leaked files and urged media in Kosovo to publish extracts from them.

The Kosovo Specialist Chambers were set up to try former KLA fighters for wartime and post-war crimes from 1998 to 2000, including murder, torture and illegal detentions. Witness protection has been a key concern for the so-called 'Special Court' after incidents of witness-tampering at previous trials of KLA commanders.

After Wednesday's verdict was handed down, the acting leader of the KLA War Veterans' Organisation, Faton Klinaku, told media that "this Special Court is a political court".

"We have not recognised and will not recognise this court. We will hinder it from functioning in any way we can because it does not prosecute war crimes but prosecutes Albanians," Klinaku said.

Gucati and Haradinaj are the first people to have been convicted by the Specialist Chambers, which is preparing to begin high-profile war crimes trials of former KLA commanders in the coming weeks.

## Azerbaijan

**International Association of Genocide Scholars issues statement condemning the Azerbaijani blockade of Artsakh (Nagorno-Karabakh) (The Armenian Weekly) February 2, 2023**

**The International Association of Genocide Scholars (IAGS) Executive and Advisory Boards strongly condemns Azerbaijan's blockade of Artsakh (Nagorno-Karabakh) and the ongoing aggression against the indigenous Armenian population of the region and warns of the risk of genocide against the Armenian population of that entity. We reaffirm the IAGS Executive Board October 24, 2022 "Statement on Azerbaijani Aggression Against the Republic of Armenia and the Indigenous Armenians of the South Caucasus" and call for the immediate lifting of the blockade.**

On December 12, 2022 the government of Azerbaijan imposed a blockade on the enclave of Artsakh (Nagorno-Karabakh) creating an ongoing humanitarian crisis for its 120,000 Armenian inhabitants, including 30,000 children and 20,000 elderly. Azerbaijani operatives, masquerading as so-called "eco-activists," blocked the only land route, the Lachin Corridor, from the Republic of Armenia to Artsakh thereby preventing food, medicine, gas and other vital goods from transiting into the region. Food and gas are now rationed and electricity supplies interrupted. Schools are closed, families separated, hospital patients endangered and normal life brought to a standstill.

Azerbaijan's actions are a clear violation of the human rights of the residents of Artsakh. The blockade and deliberate attacks on the critical infrastructure of Artsakh are a violation of Article 11.1, Right to Adequate Standard of Living and Article 12, The Right to Healthcare of International Covenant on Economic, Social and Cultural Rights:

During the blockade, Azerbaijan deliberately cut off the gas supply four times: on December 13 (for 3 days), January 17 (for 1 day), January 18 (for 3 days) and January 21. Gas supply was deliberately earlier cut off in March 2022 for 20 days.

On January 9, 2023, the sole high-voltage line supplying electricity to Artsakh from Armenia, was damaged in the Aghavno-Berdzor section under Azerbaijani control. Azerbaijani authorities have not allowed repair work to be conducted on the damaged section, necessitating the implementation of rolling blackouts.

On January 12, 2023, the Azerbaijanis deliberately cut the sole fiber-optic cable supplying Internet connection to Artsakh from Armenia in the section of the Stepanakert-Goris highway where the Azerbaijanis have established their blockade.

This blockade is also in clear violation of the November 9, 2020 trilateral ceasefire agreement brokered by Russia between Armenia and Azerbaijan that guaranteed unhindered access through the Lachin Corridor.

As we noted in our October 24, 2022 statement: "Significant genocide risk factors exist in the Nagorno-Karabakh situation concerning the Armenian population." The government of Azerbaijan, encouraged by its ally Turkey, has long promoted official hatred of Armenians, has fostered impunity for atrocities committed against Armenians, and has issued repeated threats to empty the region of its indigenous Armenian population.

In order to remove the risk of genocide, the International Association of Genocide Scholars Executive and Advisory Boards calls upon Azerbaijan:

to cease its orchestration and support of the alleged 'protests' blocking uninterrupted free movement along the Lachin Corridor in both directions.

to ensure uninterrupted free movement of all persons, vehicles and cargo along the Lachin Corridor in both directions.

to cease its disruptions of gas, electricity and the fiber-optic cable to Artsakh.

The International Association of Genocide Scholars Executive and Advisory Boards reiterates its earlier October 24, 2022 condemnation of Azerbaijan and calls upon:

The international community and academic and cultural organizations to condemn violence and hate speech by Azerbaijan against Armenia and take all necessary measures to compel Azerbaijan to cease hostilities and hate speech against the Republic of Armenia and the indigenous Armenians of Artsakh.

Azerbaijan to comply with the International Court of Justice Provisional Measures order of 7 December 2021.

Azerbaijan to remove its soldiers from the territory of the Armenian Republic and to respect the right of self-determination of the Armenians of Artsakh as guaranteed under the United Nations Charter (Chapter I, Article 2).

The international community to hold the authoritarian regime of Azerbaijani President Ilham Aliyev accountable for the crime of aggression (crimes against peace), war crimes, crimes against humanity and violations of international humanitarian law (blockades and embargoes that cause starvation) perpetrated against Armenia and Armenians since September 2020.

### **Armenia calls for international investigation of Azerbaijan's war crimes (Public Radio of Armenia)**

By Siranush Ghazanchyan

February 9, 2023

#### **Armenia calls for proper international investigation of war crimes committed by Azerbaijan during the September 2022 aggression.**

"We have repeatedly raised the need for a proper international investigation of the war crimes committed by Azerbaijan and demanded accountability of perpetrators and organizers of the crimes, including through the adoption of international sanctions," Spokesperson for the Ministry of Foreign Affairs Vahan Hunanyan told Armenpress.

The comments come after the UN mandate-holders (Special Rapporteurs) published a letter addressed to Azerbaijan, demanding explanations from the government of Azerbaijan regarding the cases of war crimes committed by its armed forces during the military aggression unleashed against the Republic of Armenia on September 13, 2022. The issue of holding the prisoners of war in the wake of the ceasefire in November 2020 was also touched upon. Azerbaijan, however, did not respond to the UN mandate-holders in any way in due time.

"We have repeatedly raised the need for a proper international investigation of the war crimes committed by Azerbaijan and demanded accountability of perpetrators and organizers of the crimes, including through the adoption of international sanctions," Hunanyan said.

"In the letter of demand, the UN mandate-holders express deep concern over the events and call on Azerbaijan to undertake all necessary measures towards stopping similar violations, preventing their recurrence and ensuring the punishment of any person or persons responsible for committing these crimes," he added.

He reminded that in order to alleviate the anger of the international community and divert attention, last autumn Azerbaijan announced the initiation of an investigation into the war crimes committed by its armed forces. "As follows from the disregard of the UN mandate-holders' letter of demand, the so-called investigation was just a sham to cover up the problem," the Spokesman said.

The UN mandate-holders did not receive a response to their requests on the cases of Armenian prisoners of war and other detained persons held illegally in Azerbaijan, as well as enforced disappearances after the 44-day war.

"Thus, we can state that Azerbaijan, being a member of UN fundamental documents on human rights, grossly violates them, does not take into account the assignments given to it by the UN bodies and does not cooperate with such important bodies that monitor the provision of UN human rights, such as the mandate-holders (special rapporteurs and independent experts)," Vahan Hunanyan stated.

"In this situation, it is imperative to carry out a proper international investigation of the war crimes committed by the Azerbaijani side, holding the perpetrators and organizers accountable. Besides, the international community is obliged to

increase the pressure for the immediate repatriation of all Armenian prisoners of war and civilians illegally held in Azerbaijan, for the disclosure of enforced disappearances and the fates of the missing persons," the Spokesman stressed.

"Highly appreciating the cooperation with the UN bodies, including the special procedures, Armenia wants to draw attention to the fact that recently Azerbaijan adopted the method of intimidation and pressure on the UN bodies to force them not to raise the cases of flagrant violations of human rights by Azerbaijan and even more re-editing statements previously made by the UN. We are witnessing all this in the context of the announcements on the blockade of the Lachin corridor and keeping the people of Nagorno-Karabakh under siege," he added.

"Despite Azerbaijan's actions, we are convinced that all UN bodies, including those primarily dealing with human rights issues, will continue to carry out their work in accordance with the letter and spirit of the UN Charter.," Hunanyan concluded.

[\[back to contents\]](#)

## Russia

### **Germany has evidence of war crimes in Ukraine 'in three-digit range,' prosecutor says (Reuters)**

February 4, 2023

**Germany has collected evidence of war crimes in Ukraine, the country's prosecutor general said in a newspaper interview published on Saturday, adding that he saw a need for a judicial process at international level.**

"Currently, for example, we are focusing on the mass killings in Bucha or attacks against Ukrainian civilian infrastructure," Peter Frank told the Welt am Sonntag newspaper.

So far, prosecutors have pieces of evidence in the "three-digit range", he added, without elaborating.

Ukraine and its Western allies have accused Russian forces of committing atrocities in Bucha, a satellite town of Kyiv, soon after launching their invasion last February. Moscow has denied the charge. Russia has also targeted key infrastructure in Ukraine but denies deliberately targeting civilians.

Germany began collecting evidence in March 2022 to prosecute possible war crimes, including by interviewing Ukrainian refugees and evaluating publicly available information, Frank said, adding that German prosecutors were not yet investigating specific individuals.

"We are preparing ourselves for a possible later court case - be it with us in Germany, be it with our foreign partners, be it before an international court," he added.

Asked who should be tried, Frank said Russian state leaders and those implementing decisions at the highest military level should be held accountable.

Ukraine is pushing for the creation of a special tribunal to prosecute Russian military and political leaders it holds responsible for starting the war.

The International Criminal Court has launched its own investigation into alleged crimes against humanity and war crimes days after Moscow's Feb. 24 invasion, but it does not have jurisdiction to prosecute aggression in Ukraine.

European Commission chief Ursula von der Leyen, who is visiting Kyiv, said on Thursday that an international centre for the prosecution of the crime of aggression in Ukraine would be set up in The Hague.

Moscow has rejected allegations by Kyiv and Western nations of war crimes. The Kremlin has said it launched a "special military operation" to protect its own security.

### **Putin's forces 'using rape as instrument of war', says Ukraine war crimes investigator (The Times UK)**

By Catherine Philip  
February 8, 2023

**It was just days after the Russians had left Berestyanka in March and Iryna Didenko, a newly minted war crimes investigator, was going door to door to collect testimonies of what had happened to civilians there. At one house, "completely**

## **randomly”, a woman told her of a neighbour who had been raped.**

The reports proliferated, very often from a third party, far less often from someone immediately opening up and declaring they were a victim themselves. But as Didenko and her fellow investigators moved through the reoccupied areas, they dropped off leaflets with instructions on how to report what Russians soldiers had done, including sexual violence. Gradually the reports began to mount and with them, clear patterns.

Russian infantry troops would enter villages, where they raped and robbed, followed by special forces, who set up torture units where rape and sexual abuse were commonly used instruments.

“We began to see that these cases were systematic, these were not the actions of rogue soldiers,” Didenko says. “Several victims were even saying that they even heard commands given for soldiers to rape. And as we visited the different places we saw the patterns emerge very, very clearly. The same pattern for each and every village.”

When Didenko, a prosecutor who specialised in domestic violence cases, began her work, there was no special unit for war crimes and none for sexual violence. The discovery of massacres in places such as Bucha and Berestyanka, next to the better-known town of Borodyanka, sparked the need for a special war crimes unit to be set up in the prosecutor-general’s office, under Yuriy Bilousov, who formerly investigated abuses within the security services.

Ukraine had 8,000 prosecutors but none with specialised war crimes experience. The first rape case to be filed was one of rape and murder of the victim’s husband. It was the only case yet to result in a conviction, though the only way to try the suspect was in absentia. As further reports mounted, Bilousov realised that a specialised unit was required for the highly sensitive task of investigating and prosecuting crimes of sexual violence, and Didenko’s team was assembled.

Bilousov has 65,000 war crimes cases on his books, a staggering number almost a year after the invasion. Didenko has 155 “confirmed” cases in which the victim has agreed to proceed, but hundreds more where they have held back, too fearful to pursue justice.

“There are many reasons why people are scared and not willing to talk. One is that after occupation they may have more desperate immediate needs: shelter, food, water, and that’s the first thing to think about. The second is that people are still afraid that the Russians will come back. And the third of course is the stigma, which is the reason why the Russians use rape as a weapon of war. To break the people. To humiliate them and to destroy their communities.”

The crimes Didenko has on her books are sickening. The youngest victim was a four-year-old girl; the oldest a woman of 83. In many cases Russian soldiers gang-raped their victims in front of family members. Ukrainian soldiers captured by the Russians have not only been raped but also subject to sexualised torture. Russian troops often do not even try to hide crimes of sexual violence against Ukrainians.

Investigators collected information from Borodyanka residents and often received secondhand accounts of sexual assaults

In a phone call intercepted by Ukrainian intelligence the wife of a Russian soldier is heard giving permission for her husband to rape. “You go there, rape Ukrainian women, just don’t tell me anything,” the woman said. “I allow it. Just wear protection.” In another call intercepted in November a group of Russian soldiers discuss the gang rape of a 12-year-old girl by ten of their comrades.

Bilousov’s task is perhaps even more daunting. His task is to sort through tens of thousands of cases in search of patterns that can help prove his central thesis: that President Putin’s invasion of Ukraine amounts to genocide. At a November conference in London on sexual violence Ukraine’s prosecutor-general argued that the invasion was “aimed at exterminating the Ukrainian people” and that Russia’s use of sexual violence was part of that, intending “to spread a state of terror, cause suffering and fear” and encourage Ukrainians to flee their own territory so that Moscow can reclaim it as Russian.

“Genocide scares people,” Bilousov says, “especially international. It’s the crime of crimes, the most difficult crime to prove and they just say no, no, no. But from our perspective, and the historical perspective, the main task of Russians is genocide because they want to kill Ukrainian identity.”

Sifting through all their murder cases, torture cases and sexual violence cases, the prosecutors found people repeatedly targeted for their pro-Ukrainian activities and community roles; the abduction of children to be brought up in Russia as Russians and now, in the office’s eyes, Moscow’s attempt to empty the country by destroying its infrastructure in missile strikes.

“There are thousands of criminals to be prosecuted,” Bilousov says, so many that he would be willing to hand over entire caseloads to foreign courts to prosecute under universal jurisdiction. His burning priority, however, is to track back the chain of command and to indict the commanders and leaders responsible for the systematic violence. Today the office has 259

suspects, 92 of which have been sent to the national courts. There are, however, three people ultimately the most responsible who cannot be charged under the international standards that Ukraine has vowed to observe: the Russian foreign minister, the head of government and the president, Putin himself. Ukraine is working with the international community as well as the International Criminal Court to establish a special tribunal for the crime of aggression, perhaps its only chance, albeit a long shot, to see Putin brought to book.

Thinking on such a macro level helps Bilousov get through the extraordinarily difficult job he took on less than a year ago. “You cannot think about each case, about each child, about each family,” he says. “A prosecutor cannot be too empathetic and still be good at his job.” If there is any silver lining to the horrors of the last year it is “much more trust in the state and the judiciary. The people are behind us”.

For Didenko, “it is very difficult to stop working and just close the door”. In her department there are only eight prosecutor-investigators and they are the ones in direct contact with the victims who will have their mobile number. “These people can call at any time, because you are the person they trust,” she says. The other night when Kramatorsk came under intense shelling, one of the victims whose case she is pursuing called her during a panic attack at 3am after learning her godmother had been killed. “She did not know who else to call.”

[\[back to contents\]](#)

## **MIDDLE-EAST**

### **Iraq**

**Grotian Moment: The International War Crimes Trial Blog**

[\[back to contents\]](#)

### **Syria**

[\[back to contents\]](#)

### **Yemen**

[\[back to contents\]](#)

## **Special Tribunal for Lebanon**

**Official Website of the Special Tribunal for Lebanon  
In Focus: Special Tribunal for Lebanon (UN)**

[\[back to contents\]](#)

## **Israel and Palestine**

[\[back to contents\]](#)

## **Gulf Region**

[\[back to contents\]](#)

## **ASIA**

## **Afghanistan**

**ABC has to defend war crimes reports after defamation finding (In Daily)** February 1, 2023

**The November 2021 stories claimed an Australian platoon was under investigation over its operations in Afghanistan and included allegations from a US Marine he indirectly witnessed Australian soldiers execute a hogtied prisoner.**

Ex-special forces major Heston Russell was named in the reports, which also included images of him.

In the Federal Court on Wednesday, Justice Michael Lee ruled the ABC stories conveyed defamatory meanings.

The court ordered in November it would separately determine some claims before proceeding.

Articles and television reports implied Russell was the subject of an active criminal investigation by the Office of the Special Investigator and was reasonably suspected of involvement in war crimes, habitually and knowingly crossed the line of ethical conduct and behaved so immorally that American forces refused to work with him, Justice Lee said.

He found some other claimed imputations were not carried.

Russell's barrister Sue Chrysanthou SC indicated those imputations would still be pressed even if the court had ruled they did not arise.

Justice Lee said Chrysanthou's concerns would be assuaged once she had read and considered his judgment.

"Knowing my personality Your Honour, I don't think that's likely," the high-profile defamation lawyer said.

The ABC's barrister Lyndelle Barnett also planned to consider the judgment before deciding whether to press contextual implications in an amended defence.

"If that truth defence stays I can tell Your Honour we will be pushing that interlocutory application," Chrysanthou said.

"We'll cross that bridge if we come to it," Justice Lee said.

The court will consider a defence from the ABC on substantial truth, contextual truth and public interest, Justice Lee said.

The lawyers agreed for an amended defence filed by March 1 to be responded to by March 15, with a case management hearing scheduled for March 24.

### **Pakistani troops kill 2 militants in raid near Afghan border (AP News) By Munir Ahmed**

February 3, 2023

#### **Pakistani troops on Friday raided a militant hideout in a former stronghold of the Pakistani Taliban militant group, in the country's northwest and near the border with Afghanistan, the military said. The raid triggered a shootout that killed that killed two militants.**

The shootout in North Waziristan, a district of Khyber Pakhtunkhwa province, came days after a suicide bomber attacked a mosque within a police and government compound in the city of Peshawar, the provincial capital, killing 101 people and wounding at least 225. The attack was one of the deadliest in years in the volatile region.

The military said the militants killed in the raid had been involved in past attacks on security forces, without providing details. Such raids, most often against the Pakistani Taliban, also known as the Tehrik-e-Taliban Pakistan or TTP, are routine in the country's northwest.

Late Friday, Pakistan's army chief visited the bombed mosque in Peshawar and expressed solidarity with the local police force, thanking them for their contribution in the war against militants and lauding their bravery.

"We as a nation together will root out this menace of terrorism," Gen. Asim Munir said.

Also on Friday, Pakistani Prime Minister Shahbaz Sharif said he invited his predecessor and now opposition leader, Imran Khan, to talks next week about how the country should respond to the surge of violence.

Sharif's government has blamed the TTP for the Peshawar bombing on Monday, when a suicide bomber detonated his explosives inside the mosque in the police compound. Most of the casualties were police. The bomber wore a police uniform and the guards at the site assumed he was a police officer — their colleague — and did not search him, authorities said.

The Pakistani Taliban are a separate group but are allies of the Afghan Taliban, who seized power in Afghanistan in August 2021 as U.S. and NATO troops were in the final stages of their pullout. The Taliban takeover in Afghanistan has emboldened the Pakistani Taliban, who have stepped up attacks since November, when they ended a cease-fire with the government.

There was no immediate response to Sharif's invitation for talks from Khan, who was ousted in a no-confidence vote in Parliament in April last year.

During his term in office, Khan had approved peace talks with TTP and even released some of the group's members held in Pakistani jails in a gesture of goodwill. The talks, hosted by the Afghan Taliban, collapsed in November.

On Friday, more than 2,000 supporters of Khan's opposition Pakistan Tehreek-e-Insaf party, rallied in Peshawar to denounce the surge in violence and demand peace. Similar rallies were also held elsewhere, organized by civil society groups.

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[\[back to contents\]](#)

## **Extraordinary Chambers in the Courts of Cambodia (ECCC)**

**Official Website of the Extraordinary Chambers [English]**

**Official Website of the United Nations Assistance to the Khmer Rouge Trials (UNAKRT)**

**Cambodia Tribunal Monitor**

**Khmer Rouge-era head of state Khieu Samphan transferred to Kandal prison (Phnom Penh Post) February 1, 2023**

**The Extraordinary Chambers in the Courts of Cambodia (ECCC) has transferred former Khmer Rouge head of state Khieu Samphan to Kandal Provincial Prison to continue serving his life sentence.**

Samphan, now the sole surviving leader of the Khmer Rouge, was sent to the Kandal prison on January 30, co-prosecutors Chea Leang and Fergal Gaynor announced in a February 1 statement.

Although the trials that took place under the purview of the ECCC – which was created to investigate and try those deemed to be most responsible for serious crimes during the Khmer Rouge period – were undertaken with international support, including some prosecutors and judges who were not Cambodian, the hybrid tribunal operated within the Cambodian legal system and the Cambodian authorities are ultimately responsible for incarcerating anyone convicted and sentenced at the ECCC to a term of imprisonment.

"This process involved discussions with and assurances from the General Department of Prisons as well as multiple visits to Kandal Provincial Prison by the Co-Prosecutors. The Co-Prosecutors are also mindful of the fact that the International Committee of the Red Cross conducts regular prison inspections of prisons throughout Cambodia including Kandal Provincial

Prison,” read the statement.

Samphan was arrested on November 19, 2007 and detained under the authority of the co-investigating judges for his alleged participation in crimes against humanity committed by the Khmer Rouge. After a full investigation, he was indicted and put on trial.

The first trial, Case 002/01, began in November 2011 and concluded in July 2013. The judges announced their verdict in August 2014.

Samphan and Nuon Chea, known as Brother No2, were convicted of crimes against humanity including mass murder and other inhumane acts such as the forced transfer of the civilian population from Phnom Penh and other urban centres.

Both were sentenced to life imprisonment for their roles in these crimes. On appeal, the life sentences were upheld by the Supreme Court Chamber in November 2016.

The second trial, Case 002/02, started in November 2014 and finished in July 2017. The verdict was issued in November 2018. Nuon Chea and Samphan were convicted of genocide, crimes against humanity and grave breaches of the Geneva Conventions for acts including persecution, enslavement, imprisonment, forced marriage, rape, torture, murder, extermination and forced disappearances.

They were both sentenced to life imprisonment. On September 22, 2022, the Supreme Court Chamber upheld Samphan’s life sentence, whereas Nuon Chea had passed away in August, 2019.

The verdict stated that the crimes being tried in Case 002 represented the most significant mass atrocity prosecution since the trial of the Nazi leadership at Nuremberg, Germany, at the end of World War II.

Although critics of the ECCC often pointed out the limited number of perpetrators whose crimes were accounted for, most human rights advocates agreed that the proceedings brought at least some measure of justice to the “millions” of victims of the Khmer Rouge regime.

Many historians of the Khmer Rouge period stated that the trials made an important contribution to the process of preserving evidence of the atrocities committed by the Khmer Rouge leadership, which provided both academics and the general public with a better understanding of how that tragic period in Cambodian history came to pass.

[\[back to contents\]](#)

## **Bangladesh International Crimes Tribunal**

**Bangladesh arrests two fugitives condemned to death for war crimes (Bdnews24) January 31, 2023**

**The Rapid Action Battalion has arrested two fugitives who were handed the death sentence for committing crimes against humanity in Mymensingh during the Liberation War.**

Nakib Hossain Adil and Mokhlesur Rahman Mukul were arrested in Ashulia's Dakkhinkhan on Monday, according to the agency. Further details will be provided at a press briefing later on Tuesday, said ANM Imran Khan, deputy director of the RAB's legal and media affairs wing.

On Jan 23, the International Crimes Tribunal sentenced six people, including Mokhlesur and Adil, to death over a series of war crimes in Mymensingh's Trishal.

The other convicts are Sayeedur Rahman Ratan, Sgamsul Haque Fakir, Nurul Haque Fakir and Sultan Mahmud Fakir. They are all on the run.

**Bangladesh: 12 leaders, activists of Jamaat detained in Feni (The Print) February 1, 2023**

**Dhaka [Bangladesh], February 1 (ANI): Twelve leaders and activists of Bangladesh Jamaat-e-Islami have been detained by police while holding a meeting in its office in Feni district town on Saturday on charges of planning sabotage, reported Dhaka Tribune.**

They were detained along with five crude bombs, various books, leaflets, banners, computers, laptops, and photocopy machines from the office of Feni district Jamaat unit.

On secret information, a team of police of Feni Model police station raided the office of the district town and arrested them, said Nizam Uddin, officer-in-charge of the police station, reported Dhaka Tribune.

They were handed over to the court after filing a case upon interrogation, the OC said.

The High Court of Bangladesh declared the Jamaat-e-Islami in Bangladesh illegal in August 2013 on the grounds that the party's charter was against the secular provision of the 1972 constitution.

The election commission did not allow the party to contest the tenth general elections held in January 2014.

Earlier, one of the main agendas of the Shahbagh movement was to push through the demand to hang the leaders who were actively involved in war crimes in the 1971 Bangladesh liberation struggle and ban Islamic parties such as the Bangladesh Jamaat-e-Islami (JI) who sided with the Pakistani army and opposed the formation of the nation.

[\[back to contents\]](#)

## **War Crimes Investigation in Myanmar**

**Australia's Inaction on Myanmar Helps the Junta (Human Rights Watch) February 5, 2023**

**It has been two years since the Myanmar military coup on February 1, 2021. Yet Australia still has not sanctioned a single member of Myanmar's military or any of their business interests for widespread human rights violations since the coup.**

Australia is now an outlier among like-minded countries including the United States, United Kingdom, European Union, and Canada, which have imposed a total of hundreds of sanctions on individuals and entities in response to the junta's abuses.

Repeated calls for Australia to follow the lead of its traditional allies have not exactly fallen on deaf ears, rather we are told targeted sanctions are still under "active" consideration. While many human rights activists and civil society groups accepted this position while the junta was holding the Australian economist Sean Turnell, this excuse no longer carries any weight following his release in November.

Myanmar's junta has been responsible for war crimes and crimes against humanity, widely documented by human rights groups including Human Rights Watch. The military and police are implicated in mass killings, arbitrary arrests and detention, torture, sexual violence, and attacks on civilians in conflict areas including indiscriminate ground and air attacks. At least 17,000 anti-coup protesters have been arbitrarily arrested and over 2,800 killed, although the real figures are most likely much higher.

The junta has blocked desperately needed humanitarian aid from reaching millions of displaced people and others at risk, in violation of international humanitarian law. Across the country, security forces have imposed new travel restrictions and have attacked aid workers, blocked access to roads and aid convoys, destroyed non-military supplies and shut down telecommunications services. The United Nations Office for the Coordination of Humanitarian Affairs estimates that at least 17.6 million people are in dire need of humanitarian assistance. Fighting since the coup has displaced more than one million people internally, while another 70,000 refugees have fled into neighbouring countries.

In Myanmar's Rakhine State, new restrictions on movement and aid affecting ethnic Rohingya camps and villages have made food and water shortages worse, increasing cases of preventable diseases and severe malnutrition. Escalating hostilities between the Arakan Army armed group and the Myanmar military have resulted in Rohingya and Rakhine civilian deaths,

arbitrary arrests, and displacement.

Myanmar is gripped by fear and violence. The military's execution of four political prisoners in July 2022 after egregiously unfair trials was Myanmar's first use of the death penalty in over three decades. The civilian leader Aung San Suu Kyi is serving a 33-year sentence after sham military trials for corruption, incitement, breaching the Official Secrets Act, and other politically motivated charges. Every day, it becomes more dangerous for dissenters to speak out for fear of imprisonment, torture, or death. On December 21, 2022, the United Nations Security Council adopted a resolution on Myanmar, denouncing the military's rights violations since the coup. The resolution fell short of calls for a global arms embargo, but the fact that it passed reflects the junta's growing isolation. Russia, China, and India notably abstained, signalling that even the junta's few friends have lost interest in defending the intransigent military.

Throughout all this, people in Myanmar have remained defiant in opposing the military's abusive grip on the country. But there remains the elephant in the room: Why have some democratic countries such as Australia, which have expressed sympathy for the plight of Myanmar's people, not taken meaningful action?

In December, Foreign Minister Penny Wong announced new targeted sanctions against Russia and Iran for grave human rights violations. But Myanmar was conspicuously absent from the list. Australia's reluctance to impose targeted sanctions on Myanmar seems to reflect an unwillingness to upset the regional status quo. No member state of the Association of Southeast Asian Nations (ASEAN) has imposed measures on Myanmar, and Australia does not appear willing to go out on a limb as it seeks to improve relations with its Asian neighbours. But two years after the coup, Australia's risk-averse human rights foreign policy is doing nothing to protect Myanmar people's lives.

Instead, Australia should take the regional lead in imposing concrete measures to curtail the junta's abuses. It should coordinate with ASEAN member states to impose targeted sanctions on senior military officials and their major revenue streams.

Revenue from Myanmar's business interests pays for the military's crimes. Imposing sanctions on key individuals and entities can stop the flow of foreign funding, curbing the military's ability to buy weapons and sustain its operations. Ending the junta's widespread abuses needs a global commitment, including from Australia, to stand in solidarity with the people of Myanmar.

[\[back to contents\]](#)

## **AMERICAS**

### **North & Central America**

[\[back to contents\]](#)

### **South America**

[\[back to contents\]](#)

# Venezuela

[\[back to contents\]](#)

## TOPICS

### Truth and Reconciliation Commission

[\[back to contents\]](#)

### Terrorism

**Already devastated by earthquake, Turkey faces increased threat of terrorism (The Jerusalem Post)** By Debbie Mohnblatt  
February 8, 2023

**As Turkey deals with the consequences of the deadly earthquakes that struck the region on Monday, another potential hazard looms over the country: the security threat posed by the earthquake's effect on the Turkish-Syrian border.**

"The whole focus of Turkey and its allies is on how to respond to the devastating earthquake and its consequences," Dr. Hamoon Khelghat-Doost, professor of political science at the University of Lincoln, UK, and Üsküdar University, Istanbul told The Media Line in an interview. The death toll from the 7.8-magnitude earthquake and its aftershocks has already reached over 7,500, and the number is expected to continue to rise. Hundreds are trapped under the rubble and thousands of buildings were destroyed.

Turkey's singular focus on responding to the earthquake could create favorable circumstances for terrorist organizations attempting to penetrate the border.

"All the Turkish state's capacities are mobilized to address the earthquake-related issues. This is not a moment to be missed by extremist organizations," Khelghat-Doost said. "Any event, including natural disasters, that can divert the attention of a nation to a topic other than securing its borders is very much welcomed by extremist organizations such as ISIS."

Khelghat-Doost noted that the Islamic State (IS) group similarly used the coronavirus pandemic as an opportunity to reorganize and amass power.

Patrolling the border The border between Syria and Turkey extends more than 500 miles. The bilateral security agreement that once existed on the border was disrupted by the Arab Spring of the early 2010s, which also led to the ongoing civil war in Syria.

Turkey's border policy has shifted over the years. In response to Syria's escalating civil war, Turkey established an open border

policy at the border with Syria to allow Syrian refugees to flee to Turkey. Soon after the start of the civil war, though, the area of Syria that borders Turkey was taken over by IS, creating a serious security threat to Turkey.

“The situation got complicated as the vacuum of power in Syria provided a conducive environment for the rise of extremist organizations such as ISIS. The group took control of a vast area along the border with Turkey,” Khelghat-Doost said. Ankara considers both IS and Syrian Kurdish forces immediate national security threats.

Several terrorist operations throughout Turkey are believed to be run by extremists who crossed from Syria into Turkey. In order to counter those threats, Turkey has conducted several military operations to secure the border, including Operation Euphrates Shield in 2016-2017, Operation Olive Branch in 2018, and Operation Peace Spring in 2019.

Uğur Şener, an international security analyst based in Turkey, told The Media Line that Turkey is continuing its efforts to maximize border security given the context of irregular migration.

About 540 of the 566 miles of Turkey’s border with Syria have been outfitted with a security barrier, Şener said. Most of the border now features an illumination system that includes a thermal sensor to detect movement near the border.

Turkey also established briquette houses on the Syrian side of the border to provide shelter in a more secure area for Syrians fleeing the humanitarian crisis. Briquette house settlements have been established at 248 different points along the border.

In response to the Quran burning at a protest in Sweden last month, IS leaders ordered the group’s affiliates to carry out an attack against the Swedish and Dutch consulates-general in Istanbul and against Christian and Jewish houses of worship. After the Turkish Intelligence Branch Directorate learned of the plot, it detained 15 IS members who were later sent to prison, Şener said.

According to Khelghat-Doost, many Western countries, including the US, the UK, the Netherlands, and Germany, shut down their consulates in Istanbul in response to the threat.

“It has been a common practice by the members of different terrorist organizations to use humanitarian tragedies to cross the border to Turkey. There is a fear that history will repeat itself in the coming days.”

Khelghat-Doost “Already existing threats combined with the current state of emergency in Turkey signal the possibility of further terrorist attacks in the near future,” he noted.

In addition to pulling attention away from Turkish officials who might otherwise be focused on preventing terrorism, the earthquake is also further destabilizing the situation in Syria. Khelghat-Doost estimated that thousands of Syrians had been killed and thousands more had lost their homes. The disaster may lead to a new round of Syrian refugees crossing the border into Turkey in search of shelter and support, he explained, adding that any large-scale population flow in the area carries its own security threats.

“It has been a common practice by the members of different terrorist organizations to use humanitarian tragedies to cross the border to Turkey. There is a fear that history will repeat itself in the coming days,” Khelghat-Doost said.

The earthquake has already begun to threaten the counterterrorism initiatives ongoing in Syria, as well. According to Khelghat-Doost, several IS inmates in a military prison in Rajo, Syria, about 3 miles from the border with Turkey, managed to escape in the aftermath of the earthquake.

“Thousands of extremists are living along the borders of Turkey and following the developments eagerly to find an avenue to enter Turkey or to conduct attacks along the border,” Khelghat-Doost said.

[\[back to contents\]](#)

## **Piracy**

[\[back to contents\]](#)

## **Gender-Based Violence**

[\[back to contents\]](#)

## Commentary and Perspectives

**The Long – Yet Still Uneven – Arc of International Justice (Human Rights Watch)** By Maria Elena Vignoli  
January 27, 2023

**The events of 2022 brought renewed attention and support for accountability for serious international crimes. Russia’s full-scale invasion of Ukraine brought images of mass burial sites and bombed-out cities back on the front pages, and the far-reaching impact of the conflict triggered a strong response from the international community. At the same time, it has put into sharp focus unevenness and double-standards in access to justice for the victims of these crimes.**

A review of some of trends from the past year makes clear that securing victims’ access to justice worldwide means governments need to strengthen the international justice ecosystem as a whole.

### Key Challenges and Opportunities

With the expansion of the war in Ukraine in February 2022, a number of governments pursued various justice efforts. These have included support for domestic investigations and prosecutions in Ukraine, a referral of the situation to the International Criminal Court (ICC) in the Hague, and the establishment of a United Nations-mandated commission of inquiry. Judicial officials in several countries opened investigations under the principle of universal jurisdiction, which allows domestic authorities to pursue prosecutions no matter where the crimes were committed, and regardless of the nationality of the suspects or their victims.

How these efforts will ultimately work together to provide impartial and credible justice for Ukraine is unclear. But at least on paper, this timely and multifaceted response shows that the international community can capably respond in the face of mass atrocities. This has been possible because of concerted efforts by governments, nongovernmental groups, and others to build out various accountability avenues over the past 30 years. The establishment of the ICC is an obvious example. Another is the European Union Genocide Network, formed in 2002 under the auspices of Eurojust, the EU’s judicial cooperation agency, and mandated to support coordination and cooperation among national authorities in relation to serious crimes.

At the same time, the Ukraine response exposes the more fundamental shortcomings of international justice efforts, in which victims’ access to justice often depends on political calculations.

In early March 2022, an unprecedented number of mostly European ICC member countries referred the situation in Ukraine to the court’s prosecutor, Karim Khan, to open an investigation. These governments have been vocal in their support for the investigation from the start. Yet a year earlier, when the previous ICC prosecutor, Fatou Bensouda, opened a Palestine investigation, there was deafening silence from ICC member countries, and at least two openly opposed the investigation. This was despite the grave nature of the many violations and the pervasive climate of impunity that made the ICC’s scrutiny of the situation necessary.

The United States has been among the staunchest supporters of accountability for serious crimes committed in Ukraine since Russia’s invasion. This has included some unexpected support for the potential role of the ICC that has led to several recent legislative changes, including to allow more US cooperation with the ICC’s Ukraine investigation. The US Congress also adopted the Justice for Victims of War Crimes Act, closing an important gap in US law that could increase the likelihood of bringing war crimes suspects living abroad to justice in US courts. Yet the US maintains its objection to ICC investigations that could implicate US nationals or those of allied non-ICC member countries.

In addition to politically sensitive situations that directly implicate powerful governments and their allies, unevenness in justice responses is also apparent where prolonged situations of conflict or violence that may seem intractable do not receive the necessary attention. The escalating fighting and large-scale attacks on civilians in eastern Democratic Republic of Congo is an example of a situation in which the international community has remained largely silent when it comes to accountability. The ongoing violence has been fueled at least in part by the persistent impunity gap, with recent atrocities allegedly committed

by many of the same actors implicated in past abuses.

To be sure, victims' access to justice also depends on capacity within the international justice system. There are more grave crimes than the system can address.

But the mobilization around Ukraine demonstrates that where there is a will, there is a way. The absence of similar responses to other situations not only deprives victims of access to justice, but also threatens its legitimacy when justice is delivered. Unevenness in governments' justice responses is particularly damaging if it replicates power dynamics and discrimination stemming from a colonial past. This can alienate a large number of countries that do not feel equally valued within the international justice system, undermining its broader legitimacy.

This unevenness also risks creating a hierarchy of victimization. Some governments seem alert to this risk. At the most recent annual ICC meeting, the Africa group, together with a number of other countries from different regions, succeeded in adding language to the yearly ICC Assembly of States Parties' "Omnibus" resolution expressing "support for the consistent implementation of the Court's mandate across the situations and cases under its jurisdiction in the interests of justice and the victims' right of access to justice" (emphasis added).

And in a statement issued at a July 2022 high-level conference on accountability in Ukraine, two coalitions of Ukrainian civil society organizations stressed the need "to avoid any perception of a two-tier global accountability system in which some victims are more deserving than others."

### The Way Forward

A double standard in victims' access to justice should not be accepted as inevitable. Building on the current momentum for accountability for grave crimes and the lessons learned from the response to Ukraine, governments can take concrete actions to strengthen the global architecture of international justice.

First, the system needs more capacity to further enable the delivery of justice. Governments should provide adequate financial and political support, as well as cooperation, to judicial entities – whether international, domestic, or hybrid – that tackle grave international crimes. The effectiveness of these bodies is severely hampered, and their potential impact hollowed out, when they do not have sufficient resources. In December, ICC member countries approved an increase to the court's annual budget, which barely covers costs associated with inflation and is far below what the court had requested. This prevents the ICC from acting wherever it is needed to do so and avoid overly selective approaches to its mandate.

Second, expand capacity by expanding ICC membership. Currently, 123 out of 193 UN member states are parties to the ICC's Rome Statute. However, dozens of countries, including major powers, have not ratified the treaty, significantly limiting the ICC's reach. It is essential for ICC members to continue engaging with those countries to convince them to join the court.

Third, strong domestic legal and institutional frameworks are crucial to strengthening the international justice ecosystem as they enable authorities to effectively investigate and prosecute serious crimes. This should include implementing the ICC treaty into national law, incorporating serious international crimes into domestic penal codes, and setting up units within police and prosecutorial services dedicated to addressing serious crimes.

Progress at the national level is possible. Over the past year, there have been positive steps for justice for international crimes at the domestic level in the United States, with the legislative reforms previously mentioned; in Colombia, with progress in the work of the Special Jurisdiction for Peace, particularly around hostage-taking committed by the Revolutionary Armed Forces of Colombia (FARC) guerrillas and the army's "false positive" cases; and in Guinea, with the opening of a landmark trial for the country's 2009 stadium massacre.

The principle of universal jurisdiction has proven to be a critical international justice tool. In the past few years, it has allowed governments to address some of the asymmetry in international justice by creating new – albeit limited – paths to justice where other avenues are blocked. For example, in light of the inability of the UN Security Council to refer the situation of Syria to the ICC given Russia's veto, investigations and prosecutions in third countries are currently the only option for individual criminal justice for Syrian victims and survivors.

The landmark first trial for state-sponsored torture in Syria, concluded last year in the German city of Koblenz, is a powerful example of national judicial authorities acting based on strong domestic legislation. Another recent illustration is the conviction by a French Court of a former Liberian rebel leader for crimes committed during the country's first civil war. Despite the success of the case, there are legal barriers that still limit French judicial officials' ability to address crimes committed abroad and, as a consequence, shrink victims' access to justice. The French government and others in Europe with similar restrictions should prioritize making the legislative changes necessary to remove them.

Finally, governments should pursue and support accountability for grave crimes regardless of where they take place and



commit to not limit or obstruct investigations when they implicate their nationals or those of allies. This includes the need for UN Security Council permanent members to refrain from using their veto in situations of mass atrocities.

Governments should support ongoing initiatives to achieve that goal. For example, in August 2015, France and Mexico initiated a political declaration to secure voluntary restraint on the use of the veto by permanent Security Council members when faced with mass atrocities. This would facilitate for example the referral of situations involving non-ICC member countries to the court. The declaration has been signed by over 100 states.

In December 2015, a group of states working to improve the working methods of the Security Council submitted a Code of Conduct regarding Security Council action against genocide, crimes against humanity or war crimes to the UN secretary-general. The Code, which includes a pledge to “not vote against a credible draft resolution before the Security Council on timely and decisive action to end the commission of genocide, crimes against humanity or war crimes, or to prevent such crimes,” has so far been signed by over 120 states.

The various interconnected elements of the international justice ecosystem are powerful tools to pursue victims’ rights to access justice. However, they do not operate in a vacuum and political will can either enable and strengthen or neuter them. Last year taught us what can be done when governments choose the former. Governments should learn this lesson and during 2023 show their determination to take concrete actions to ensure victims’ access to justice everywhere.

**France Should Change its Laws to Fight Impunity for Serious Crimes (Human Rights Watch)** By Bénédicte Jeannerod and Alice Autin  
February 1, 2023

**A landmark conviction in Germany of a former Syrian intelligence official for crimes against humanity a year ago was a breakthrough in the fight for justice for atrocities in Syria. Regrettably, in November 2021, a French court issued a decision in a case concerning another Syrian national that highlighted some provisions in French law that restrict victims’ access to justice for serious crimes committed abroad.**

Human rights groups, including Human Rights Watch, International Federation for Human Rights (FIDH), and Amnesty International France have been sounding the alarm about these restrictions for years. At a time when the international community has recognized the imperative of justice in Ukraine and elsewhere, the French government should move ahead with the needed reforms so that survivors can have for their day in court and those responsible for atrocity crimes can be held to account.

A trial in Paris in November underscores the importance of such cases and the need for France to ensure its courts can offer justice for victims of the worst international crimes. The court sentenced a former Liberian rebel commander, Kunti Kamara, to life in prison for crimes against humanity, torture, and barbaric acts.

Nearly two decades since the conflicts ended, the decision was concrete progress after many unheard calls to set up a war crimes court in Liberia and inaction by successive Liberian governments. We were in the courtroom, and for victims in the room and beyond, the verdict was received as a ray of hope on the long road to justice for the grave abuses during Liberia’s civil wars.

Kamara’s conviction is also a testament to France’s efforts in the fight against impunity. Like some other countries in Europe, France has police and prosecutors dedicated to bringing cases involving serious crimes committed abroad. This is possible because French law recognizes the principle of universal jurisdiction, and allows for investigating and prosecuting international crimes regardless of where they were committed, and regardless of the nationality of the suspects or victims.

However, overly restrictive limitations in the law can allow alleged perpetrators of serious crimes present on French territory to escape justice. In the November 2021 decision, France’s Court of Cassation, the highest court in the French judiciary, annulled the indictment of an alleged former Syrian agent who was accused of complicity in crimes against humanity. In a perverse application of what is called the “dual criminality rule,” the court held that the prosecution could not proceed under French law because there are no provisions in domestic Syrian law that explicitly criminalize crimes against humanity. The court failed to take into account that such acts are, and were at the time, criminalized under international law applicable in Syria.

Following that decision, civil society, lawyers, and survivors expressed concerns that misapplication of the dual criminality rule would result in France becoming a safe haven for people responsible for the world’s worst crimes.

Last April, another case involving a Syrian national highlighted a second problematic limitation in French law: the requirement that an accused person must habitually live on French territory. In that case, the Court of Appeal did take into account that Syria was bound by international law provisions prohibiting war crimes, establishing a less restrictive

interpretation of the dual criminality rule at odds with the Court of Cassation's earlier decision.

Because this case created an inconsistency in French case law, the full Court of Cassation decided to convene to consider the issue. A decision is expected sometime in 2023.

These are not the only conditions French law imposes that might prevent successfully prosecuting cases involving serious crimes. Unlike for other crimes in France, the prosecutor in these cases has discretion in deciding whether to prosecute. Second, French civil society groups have also expressed concerns around a requirement that French prosecutors verify whether any other national or international court has asserted its jurisdiction before opening an investigation. Some of the restrictions are applicable for some crimes, but not others. This has created a discrepancy in how different grave crimes (crimes against humanity, war crimes, genocide, torture, forced disappearance) are addressed in the country.

Overall, these restrictions and inconsistencies are out of step with France's stated commitment to international justice and the fight against impunity. The French judicial officials involved in this work have indicated that the dual criminality rule could affect more than half of their caseload, impeding their ability to move forward with prosecutions.

Before the 2022 presidential election, the French government had expressed its openness to reform its law concerning serious crimes committed elsewhere. Regardless of the Court of Cassation's upcoming decision, the government should ensure its laws are aligned with its stated commitment to international justice, and follow through on the legislative changes necessary to remove restrictions that frustrate justice in France for serious crimes.

Kunti Kamara's conviction showed what French justice can help achieve on behalf of victims of the most serious crimes. French authorities should act to amend flaws in the country's legislation to ensure that survivors of atrocities in other contexts also have equal access to justice.

[\[back to contents\]](#)

## **Aiding and Abetting**

**UK gov't facing High Court battle over arms sales to Saudi Arabia (Al Jazeera) January 31, 2023**

**A campaign group has launched a courtroom battle against the United Kingdom's arms sales to Saudi Arabia, warning the weapons are worsening a major humanitarian disaster in war-torn Yemen.**

The United Kingdom's High Court on Tuesday began hearing the case brought forward by the Campaign Against Arms Trade (CAAT), which says arms exports have contributed to the deaths of thousands of civilians.

The UK-based group is challenging the lawfulness of a decision taken by the British government in 2020 to continue supplying weapons to the Saudi-led coalition involved in the nine-year-old conflict in Yemen.

It marks the latest development in a long-running battle over the legality of the exports, which CAAT says have made the UK more than 23 billion pounds (\$28bn) since the war began.

Yemen is facing one of the world's most pressing humanitarian crises, with more than 23 million people estimated by the UN to be in need of humanitarian assistance [File: Khaled Abdullah/Reuters]

CAAT won a similar fight in 2019, when Court of Appeal judges said continuing to license military equipment that could be used in the war in Yemen for export was unlawful amid concerns it may have been used to commit war crimes.

The government temporarily halted sales following the ruling. UK law does not allow for the export of weapons if there is a "clear risk" they may be used to carry out war crimes.

However, exports resumed in mid-2020 under the order of then-trade minister Liz Truss after a governmental review.

The review concluded that possible violations of international humanitarian law by actors using UK-supplied weapons were only "isolated incidents".

Governmental review under scrutiny

British arms sales to Saudi Arabia have continued in recent years, despite the UK's leading ally, the United States adopting a partial ban on weapons exports to the kingdom because of the war in Yemen.

Meanwhile, campaigners and rights groups have disputed the validity of the governmental review's findings.

"The ample evidence of laws of war violations by the Saudi-led coalition in Yemen throughout the war make clear that these violations are not simply 'isolated incidents' as claimed by the UK government," Niku Jafarnia, Yemen and Bahrain researcher at Human Rights Watch, said.

"UK weapons have been used in some of these violations with total impunity," Jafarnia said.

"At a time when the UK is promoting a rules-based international order, and rightly calling out Russia for serious violations of international law, it needs to apply those same rules to itself and end the sale of weapons to Saudi Arabia."

The weapons supplied by the UK include Paveway guided bombs and Brimstone and Storm Shadow missiles.

'UK bombs kill civilians'

Emily Apple, a spokesperson for CAAT, accused the government of "caring more about profit than war crimes".

"The ... case is being taken in solidarity with the people of Yemen who deserve justice," Apple said.

"We cannot sit by while UK bombs kill civilians and cause devastation while UK arms dealers profit."

The conflict in Yemen started in 2014 when Houthi rebels, backed by Iran, seized large swaths of the country, including the capital, Sanaa.

The war escalated in March 2015, when the Saudi Arabia-led coalition intervened in an attempt to restore the government of President Abd-Rabbu Mansour Hadi.

The coalition has been assisted by several Western powers, including the UK and the US.

Both sides in the conflict have since been accused of war crimes during fighting that has killed more than 8,900 people to date, according to the Yemen Data Project.

A United Nations-brokered truce deal agreed to in April of last year has largely held, despite expiring in early October.

The agreement has delivered the longest stretch of relative calm in Yemen since the war began, but both sides have stepped up moves to economically weaken the other in the interim.

**Israeli, Lebanese Companies Aid and Abet Myanmar Military Regime (fanack.com)** By Ali Nouredine  
February 7, 2023

**On February 1, 2021, the military in Myanmar staged a coup against the government. It resulted in the arrest of the president, U Win Myint, the state Counsellor, Aung San Suu Kyi, as well as senior leaders of the ruling National League for Democracy party.**

The military junta, headed by Min Aung Hlaing, has been in charge of the nation since it declared a state of emergency. It imposed martial law in a number of towns and regions which is still in force today.

The country has seen significant political and security upheaval over the past two years as a consequence of widespread anti-military protests. Following swift and secret trials, 114 political opponents were given death sentences by the coup authorities in an effort to put an end to these protests.

The Association for the Assistance of Political Prisoners estimates that an additional 14,847 people have been unlawfully arrested for political reasons, while the United Nations reports that over 2,000 people have been killed by the army during protests.

The coup authorities' involvement in the telecom industry

Like many oppressive governments, the Myanmar army has exercised strict control over the telecommunications industry. This control is used to keep tabs on political activists' whereabouts and foresee protests.

Military officers were promptly appointed to the Ministry of Transport and Civil Communications after the coup. These officers

have been employed to operate software that allows for wiretapping phone calls, monitoring text messages, and surveilling internet activity, including emails and passwords.

To ensure complete control, the putschists imposed restrictions on private telecommunications company managers, requiring permission before leaving the country and prohibiting communication with the media or discussion of the state's intelligence strategies. The army's first actions after the coup included cutting off the internet, and restoring it only after blocking a list of websites and installing technologies to monitor user activity.

Nearly two years after the military coup, the involvement of Lebanese and Israeli telecommunications companies in supporting the Myanmar army's control of the telecommunications sector has become evident. Their support has enabled the army to bypass ethical standards that typically govern the telecommunications sector, thereby aiding in the repression of opponents.

#### Lebanese M1 Group: Taking advantage of the coup

Prior to the coup, Telenor, a Norwegian company, was one of the largest providers of internet services and cellular communications in Myanmar, having gradually expanded its customer base since 2014. However, following the coup, the company chose to exit the Myanmar market after being asked by the coup authorities to activate programs for military tracking of cellular network and internet users.

Telenor's decision was due to concerns over violating European Union and Norwegian laws, which could result in sanctions. As a company owned by the Norwegian state and listed on the Oslo Stock Exchange, with a significant presence in Denmark, Finland, Sweden, and Norway, Telenor was eager to exit the Myanmar market with minimal losses.

Lebanese M1 Group saw these developments as an opportunity to enter the Myanmar telecommunications sector by purchasing Telenor's branch for no more than \$105 million. The Lebanese company was able to acquire these assets at a low price, far less than their actual value, because of prestigious international companies' reluctance to work with the Myanmar military regime due to fear of international sanctions and exclusion from Western markets.

Unlike other international companies, the M1 Group was willing to carry out the demands of the coup authorities in the telecommunications sector. The M1 Group's arrival in Myanmar provided a solution for the putschists, as it was willing to manage the sector while permitting the military to wiretap citizens. Telenor's data supports the connection between the sale process and these accounts and considerations.

#### M1 Group's experience in dealing with police states

M1 Group, is owned by Prime Minister Najib Mikati, his brother Taha and some members of their family. The Mikati brothers have a long history of working in the telecommunications sector in countries ruled by repressive regimes under foreign sanctions. This experience has allowed them to form relationships with rulers seeking control over their country's telecommunications sector.

For instance, the Mikati brothers established a cellular communications network in Syria after being granted a 15-year concession when President Bashar al-Assad came to power. They shared this privilege with the president's cousin, Rami Makhoul.

The Mikati family also acquired licenses to set up telecommunications companies in Sudan during President Omar al-Bashir's term, despite the sanctions imposed on his regime. In Yemen, the Mikati family's companies found a way to bypass the sanctions imposed on the Houthis through companies registered in tax havens in order to operate in the telecommunications sector.

#### M1 Group's partnership with the putschists in Myanmar

M1 Group was able to enter the Myanmar market by leveraging its experience in working in developing countries where Western companies are unable to due to international sanctions. The Group also demonstrated flexibility in disregarding ethical standards that typically govern telecommunications companies, particularly in regards to user privacy under repressive regimes.

M1 Group's purchase of Telenor's operations in Myanmar was ultimately approved by the military council, but only after it entered into a partnership with the local company "Shwe Byain Phyu."

Examination of this company's history revealed that its operations were primarily focused on the distribution of petroleum products, with no prior experience in the communications field. This highlights the military council's intent to solidify control over the telecommunications sector through M1 Group's management of operations.

After Telenor's exit and M1 Group's entry into the Myanmar market, the military authorities expanded the use of AI techniques to monitor internet traffic without limitations. They also began openly using information generated from surveillance as evidence against political opponents.

At the same time, security campaigns were conducted to search citizens' electronic devices for any applications that could be used to bypass surveillance and eavesdropping.

Israeli company "Cog Knight" was also involved

In January 2023, the organization "Justice for Myanmar" released documents proving that Israeli company Cog Knight won a tender to provide Myanmar with special software for spying on all user activities.

The documents show that the Myanmar authorities aimed to equip all private telecommunications companies with this software to locate mobile phones, monitor internet activity and even record text messages, passwords and phone calls.

The project was expected to be completed by June 2021, and Reuters reported that experiments on operating the software had already taken place. With this project, however, Cog Knight violated decisions issued by the Israeli Supreme Court in 2017 to halt defense exports to Myanmar to avoid their use in human rights violations.

A complaint has been submitted by over 60 Israelis, including activists, academics and a former speaker of Parliament, and will be considered by the Israeli attorney general. The complaint accuses Cog Knight and Israeli officials, who were aware of the deal, of committing crimes against humanity by providing the Myanmar authorities with tools to monitor political opponents.

Companies based in Israel and Lebanon have assisted in the repression in Myanmar by providing the essential tools to use the telecommunications industry as a weapon against the opposition. It is regrettable that these businesses can reach such risky agreements without external pressure or sanctions, a sign that the international community's concern for human rights in Myanmar is waning.

**Already Complicit in Libya Migrant Abuse, EU Doubles Down on Support (Human Rights Watch)** By Hanan Salah  
February 8, 2023

**This week, the European Union handed over in Italy a search and rescue vessel to Libyan authorities intended for abusive Libyan Coast Guard forces and promised four more, without any apparent attempt to vet the human rights practices of the coast guard, thus making the EU more complicit in human rights abuses in the Mediterranean.**

While the single boat handed over by Olivér Várhelyi, the European Commissioner for Neighborhood and Enlargement is a pittance within an 800 million Euro project to "stop the illegal migration to Europe" from North Africa, it will tie the EU more directly to abuses that inevitably occur when the Libyan Coast Guards intercepts people at sea and brings them back to Libya.

For years the EU has abdicated its primary responsibility of search and rescue in the Mediterranean, where thousands of migrants and asylum seekers have died while attempting to reach Europe from North Africa, particularly Libya. Instead, the EU and member countries have chosen to furnish money, vessels, training, and aerial surveillance to abusive Libyan armed groups so they can intercept and forcibly return people to Libya. There, these migrants face systematic and widespread abuses including torture, arbitrary detention, forced labor, and sexual assault.

Dodging this reality, Várhelyi insists the aid will reduce deaths and trafficking in the Mediterranean and make Europe safer. "Libya can continue to count on Europe's support," he stated, adding that the EU can "expect [Libya's] continued commitment to deliver tangible results on the ground." The commissioner said nothing about the need to vet the human rights practices of the groups receiving EU support.

More than 24,684 people intercepted in the Mediterranean were forced back to Libya in 2022, and a staggering 25,313 at least have died in the Mediterranean since 2014.

To change this reality, the EU should stop supporting abusive militias and instead establish safe and legal pathways for migration. The EU and its member states should suspend cooperation with Libyan authorities until they ensure they are complying with the obligation not to return people to places where they face abuse, inhumane detention conditions, and lack of access to international protection. It is paramount the EU, with its significant means and technical capacities to take up its search and rescue responsibilities in the Mediterranean, focuses on saving lives and ensures people are disembarked in a safe port and never returned to the abuse they faced in Libya

[\[back to contents\]](#)

**WORTH READING**

## **Escalation of the Conflict between Russia and Ukraine in 2022 in Light of the Law on Use of Force and International Humanitarian Law**

Patrycja Grzebyk

February 1, 2023

**The aim of this article is to assess the military operation started on 24 February 2022 by Russia against Ukraine in light of the law on use of force, having in mind all the justifications officially expressed by Russian authorities and in light of international humanitarian law. The author claims that there is no justification for the Russian military action and thus it must be qualified as aggression. This, due to the serious violation of the peremptory norm, implies obligations on the part of states and international organizations (i.e. the international community). In addition, the current conduct of hostilities clearly shows that it is mainly Russian forces which neglect international humanitarian law principles, which might amount to war crimes.**

[\[back to contents\]](#)

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**Grotian Moment: The International War Crimes Trial Blog:**

<http://law.case.edu/grotian-moment-blog/>

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