



**TRIAL**  
International



# Evidentiary challenges in universal jurisdiction cases

Universal Jurisdiction Annual Review 2019 #UJAR

fidh

**REDRESS**  
Ending Torture, Seeking Justice for Survivors

 **FIBGAR**  
PRO DEBONO HUMANITATE I JUSTITIA UNIVERSALIS

 **ECCHR**



This publication benefited from the generous support of the Taiwan Foundation for Democracy, the Oak Foundation and the City of Geneva.

# TABLE OF CONTENTS

6	<b>METHODOLOGY AND ACKNOWLEDGMENTS</b>
7	<b>FOREWORD</b>
8	<b>BUILDING ON SHIFTING SANDS: EVIDENTIARY CHALLENGES IN UNIVERSAL JURISDICTION CASES</b>
11	<b>KEY FINDINGS</b>
12	<b>CASES OF 2018</b>
	<b>Argentina</b>
13	VICTIMS DEMAND THE TRUTH ABOUT THE FRANCO DICTATORSHIP
15	ARGENTINIAN PROSECUTORS CONSIDER CHARGES AGAINST CROWN PRINCE
	<b>Austria</b>
16	SUPREME COURT OVERTURNS JUDGMENT FOR WAR CRIMES IN SYRIA
17	INVESTIGATION OPENS AGAINST OFFICIALS FROM THE AL-ASSAD REGIME
	<b>Belgium</b>
18	FIVE RWANDANS TO STAND TRIAL FOR GENOCIDE
19	AUTHORITIES ISSUE THEIR FIRST INDICTMENT ON THE 1989 LIBERIAN WAR
	<b>Finland</b>
20	WAR CRIMES TRIAL RAISES TECHNICAL CHALLENGES
22	FORMER IRAQI SOLDIER SENTENCED FOR WAR CRIMES
	<b>France</b>
	<u>ONGOING INVESTIGATIONS ON SYRIA</u>
23	THREE INTERNATIONAL ARREST WARRANTS TARGET HIGH-RANKING AL-ASSAD REGIME OFFICIALS
24	SYRIAN ARMY BOMBARDMENT TARGETING JOURNALISTS IN HOMS
25	STRUCTURAL INVESTIGATION BASED ON INSIDER PHOTOS
26	FIRST IN FRANCE: COMPANY INDICTED FOR CRIMES AGAINST HUMANITY
28	FRANCE REVOKES REFUGEE STATUS OF MASS MASSACRE SUSPECT
29	SAUDI CROWN PRINCE UNDER INVESTIGATION
30	INVESTIGATION OPENS ON BENGAZHY SIEGE

- 31 A EUROPEAN COLLABORATION: SWISS NGO SEEKS A WARLORD'S PROSECUTION IN FRANCE
- 32 IS SELLING SPYING DEVICE TO AL-ASSAD'S REGIME COMPLICITY IN TORTURE?
- RWANDAN TRIALS IN FRANCE
- 33 DEFINITIVE SENTENCE FOR THE FORMER HEAD OF INTELLIGENCE
- 34 LIFE SENTENCE CONFIRMED AGAINST TWO MAYORS
- 35 FINAL HEARINGS IN EIGHT-YEAR-LONG PROCEDURE
- 36 GENOCIDE FUGITIVE ARRESTED IN CAMEROON
- 37 LAST CHANCE OF JUSTICE FOR A PRIEST'S VICTIMS
- 39 TWO MORE UPCOMING GENOCIDE TRIALS

### **Germany**

- 41 STRUCTURAL INVESTIGATIONS AGAINST THE SYRIAN GOVERNMENT
- 43 PROSECUTING MASS ABUSE IN SYRIAN DETENTION FACILITIES
- 44 STRUCTURAL INVESTIGATIONS AGAINST NON-STATE ARMED GROUPS IN SYRIA
- 45 FOUR SIBLINGS SUSPECTED OF WAR CRIMES
- 46 JABHAT AL-NUSRA FIGHTERS ON TRIAL FOR KILLINGS IN RAQQA
- 47 ABDUCTION, BLACKMAIL AND TORTURE RESULT IN LIFE SENTENCE
- 48 IDLIB WAR CRIMES SUSPECT IN CUSTODY
- 49 FORMAL INDICTMENT OF TWO ISIS SUSPECTS
- 50 SENTENCE LENGTHENED FOR A UN EMPLOYEE KIDNAPPER
- 51 WAR CRIMES CHARGES UNDER SCRUTINY
- 52 TALIBAN INDICTED AND HELD IN CUSTODY
- 53 AFGHANI ARRESTED FOR INTERROGATING DETAINEES UNDER TORTURE
- 54 SHEDDING A LIGHT ON CIA SECRET DETENTION CENTERS
- 55 WERE GAZA ATTACKS BY ISRAELI DEFENSE FORCES DISPROPORTIONATE?

### **Ghana**

- 56 CIVIL SOCIETY COMES TOGETHER AGAINST FORMER DICTATOR

### **Italy**

- 57 DOES SELLING ARMS TO SAUDI ARABIA CONSTITUTE COMPLICITY IN WAR CRIMES?

### **Norway**

- 58 PAST CRIMES CATCH UP WITH NORWEGIAN CITIZEN

### **Senegal**

59 WITNESS UNDER THREAT IN A HUMAN RIGHTS DEFENDER  
MURDER CASE

### **Spain**

60 EXTRADITED SALVADORIAN COLONEL AWAITS TRIAL  
61 GUATEMALAN FORMER MINISTER CLEARED OF ALL CHARGES  
62 SYRIAN CASE CALLS SPAIN'S JURISDICTION INTO QUESTION

### **Sweden**

63 REMOTE WITNESSES CONTRIBUTE TO GENOCIDE CONDEMNATION  
64 FORCIBLE DISPLACEMENTS FOR PROFIT? OIL COMPANY ON THE  
AUTHORITIES' RADAR

### **Switzerland**

65 COURT ORDERS ATTORNEY GENERAL TO INVESTIGATE ALGERIAN  
GENERAL  
67 DETENTION EXTENDED FOR FORMER GAMBIAN MINISTER UNDER  
INVESTIGATION  
68 INVESTIGATIONS AT A STANDSTILL AGAINST THE "BUTCHER OF  
HAMA"  
69 THIRD (AND FINAL?) SENTENCE FOR HEAD OF GUATELAMAN POLICE

### **The Netherlands**

71 ETHIOPIAN "RED TERROR" SUSPECT APPEALS HIS CONVICTION  
72 LIBERIAN "BLOOD TIMBER" BUSINESSMAN AWAITING EXTRADITION

### **The United Kingdom**

74 LIBERIAN AND SWISS NGOS JOIN FORCES AGAINST EX-FIRST LADY  
75 "SPECIAL MISSION IMMUNITY" CONFIRMED FOR EGYPTIAN OFFICIAL

### **The United States of America**

76 HISTORICAL SENTENCE IN IMMIGRATION FRAUD CASE  
77 LONG-TERM RESIDENT CONVICTED OVER MASS MASSACRES  
78 CIVIL CASES TAKE OVER CRIMINAL PROCEEDINGS

80 **TABLE OF CASES**

84 **WHO WE ARE**

# METHODOLOGY AND ACKNOWLEDGMENTS

The present report only highlights cases where judges or prosecutors have initiated investigations into the most serious international crimes. It does not, therefore, include every complaint that victims, lawyers and NGOs filed under universal jurisdiction with national authorities in 2018, if they did not result in significant judicial advances, are still pending, or have been dismissed by relevant national authorities. The report also refers to cases of serious crimes under international law based on active or passive personality jurisdiction where the relevant case has also had an impact on the practice of universal jurisdiction.

While every attempt was made to ensure accuracy, information may be subject to change without notice.

This report has been researched and written by Valérie Paulet, Project Coordinator at [TRIAL International](#), in collaboration with [REDRESS](#), the [European Center for Constitutional and Human Rights \(ECCHR\)](#), the [International Federation for Human Rights \(FIDH\)](#) and the [International Foundation Baltasar Garzón \(FIBGAR\)](#).

The organizations are grateful to the following persons for their assistance and collaboration in collecting the information compiled in this report: the NGOs Guernica 37, The Center for Justice and Accountability (CJA) and Civitas Maxima, as well as Aitor Martínez, Alain Werner, Luc Walley, Joseph Braham, Hélène Legeay, Thijs Berger, Tom Laitinen, Eric Emeraux, Una Schamberger, Juliette Rémond-Tiedrez, Louis Perez and all the prosecutors from war crimes units that gave us the latest updates on their public cases.

This publication benefited from the generous support of the [Taiwan Foundation for Democracy](#), the [Oak Foundation](#) and the [City of Geneva](#).

# FOREWORD

In 2018, universal jurisdiction has again demonstrated its potential to curb impunity for international crimes. Several arrest warrants were issued against the inner circle of Syrian President Bashar al-Assad in France and in Germany. The former Gambian Minister of the Interior is awaiting trial in detention in Switzerland. Investigations are ongoing in Austria against officials of the Syrian intelligence services. Around the world, the net is tightening around suspects of the gravest crimes.

Yet, all practitioners know how hard-won these victories are, and how many other cases have been abandoned due to political, legal, logistical or budgetary hurdles.

For the fifth edition of the Universal Jurisdiction Annual Review (UJAR), we have chosen to focus on the evidentiary challenges inherent to universal jurisdiction. Each case presented in the following pages, successful or unsuccessful, illustrates the countless complexities arising from investigating and prosecuting crimes remotely.

But this publication also highlights the solutions and good practices that have emerged in 2018. From many of the selected cases, lessons can be drawn and eventually applied to different contexts. We hope that the UJAR will be used as a practical tool to disseminate good practices and inspire judicial actors resorting – or considering resorting – to universal jurisdiction.

This UJAR also sheds a light on the continuing cooperation required in universal jurisdiction cases. The fight against impunity brings together a wide array of actors, both legal and non-legal. Joining forces, recognizing our complementarity, overcoming our differences, and building mutual trust are the only way to ensure no state remains a safe haven for war criminals.

The stakes are too high. The need is too urgent. The moment for action is now.

**Philip Grant**  
TRIAL International Director

**Valérie Paulet**  
TRIAL International Project Coordinator



# Building on shifting sands: evidentiary challenges in universal jurisdiction cases



**Mass crimes, remote locations, protection of victims and witnesses, procedural obstacles, outreach. Those are just some of the challenges inherent to universal jurisdiction cases. From gathering evidence to tracking down suspects, each step of the process is long, complex, often frustrating and sometimes downright dangerous. The legal world's answer to those challenges? Joining forces.**

The nature and scale of international crimes – such as genocide, crimes against humanity and war crimes – make them among the most complex to prosecute. These difficulties are multiplied when investigations or trials take place far away from where the crimes were committed. Be it for political, legal or security reasons, holding accountable alleged criminals may only be possible remotely: that is when universal jurisdiction kicks in.

Under this principle, states may or shall prosecute criminals present on their territory, regardless of the criminal's nationality, where the crimes took place, or the victims' location and nationality. Based on the concept that certain crimes endanger the very essence of mankind, this tool was developed to give power to the whole world to punish these crimes.

But universal jurisdiction comes with significant challenges. In some cases, prosecuting authorities are unable to enter the states where atrocities were committed; unstable contexts mean witnesses are hard to find and may be too afraid to testify; evidence may be hard to collect. Geographical distance places a large financial burden on the investigations.

An impossible task? Not quite. Around the world, a constellation of actors is joining forces against the odds to uphold universal jurisdiction.

Survivors, prosecutors, lawyers, investigators, diasporas, NGOs, victims' associations and media are learning to work together, sometimes in unexpected ways, to offer victims the best chance of justice for the most serious crimes.

## Investigating from the other side of the world

Crime scenes are the traditional starting point for any criminal investigation. But in universal jurisdiction cases, they are by definition situated abroad. Where to start fieldwork in a country one has never been to? Collaboration with local authorities *"is as necessary as it is tricky"*, according to Thijs Berger, a Prosecutor of the Dutch War Crimes Unit.

For the sake of fair trials, prosecuting authorities are bound by the same standards when they investigate abroad as when they build domestic cases: independence and confidentiality. Likewise, the standard of proof they will have to present in court remains unaltered by the tremendous challenges to investigating abroad.

An additional challenge is that these standards vary from one country to another, and there is sometimes no telling in advance where the trial will take place. *"Where and when a trial opens is very dependent on the suspects' movements, and the will of a state to initiate prosecution,"* explains Emmanuelle Marchand, Senior Legal Counsel at Civitas Maxima, a Swiss NGO defending victims of war crimes and crimes against humanity. *"As a result, we gather evidence without knowing which court will examine it, and the rules of admissibility of evidence may be widely different."*

## Authorities, civil society, local communities

A crucial ally for national prosecuting authorities is civil society. NGOs have more flexibility to enter a country and document atrocities, insofar as a simple visa could let them in – as opposed to the official laissez-passer required by state institutions. They can therefore operate more freely, more swiftly, and more discreetly.

NGOs also have a more permanent presence in the field and direct contacts with victims and survivors. For these reasons, they can offer valuable contacts in the field. *"We collaborate closely with local NGOs,"* explains Emmanuelle Marchand. *"They are the ones present in the country, interviewing victims and witnesses, identifying zones where crimes were committed. Without the locals' knowledge, we would not know where to start."*

Tom Laitinen, a State Prosecutor in Finland, recalls for instance how an international NGO assisted his team in a Rwandan case: *"They had conducted their own investigation on the same village where our suspect had acted during the genocide. We were able to talk to one of their researchers, who shared some information with us."*

## The paper chase of finding witnesses

Because of the difficulty of accessing crime scenes, forensic evidence is often scarce in universal jurisdiction cases. Therefore, a case is often heavily reliant on witnesses' statements. But both NGOs and prosecuting authorities acknowledge the difficulty of identifying and meeting with witnesses.

Once again, human connections are the answer: *"There is a lot of calling around. You talk to one person, and they know somebody who knows somebody, who tells you 'my wife's cousin's nephew used to be in that fighting faction'. If you are lucky enough to talk to that person, then maybe he will be an interesting witness,"* says Thijs Berger.

According to human rights consultant H el ene Legeay: *"Families of victims are often willing to speak, but they only have second-hand information. The story of a direct victim is a lot more compelling, unfortunately it is a lot harder to find them and convince them to talk."*

Often, the most unlikely sources provide the best information. Insiders – witnesses who may themselves have taken part in the crime – can provide valuable information on the internal organization of a criminal enterprise. Thijs Berger is all too aware of that, as he has seen a case crumble like a house of cards: *"In a case relating to Afghanistan, we lacked insider witnesses who could make sense of a complicated military situation. We were able to establish that at least two fighting units were present on the crime scene. And the question was: which unit actually committed the crimes? We could not prove it in court. A crucial connection was lacking between the suspect and the crimes."* Unsurprisingly, insiders willing to collaborate are difficult to find, since they may end up incriminating themselves.

## Hunting down the suspects themselves

In addition to all these investigative hurdles, there is also the tracking of the suspects themselves. The increasing permeability of frontiers has made movements easier and swifter than ever before for fleeing criminals. Locating them can be a needle-in-a-haystack task, as Eric Emeraux, Head of the French

Central Office to fight crimes against humanity, genocides and war crimes, explains: *"When we are looking for someone, we leave no stone unturned: we look at bank accounts, energy or telecommunications bills, interrogate hotels and hospitals in case the suspect checked in, search the database of airplane companies. We knock on every door, because one successful lead is all we need to get started."*

Yet even the most organized prosecuting authorities cannot operate alone. Immigration services, diasporas, intelligence agencies, and – once again – NGOs, are all crucial channels of information. *"We never work alone,"* explains Eric Emeraux. *"We are immersed in a galaxy of other actors including NGOs, Europol, Interpol, Eurojust, etc. It's all about collaboration and trust."*

The boom of social networks has also revolutionized this task. Joseph Breham is a French lawyer working on universal jurisdiction cases: *"One of the suspects of a case we were working on had posted a picture of himself on Facebook, and the background buildings were looking remarkably like Paris. We had this picture authenticated to check whether he was indeed in the French capital."*

## A narrow window of opportunity

Why is locating the suspect so crucial and delicate? Because in most cases, state authorities can only open a case when a suspect enters their territory. And sometimes, their passage can be limited to a simple transit through an airport: then speed is of essence. For NGOs, there is an additional hurdle: they do not have the power to open a case or arrest a suspect and must rely on national prosecuting authorities to do so.

*"In some instances, we find out that a perpetrator will only be in town*

*for a couple of days. In these cases, we work night and day in order to gather information and prepare a complaint up to standards that are necessary to trigger the opening of a criminal investigation,"* says Benedict De Moerloose, Head of International Investigations and Litigation at TRIAL International.

Eric Emeraux agrees that universal jurisdiction relies on momentum, which is often unpredictable: *"A case is like a living thing: it stalls for a while, then something moves and suddenly everything is moving fast! When it happens, you have to be ready or you may miss your chance."*

In the face of all these difficulties, it is permitted to ask: is it worth all the trouble? The answer from the legal world is an unequivocal yes. Firstly, because universal jurisdiction constitutes the only hope of justice for countless victims. And secondly, because tremendous successes – unimaginable just a few years ago – have been achieved. And every single case is not only a victory in itself: it also eases the way for many others, because it reinforces the belief that justice can – and must – triumph. *"We owe it to the victims to do our utmost, but also to future generations,"* concludes Eric Emeraux. *"If impunity wins today, then sooner or later conflicts will re-emerge and new atrocities will be committed."*

# KEY FINDINGS



**149**

named suspects in  
15 countries



**18%**

more named  
suspects than last  
year



**17**

accused on  
trial



**8**

convictions



**2**

acquittals



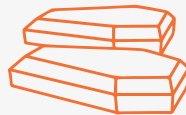
**111**

war crimes  
charges



**90**

crimes against  
humanity charges



**15**

genocide  
charges



**42**

torture  
charges



Photo credit: Will Baxter/TRIAL International

# Cases of 2018

# ARGENTINA

## VICTIMS DEMAND THE TRUTH ABOUT THE FRANCO DICTATORSHIP

Rodolfo Martín Villa and others

### Context

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

### Suspects

Former Spanish officials and other actors of the Franco dictatorship (including González Pacheco, former police officer; Jesús Muñecas Aguilar, former captain of the Civil Guard; and former government minister, Rodolfo Martín Villa)

### Country of residence of suspects

Spain

### Charges

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

### Current status

Under investigation

### Developments in 2018

On 21 June 2018, the Argentinian Federal Tribunal allowed two victims to join the proceedings against former Spanish officials and other actors of the Franco dictatorship.

The first applicant, Ruben Amor Benedicto Salmerón, is the grandson of the disappeared José Salmerón Céspedes who was forcibly disappeared, tortured, and executed in 1936 in Tetouan, then part of the Spanish protectorate in Morocco. The applicant demanded the exhumation of his grandfather's remains, which he believes are buried in the European cemetery of Tetouan.

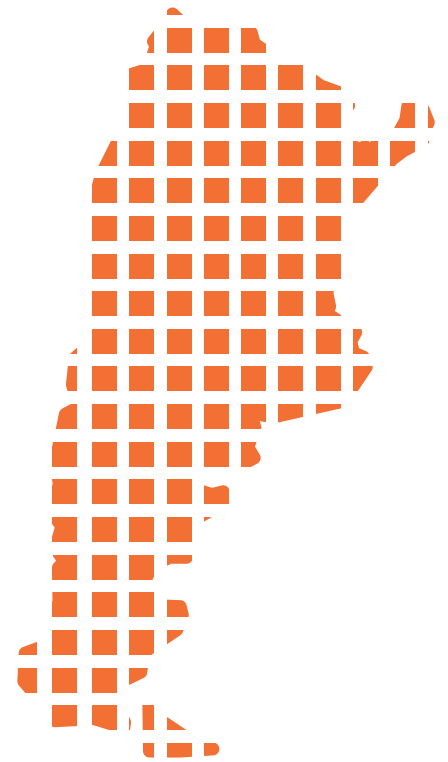
The second case relates to Gustavo Adolfo Muñoz de Bustillo, a 16-year-old executed on 11 September 1978, during violent riots in the transitional period in Barcelona. Judge María Servini de Cubría had first rejected the case as it happened after the 1977 elections that ousted Franco.

On 22 October 2018, the Spanish National Court (Audiencia Nacional, Sala de lo Penal) denied the request from the Argentinian judge María Servini de Cubría to come to Spain to hear Rodolfo Martín Villa, as part of the international rogatory commission issued in September 2017. The Spanish judge argued that the crimes are prescribed; and executing the international rogatory commission would violate the 1977 amnesty law.

On 26 October 2018, Judge María Servini de Cubría admitted the complaint filed two years ago by the NGO Women's Link Worldwide on behalf of six women repressed by the dictatorship. The investigation will examine cases of sexual assault, murder, forced abortion, and the theft of children under Franco's regime.

### Procedure in Spain

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



However, the Supreme Court overturned this decision, while Judge Baltasar Garzón was put on trial for prevarication for his alleged unfair interpretation of the amnesty law. He was finally acquitted but the amnesty law remains applicable, and the crimes committed by the Franco dictatorship cannot be investigated or prosecuted in Spain.

### Procedure in Argentina

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

On 24 April 2014, the Spanish National Court (Audiencia Nacional, Sala de lo Penal) rejected an extradition request issued on 18 September 2013 by Judge Servini de Cubría against González Pacheco and Jesús Muñecas Aguilar.

On 30 October 2014, notwithstanding the Court's decision, the Argentinian investigating judge issued detention orders against 20 of the accused in order to request their extradition to Argentina. However, these orders were not executed in Spain, the authorities arguing that the Spanish Amnesty law prevails.

In 2015, the Judge Servini de Cubría sent a second rogatory commission to the local tribunal of Guadalajara in Spain, requesting the exhumation of the corpse of Timoteo Mendieta, a trade unionist who was reportedly imprisoned in the Guadalajara Central Prison and executed in 1939. It also provided for a DNA test of his daughter, Ascensión Mendieta, victim and plaintiff in the case. On 24 November 2015, the Tribunal of Guadalajara authorized the exhumation, which started on 19 January 2016. The exhumation of 22 bodies from a first mass grave found nearby the Guadalajara prison did not allow identifying the remains of Timoteo Mendieta.

On 16 March 2016, Women's link Worldwide, an international women's organization based in Spain, filed a complaint calling for the investigation into systematic gender-based crimes committed against women during the Franco regime.

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

On 9 June 2017, the remains of Timoteo Mendieta were identified in a mass grave uncovered nearby the Guadalajara prison. The archaeological team of the Association for the Recovery of Historical Memory (ARMH) has exhumed 28 other victims of the Franco regime.

In June 2017, Judge Servini de Cubría issued an international arrest warrant against Rodolfo Martín Villa for the death of five workers in Vitoria in 1976. However, it was annulled by the Appeals Chamber as unfounded. In July 2017, Judge Servini de Cubría issued a new arrest warrant against Martín Villa for crimes against humanity and murder.

### [Read more about the case](#)

## Zoom in

### **Establishing the unconditionality of universal jurisdiction**

In its judgment, the Federal Supreme Court clarified that the universal jurisdiction principle is not one of subsidiary application, concurrent or limited to connections between the facts and the state that intends to judge it.

The Federal Supreme Court also judged that the international qualification of a crime against humanity depends exclusively on the verification that a determined illicit act is committed in the context of a generalized or systematic attack against a civilian population. It found that the crimes could occur not only in the spatial-temporal epicenter through which the attack extends, but also in its margins.

# ARGENTINIAN PROSECUTORS CONSIDER CHARGES AGAINST CROWN PRINCE

Prince Mohammed bin Salman

## Context

Preliminary examination in Argentina into alleged complicity in war crimes and torture committed in Saudi Arabia

## Suspect

Crown prince and deputy prime minister of the Kingdom of Saudi Arabia

## Country of residence of suspect

Saudi Arabia

## Charges

War crimes; torture and inhuman treatment in violation of the 1984 Convention against Torture

## Developments in 2018

On 26 November, the international NGO Human Rights Watch (HRW) filed a denunciation with the Argentine Federal Prosecutor in anticipation of Mohammed bin Salman's visit to Buenos Aires for the G20 Summit. The submission asks the Argentine authorities to investigate Mohammed bin Salman's role in war crimes allegedly committed by the Saudi-led coalition in Yemen, as well as in acts of torture and ill treatment of Saudi nationals, including the murder of Saudi journalist Jamal Khashoggi.

On 28 November 2018, a federal prosecutor formally requested inquiries into whether the allegations are being investigated elsewhere, and into Mohammed bin Salman's diplomatic status and immunities. On the same day, the competent federal investigating judge sent information requests to the governments of Saudi Arabia and Yemen, to the International Criminal Court and to the Argentine Foreign Ministry.

## Current status

Preliminary examination, pending the opening of an official judicial investigation

## Facts

On 25 March 2015, an international coalition led by Saudi Arabia launched air strikes against the armed group of Houthis in Yemen, triggering a major armed conflict. For three years, Yemen has been ravaged by a war that has already killed more than 10,000 people, half of whom are civilians.

Mohammed bin Salman was appointed Minister of Defense on 23 January 2015. One of his first acts was to launch the military campaign in Yemen along with other Arab states.

UN bodies and human rights groups have denounced the widespread violations of human rights and humanitarian law committed in Yemen. Alleged violations include deliberately targeting civilians, the use of illegal cluster-munitions, indiscriminate airstrikes and a naval blockade which deprived civilians of access to basic necessities.

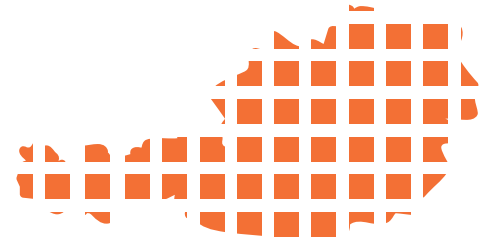
The complaint denounces alleged violations of international law committed during the armed conflict in Yemen as well as sexual harassment and torture, including electrocution and flogging of Saudi citizens.

The complaint also denounces his alleged role in the murder of Saudi journalist Jamal Khashoggi, who was killed on 2 October 2018 inside the Saudi consulate in Istanbul. Saudi authorities deny any involvement of the Crown Prince. Turkish and US intelligence agencies found the murder to have been premeditated and ordered by Mohammed bin Salman himself.

## OTHER PENDING CASES

- The Paraguayan indigenous community case: proceedings closed in 2017

# AUSTRIA



## SUPREME COURT OVERTURNS JUDGMENT FOR WAR CRIMES IN SYRIA

Name withheld

### Context

Ongoing proceedings in Austria for war crimes committed between 2013 and 2014 in Syria

### Suspect

Palestinian national, former member of the Farouq Brigades

### Country of residence of suspect

Austria

### Charges

Terrorist offences, war crimes of murder, and violations of the 1949 Geneva Conventions

### Developments in 2018

A retrial was scheduled to begin on 10 December 2018 before the Regional Court of Innsbruck.

### Current status

Conviction overturned; retrial ongoing

### Facts

The accused is alleged to have executed at least 20 unarmed and injured Syrian government soldiers in Al Khalidiya and Homs between 2013 and 2014. According to the charges,

these murders were allegedly intended to intimidate the population, to force the Syrian army to leave the contested area, and to threaten or destroy the political, constitutional, economic or social structures of the Syrian state.

### Procedure

The accused sought asylum in Austria in May 2015. He was subsequently reported to the authorities by refugees, whom he had told that he belonged to the Farouq Brigades and that he had fought against Syrian President Bashar al-Assad. The trial opened in February 2017 but was adjourned shortly thereafter on medical grounds after the accused collapsed in court.

On 10 May 2017, the accused was found guilty on 20 charges of murder as a war crime and sentenced to life imprisonment by a jury in Innsbruck. The Defense appealed the conviction, arguing that the court failed to call key witnesses who could testify to the fact that the defendant had left Syria for Turkey in summer 2013, and that he had not taken part in hostilities from January 2013 until his departure.

On 12 December 2017, the Supreme Court of Justice overturned the conviction on grounds that the failure to question these witnesses had violated the rights of the defendant, and remanded the case back to the regional court.



# INVESTIGATION OPENS AGAINST OFFICIALS FROM THE AL-ASSAD REGIME

Names withheld

## Context

Ongoing investigation by the Austrian Prosecutor into international crimes committed by the Syrian intelligence services

## Suspects

High-ranking officials of the Syrian intelligence services, including Military Intelligence, Air Force Intelligence and General Intelligence services

## Country of residence of suspect

Syria

## Charges

Crimes against humanity and war crimes

## Developments in 2018

Austrian authorities have initiated an investigation into the Syrian intelligence services after 16 women and men from Syria filed a criminal complaint to the public prosecutor in Vienna in May 2018.

The group of torture survivors – which included an Austrian citizen – filed the complaint together with the European Center for Constitutional and Human Rights (ECCHR), Syrian lawyers Anwar al-Bunni (Syrian Center for Legal Research and Studies) and Mazen

Darwish (Syrian Center for Media and Freedom of Expression), as well as the Center for the Enforcement of Human Rights International (CEHRI) in Vienna.

Following the submission, the prosecutor heard one of the complainants and initiated a criminal investigation.

## Current status

Ongoing investigation

## Facts

The investigation concerns crimes against humanity and war crimes committed by Military Intelligence, Air Force Intelligence and General Intelligence, including murder, extermination, torture, serious bodily harm and deprivation of liberty between February 2011 and January 2017 in 13 detention centers in Damascus, Daraa, Hama, and Aleppo.

[Read more about the case](#)

# BELGIUM



## FIVE RWANDANS TO STAND TRIAL FOR GENOCIDE

Names withheld

### Context

Upcoming trials in Belgium for genocide and war crimes committed during the 1994 Rwandan genocide

### Suspects

Rwandan nationals

### Country of residence of suspects

Belgium

### Charges

Genocide and war crimes

### Developments in 2018

In December 2018, pre-trial authorities of the Brussels Criminal Court ruled that five Rwandan nationals, E.G., E.N., F.N., T.K., M.B., are to stand trial for crimes allegedly committed during the 1994 Rwandan genocide.

### Current status

Detained, awaiting trial

### Facts

The five accused allegedly participated in crimes committed in 1994 in Rwanda in connection with the genocide of Tutsis and the massacre of moderate Hutus.

### Procedure

The first proceeding involves three suspects: E.G., accused of genocide and the war crimes of murder and rape; E.N., accused of genocide and the war crimes of murder, attempted murder, and rape; and F.N., accused of genocide and the war crimes of murder and attempted murder.

The second proceeding involves two accused: T.K., suspected of having committed genocide and the war crime of murder; and M.B., accused of genocide and the war crimes of murder and attempted murder.

## AUTHORITIES ISSUE FIRST INDICTMENT ON THE 1989 LIBERIAN WAR

Martina Johnson

### Context

The Martina Johnson case constitutes the first arrest and indictment for war crimes and crimes against humanity allegedly committed during the first Liberian civil war (1989–1996).

Liberia's former president, Charles Taylor, was sentenced on 30 May 2012 to 50 years in prison (confirmed on appeal on 10 December 2013) for the crimes he committed during the Sierra Leone civil war in the 1990s. However, he was not prosecuted for the crimes committed in Liberia by his troops, the National Patriotic Front of Liberia (NPFL).

### Suspect

A former frontline commander of the NPFL, Liberian Martina Johnson was allegedly Charles Taylor's chief of artillery during Operation Octopus in October 1992.

### Country of residence of suspect

Belgium

### Charges

Direct involvement in alleged war crimes and crimes against humanity, including mutilation and mass killings

## Developments in 2018

The investigation is still ongoing but should be completed by early 2019.

### Current status

Under house arrest, indicted

### Facts

Martina Johnson was allegedly actively involved in Operation Octopus launched by Charles Taylor and his NPFL troops in October 1992. This offensive against the government and the peacekeeping forces was aimed at taking over the capital Monrovia and resulted in the deaths of hundreds of civilians, many of whom were targeted for ethnic reasons.

### Procedure

In 2012, three Liberian victims, assisted by the NGOs Civitas Maxima and its Liberian sister organization the Global Justice and Research Project (GJRP), filed a complaint in Belgium against Martina Johnson for her alleged direct participation in mutilations and mass killings during Operation Octopus in October 1992.

Martina Johnson was arrested on 17 September 2014 in Gent, Belgium, based on documentation collected by the two NGOs.

She was released on 4 May 2015 and placed under judicial supervision.

## OTHER PENDING CASES

- Tzipi Livni: investigation ongoing

[Read more about the case](#)

# FINLAND

## WAR CRIMES TRIAL RAISES TECHNICAL CHALLENGES

The Iraqi twin brothers

### Context

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

### Suspect

Iraqi nationals and alleged Islamic State (IS) fighters

### Country of residence of suspects

Finland

### Charges

War crimes, murder and aggravated assault committed with terrorist intent

### Developments in 2018

The appeal trial started on 11 September 2018 but was postponed until further notice due to arrangements regarding hearings of witnesses in Iraq. The Court of Appeal decided that the main hearings would not be formally opened before these witnesses have been heard, "outside the main hearing".

### Current status

Acquitted; on appeal

### Facts

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

### Procedure

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

On 30 November 2016, they were charged with war crimes, murder, and assault with terrorist intent. The prosecution sought life imprisonment for the defendants, both of whom had pleaded not guilty to the charges.

On 24 May 2017, the District Court of Pirkanmaa acquitted the Iraqi twin brothers for lack of evidence. They were granted a compensation for their pre-trial detention. The two accused were allowed to reside in Finland. The prosecution appealed this judgment.

[Read more about the case](#)



## Field notes

### **“There were many problems with the witnesses’ statements”**

“The fact that some witnesses testified from Iraq raised many problems before the District Court. We had to rely on a video line that was very poor. The statements were difficult to hear, and the line dropped for hours on end. The Court also found that the anonymity of the witnesses posed a threat to fair trial standards.”

**Tom Laitinen, State Prosecutor in Finland**

# FORMER IRAQI SOLDIER SENTENCED FOR WAR CRIMES

Ahmed Jabbar Hasan

## Context

Ongoing proceedings in Finland against an Iraqi soldier for war crimes committed in Iraq, in March 2015

## Suspect

Iraqi nationals and former corporal in the Iraqi army

## Country of residence of suspect

Finland

## Charges

War crimes of desecrating and violating the dignity of a dead body

## Developments in 2018

The investigation was ongoing in 2018. On 10 January 2019, a Court in Helsinki sentenced the accused to a 18 month suspended sentenced for war crime, after he was filmed cutting off the head of a dead Islamic State fighter.

## Current status

Sentenced

## Facts

In March 2015, during an operation against the Islamic state (IS) near Karma in March 2015, the accused was filmed decapitating the body of

an IS militant. The video was uploaded to Ahmed Jabbar Hasan's Facebook page, along with another video of him posing in front of burning bodies.

## Procedure

The investigation was launched in May 2017 after the police had been informed about the video by someone who had seen it online.

The accused was arrested for three days at the end of June 2017. He was indicted in July 2018.

# FRANCE

## ONGOING INVESTIGATIONS ON SYRIA

---

### THREE INTERNATIONAL ARREST WARRANTS TARGET HIGH- RANKING AL-ASSAD REGIME OFFICIALS

[The Dabbagh family investigation](#)

#### Context

Ongoing investigation in France for international crimes committed in Syria in 2013

#### Suspects

Ali Mamluk, director of the National Security Bureau; Jamil Hassan, head of the Syrian Air Force Intelligence and Abdel Salam Mahmoud, director of an Air Force Intelligence investigative branch

#### Country of residence of suspects

Syria

#### Charges

Complicity in crimes against humanity, torture and enforced disappearances; war crimes

#### Developments in 2018

In October 2018, in an unprecedented step towards accountability for crimes committed in Syria, French judges issued international arrest warrants

against three high-level regime suspects: Ali Mamluk and Jamil Hassan, also subject to an arrest warrant issued in Germany earlier this year, are both wanted for complicity in crimes against humanity, torture and enforced disappearances. Abdel Salam Mahmoud, in charge of the Air Force Intelligence investigative branch at Mezzeh military airport in Damascus, a detention site with one of the highest mortality rates in Syria according to the UN's Commission of Inquiry, is wanted on war crimes charges as well as complicity in crimes against humanity, torture and enforced disappearances.

#### Current status

Judicial investigation ongoing; international arrest warrants issued

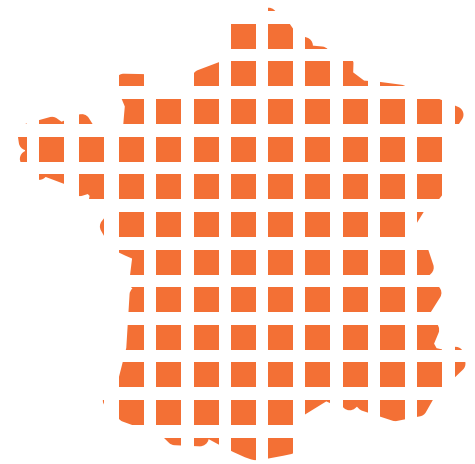
#### Facts

In November 2013, Patrick Dabbagh and his father, Mazen Dabbagh, both dual French-Syrian nationals, were arrested from their home in Damascus by Syrian Air Force Intelligence agents and detained for interrogation at the Mezzeh investigative branch. Neither one has been seen since.

In summer 2018, the Dabbagh family received formal notification from the Syrian authorities that Patrick and Mazen had died.

#### Procedure

On 24 October 2016, a complaint was filed with the Paris High Court by Obeida Dabbagh, a Syrian-French national, on behalf of his brother and nephew, Mazen and Patrick Dabbagh, both Syrian-French nationals, together with FIDH and LDH. Obeida Dabbagh alleged that they were arrested in 2013 in Syria by the Air Force Intelligence Directorate and detained at the investigative branch in Mezzeh (Damascus). They have since disappeared. A judicial investigation into torture, crimes against humanity,



and enforced disappearances is ongoing before the French specialized unit for the prosecution of genocide, crimes against humanity, war crimes and torture within the Paris High Court (hereinafter: the specialized unit), resulting in the issuance of three international arrest warrants against the high-ranking regime officers.

[Read more about the case](#)

# SYRIAN ARMY BOMBARDMENT TARGETING JOURNALISTS IN HOMS

The Rémi Ochlik and Edith Bouvier investigations

## Context

Ongoing investigation into the murder of journalists during an army bombardment of a media center in Syria in 2012

## Charges

War crimes

## Developments in 2018

On 9 April 2018, documents filed in a US civil case concerning Marie Colvin's death were declassified. They allegedly demonstrate the premeditated nature of the Syrian army bombardment of a media center in Homs that led to the death of American journalist Marie Colvin, French photographer Remi Ochlik, and injuries to several others including Edith Bouvier, Paul Conroy and Wael al Omar. These documents have been filed in the ongoing war crimes investigation underway in France.

## Current status

Investigation ongoing

## Facts

On 22 February 2012, a Syrian army bombardment in Baba Amr, Homs, led to the deaths or serious injury of several journalists operating from a media center based there.

French photojournalist Rémi Ochlik and American war crimes correspondent Marie Colvin were both killed in the attack. Several other journalists were injured in the attack, including French journalist Edith Bouvier as well as Syrian and British journalists who were using the center as a base to report on the events in Homs in early 2012.

## Procedure

This case was originally opened in 2012 as a homicide case but was reclassified in 2014 as a war crimes case.

The families of Rémi Ochlik and Marie Colvin are civil parties in the case, together with French, Syrian and British journalists injured in the attack, FIDH, and Reporters without Borders.

[Read more about the case](#)



# STRUCTURAL INVESTIGATION BASED ON INSIDER PHOTOS

The Caesar investigation

## Developments in 2018

The Caesar investigation is still ongoing, in collaboration with other European countries, in particular Germany, following the creation in 2018 of the joint investigative team between the French and German authorities.

## Procedure

A former photographer, codenamed Caesar, with the military police of the Syrian regime sought refuge in Europe after fleeing Syria with thousands of pictures of dead and abused bodies, attesting to the torture committed in the jails of the regime of Bashar al-Assad.

In September 2015, on the basis of these pictures, the French ministry of foreign affairs requested that the Paris prosecutor of the French specialized unit for the prosecution of genocide, crimes against humanity, war crimes and torture within the Paris High Court (Tribunal de Grande Instance de Paris) open a preliminary investigation into crimes against humanity, war crimes and torture. France has jurisdiction over these alleged crimes if one or more of the victims is French, or if a suspect has established his habitual residence on French territory, or, in the case of the crime of torture, if a suspect is located on French territory. Investigations are ongoing.

## Zoom in

### Starting an investigation without suspects

To investigate crimes under universal jurisdiction, French authorities must be able to prove the physical presence (for torture and enforced disappearances) or the residence (for the Rome Statute crimes) of a suspect in France.

Yet a structural investigation on Syria is currently ongoing, in which the accused were initially not identified. How? France first based its jurisdiction on the possibility some perpetrators came to France to claim asylum, proving de facto their presence in the country. In 2018, this structural investigation became part of a joint investigation with Germany (see below).

# FIRST IN FRANCE: COMPANY INDICTED FOR CRIMES AGAINST HUMANITY

Lafarge – Eric Olsen and others

## Context

Proceedings against the cement company Lafarge SA (now LafargeHolcim): on the one hand, for financing terrorism, complicity in crimes against humanity committed by the Islamic State in Syria (ISIS), and deliberate endangerment of people's lives; and on the other hand, for illegal purchase of oil

## Suspects

Current and former directors and top executives of French-Swiss cement company LafargeHolcim Group (crimes allegedly committed by the French company Lafarge prior to its 2015 merger with Swiss-based Holcim) and of its subsidiary Lafarge Cement Syria. The suspects are French and Norwegian nationals

## Country of residence of suspects

France and Switzerland (headquarters)

## Charges

Financing of a terrorist enterprise, complicity in war crimes, complicity in crimes against humanity, deliberate endangerment of people's lives, exploitative labor practices, forced labor, and violation of the EU embargo on oil purchases

## Developments in 2018

On 28 June 2018, three investigative judges of the Paris High Court charged the legal entity Lafarge SA (now LafargeHolcim) with complicity in crimes against humanity, financing of a terrorist enterprise, breaching an embargo, and endangering the lives of others. Lafarge allegedly paid millions of euros to ISIS and several armed groups to keep their cement factory running. The investigative judges ordered LafargeHolcim to hand over 30 million euros to the authorities as a security deposit ahead of a possible trial.

Eight former executives were also charged in this case between December 2017 and May 2018, and were requested to provide the courts with a deposit of several million euros.

## Current status

Company as a legal entity and individuals indicted; the judicial inquiry is ongoing

## Facts

The 2016 complaint filed by human rights groups Sherpa and the European Center for Constitutional and Human Rights (ECCHR), with former Lafarge Syrian employees, alleged crimes committed in Syria between 2013 and 2014 in relation to Lafarge's cement factory in Jalabiya, in northern Syria; in an area where several armed groups, including ISIS, were operating. Lafarge allegedly entered in negotiations with ISIS to purchase oil and pozzolan from them, as well as to obtain official ISIS passes for crossing checkpoints in order to maintain its production in the area. Testimonies also point

to Lafarge risking its employees' lives and violating a number of basic labor rights.

## Procedure

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

On 15 November 2016, 11 former Syrian employees and the human rights groups Sherpa and ECCHR filed a criminal complaint as civil parties in Paris against Lafarge, Lafarge Cement Syria, and their current and former CEOs, for financing of terrorism, complicity in crimes against humanity committed in Syria and for a series of labor rights violations.

On 9 June 2017, three investigative judges of the Paris High Court (Tribunal de Grande Instance de Paris) opened an investigation into the crimes alleged by the NGOs Sherpa and ECCHR, and 11 former Syrian employees. In September 2017, three of the victims were heard by one of the investigative judges.

On 13 October 2017, the plaintiffs' NGOs filed a motion requesting that the investigative judges summon a former French minister of foreign affairs and two former ambassadors of France to Syria for questioning.

On 14 November 2017, the French police searched the headquarters of LafargeHolcim in Paris. At the same time, the Belgian federal police searched the premises of Groupe Bruxelles Lambert (GBL), the second largest shareholder of LafargeHolcim, in Brussels.

In December 2017, six former CEOs and directors of Lafarge and Lafarge Cement Syria were indicted on charges of financing terrorism and deliberate endangerment of people's lives, and some on the additional charge of breaching the EU embargo on Syrian oil – namely: Eric Olsen and Bruno Lafont, former CEOs of Lafarge; Bruno Pescheux, CEO of the Lafarge Syrian subsidiary between 2008 and 2014; and his successor, Frédéric Jolibois; Jean-Claude Veillard, Lafarge's director of security; and Christian Herrault, vice director at Lafarge. In March and May 2018, Lafarge's human resources executive Sonia Artinian and former safety director at LCS, Jacob Waerness, were indicted on similar charges.

In June 2018, Lafarge as a legal entity was charged in this case (see above).

[Read more about the case](#)

## Zoom in

### **France leads the way in the fight against corporate crime**

France amended its law in 2004 (Loi n° 2004-1343 du 9 mars 2004) allowing the prosecution of companies for all crimes entailed in its Criminal Code – including for their activities abroad.

The condition is that a physical representative of the company must have committed the crime (in the present case Eric Olsen and his associates) in order to prosecute the corporation as a moral person.

# FRANCE REVOKES REFUGEE STATUS OF MASS MASSACRE SUSPECT

Ahmed Hamdane El Aswadi

## Context

Ongoing investigation in France for war crimes and murder committed in Iraq in 2014

## Suspect

Iraqi national and suspected member of Islamic State (IS)

## Country of residence of suspect

France

## Charges

Inhuman and degrading treatment as war crimes and violations of the 1949 Geneva Conventions; terrorist conspiracy and murders linked to a terrorist group

## Developments in 2018

On 6 March 2018, Ahmed Hamdane El Aswadi was arrested in Lisieux, Normandy. After two days in custody, he was indicted for criminal conspiracy, murder in connection with a terrorist enterprise, and war crimes of inhuman and degrading treatment and of using prohibited means and methods of warfare. He was subsequently placed in pre-trial detention.

## Current status

Detained; under investigation

## Facts

Ahmed Hamdane El Aswadi is suspected of having participated in the June 2014 massacre of Camp Speicher, a military base near Tikrit, where armed men abducted and executed hundreds of young army recruits, mainly Shiites, killing up to 1,700 people. Based on testimony from other suspects, the Iraqi authorities claim that Ahmed Hamdane El Aswadi personally executed 103 soldiers. The accused denies all involvement in the alleged crimes.

The accused arrived in France during the summer of 2016. He was granted the refugee status in June 2017. This protection was removed after his arrest.

## Procedure

In the summer of 2017, the French intelligence services identified Ahmed Hamdane El Aswadi as an alleged IS member and reported his presence to the judicial authorities.

In November 2017, the office of the prosecutor of the French specialized unit for the prosecution of genocide, crimes against humanity, war crimes and torture within the Paris High Court (hereinafter "the specialized unit") requested the opening of an investigation against Ahmed Hamdane El Aswadi. He is accused of having participated in the massacre of Camp Speicher in June 2014. He denies any involvement in the events. This is the first case to be investigated jointly by the anti-terrorism and the specialized unit.

[Read more about the case](#)

## Zoom in

### Why must Ahmed Hamdane El Aswadi be judged in France?

France granted refugee status to Ahmed Hamdane El Aswadi in 2017. It revoked this status following the war crimes allegations, yet still recognized the threats the accused would be exposed to if he returned to Iraq.

Subsequently, pursuant to the 1951 Geneva Convention on Refugees, Ahmed Hamdane El Aswadi could not be sent back there to face trial. The only remaining option was to judge him in France.

# SAUDI CROWN PRINCE UNDER INVESTIGATION

Prince Mohammed bin Salman

## Context

Ongoing investigation in France for torture and inhuman treatment committed during the Yemen war

## Suspect

Crown prince and deputy prime minister of the Kingdom of Saudi Arabia

## Country of residence of suspect

Saudi Arabia

## Charges

Torture and inhuman treatment

## Developments in 2018

On 9 April 2018, while Mohammed bin Salman was in France on a personal visit, the Yemeni human rights group Legal Center for Rights and Development (LCRD) lodged a complaint against him with the French specialized unit for the prosecution of genocide, crimes against humanity, war crimes and torture within the Paris High Court (hereinafter "the specialized unit"). The complaint alleges that Mohammed bin Salman bears complicity in acts of torture and inhuman treatment committed by Saudi forces in Yemen since 2015. A judge should be designated to investigate the case.

On 24 November 2018, the Argentine authorities received a complaint from Human Rights Watch for his alleged responsibility in war crimes committed in Yemen, as well as alleged torture against Saudi citizens. Mohammed bin Salman arrived in Buenos Aires for the G20 Summit on 28 November 2018.

## Current status

Under investigation

## Facts

On 25 March 2015, an international coalition led by Saudi Arabia launched air strikes against the armed group of Houthis in Yemen, triggering a major armed conflict. For three years now, Yemen has been ravaged by a war that has already killed more than 10,000 people, half of whom are civilians.

Mohammed bin Salman was appointed Minister of Defense on 23 January 2015. One of his first acts was to launch the military campaign in Yemen along with other Arab states.

UN bodies and human rights groups have denounced the widespread violations of human rights and humanitarian law committed in Yemen. Alleged violations include deliberately targeting civilians, the use of illegal cluster-munitions, indiscriminate airstrikes and a naval blockade that deprived civilians of access to basic necessities.

The complaint alleges that certain attacks on civilian targets constitute violations of the 1984 Convention against Torture. These include the destruction of an Oxfam warehouse containing humanitarian supplies on 18 April 2015; airstrikes on a wedding ceremony on 28 September 2015, which killed 131 civilians; the 26 October 2015 attack on an MSF hospital, the GPS coordinates of which

were known to the coalition; and the bombing of a funeral hall in Sana'a on 8 October 2016, which resulted in dozens of civilian casualties.

# INVESTIGATION OPEN ON BENGHAZY SIEGE

Khalifa Haftar

## Context

Ongoing proceedings in France for torture allegedly committed in Libya between 2016 and 2017

## Suspect

Commander-in-chief of the Libyan National Army (LNA)

## Country of residence of suspect

Libya

## Charges

Torture and acts of barbarism

## Developments in 2018

While Khalifa Haftar was in France for medical reasons, two complaints for acts of torture were filed respectively on 18 and 26 April 2018 against him to the French specialized unit for the prosecution of genocide, crimes against humanity, war crimes and torture, within the Paris High Court (hereinafter "the specialized unit"). The investigation is ongoing.

## Current status

Under investigation

## Facts

In 2011, Khalifa Haftar joined the Libyan insurgency against the regime of Muammar Gaddafi and

took command of the rebel army, the "Libyan national army" (LNA).

During the spring 2014, Khalifa Haftar and the LNA launched the "Operation Dignity" to take over the city of Benghazi.

Khalifa Haftar is accused of having ordered, in October 2014, the attack of a family in Benghazi. One of the family members was allegedly arbitrarily arrested and tortured for three weeks.

Between 2016 and March 2017, the LNA is suspected of having committed crimes while occupying the city of Benghazi. Khalifa Haftar is accused of having launched a campaign of indiscriminate shelling, murders, and forced disappearances against Al-Laitti, Bu-Atni and Ganfouda neighborhoods, where many civilians had found refuge.

## Procedure

On 18 April 2018, a first complaint was filed against Khalifa Haftar before the specialized unit for acts of torture. The victim alleges that his family was killed during "Operation Dignity" in Benghazi. He also denounces that he was arbitrarily detained and tortured for three weeks.

On 26 April 2018, Ali Hamza, a Lebanese-Canadian citizen residing in Canada, launched a complaint to the Prosecutor of the specialized unit for acts of torture and barbarity. He alleges crimes committed by the ANL during the siege of Benghazi between 2016 and March 2017, during which his mother and four of his brothers and sisters lost their lives.

Khalifa Haftar returned to Libya following the filing of the complaints.

[Read more about the case](#)

# A EUROPEAN COLLABORATION: SWISS NGO SEEKS A WARLORD'S PROSECUTION IN FRANCE

Kunti K.

## Context

Ongoing proceedings in France for serious crimes under international law allegedly committed in Liberia between 1993 and 1997

## Suspect

Alleged commander in the United Liberation Movement for Democracy in Liberia (ULIMO), a rebel group fighting against Charles Taylor's National Patriotic Front of Liberia (NPFL)

## Country of residence of suspect

The Netherlands

## Charges

Crimes against humanity, including torture, use of child soldiers, murders, cannibalism

## Developments in 2018

On 23 July 2018, the Swiss NGO Civitas Maxima launched a complaint in the name of Liberian victims before the French specialized unit for the prosecution of genocide, crimes against humanity, war crimes and torture, within the Paris High Court (hereinafter "the specialized unit").

On 4 September 2018, he was arrested by the OCLCH agency – the French police unit specialized in investigating war crimes, crimes against humanity, genocide, and torture. Kunti K. was remanded in custody.

He is suspected of torture, murder, slavery, using child soldiers, and cannibalism committed between 1993 and 1997, in Liberia during the civil war.

## Current status

Indicted: remanded in custody

## Facts

Kunti K. allegedly committed crimes against humanity between 1993 and 1997 as commander of the ULIMO, during the first Liberian civil war (1989–1996).

In his capacity as ULIMO commander, Kunti K. allegedly committed murder, enslavement, torture, cannibalism, and used child soldiers.

[Read more about the case](#)

## Field notes

**"Fear has changed sides"**

"Universal jurisdiction cases have had a huge impact in Liberia. For years, any prosecution was not possible, victims could see former war lords being nominated in the government. Now they know that there is another option, that a breakthrough is possible. It triggered something in the population: every day on the radio, people are calling for war crimes trials. Fear has changed sides: it used to be on the victims' side, now it's on the perpetrators'."

**Emmanuelle Marchand, Senior Legal Counsel for the NGO Civitas Maxima**

# IS SELLING SPYING DEVICE TO AL-ASSAD'S REGIME COMPLICITY IN TORTURE?

QOSMOS

## Context

Ongoing proceedings before the French specialized unit for the prosecution of genocide, crimes against humanity, war crimes and torture, within the Paris High Court (hereinafter "the specialized unit"), for allegedly aiding and abetting crimes of torture committed in Syria since 2011

## Suspects

French companies, including QOSMOS, and their management, as accomplices to acts of torture

## Country of residence of suspects

France

## Charges

Aiding and abetting acts of torture by allegedly supplying surveillance material to the Bashar al-Assad regime in Syria

## Developments in 2018

In January 2018, the investigative judge in charge of the case notified his intention to close the investigation. Shortly afterwards, FIDH and LDH filed a brief requesting the audition of a witness, which was accepted by the judge.

## Current status

Under investigation

## Facts

The brutal crackdown led by the Syrian regime against civilians since March 2011 has led to more than 400,000 deaths, mainly of civilians, as well as innumerable arbitrary detentions, enforced disappearances, and cases of systematic torture in detention centers. In the early years of the conflict, the Bashar al-Assad regime specifically targeted human rights defenders, activists and cyber-activists. Identifying and tracking these targets was possible thanks to sophisticated communication surveillance tools, including, it is believed, technology designed by French technology company, QOSMOS. The company specializes in developing tools designed to analyze digital data in real time, enabling intelligence services to intercept live electronic communications by identifying specific key words, and to thus target and repress dissident voices.

## Procedure

On 22 July 2012, FIDH and LDH filed a request with the Paris Prosecutor (Tribunal de Grand Instance de Paris) to open an investigation into the possible supply by French companies, including QOSMOS, of surveillance material to the Syrian regime.

On 11 April 2014, the case was transferred to the specialized unit and a judicial investigation into the alleged role of QOSMOS in aiding and abetting acts of torture in Syria was opened.

In April 2015, after being questioned by the investigative judge, QOSMOS was attributed the status of "assisted witness". This status, which can be used prior to a formal indictment, may be applied to any person (including

a company) accused by a witness, or when there is some evidence that a person may have been complicit, as a perpetrator or an accomplice in committing the crimes under investigation.

In July 2015, five Syrian victims testified anonymously as witnesses in the case. All five witnesses had been identified, arrested, and tortured by the Syrian regime following surveillance of their electronic communications. They described in detail the violence they suffered in detention. For security reasons, they were not able to act as civil parties in the case (because this would have required them disclosing their identities).

[Read more about the case](#)



## DEFINITIVE SENTENCE FOR THE FORMER HEAD OF INTELLIGENCE

Pascal Simbikangwa

### Context

The Pascal Simbikangwa trial was the first trial to take place in France involving a Rwandan citizen for their role in the 1994 genocide in Rwanda.

### Suspect

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

### Country of residence of suspect

France

### Charges

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

### Developments in 2018

On 24 May 2018, the French Supreme Court (Cour de Cassation) rejected his appeal, thus definitively confirming his conviction for genocide and complicity to crimes against humanity, and 25-year prison sentence.

### Current status

Sentenced to 25 years, confirmed on appeal; definitively sentenced

### Facts

Pascal Simbikangwa who allegedly supplied weapons and other material to Hutu officers or militia, was said to be responsible for roadblocks in the capital and to have instructed and encouraged militiamen to actively participate in the crimes. On 28 October 2008, he was arrested by French Police in Mayotte for trafficking fake identity cards, under the false identity of "Safari Senyamuhara". His correct identity was discovered during his detention.

### Procedure

On 13 February 2009, the "Collectif des Parties Civiles pour le Rwanda" (CPCR) filed a criminal complaint in Mayotte.

On 1 March 2013, the Office of the Prosecutor of the French specialized unit for the prosecution of genocide, crimes against humanity, war crimes and torture within the Paris Tribunal (hereinafter "the specialized unit") requested the indictment of Pascal Simbikangwa for aiding and abetting genocide, and aiding and abetting crimes against humanity committed in Rwanda between April and July 1994.

He was indicted for these crimes on 29 March 2013.

Pascal Simbikangwa's trial opened on 4 February 2014 before the Paris Criminal Court (Cour d'Assises). The prosecutor requested a life sentence.

On 14 March 2014, the Court sentenced Pascal Simbikangwa to 25 years' imprisonment for his participation in the genocide, and for aiding and abetting crimes against humanity.

On 18 March 2014, he filed a notice of appeal. His sentence was upheld on appeal on 3 December 2016. The appeal hearings took place from 24 October to 3 December 2016. On 3 December 2016, the French Criminal Court (Cour d'Assises de Bobigny) confirmed the verdict on appeal and upheld his sentence of 25 years imprisonment for genocide and complicity in crimes against humanity. His defense lawyers appealed to the Supreme Court (Cour de Cassation).

On 24 May 2018, the Criminal Chamber of the French Supreme Court (Cour de Cassation) rejected the appeal, confirming Simbikangwa's conviction and sentence.

[Read more about the case](#)

# LIFE SENTENCE CONFIRMED AGAINST TWO MAYORS

Octavien Ngenzi and Tito Barahira

## Context

The case against Octavien Ngenzi and Tito Barahira is the second trial in France to have resulted in the conviction of Rwandan nationals for their involvement in the 1994 genocide in Rwanda.

## Suspects

Former Rwandan mayors

## Country of residence of suspects

France

## Charges

Genocide and crimes against humanity

## Developments in 2018

On 2 May 2018, their appeal trial opened before the Criminal Court in Paris (Cour d'Assises de Paris).

On 6 July 2018, the Appeal Court confirmed their convictions and life sentences issued at first instance. Both defendants have appealed to the French Supreme Court (Cour de Cassation).

## Current status

Sentenced to life imprisonment; confirmed on appeal; last recourse ongoing

## Facts

Octavien Ngenzi was the mayor of the Kabarondo district in eastern Rwanda and the local leader of a former political party called the National Republican Movement for Development and Democracy (MNRD). Tito Barahira was a former mayor of the same district and the chairman of the MRND at the commune level. Octavien Ngenzi and Tito Barahira were convicted of participating in the massacre of hundreds of Tutsis, including those who had sought refuge in a church in Kabarondo on 13 April 1994.

## Procedure

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

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

On 13 May 2014, the Office of the Prosecutor of the High Court of Paris (Tribunal de Grande Instance de Paris) sought the prosecution of Octavien Ngenzi and Tito Barahira before the Paris Criminal Trial Court. On 28 May 2014, the investigating judge referred their case to the Paris Criminal Trial Court. The defendants appealed this decision but the French Supreme

Court (Cour de Cassation) dismissed the appeal on 7 January 2015.

The trial before the Paris Criminal Trial Court opened on 10 May 2016 and lasted eight weeks, concluding on 6 July 2016 with the conviction of both Octavien Ngenzi and Tito Barahira for genocide and crimes against humanity. They were found guilty of overseeing the systematic practice of summary executions of ethnic Tutsis. Both were sentenced to life imprisonment.

On 7 July 2016, their lawyers announced their intention to appeal the conviction.

The appeal trial took place between 2 May and 6 July 2018 before the Paris Criminal Court (Cour d'Assises). The defendants' convictions and life sentences were confirmed on appeal. They have both appealed to the French Supreme Court (Cour de Cassation).

[Read more about the case](#)

# FINAL HEARINGS IN EIGHT-YEAR-LONG PROCEDURE

Claude Muhayimana

## Context

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

## Suspect

Naturalized French national originally from Rwanda

## Country of residence of suspect

France

## Charges

Complicity in crimes against humanity and genocide

## Developments in 2018

The appeal hearings against the referral decision took place on 18 October 2018 before the Investigation Chamber of the Court of Appeal in Paris (Chambre de l'instruction de la Cour d'Appel de Paris). The judgment will be delivered on 29 March 2019.

## Current status

Pending trial

## Facts

Claude Muhayimana is alleged to have driven Hutu militias to several attack locations, while he was the driver for the Kibuye Guesthouse. He was allegedly involved in the attack on the

Nyamishaba school (Kibuye district) in April 1994, and in the massacres of Tutsi civilians who had found refuge in Karongi, Gitwa and Bisesero, between April and June 1994.

He is also accused of participating in killings carried out in the Kibuye church on 17 April 1994 and in a stadium the following day. Both massacres resulted in the death of thousands of victims.

## Procedure

On 13 December 2011, the Rwandan judicial authorities issued an international arrest warrant against Claude Muhayimana for his alleged participation in the Rwandan genocide. In addition, the Rwandan authorities requested his extradition from France.

On 26 February 2014, the French Supreme Court (Cour de Cassation) ruled that Claude Muhayimana could not be extradited because Rwanda's request was based on laws passed after the alleged crimes took place.

On 9 April 2014, Claude Muhayimana was arrested in Rouen following a complaint filed in June 2013 by the "Collectif des Parties Civiles pour le Rwanda" (CPCR). A criminal investigation was launched regarding his alleged role in the genocide committed in the district of Kibuye. Claude Muhayimana was placed in pre-trial detention. On 3 April 2015, he was released and placed under judicial control.

On 9 November 2017, the investigative judge referred the case to the Paris Criminal Trial Court (Cour d'Assises de Paris) for complicity in genocide and crimes against humanity through aiding and abetting. Claude Muhayimana will be judged for his alleged participation in the Nyamishaba school attack, as well as for the massacres of Karongi, Gitwa and Bisesero, between April and June 1994. The accused appealed the referral decision.

Claude Muhayimana is also accused of taking part in the massacres at the Kiguye Church and the Gatwaro stadium the following day, where thousands of people were killed. However, the prosecutor called for the dismissal of the accusations with regard to these two events as Claude Muhayimana presented an alibi, proving he was not there during the events.

[Read more about the case](#)

# GENOCIDE FUGITIVE ARRESTED IN CAMEROON

Philippe Hategekimana

## Context

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

## Suspect

Former police officer; dual French and Rwandese citizenship

## Country of residence of suspect

France

## Charges

Genocide

## Developments in 2018

He was arrested in Yaoundé, Cameroon, on 30 March 2018. France has requested his extradition for the purpose of trying him before a French court.

## Current status

Detained; awaiting extradition

## Facts

Philippe Hategekimana is suspected of having participated in the genocide against Tutsis in Rwanda 1994. He was allegedly involved in multiple atrocities in Nyanza and the surrounding villages in April 1994. He is accused of having assassinated a Tutsi mayor and of having participated in several mass

murders. After the genocide, Philippe Hategekimana fled to France where he obtained citizenship.

## Procedure

In June 2015, the "Collectif des Parties Civiles pour le Rwanda" (CPCR) filed a complaint against Philippe Hategekimana before the Paris High Court (Tribunal de grande instance de Paris). The CPCR alleged he was involved in committing atrocities during the Rwandan genocide in 1994. In September 2015, an investigation was opened.

The investigating judge from the French specialized unit for the prosecution of genocide, crimes against humanity, war crimes and torture, within the Paris High Court (herein after "the specialized unit"), issued an international arrest warrant.

[Read more about the case](#)

# LAST CHANCE OF JUSTICE FOR A PRIEST'S VICTIMS

Wenceslas Munyeshyaka

## Context

Pending proceedings in France against a Rwandan priest for crimes committed during the 1994 genocide in Rwanda

## Suspect

Former head of the Sainte-Famille parish in Kigali

## Country of residence of suspect

France

## Charges

Complicity in genocide, crimes against humanity and torture

## Developments in 2018

Following a hearing in January 2018, on 21 June 2018, the Investigation Chamber of the Court of Appeal in Paris (Chambre de l'instruction de la Cour d'Appel de Paris) confirmed the dismissal of the case against Wenceslas Munyeshyaka.

The civil parties appealed against the dismissal of the case to the French Supreme Court (Cour de Cassation).

## Current status

Case dismissed; last recourse ongoing

## Facts

Wenceslas Munyeshyaka was the former head of the Sainte-Famille parish in Kigali. He is accused of being involved in the mass executions that took place on 17 and 22 April 1994 in the Sainte-Famille parish. He is suspected of repeatedly participating in the selection of Tutsi refugees to be murdered, of leaving them to die of thirst, of reporting to the authorities those who tried to help them, and of raping several women. After leaving Rwanda, he became a priest in France.

## Procedure before the International Criminal Tribunal for Rwanda

On 20 July 2005, the International Criminal Tribunal for Rwanda (ICTR) indicted Wenceslas Munyeshyaka for genocide and crimes against humanity including rape, extermination and murder. In 2007, the ICTR issued an arrest warrant requesting that the French government arrest him. Finally, on 20 November 2007, the ICTR referred the case to the French authorities.

## Procedure in France

On 12 July 1995, a complaint was filed against Wenceslas Munyeshyaka by several French associations (the "Collectif des Parties Civiles pour le Rwanda", Survie, LICRA), as well as individual plaintiffs. On 25 July 1995, an investigation was opened into genocide, crimes against humanity, and torture. The FIDH and its French member organization, the Ligue des Droits de l'Homme (LDH), joined the case as civil parties in 2005.

On 8 June 2004, almost 10 years after the investigation opened, the European Court of Human Rights condemned France for exceeding reasonable time requirements.

In parallel, Wenceslas Munyeshyaka was tried in absentia in Rwanda and sentenced to life imprisonment in 2006.

Proceedings resumed when the case was transferred in January 2012 to the French specialized unit for the prosecution of genocide, crimes against humanity, war crimes and torture within the Paris High Court (hereinafter "the specialized unit").

On 19 August 2015, the prosecutor of the specialized unit requested a dismissal of the case against Wenceslas Munyeshyaka. On 2 October 2015, the investigative judges dismissed the proceedings against him. The civil parties appealed this decision.

On 8 November 2017, the Investigation Chamber of the Court of Appeal in Paris postponed the appeal hearing to 31 January 2018, following the dismissal of the case on 2 October 2015 by the investigative judges, in order to review the petitions submitted by the civil parties.

On 22 June 2018, the Investigation Chamber of the Court of Appeal in Paris issued a decision upholding the dismissal of the case. The civil parties have appealed against this decision to the French Supreme Court (Cour de Cassation).

[Read more about the case](#)

## Field notes

### **“Genocide was not criminalized in Rwanda”**

“France has many cases relating to the Rwandan genocide. In the five years my Office has existed, we have worked mostly on those cases. France does not extradite Rwandan nationals because genocide was not criminalized at the time. Instead, it opens trials in its own courts – in a way, doing the job for the Rwandan authorities.”

**Eric Emeraux, Head of the French Central Office to fight crimes against humanity, genocides and war crimes**

# TWO MORE UPCOMING GENOCIDE TRIALS

Laurent Bucyibaruta

## Context

Pending proceedings in France against a Rwandan prefect for crimes committed during the 1994 genocide in Rwanda

## Suspect

Former Gikongoro prefect and head of the prefectural committee of the Interahamwe movement (the youth organization of the National Republican Movement for Democracy and Development – NRMD)

## Country of residence of suspect

France

## Charges

Genocide and crimes against humanity

## Developments in 2018

On 4 October 2018, the prosecutor issued its final submission (requisitions) requesting that Laurent Bucyibaruta be sent to criminal trial on charges of genocide and crimes against humanity. On 24 December 2018, an investigative judge referred the case to the Paris Criminal Trial Court (Cour d'Assises de Paris) for complicity in genocide and crimes against humanity. Laurent Bucyibaruta will be judged for his alleged complicity in massive and systematic executions of civilians.

## Current status

Pending trial

## Facts

Laurent Bucyibaruta, as prefect of Gikonrogo, allegedly delivered public speeches urging the Hutu population to attack and kill the Tutsis on many occasions between December 1993 and April 1994.

He is also accused of having ordered massacres of Tutsis and moderate Hutus in various locations in the Gikongoro Prefecture.

Laurent Bucyibaruta is also accused of having ordered the rape and murder of women and girls in various locations.

## Procedure before the International Criminal Tribunal for Rwanda

The International Criminal Tribunal for Rwanda (ICTR) indicted Laurent Bucyibaruta on 16 June 2005 for incitement to genocide, genocide, and complicity in genocide, as well as crimes against humanity, including extermination, murder, and rape.

In August 2007, the ICTR issued an arrest warrant requesting that the French government detain him. Finally, on 20 November 2007, the ICTR referred the case to the French authorities.

## Procedure in France

On 5 January 2000, the FIDH and its member organization in France, the Ligue des Droits de l'Homme (LDH), lodged a complaint against Laurent Bucyibaruta for his alleged participation in the genocide of 1994. The Office of the Prosecutor of Troyes questioned and detained him on 30

May 2000. He was released on 20 December 2000.

He was arrested again on 5 September 2007 and placed under judicial supervision after the issuance of an arrest warrant by the ICTR in August 2007.

On 9 May 2017, the investigating judge within the Paris High Court informed the parties that he had completed his investigation.

On 4 October 2018, the prosecutor issued its final submission (requisitions), requesting that Bucyibaruta be sent to criminal trial on charges of genocide and crimes against humanity.

## [Read more about the case](#)

Sosthène Munyemana

## Context

Pending proceedings in France for serious international crimes committed during the 1994 genocide in Rwanda

## Suspect

Gynecologist at the University Hospital of Butare

## Country of residence of suspect

France

## Charges

Genocide and crime against humanity

## Developments in 2018

On 11 May 2018, the prosecutor of the French specialized unit for the prosecution of genocide, crimes against humanity, war crimes and torture within the Paris High Court (hereinafter “the specialized unit”), issued his final submission. He alleged that Sosthène Munyemana organized a hunt against Tutsis, detained some of them in inhumane conditions, and sent them to killing sites.

On 13 June 2018, FIDH, jointly with LDH and CPCR, filed their final submission as civil parties, requesting that Sosthène Munyemana be sent to trial.

## Current status

Investigation closed; pending trial

## Facts

On 17 April 1994, in a public speech, Sosthène Munyemana allegedly incited Hutus to exterminate the Tutsi community of Tumba. From 21 April 1994, he is also accused of taking part in several massacres of Tutsis in and around Tumba. He is reported to have distributed ammunition and compiled lists of Tutsis to be eliminated. He allegedly led the night patrols and specified who should be abducted.

## Procedure

On 18 October 1995, the “Collectif Girondin pour le Rwanda”, the FIDH and the NGO Survie lodged a criminal complaint against Sosthène Munyemana for his alleged participation in genocide. In 2001, the “Collectif des Parties Civiles pour le Rwanda” (CPCR) joined the proceedings as a civil party.

In 2006, Rwanda requested his extradition from France. However, on 7 October 2010, the Investigation

Chamber of the Bordeaux Court of Appeal denied this request.

In October 2008, Sosthène Munyemana was found guilty in absentia by the Butare’s Gacaca Court. He was sentenced to life imprisonment.

On 14 December 2011, Sosthène Munyemana was indicted in the French proceedings and placed under judicial supervision.

On 9 May 2017, the investigating judge within the Paris High Court informed the parties that he had completed his investigation.

On 13 June 2018, FIDH, jointly with LDH and CPCR, filed their final submission as civil parties, requesting that Sosthène Munyemana be sent to trial.

[Read more about the case](#)

## OTHER ONGOING CASES

- The Guantanamo torture case: investigation ongoing
- Teodorin Obiang: appeal ongoing
- AMESYS and Nexa Technologies cases: investigation ongoing
- Norbert Dabira: investigation ongoing
- Mauritanian complaint: case dismissed
- Laurent Serubuga: investigation ongoing



# GERMANY

## STRUCTURAL INVESTIGATIONS AGAINST THE SYRIAN GOVERNMENT

### Context

Ongoing structural investigation of the German Federal Public Prosecutor into crimes under international law allegedly committed by the Syrian government and related institutions since 2011

### Suspects

Unknown

### Country of residence of suspects

Syria and others

### Charges

Crimes against humanity and war crimes

### Developments in 2018

The Office of the German Federal Public Prosecutor continued to hear witness testimonies and to receive evidence in form of documents, pictures, videos, etc. Out of the structural investigation, once there is sufficient evidence against individual suspects, person-specific investigation is initiated.

### Current status

Ongoing investigation

### Facts

The investigation focuses on international crimes committed by the Syrian regime since 2011, including crimes committed by four Syrian intelligence services. In the context of the Syrian uprising, the intelligence services allegedly played the key role in counteracting the civil movement by persecuting organizers and participants of demonstrations, arresting and detaining persons perceived as a threat to the regime, and interrogating them under torture. For these purposes, the intelligence services operate numerous branches and detention facilities across the country. The crimes committed in those detention facilities include systematic torture, sexual violence, inhuman treatment, killings, and exposure to inhuman prison conditions.

### Procedure

In September 2011, the German Federal Prosecutor opened a structural investigation into war crimes and crimes against humanity committed in Syria since 2011. This investigation is aimed at gathering evidence of crimes committed by the Syrian government, and was particularly advanced by the release of photographs taken by the former employee of the Syrian military police, codenamed 'Caesar'. He handed over more than 53,000 photographs taken in Syria between May 2011 and August 2013, showing over 6,000 corpses of detainees with visible marks of torture and inhuman treatment. The structural investigation has resulted thus far in investigations against at least 10 individuals involved in crimes committed by the Syrian government.

On 1 March 2017, the European Center for Constitutional and Human Rights (ECCHR) together with seven Syrian victims, the Syrian Center for Legal Researches and Studies (SCLRS), and the Syrian Center for Media and Freedom of Expression (SCM), filed a



criminal complaint against six high-level officials of the Syrian Military Intelligence Directorate with the Office of the German Federal Public Prosecutor. The complaint addresses crimes against humanity and war crimes committed in detention centers controlled by the Syrian Military Intelligence Directorate, in particular in the Branches 235, 215, and 227. The high-ranking officials are suspected of bearing criminal responsibility as superior commanders, indirect perpetrators of or accomplices in unlawful arrests, detention, torture, sexual violence, and other inhuman acts committed in the detention facilities of those branches between May 2011 and July 2015. At the beginning of May 2017, the complainants were heard by the prosecutor.

On 21 September 2017, the Caesar File Support Group, together with ECCHR, filed a criminal complaint with the Office of the German Federal Public Prosecutor against senior officials of the Syrian intelligence services and the military police, for crimes against humanity and war crimes committed in Syrian detention facilities; complementing the evidence provided in the complaint of 1 March 2017. A representative of the Caesar File Support Group provided the prosecutor with a set of high-resolution images of deceased and tortured detainees.

On 6 November 2017, 11 Syrian torture victims, supported by ECCHR, SCLSR and SCM, filed two more criminal complaints with the Office of the German Federal Public Prosecutor. The complaints denounce crimes against humanity and war crimes allegedly committed in various detention facilities of five branches of the Air Force Intelligence Directorate in Damascus, Aleppo and Hama, as well as in the Saydnaya military prison.

The complaints target high-ranking officials of the National Security Office and Air Force Intelligence Directorate, among them the head of the Air Force Intelligence Directorate, Jamil Hassan, as well as high-ranking Syrian military officials.

In June 2018, a person-specific investigation against Jamil Hassan, head of the Syrian Air Force Intelligence Directorate, by the German Federal Prosecutor resulted in an arrest warrant announced by the German Federal Court of Justice. The suspect is accused of having committed war crimes and crimes against humanity.

[Read more about the case](#)

## Zoom in

### **France and Germany join forces against impunity in Syria**

France and Germany are conducting a structural investigation on war crimes and crimes against humanity by armed groups and Syrian officials. The recent cross-border arrest warrants against the very top of al-Assad's regime are first victories and a new hope for justice and accountability for victims.

These milestones demonstrate that extraterritorial justice has an essential role to play in pursuing those responsible for the gravest crimes perpetrated against civilians in Syria since March 2011. It is now clear that perpetrators, regardless of their rank, will face justice. Jamil Hassan, Ali Mamluk and Abdel Salam Faraj Mahmoud will not be able to travel freely anymore. The three arrest warrants create an obligation on other states to extradite the accused to France or, in the case of Jamil Hassan, France or Germany.

# PROSECUTING MASS ABUSE IN SYRIAN DETENTION FACILITIES

Jamil Hassan

## Context

Ongoing person-specific investigation by the German Federal Public Prosecutor for war crimes and crimes against humanity committed in Syria between 2011 and 2013

## Suspect

Jamil Hassan, head of the Syrian Air Force Intelligence Directorate

## Country of residence of suspect

Syria

## Charges

Crimes against humanity and war crimes

## Developments in 2018

On 8 June 2018, the German Federal Court of Justice (Bundesgerichtshof – BGH) issued an arrest warrant against Jamil Hassan, head of the Air Force Intelligence Directorate, for alleged crimes against humanity and war crimes, upon a request of the German Federal Prosecutor. He is accused of having killed, tortured, caused severe physical or mental harm to numerous detainees of the Air Force Intelligence Directorate between 2011 and 2013, in form of direct perpetration, co-perpetration, or as a military commander.

In October 2018, French judges also issued an arrest warrant against Jamil Hassan, as well as Ali Mamluk and Abdel Salam Mahmoud.

## Current status

Under investigation; arrest warrant is in force

## Facts

The Syrian Air Force Intelligence Directorate is regarded as the most powerful and most brutal of Syria's four intelligence services. Similar to other intelligence services, since 2011, the Air Force Intelligence Directorate is tasked with the surveillance, arrest, detention, and killing of all regime critics. For these purposes, the intelligence agency has numerous detention facilities across Syria, which are reported to be centers of systematic torture, sexual violence, and inhuman treatment of detainees. The inhuman conditions of detention, involving extreme hunger and an almost complete lack of medical care in the detention centers, allegedly resulted in critical medical states and deaths of detainees.

Jamil Hassan has headed the Air Force Intelligence Directorate since 2009. Under his direct supervision, hundreds of detainees were allegedly subjected to torture, inhuman treatment, and extrajudicial killings.

## Procedure

See *Structural investigations against the Syrian government*.

[Read more about the case](#)

# STRUCTURAL INVESTIGATIONS AGAINST NON-STATE ARMED GROUPS IN SYRIA

## Context

Ongoing structural investigation in Germany for serious crimes under international law committed by non-state armed groups in Syria and Iraq since 2014

## Suspects

Unknown

## Country of residence of suspects

Syria, Iraq, Germany, elsewhere

## Charges

Genocide, war crimes, including abduction and sexual enslavement

## Developments in 2018

The Office of the German Federal Public Prosecutor continued to hear witness testimonies and to receive evidence in form of documents, pictures, videos, etc.

In 2018, the structural investigation resulted in opening of further person-specific investigations and led to new arrest warrants, indictments and convictions, which are presented in detail in the case profiles below.

## Current status

Under investigation; arrest warrant against a high-ranking commander of ISIS in force

## Facts

The investigation concerns crimes committed by non-state armed groups in Syria and Iraq, including extrajudicial killings, torture, inhuman treatment, abduction for the purpose of blackmail, and other war crimes.

A part of the investigation is focused on the attack by the Islamic State (IS) against the region around the town of Sinjar in northwestern Iraq in August 2014. The Yazidi minority was reportedly subjected to genocide, mass execution, widespread kidnappings, and sexual enslavement in Syria and Iraq.

## Procedure

A second structural investigation concerning crimes committed in Syria was opened by the German prosecutorial authorities in August 2014 for the purposes of gathering evidence of international crimes committed by the terrorist group Islamic State (IS) and other non-state armed groups operating in Syria and Iraq.

The structural investigation has resulted thus far in investigations against 30 specific individuals involved in crimes committed by the non-state armed groups, which has led to indictment and further prosecution on several occasions.

In December 2016, the Supreme Court of Germany issued an arrest warrant against a high-ranking IS commander allegedly responsible for genocide and war crimes, including abduction and sexual enslavement of Yazidi women in Syria and Iraq.

# FOUR SIBLINGS SUSPECTED OF WAR CRIMES

Mustafa K., Abdullah K.,  
Sultan K. and Ahmed K.

## Context

Ongoing proceedings in Germany against four Syrian brothers for serious crimes under international law allegedly committed in Syria since November 2012

## Suspects

Four Syrian brothers, former members of Jabhat-al Nusra

## Country of residence of suspects

Germany

## Charges

War crimes, membership in a terrorist group

## Developments in 2018

On 25 January 2018 Mustafa K., Sultan K. and Ahmed K. were indicted for committing war crimes by allegedly forcing civilians to leave the city of Ras al-Ayn and plundering their possessions. They were also charged with membership in a terrorist organization.

The trial before the Higher District Court of Celle started on 20 April 2018. On 13 December 2018 war crimes charges were dropped against Mustafa K. and Sultan K., while terrorism charges were upheld. Ahmed K. was acquitted of all charges.

The investigation against Abdullah K. is still ongoing.

## Current status

Ahmed K., Sultan K. and Mustafa K. are on trial; Abdullah K. is still under investigation.

## Facts

In November 2012, the four accused allegedly joined Jabhat al-Nusra in Syria and fought against Syrian government troops in the city of Ras al-Ayn in northern Syria. Mustafa K., Sultan K., and other Jabhat al-Nusra members reportedly captured an official of the regime of Bashar al-Assad and forced his family to leave the city while plundering their possessions. The governmental official was found dead later.

In addition, alongside other Jabhat al-Nusra members, Ahmed K. is accused of threatening and thereby forcing the Kurdish population to leave the city. Furthermore, Sultan K. and Abdullah K. allegedly took part in the hostilities against the Kurdish People's Protection Units.

## Procedure

On 12 June 2017, the four brothers named Mustafa K., Abdullah K., Sultan K., and Ahmed K. were arrested in northern Germany.

Ahmed K., Sultan K., and Mustafa K. have been indicted on 25 January 2018, while Abdullah K. was not formally charged yet. Proceedings before the Higher District Court of Celle started on 20 April 2018 and were scheduled to be held until 21 December 2018.

# JABHAT AL-NUSRA FIGHTERS ON TRIAL FOR KILLINGS IN RAQQA

Abdul Jawad A.K., Abdulrahman A. A. and Abdalfatah H. A.

## Context

Ongoing proceedings in Germany for alleged war crimes committed in Syria in March 2013

## Suspects

Syrian nationals, former members of a combat unit belonging to Jabhat al-Nusra

## Country of residence of suspects

Germany

## Charges

War crimes, murder, membership in a terrorist group

## Developments in 2018

The accused are in custody while the trial is ongoing.

## Current status

On trial

## Facts

Abdul Jawad A.K., founding member of a combat unit belonging to Jabhat al-Nusra, and Abdulrahman A. A. and Abdalfatah H. A., who joined the unit at a later stage, have allegedly taken part in hostilities during the capture

of Raqqa. In March 2013, the accused, together with other members of his combat unit, reportedly executed 36 Syrian civil servants previously taken prisoner during the capture of Raqqa. Prior to the execution, the civil servant had been sentenced to capital punishment by a Shariah court.

## Procedure

On 1 June 2016 Abdul Jawad A. K. was arrested by German authorities. Later, on 2 March 2017, Abdulrahman A.A. and Abdalfatah H. A. were arrested in Dusseldorf. They were formally charged with membership in a terrorist organization, murder, and war crimes, for their alleged involvement in the killing of 36 Syrian civil servants in Syria in March 2013.

[Read more about the case](#)

# ABDUCTION, BLACKMAIL AND TORTURE RESULT IN LIFE SENTENCE

Ibrahim Al F.

## Context

Completed proceedings in Germany regarding war crimes committed in Syria in 2012

## Suspect

Syrian national, alleged former member of Ghurabaa al-Sham, a part of the Free Syrian Army

## Country of residence of suspect

Germany

## Charges

War crimes, torture and abduction for the purpose of blackmail

## Developments in 2018

On 24 September 2018, the accused was found guilty by the Higher Regional Court of Dusseldorf and sentenced to life imprisonment.

## Current status

Sentenced to life imprisonment

## Facts

Ibrahim Al F. was accused of having been the head of the militia Ghurabaa al-Sham, which has been fighting the Syrian government forces as part of the Free Syrian Army in the Syrian

civil war since summer 2012. Ibrahim Al F. and over 150 fighters under his command allegedly controlled a district in northern Aleppo and frequently looted the surrounding areas. According to the charges, the accused participated in abduction of two civilians who resisted the looting, and their subsequent one-month detention. Together with his subordinates, Ibrahim Al F. is accused of having personally tortured the detained residents, who were released after the ransom was paid. Under his command, his subordinates allegedly abducted at least six other civilians and subjected them to severe torture, which led to death of at least one person.

## Procedure

On 6 April 2016, German authorities arrested Ibrahim Al F. in the Westphalia region. He was formally charged with war crimes and abduction for the purpose of blackmail, at the Higher Regional Court of Dusseldorf on 27 October 2016. His trial started on 22 May 2017. On 24 September 2018, the accused was found guilty by the Higher Regional Court of Dusseldorf and sentenced to life imprisonment.

[Read more about the case](#)

# IDLIB WAR CRIMES SUSPECT IN CUSTODY

Mohamad K.

## Context

Ongoing proceedings in Germany for war crimes committed in Syria

war crimes in Idlib, Syria. Jointly with two other members of the FSA, the suspect allegedly captured and detained two members of an armed group fighting on the side of the Syrian government for an unknown time period between January 2012 and January 2013. To punish the detained fighters, Mohamad K. allegedly tortured the almost unclothed men by beating them severely and repeatedly with a cable-like object. The torture was filmed by another FSA member.

## Suspect

Syrian national

## Country of residence of suspect

Germany

## Charges

War crimes

## Developments in 2018

On 10 December 2018, Mohamad K. was indicted for war crimes. The Stuttgart Higher Regional Court has not yet scheduled the trial.

On 20 June 2018, the suspect was arrested on suspicion of having jointly committed war crimes, namely cruel and inhuman treatment of civilians, in the province of Idlib, northern Syria. Investigating judge ordered his pre-trial detention.

## Current status

Indicted; in custody

## Facts

Mohamad K. is a former member of the Free Syrian Army (FSA) and is accused of having committed



# FORMAL INDICTMENT OF TWO ISIS SUSPECTS

Raad A. and Abbas R.

of a high-ranking Iraqi civil servant captured by ISIS. Raad. A., together with other ISIS members, allegedly escorted the captive to the execution site and guarded him until he was executed. Abbas R. is also accused of having insulted and humiliated the captive.

## Context

Ongoing proceedings in Germany for war crimes committed in Iraq in 2014

## Suspects

Iraqi citizens, alleged members of ISIS

## Country of residence of suspects

Germany

## Charges

War crimes and membership in a terrorist organization

## Developments in 2018

On 9 August 2018, Raad A. and Abbas R. were indicted for war crimes and membership in a terrorist organization. The Berlin Higher Regional Court has not yet scheduled the trial.

## Current status

Indicted; in custody

## Facts

Raad A. and Abbas R. allegedly joined ISIS in June 2014 in Mosul. In the same month, Abbas R. was present during the execution of two Shiite women by ISIS fighters and assisted them with the transportation of the bodies.

In October 2014, Raad A. and Abbas R. allegedly participated in the execution

## Procedure

Raad A. and Abbas R. have been in custody since 24 May 2017, following their arrest in connection with another investigation. On 9 August 2018, they were indicted for membership in a terrorist organization and war crimes.

# SENTENCE LENGTHENED FOR A UN EMPLOYEE KIDNAPPER

Suliman Al-S.

## Context

Closed proceedings in Germany for war crimes committed in Syria in 2013

## Suspect

Syrian national

## Country of residence of suspect

Germany

## Charges

Aiding and abetting abduction for the purpose of blackmail, attempted robbery by blackmail in three cases, aggravated deprivation of liberty and war crimes against humanitarian organizations

## Developments in 2018

The appeal was ongoing in 2018. On 23 January 2019, the Court of appeal lengthened his sentence to four years and nine months.

## Current status

Sentenced

## Facts

On 17 February 2013, the Canadian national Carl Campeau, who had been working as a legal adviser to UN forces (UNDOF) in the Golan Heights, was

abducted by the terrorist organization Jabhat al-Nusra in the Damascus area. Suliman Al-S. allegedly participated in his abduction by keeping the victim under surveillance between March and June 2013. Carl Campeau was held captive for eight months until he managed to escape in October 2013. While in detention, his captors issued death threats against him and tried unsuccessfully to obtain a ransom for his release.

## Procedure

On 21 January 2016, Suliman Al-S. was arrested in Stuttgart on suspicion of war crimes committed during the Syrian civil war.

On 27 June 2016, he was charged for war crimes, abduction for the purpose of blackmail, unlawful imprisonment, attempted blackmail, use of force or threats against life and membership in a terrorist organization abroad.

The trial began on 20 October 2016. On 20 September 2017, the Higher Regional Court of Stuttgart found Suliman Al-S. guilty of aiding and abetting the kidnapping of an employee of the United Nations in Syria in February 2013.

He was sentenced to three years and six months in prison. The charges of membership in a terrorist organization were dropped. The prosecutor appealed the judgment regarding the length of the sentence.

[Read more about the case](#)

# WAR CRIMES CHARGES UNDER SCRUTINY

Ignace Murwanashyaka and  
Straton Musoni

## Context

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

## Suspects

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

## Country of residence of suspects

Germany; Straton Musoni still lives in Germany, but with the order to leave the country

## Charges

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

## Developments in 2018

The appeal hearing took place on 31 October 2018 before the Federal Court of Justice (Bundesgerichtshof). On 20 December 2018, the appeal of Straton Musoni was rejected. Yet, the Federal Court of Justice partially overturned the conviction of Ignace Murwanashyaka on the ground of aiding and abetting war crimes. The Federal Court requested the higher regional Court in Stuttgart to re-examine the issue.

## Current status

Sentenced to prison for 8 and 13 years; under appeal. Despite his appeal, Ignace Murwanashyaka is still in detention in Germany; Straton Musoni is not in custody since 28 September 2015.

Stuttgart regional council has reportedly asked Straton Musoni on 12 February 2018 to leave Germany. A return to Germany is forbidden to him for nine years.

## Facts

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

## Procedure

Ignace Murwanashyaka and Straton Musoni were arrested in Germany on 17 November 2009, following the issuance of an arrest warrant by the German Federal Court of Justice on 16 November 2009.

Their trial before the Higher Regional Court in Stuttgart began on 4 May 2011 and ended after 320 days of hearings, on 28 September 2015. During the proceedings, 11 of the 16 initial charges of war crimes and crimes against humanity were dropped.

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

The judgment was appealed. The appeal hearing took place on 31 October 2018 before the Federal Court of Justice (Bundesgerichtshof).

[Read more about the case](#)

# TALIBAN INDICTED AND HELD IN CUSTODY

Omaid N.

## Context

Ongoing proceedings in Germany for war crimes and murder, allegedly committed in Afghanistan in 2013

## Suspect

Afghan citizen; alleged member of the Taliban

## Country of residence of suspect

Germany

## Charges

War crimes, murder, membership in a terrorist organization

## Developments in 2018

On 18 January 2018, Omaid N. was indicted by the German Federal Prosecutor for war crimes and murder committed in 2013. He was also accused of membership in a terrorist organization. Omaid N. remains in custody awaiting his trial.

## Current status

In custody pending trial

## Facts

Omaid N. allegedly joined the Taliban in early 2013 and helped them to transport weapons on at least one occasion.

He is accused of having killed an Afghan policeman, together with other members of his Taliban unit. The victim had been captured and tied up to a tree by the unit commanders. Omaid N. allegedly hit him in the head with wooden slats. Acting upon an order of one of the unit commanders, he allegedly shot him several times with a semi-automatic rifle. The policeman is assumed to have died either from the beating or from the subsequent gunshots.

## Procedure

On 19 May 2017, Omaid N. was arrested by German police and remanded in custody on suspicion of belonging to the Taliban, and having committed war crimes and murder. He is awaiting trial in custody.

[Read more about the case](#)

# AFGHANI ARRESTED FOR INTERROGATING DETAINEES UNDER TORTURE

Ahmad Zaheer D.

## Context

Ongoing proceedings in Germany for war crimes committed in Afghanistan

## Suspect

Afghan national, member of the Afghan military forces

## Country of residence of suspect

Germany

## Charges

War crimes

## Developments in 2018

On 25 October 2018, the suspect was arrested by German authorities and remains in custody, while the investigation is ongoing.

## Current status

Ongoing investigation

## Facts

Ahmad Zaheer D. was a member of the Afghan military forces and was reportedly responsible for interrogation of captured fighters on at least one occasion. Together with another military official, he allegedly interrogated three detained fighters and severely beat them by hand and a plastic tube.

# SHEDDING A LIGHT ON CIA SECRET DETENTION CENTERS

Gina Haspel and others

## Context

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

## Suspects

Gina Haspel, CIA Director since May 2018, and other US officials

## Country of residence of suspects

United States of America

## Charges

Torture, other related crimes

## Developments in 2018

The US Senate confirmed on 17 May 2018 the nomination of Gina Haspel as CIA Director.

In September 2018, the criminal complaint filed against Gina Haspel was joined by Abd al-Rahim al-Nashiri, who is currently detained at Guantánamo and who was tortured at the CIA “black site” in Thailand during the period that Gina Haspel is said to have served as Chief of Base at the prison.

## Current status

Monitoring procedure (preliminary examination)

## Facts

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

## Procedure

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

ECCHR submitted further information on 28 July 2015 regarding witnesses and suspects with respect to CIA torture, and on 28 June 2016 with respect to torture at Guantanamo and Abu Ghraib.

On 6 June 2017, the European Center for Constitutional and Human Rights (ECCHR) submitted to the Office of the German Federal Public Prosecutor evidence regarding Gina Haspel’s role in the torture of detainees in a secret CIA detention center in Thailand in 2002. A follow-up submission was filed by ECCHR on 10 September 2018 with new information that had come to light after Gina Haspel was nominated as CIA Director.

The complaint was also joined by Guantánamo detainee Abd al-Rahim al-Nashiri, who was tortured at the CIA “black site” in Thailand during the period in which Gina Haspel is reported to have served as Chief of Base at the prison.

[Read more about the case](#)

# WERE GAZA ATTACKS BY ISRAELI DEFENSE FORCES DISPROPORTIONATE?

Members of Israeli Defense Forces

## Context

Preliminary investigation in Germany against members of the Israeli Defense Forces for alleged war crimes committed in Gaza during the Operation "Protective Edge" between 8 July and 26 August 2014.

## Suspects

Members of the Israeli Defense Forces responsible for the attack on Al-Salam building in Gaza on 21 July 2014

## Country of residence of suspects

Israel

## Charges

War crimes

## Developments in 2018

In August 2018, the European Center for Constitutional and Human Rights (ECCHR), together with its partner organization, the Palestinian Centre for Human Rights (PCHR) submitted to the German Federal Public Prosecutor further evidence to substantiate the criminal complaint filed in 2014.

## Current status

Under pre-investigation

## Facts

On 21 July 2014, Israeli armed forces killed members of the German-Palestinian Kilani family – a father, mother, and their five children, aged 4 to 12 years old.

The attack took place in the course of the military operation "Protective Edge", during which Israeli armed forces conducted air strikes in the Gaza strip between 8 July and 26 August 2014. Civilian facilities and houses were destroyed and heavily damaged, and hundreds of civilians were killed.

Due to a warning of the planned Israeli airstrikes, the Kilani family fled their home in Beit Lahia to Al-Salam tower. Two days later, on 21 July 2014, rockets hit the building, killing all the family. Israel stated that the actual target of the attack was a commander of the Palestinian Islamic Jihad.

## Procedure

In December 2014, the ECCHR and the PCHR filed a criminal complaint with the German Federal Public Prosecutor on behalf of Ramsis Kilani, who lost his father and half-siblings in the strike. The submission provided evidence including photos, videos, and witness statements. He denounced the alleged disproportionality of the Israeli attack on Al-Salam building.

At the same time, PCHR filed a criminal complaint in Israel and submitted an appeal against the military prosecutor's decision not to investigate the Kilani case.

[Read more about the case](#)

## OTHER ONGOING CASES

- Abdulmalk A. and Mousa H. A.: investigation ongoing
- Harry Sarfo: investigation ongoing

# GHANA

## CIVIL SOCIETY COMES TOGETHER AGAINST FORMER DICTATOR

Yahya Jammeh

### Context

Campaign to bring former Gambian president Yahya Jammeh and his accomplices to justice

### Suspect

Former Gambian president (1994–2016)

### Country of residence of suspect

Equatorial Guinea

### Charges

Complicity in enforced disappearances and extrajudicial executions

### Current status

Pending investigation

### Facts

An investigation conducted by Human Rights Watch and TRIAL International revealed that a paramilitary unit controlled by then-Gambian president Yahya Jammeh allegedly summarily executed more than 50 West African migrants (including some 44 Ghanaians) in July 2005. The migrants, who were bound for Europe but were suspected of being mercenaries, were murdered after having been detained by Yahya Jammeh's closest deputies in the army, navy, and police forces. The "Junglers", a notorious unit that took its orders directly from Yahya

Jammeh, is alleged to have carried out the killings.

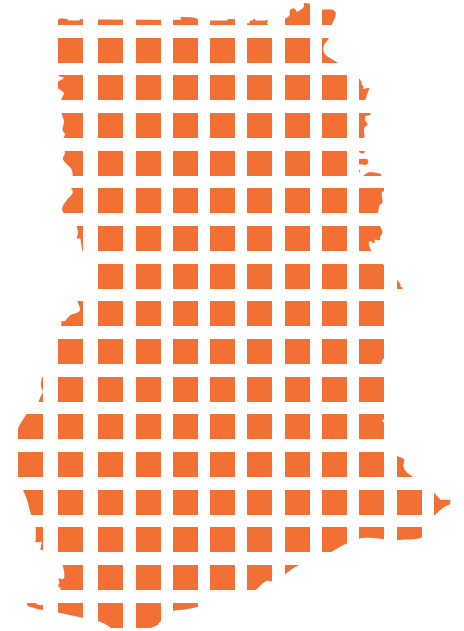
### Procedure

In May 2018, the families of the victims and a coalition of local and international NGOs asked Ghanaian authorities to open an investigation against Yahya Jammeh.

The report and a legal brief about the case were also transmitted to Ghanaian authorities by TRIAL International and Human Rights Watch.

The Ghanaian Inspector General of Police and later the government, through its Minister of Information, stated that "the government had tasked the Ministry of Foreign Affairs and the Attorney-General's Department to study the request" and "advise the government on the way forward." According to the group, Ghana is competent to investigate and prosecute the crime on the basis of universal jurisdiction, part of Ghanaian legal framework, notably for cases of enforced disappearances.

[Read more about the case](#)





# ITALY

## DOES SELLING ARMS TO SAUDI ARABIA CONSTITUTE COMPLICITY IN WAR CRIMES?

RWM Italia

### Context

Ongoing investigation against directors of RWM Italia S.p.A., an Italian arms manufacturer, and against Italian government officials who authorized arms exports to Saudi Arabia, and for complicity in murder and bodily injury

### Suspects

Current and former CEOs and directors of RWM Italia S.p.A. (a subsidiary of German-based Rheinmetall AG), and Italian government officials from Italy's National Authority for the Export of Armament (UAMA); suspected individuals are German and Italian

### Country of residence of suspects

Italy

### Charges

In relation to the company's directors and government officials, complicity through gross negligence in murder and bodily injury.

In addition, the complaint requests an investigation into the alleged abuse of power by the government officials. The International Criminal Court Statute has not been implemented in the Italian Criminal Code and, as a consequence, it was not possible to request an investigation into complicity in war crimes.

### Developments in 2018

On 17 April 2018, the joint criminal complaint by the European Center for Constitutional and Human Rights (ECCHR), Yemen-based Mwatana Organization for Human Rights, and Italian-based Rete Italiana per Il Disarmo, in cooperation with Osservatorio Permanente sulle Armi Leggere e le Politiche di Sicurezza e Difesa (O.P.A.L.), was filed with the public prosecutor in Rome. The prosecutor has opened an investigation, which is still ongoing.

### Current status

Under investigation

### Facts

The complaint denounces an air strike launched by the Saudi-led coalition in Deir Al-Hajari in Yemen on 8 October 2016, which allegedly killed six civilians. At the site of the airstrike, a suspension lug was found, manufactured by RWM Italia S.p.A. Further remnants indicate the use of a guided bomb. Testimonies of eye witnesses confirm that no military object was in the vicinity of the house that was targeted by the airstrike.

The complaint alleges the criminal liability of RWM Italia S.p.A.'s directors and of UAMA officials for the export of at least a part of the deadly weapon used in the strike, to Saudi Arabia or another member state of the Saudi-led military coalition.

Despite major warnings that the coalition warfare in Yemen causes significant loss of civilian life and breaches of international humanitarian law, exports of bombs and other weapons to coalition member states had not stopped and are still taking place. In Italy, the competent Italian Authority for the



Export of Armament authorizes these exports of armaments manufactured in Italy.

[Read more about the case](#)

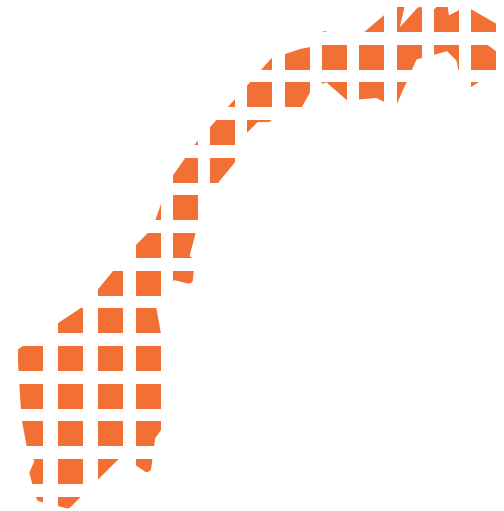
# NORWAY

## PAST CRIMES CATCH UP WITH NORWEGIAN CITIZEN

Name withheld

### Facts

The suspect arrived in Norway as a refugee through the UN Refugee Agency (UNHCR) in 2006. He became a Norwegian citizen in 2014.



### Context

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

### Suspect

Dual Norwegian and Rwandese citizenship

### Country of residence of suspect

Norway

### Charges

Genocide

### Developments in 2018

On 7 June 2018, a Norwegian of Rwandan origin was arrested by Norway's national criminal investigation service (Kripos) and charged with genocide. He allegedly participated in the killing of a large number of people, mainly Tutsi, during the 1994 Rwandan genocide.

### Current status

Under investigation

# SENEGAL

## WITNESS UNDER THREAT IN A HUMAN RIGHTS DEFENDER MURDER CASE

Paul Mwilambwe

### Context

Ongoing proceedings against Paul Mwilambwe for the alleged murder of Floribert Chebeya on 2 June 2010 in Kinshasa and the disappearance of his associate Fidèle Bazana

### Suspect

Major in the Congo National Police (Police Nationale Congolaise – PNC)

### Country of residence of suspect

Senegal

### Charges

Enforced disappearances and murder of human rights defender Floribert Chebeya and his associate Fidèle Bazana

### Developments in 2018

The investigation is still ongoing in Senegal. New evidence submitted by the civil parties is being examined by the investigative judge.

### Current status

Under investigation

### Facts

Floribert Chebeya was found dead in his car in Kinshasa on 2 June 2010. His associate, Fidèle Bazana, was reported missing. The night before, they had both gone to the PNC headquarters, which was the last time they were both seen alive.

### Procedure

On 2 June 2014, the International Federation for Human Rights (FIDH) and families of the victims filed a criminal complaint as civil parties before Senegalese courts. The plaintiffs testified before the judge investigating the case in August 2014.

Paul Mwilambwe was indicted on 8 January 2015 and placed under judicial supervision. In June 2015, Guylain Bazana, the son of Fidèle Bazana, was auditioned by the investigative judge as a civil party.

Parallel proceedings were launched in DRC at the time of the events. Five PNC officers were convicted, four of whom were sentenced to death and the fifth to life imprisonment.

In 2015, the Kinshasa military High Court acquitted on appeal the four defendants sentenced to death and reduced the life sentence of the fifth defendant to 15 years in prison. High-level suspects including Paul Mwilambwe were not targeted by these proceedings.

In April 2017, lawyers representing the civil parties in the Senegalese investigation filed a brief with the investigative judge in Senegal requesting that several pieces of evidence from the DRC proceedings be added to the case file.

[Read more about the case](#)



# SPAIN

## EXTRADITED SALVADORIAN COLONEL AWAITS TRIAL

Inocente Orlando Montano Morales

### Context

Ongoing proceedings for serious crimes under international law committed in El Salvador during the 1980–1992 internal armed conflict

### Suspect

Officer in the military, vice-minister of public security (from 1 June 1989 to 2 March 1992) in El Salvador

### Country of residence of suspect

United States of America

### Charges

Crimes against humanity, murder and terrorism

### Developments in 2018

On 12 July 2018, the Criminal Chamber of the Spanish National Court (Audiencia Nacional, Sala de lo Penal) partially upheld the appeal filed by the accused, eliminating from the indictment the alleged crime against humanity that the investigating judge had excluded from the procedure in 2014. The indictment only referred to the eight murders committed with a terrorist intent.

Inocente Orlando Montano is currently detained in pre-trial detention before his trial.

### Current status

Extradited and detained in Spain

### Facts

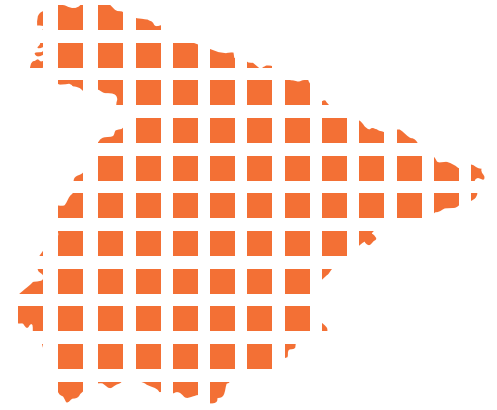
From 1980 to 1992, El Salvador was divided by an internal armed conflict between the rebel Farabundo Martí National Liberation Front (FMLN) and the government, led by the Nationalist Republican Alliance (ARENA). In this context, on 16 November 1989, six Jesuit priests, their housekeeper, and her 16-year-old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

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

### Procedure

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

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



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

On 5 January 2016, a judge from the Eastern District Court of North Carolina granted the request to extradite Inocente Orlando Montano to Spain. On 1 April 2016, Inocente Orlando Montano's lawyers filed a petition for a writ of habeas corpus to reverse the extradition order.

On 21 August 2017, the US Eastern District Court of North Carolina dismissed Inocente Orlando Montano's petition for a writ of habeas corpus, finding no irregularity in the extradition proceedings and no basis upon which the petitioner's request for release could be granted.

On 15 November 2017, the Supreme Court dismissed Inocente Orlando Montano's last request to halt his extradition to Spain.

On 29 November 2017, Inocente Orlando Montano was extradited to Spain and placed in police custody. He is accused of actively participating in planning the murder of the six Jesuits.

The case has also been reopened in El Salvador.

[Read more about the case](#)

# GUATEMALAN FORMER MINISTER CLEARED OF ALL CHARGES

Carlos Vielmann Montes

## Context

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

## Suspect

Former Guatemalan minister of Domestic Affairs; dual Spanish and Guatemalan citizenship

## Country of residence of suspect

Spain

## Charges

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

## Developments in 2018

On 30 July 2018, the Supreme Court confirmed Carlos Vielmann's acquittal.

## Current status

Acquitted

## Facts

In October 2005, 19 prisoners escaped from the Infiernito prison, a high security prison in Guatemala City. Carlos Vielmann and Erwin Sperisen, who was appointed Chief of the National Civil Police (NCP) by Carlos Vielmann, allegedly devised a plan aimed at finding and executing the escaped prisoners. This was known as the Gavilán Plan. Nine prisoners were captured and three allegedly executed as a result.

In September 2006, under Carlos Vielmann's alleged direct command, Erwin Sperisen, along with 3,000 NCP officers and members of the army, intervened in the Pavón prison, a high security prison controlled by prisoners, to restore state authority. This intervention ended in the arrest and the alleged extrajudicial execution of seven prisoners.

## Procedure

In 2010, Carlos Vielmann was indicted for establishing, along with Erwin Sperisen, a parastatal criminal structure within the Ministry of Domestic Affairs, which ordered, authorized, and supported the murder of seven prisoners in the Pavón prison and three in the Infiernito prison.

In February 2012, Guatemalan authorities dropped their request for the extradition of Carlos Vielmann.

On 4 November 2013, Carlos Vielmann was brought on charges of extrajudicial executions before the Spanish National Court (Audiencia Nacional, Sala de lo penal).

Carlos Vielmann's trial took place in January and February 2017. On 9 January 2017, the prosecution requested 160 years' imprisonment and compensation of 300,000 euros for each of the victims.

On 6 March 2017, the Spanish National Court (Audiencia Nacional, Sala de lo penal) acquitted Carlos Vielmann of the 10 extrajudicial executions that were perpetrated in 2005 and 2006, considering that it was not proven beyond reasonable doubt that he had ordered, authorized, supported, or otherwise acquiesced to the capture and murder of the victims, or that he had any knowledge of the circumstances leading to their deaths.

The judgment was appealed before the Supreme Court by the Human Rights Association of Spain (APDHE).

[Read more about the case](#)

# SYRIAN CASE CALLS SPAIN'S JURISDICTION INTO QUESTION

Names withheld

## Context

Ongoing proceedings in Spain for alleged serious crimes under international law committed in Syria since 2011

## Suspects

Nine high-level Syrian members of the security and intelligence forces

## Country of residence of suspects

Unknown

## Charges

Terrorism, enforced disappearances and torture

## Developments in 2018

In February 2018, the law firm "Guernica 37 International Justice Chambers" requested the Spanish Supreme Court to admit their complaint and to order the reopening of the investigation.

They also asked the Constitutional Court to examine the constitutionality of the current law on universal jurisdiction in Spain.

In parallel, they seized the Court of Justice of the European Union to know if the current definition of a victim under the Spanish legislation is in accordance with European regulations, and if the European

directives equate the concepts of direct and indirect victim in order to hold legitimacy to exercise jurisdiction and give competence to the Spanish courts.

## Current status

Closed; recourse ongoing to the Spanish Supreme Court

## Facts

On 17 February 2013, Abdulmuemen Alhaj Hamdo, a Syrian national born in Idleb, disappeared while covering his daily delivery shift as a professional transporter between the municipality of Mashta el Helou and the city of Homs in western Syria.

In 2015, Abdulmuemen Alhaj Hamdo's eldest son recognized the body of his father on several photographs taken by a forensic photographer codenamed Caesar, who deserted from the Syrian army. Caesar made public over 50,000 photos evidencing various crimes committed in detention centers of the Syrian government since 2013.

## Procedure

On 1 February 2017, Amal Hag Hamdo Anfalis filed a complaint with the Spanish National Court (Audiencia Nacional) against nine high-level military and government officials of the Syrian Arab Republic, for alleged acts of terrorism and enforced disappearance committed against her brother, Abdulmuemen Alhaj Hamdo.

The complaint is directed against: Ali Mamluk, head of the Syrian National Security Bureau (NCB); Abdul-Fattah Qudsiyeh, deputy head of the NCB; Mohammad Dib Zeitun, head of the General Syrian Security Directorate; Jamil Hasan, head of the Syrian Air Force Intelligence Directorate; Faruq Al-Sharaa, former vice president; Mohamed Said Bekheitan, deputy head of ruling Baath Party; Mohammad Al-Hajj Ali, major general; General Jalal

Al-Hayek; Colonel Suleiman Al-Yusuf; and another high-level official of the Syrian government.

On 27 March 2017, Judge Eloy Velasco Núñez declared the complaint admissible and opened an investigation. Judge Eloy Velasco requested that Eurojust ascertain whether there were other countries of the European Union investigating international crimes committed by the administration of the Syrian Arab Republic. He also ordered that testimonies be obtained from the victim, witnesses, and expert witnesses, and that rogatory letters be sent. On 30 March 2017, the Spanish public prosecutor appealed this decision.

On 27 July 2017, the Spanish National Court decided to dismiss the case after the public prosecutor argued it lacked jurisdiction to judge the crimes committed.

The law firm "Guernica37 International Justice Chambers" appealed the decision before the Appeals Chamber of the Spanish National Court. On 15 December 2017, the appeal was rejected.

## OTHER ONGOING CASES

- The Jesuit murder case: investigation reopened in San Salvador in 17 April 2018 after it was suspended in 2000
- The Guantanamo case: appeal of the closing of the investigation is ongoing

# SWEDEN

## REMOTE WITNESSES CONTRIBUTE TO GENOCIDE CONDEMNATION

Theodore Tabaro

### Context

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

### Suspect

Dual Swedish and Rwandese citizenship

### Country of residence of suspect

Sweden

### Charges

Genocide; war crimes

### Developments in 2018

On 27 June 2018, Theodore Tabaro was sentenced to life in prison by the District Court of Stockholm. He was found guilty of murder, attempted murder and kidnapping of members of the Tutsi minority, with the aim to completely or partially destroy the group. He was not found guilty of the rape charges that could not be proven.

He was also sentenced to pay a compensation of between 25,000 and 102,000 Kronor to 16 victims (approximately 2,800 to 11,600 US dollars).

His appeal trial opened on 10 September 2018. The appeal's court went to Rwanda to see the crime scenes and the court building from where the Rwandese victims and witnesses were heard through videoconference.

The prosecutor's closing argument is planned to take place in late February 2019.

### Current status

Ongoing trial

### Facts

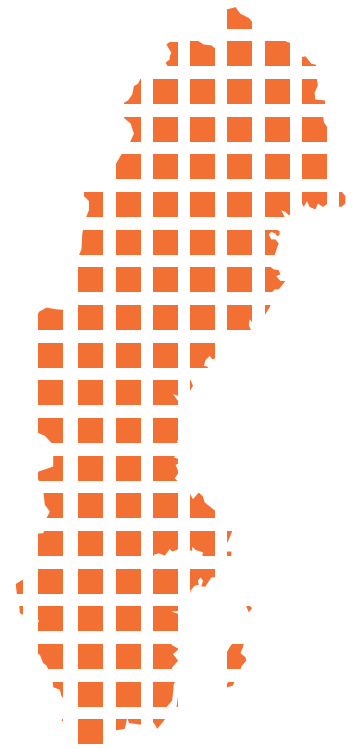
Theodore Tabaro was allegedly involved in the 1994 Rwandan genocide against ethnic Tutsi, in which 800,000 people were killed. The alleged crimes took place between 9 April and 31 May 1994, in the Winteko, Nyakanyinya and Mibirizi sectors, in Southwestern Rwanda.

From 9 April 1994, Theodore Tabaro, with other Hutu militia, allegedly took part in the massacre of numerous civilians and the raping of women and young girls in Winteko. On 13 April 1994, he allegedly participated in the Nyakanyinya school attack, where several hundred people were killed or seriously injured by grenades, gunfire, and knives. He is also accused of taking part in the Mibirizi church attack, several days later.

He arrived in Sweden in 1998 and became a Swedish citizen in 2006.

### Procedure

On 25 October 2016, Theodore Tabaro was arrested in his home in Orebro on suspicion of involvement in the 1994 Rwandan genocide. The accused was subsequently remanded in custody by the Stockholm District Court. The war crimes unit of the Swedish police have led the investigation headed by a Senior Public Prosecutor.



On 6 September 2017, Theodore Tabaro was charged with murder, attempted murder, rapes, and kidnappings against the Tutsi minority. He is accused of having organised, recruited, incited, and even executed massacres against Tutsis.

On 26 September 2017, the District Court of Stockholm travelled to Rwanda to examine some of the witnesses and victims, and to see the alleged crime scenes. Some 30 other survivors and family members of the victims were among the plaintiffs.

His trial opened on 27 September 2017 before a Special Court in Stockholm.

[Read more about the case](#)

# FORCIBLE DISPLACEMENTS FOR PROFIT? OIL COMPANY ON THE AUTHORITIES' RADAR

Lundin Petroleum - Alex Schneider  
and others

## Context

Ongoing investigation in Sweden into complicity in international crimes committed in Sudan (now South Sudan) between 1997 and 2003

## Suspects

Alex Schneider, Swiss national and CEO of Lundin Petroleum; and Ian Lundin, Swedish national and chairman of Lundin Petroleum

## Country of residence of suspects

Sweden and Switzerland

## Charges

Aiding and abetting war crimes and crimes against humanity

## Developments in 2018

On 18 October 2018, the Swedish Government authorized the prosecution authority to proceed with an indictment in this case. Pursuant to Swedish law, the prosecution of a foreign national for crimes committed abroad requires the governmental authorization.

Prosecutors are reportedly in the process of finalizing the investigation and a formal indictment should be issued soon.

## Current status

Under investigation

## Facts

The second Sudanese civil war was fought by the Government of Sudan, the Sudanese People's Liberation Army (SPLA), and other armed groups from 1983 to 2005.

According to a report published by a coalition of NGOs, the European Coalition on Oil in Sudan, in 1997, Lundin Petroleum (then Lundin Oil) signed a contract with the Government for the exploration and production of oil in a war zone in southern Sudan, the Block 5A concession, which was not at that time under full Government control.

A civil war broke out between the Government and SPLA-supported armed groups for the control of the Block 5A.

In this capacity, the company allegedly paid the Sudanese army and non-state armed groups to forcibly displace the local population from oil-rich areas. Almost 200,000 civilians were forcedly displaced, and thousands died. Other crimes allegedly carried out to clear the land include unlawful killings, rape, enslavement, torture, indiscriminate attacks, pillage, and the recruitment of child soldiers.

## Procedure

In 2010, the European Coalition on Oil in Sudan published a report indicating that Lundin Petroleum may have been complicit in international crimes committed in Sudan between 1997 and 2003. The report was submitted to the Swedish International Public Prosecution Office, which opened a

preliminary investigation the same year. Alex Schneider, who was head of Exploration during the relevant time period, and Ian Lundin, became formal suspects after being questioned by prosecutors in 2016.

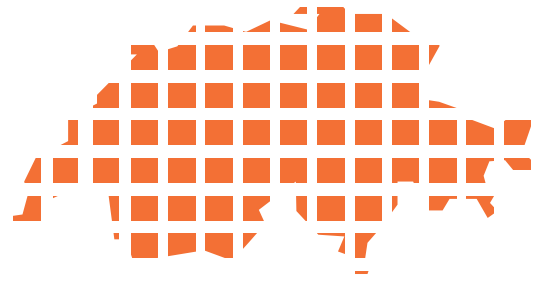
If convicted of aiding and abetting, Ian Lundin and Alex Schneider face sentences of up to life imprisonment. Both deny the charges.

## OTHER ONGOING CASES

- Raed Abdulkareem: Sentence confirmed on appeal, judgment became final



# SWITZERLAND



## COURT ORDERS THE ATTORNEY GENERAL TO INVESTIGATE ALGERIAN GENERAL

Khaled Nezzar

### Context

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

### Suspect

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

### Country of residence of suspect

Algeria

### Charges

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

### Developments in 2018

On 30 May 2018, the Federal Criminal Court annulled the dismissal of the case by the Office of the Attorney General. The Court recognized the existence of an armed conflict in Algeria in the early 90s and found that Khaled Nezzar was aware of the

massive crimes that were committed under his order. The investigation should go on.

In August 2018, a letter signed by the Special rapporteurs on torture and on the independence of judges and lawyers to Switzerland was published by the United Nations. It heavily criticized Switzerland for alleged lack of independence and political interferences concerning the cases against Khaled Nezzar and Rifaat al-Assad.

### Current status

Investigation ongoing

### Facts

From 14 January 1992 to 31 January 1994, as Minister of Defense and member of the HCS, Khaled Nezzar allegedly incited, authorized, and ordered military and public agents to commit acts of torture, murders, extrajudicial killings, enforced disappearances, and other grave violations of international humanitarian law. The dirty war caused the death of around 200,000 persons, and the disappearance of some 20,000 others.

### Procedure

Three torture victims filed a first complaint against Khaled Nezzar in France in 2001, but he managed to leave the country before judicial action could be initiated. In October 2011, TRIAL International filed a new criminal complaint as he was travelling to Geneva. Two victims of torture joined the procedure. He was arrested in October 2011 and interrogated by the Swiss Attorney General. He appealed the procedure before the Federal Criminal Court. In a decision from 25 July 2012, Khaled Nezzar's appeal was rejected:

the court considered that immunities could not be invoked for international crimes.

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

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

[Read more about the case](#)

## Zoom in

### **Proving the existence of an armed conflict in Algeria**

Overturning a lower-court decision, the Federal Criminal Court found that a non-international armed conflict was going on in Algeria between January 1992 and January 1994.

It considered that the crimes alleged were committed in the context of this armed conflict and as such, the accused could face charges of war crimes. The Court considered that the General Khaled Nezzar was aware of the massive crimes that were committed under his command. The Court also asserted that one of the main parties to the conflict, the Groupe Islamique Armé (GIA), fulfilled the conditions of an armed group.

Moreover, the Federal Criminal Court considered that under certain conditions, crimes against humanity can be prosecuted in Switzerland, even though they were committed before the entry into force of the relevant provisions in 2011.

# DETENTION EXTENDED FOR FORMER GAMBIAN MINISTER UNDER INVESTIGATION

Ousman Sonko

## Context

Ongoing proceedings in Switzerland against former Gambian minister of the interior under the Yahya Jammeh regime for alleged serious crimes under international law

## Suspect

Former inspector general of police (2005 to 2006) and Minister of the Interior (2006 to 2016)

## Country of residence of suspect

The Gambia

## Charges

Crimes against humanity, and torture

## Developments in 2018

His detention was renewed several times during the year in order to allow the Office of the Attorney to interview witnesses and victims. The investigation is still ongoing.

## Current status

Detained pending trial

## Facts

The Gambia was under the control of Yahya Jammeh from 1994 to 2016. For more than two decades, all opposition was repressed: torture, extrajudicial executions and enforced disappearances were widespread.

After the re-election of Yahya Jammeh in September 2006, Ousman Sonko was appointed minister of interior. He held this position until September 2016, when he was dismissed from office and left The Gambia.

## Procedure

Alerted to Ousman Sonko's presence on Swiss territory, TRIAL International lodged a criminal complaint with the Bernese prosecuting authorities on 25 January 2017. The former Gambian minister was arrested the following day at the immigration center of Lyss (canton of Bern), where he had filed for asylum. He was charged with crimes against humanity.

Nine Gambian victims filed a complaint. Six of them were heard by the attorney general, as well as several witnesses.

On 9 October 2017, the Swiss Federal Supreme Court confirmed the seizure of Ousman Sonko's assets. They are worth approximately USD 15,000.

His detention was extended for three months twice by the Court of Coercive Measures of the canton of Bern (on 2 May 2017, on 31 July 2017 and then on 1 November 2017). In 2018, his detention was extended twice for six months by the Court of Coercive Measures (on 29 January 2018 and then on 30 July 2018).

[Read more about the case](#)

## Field notes

**“In spite of decade-long abuse, some victims are opening up for the first time”**

“Since Ousman Sonko's arrest, the Gambian authorities have been very willing to collaborate with TRIAL International. This has facilitated our access to the field, my colleagues and myself have travelled there over six times to meet survivors. It is sobering that, in spite of decade-long abuse, some of them are opening up for the first time.”

**Emeline Escafit, Legal Advisor at TRIAL International**

# INVESTIGATIONS AT A STANDSTILL AGAINST THE “BUTCHER OF HAMA”

Rifaat al-Assad

## Context

Ongoing proceedings in Switzerland against the former head of the Defense Brigades in Syria for alleged war crimes committed in Hama in 1982

## Suspect

Brother of the former Syrian President Hafez al-Assad and uncle of the current President Bashar al-Assad; former head of the Defense Companies, Syria’s elite commando troops, from 1971 to 1984

## Country of residence of suspect

Various

## Charges

War crimes allegedly committed in Hama in 1982

## Developments in 2018

The federal Court dismissed the denial of justice allegations, considering that the extensive delay could be explained by the complexity of the case.

A survivor of the Hama massacre was interviewed in June 2018 under condition of anonymity.

The federal prosecutor in charge of the case first refused to grant anonymity

to two other victims, even though their families were still present in Syria. Then the federal prosecutor decided to dismiss part of their complaints concerning the Tadmor prison massacre, where one thousand detainees were allegedly massacred by Rifaat-al-Assad troops, stating that the suspect was not present on the Swiss territory when the complaint was filed. On 17 September 2018, the victims appealed this dismissal.

The court confirmed the decision, however, saying that Swiss prosecuting authorities are allowed to open an investigation when there is information that the suspect will be present in the near future.

In August 2018, a letter signed by the special rapporteurs on torture and on the independence of judges and lawyers to Switzerland was published by the United Nations. It heavily criticized Switzerland for alleged lack of independence and political interferences concerning the cases against Khaled Nezzar and Rifaat al-Assad.

## Current status

Under investigation

## Facts

On 27 June 1980, the Defense Companies, commanded by Rifaat al-Assad, attacked the Tadmor prison. More than 1,000 detainees were massacred in their cells.

Rifaat al-Assad, as the commander of the Defense Companies, is also suspected of participating in the massacre of several thousand people in Hama during the civil war in Syria from 1979 to 1982.

In February 1982, opponents of the regime took up arms in Hama. As retaliation, the Syrian armed forces, including the Defense Companies, attacked the city. The civilian population was trapped in Hama

for almost a month. The estimated number of civilian casualties ranges from 10,000 to 40,000 people, depending on the sources.

## Procedure

In November 2013, after being informed that Rifaat al-Assad was in Switzerland, TRIAL International lodged a complaint with the Office of the Attorney General of Switzerland regarding the massacre of Hama. A criminal investigation for war crimes was opened in December 2013. In August 2014, a victim joined the proceedings.

In September 2015, Rifaat al-Assad returned to Geneva. TRIAL International and the victim asked the Swiss authorities to arrest him. After the Office of the Attorney General refused to proceed with his arrest, the victim filed a motion for provisional measures before the Federal Criminal Court. Two days later, the Office of the Attorney General was ordered to audition Rifaat al-Assad.

In 2016 and 2017, TRIAL International filed several more complaints. It also brought to the case ample evidence and a list of witnesses ready to testify. As the proceedings continued, six more victims joined the case.

On 25 September 2017, a collective of lawyers revealed the existence of the criminal investigation pending in Switzerland, since 2013, against Rifaat al-Assad. Four years after the opening of the investigation, they denounced a denial of justice from the Office of the Attorney General.

[Read more about the case](#)

# THIRD (AND FINAL?) SENTENCE FOR HEAD OF GUATELAN POLICE

Erwin Sperisen

## Context

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

## Suspect

The head of National Civilian Police (NCP) of Guatemala from 2004 to 2007; he has dual Swiss and Guatemalan citizenship

## Country of residence of suspect

Switzerland

## Charges

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

## Developments in 2018

Erwin Sperisen's new trial took place in April 2018 in Geneva. The public prosecutor requested a life sentence for his alleged participation in 2006 to the assassination of seven detainees in the Pavón prison. Incidentally, the prosecutor requested a 15-year sentence for Erwin Sperisen's alleged complicity in these murders. The Defense pleaded for his acquittal.

On 27 April 2018, Erwin Sperisen was sentenced to a 15-year sentence for his complicity in the 2006 murders. He appealed the judgment to the Supreme Court.

## Current status

Pending decision of the Supreme Court

## Facts

In October 2005, 19 prisoners escaped from El Infiernito, a high security prison in Guatemala City. Erwin Sperisen allegedly set up a plan aimed at finding and executing the escaped prisoners; this was known as the Gavilan Plan. Nine prisoners were captured and three allegedly executed as a result.

In September 2006, Erwin Sperisen, along with 3,000 NCP officers and members of the army, intervened in the Pavón prison, a high security prison controlled by prisoners, to restore State authority. This intervention ended in the arrest and the alleged extrajudicial execution of seven prisoners.

## Procedure

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

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

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

Arguing that his right to a fair trial had been violated, Erwin Sperisen lodged an appeal against the conviction.

On 29 June 2017, the Swiss Federal Court overturned the judgment of the Criminal Chamber of the Geneva Court of Appeal and ordered Erwin Sperisen's retrial. The Federal judges recognized the existence of extrajudicial executions committed by a commando composed of police forces. Yet they considered that Erwin Sperisen should have been confronted with several witnesses.

On 20 September 2017, the Swiss Federal Court allowed the release of Erwin Sperisen, pending his retrial. On 25 September 2017, he was released and placed under house arrest.

On 11 October 2017, Erwin Sperisen filed a new motion requesting the recusal of the Judge Cambi Favre-Bulle, the presiding judge of the Criminal Chamber of the Geneva Court of Appeal and Revision. On 3 November 2017, his motion was rejected. Erwin Sperisen appealed this decision to the Federal Tribunal.

[Read more about the case](#)

## OTHER ONGOING CASES

- Alieu Kosiah (Liberia): investigation ongoing
- Ali Bin Fadhul Al-Buainain (Bahrain): investigation ongoing
- Nait-Liman case: the European Court of Human Rights dismissed the case on 15 March 2018

# THE NETHERLANDS

## ETHIOPIAN “RED TERROR” SUSPECT APPEALS HIS CONVICTION

Eshetu Alemu

### Context

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

### Suspect

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

### Country of residence of suspect

The Netherlands

### Charges

War crimes, including arbitrary detention, inhuman treatment, torture, and murder of alleged opponents to the regime

### Developments in 2018

Eshetu Alemu appealed his conviction on 3 January 2018. On 23 April 2018, a first pre-trial hearing took place before The Hague appeals court. At the defense’s request, on 19 November 2018, the court agreed to hear a dozen witnesses in Ethiopia. An investigative judge will travel to Ethiopia, together with the defense counsel and prosecutors, to hear those witnesses.

### Current status

Sentenced to life in prison; retrial ongoing

### Facts

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

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

In 1990, he fled to The Netherlands as an asylum seeker and became a Dutch citizen in 1998.

### Procedure in Ethiopia

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

### Procedure in The Netherlands

Eshetu Alemu was arrested in The Netherlands in September 2015. In September 2016, 15 Ethiopian witnesses residing in the United States of America and Canada were questioned by a Dutch judge and a prosecutor.



Eshetu Alemu pleaded not guilty to all charges. His trial was supposed to start on 21 November 2016 in The Hague. However, it was postponed until 30 October 2017 following his decision to change lawyer.

On 15 December 2017, Eshetu Alemu was found guilty of war crimes, including arbitrary detention, inhuman treatment, torture, and murders. He was sentenced to life in prison.

[Read more about the case](#)

# LIBERIAN “BLOOD TIMBER” BUSINESSMAN AWAITING EXTRADITION

Guus Van Kouwenhoven

## Context

Ongoing proceedings against a Dutch national for alleged war crimes committed during the second Liberian civil war (1999–2003)

## Suspect

Dutch national, director of operations of the Oriental Timber Company (OTC), and owner of the Royal Timber Company (RTC), operating in Liberia

## Country of residence of suspect

The Netherlands

## Charges

Complicity in war crimes, supplying arms and ammunition in violation of weapons embargoes

## Developments in 2018

Guus Van Kouwenhoven’s extradition hearings in South Africa were postponed several times in 2018 for medical reasons. The last hearing took place in October.

On 26 June 2018, the Advocate General advised the Supreme Court to uphold the appeal court’s judgment, and confirm his conviction for complicity in war crimes committed in Liberia and involvement in arms trafficking for Charles Taylor.

On 18 December 2018, the Supreme Court upheld his conviction for aiding and abetting war crimes. The judgment is now final.

## Current status

Sentenced

## Facts

Whilst managing the largest timber operation in Liberia, Guus Van Kouwenhoven facilitated the importation of weapons for Charles Taylor, thereby contravening UN Security Council resolutions. These weapons were supplied to militias and used to carry out numerous massacres.

Guus Van Kouwenhoven allegedly made available trucks, drivers, and facilities for the transportation and storage of weapons, as well as armed personnel to Charles Taylor’s troops.

## Procedure

On 18 March 2005, Guus Van Kouwenhoven was arrested in Rotterdam. He was charged with delivering arms to Liberia, involvement in war crimes committed in that country, and breaching the embargo decreed by the United Nations with respect to Liberia.

His trial began on 24 April 2006 in The Hague. On 7 June 2006, the Dutch Court acquitted Guus Van Kouwenhoven of war crimes due to a lack of evidence. He was, however, sentenced to an eight-year prison term for breaking the UN arms embargo against Liberia. Both sides filed an appeal.

On 10 March 2008, the Dutch Court of Appeal overturned the conviction and acquitted him of all charges due to a lack of evidence.

On 20 April 2010, the Supreme Court of The Netherlands (de Hoge Raad) overturned the decision of

the Court of Appeal. The Supreme Court considered that the appeal judges wrongly rejected a prosecution request to hear the testimonies of two new witnesses, and ordered a retrial.

In December 2016, Guus Van Kouwenhoven fled to South Africa.

Guus Van Kouwenhoven’s appeal hearings began on 6 February 2017 before the Court of Appeal of Den Bosch. On 10 February 2017, the prosecution requested a 20-year prison sentence.

On 21 April 2017, the Court of Appeal of Den Bosch sentenced Guus Van Kouwenhoven in absentia to 19 years’ imprisonment for complicity in war crimes committed in Liberia, and for his involvement in arms trafficking for Charles Taylor. The Court of Appeal considered that by providing weapons, personnel, and equipment to the armed conflict, Guus Van Kouwenhoven consciously accepted the probability that war crimes and/or crimes against humanity would be committed.

On 8 December 2017, Guus Van Kouwenhoven was arrested in South Africa on a Dutch warrant. The Netherlands has requested his extradition.

[Read more about the case](#)



## Field notes

### **“We found a death list by miracle”**

“In Afghanistan, many people write their own biography and print a few hundred copies, selling them on the market place. Going through one of them, one of our investigators found one referring to the prison where our suspect worked. When he brought it to a translator, he realized the pot of gold he had come across. The book held copies of transport orders to and from this prison, in other words, top-quality incriminating material!

There was also the death list: it was handed over by a former UN worker, changed hands many times, and came into the possession of a social worker... who turned out to have brought it back to Austria in her personal archives. One of our witnesses happened to know that she had the list, so the police went there, and she simply handed us copies of that list.”

**Thijs Berger, Public  
Prosecutor in The  
Netherlands**

# THE UNITED KINGDOM

## LIBERIAN AND SWISS NGOS JOIN FORCES AGAINST EX-FIRST LADY

Agnes Reeves Taylor

### Context

Ongoing proceedings for war crimes allegedly committed during the first Liberian civil war (1989–1996). The Agnes Reeves Taylor case is the fourth arrest by a Western country of a suspect of war crimes allegedly committed during the first Liberian civil war. Liberia's former president, Charles Taylor, was sentenced on 30 May 2012 by the Special Court for Sierra Leone to 50 years' imprisonment (confirmed on appeal on 26 September 2013), for crimes he committed during the Sierra Leone civil war in the 1990s. However, he was not prosecuted for the crimes committed in Liberia by his troops, the National Patriotic Front of Liberia (NPFL).

### Suspect

Ex-wife of former Liberian president Charles Taylor

### Country of residence of suspect

United Kingdom

### Charges

Torture, conspiracy to commit torture, and intentionally inflicting severe pain or suffering in the performance of official duties

### Development in 2018

Her trial was scheduled to start in October 2018, but was postponed until January 2019.

### Current status

Trial pending

### Facts

Agnes Reeves Taylor is accused of having ordered and carried out torture in Gbarnga, the headquarters of Charles Taylor's National Patriotic Front; and in Gborplay, between 23 December 1989 and 1 January 1991, during the first Liberian civil war.

### Procedure

On 1 June 2017, Agnes Reeves Taylor was arrested at her residence in East London by the Metropolitan Police, based on information provided by the NGOs Civitas Maxima and its Liberian sister organization, the Global Justice and Research Project (GJRP).

On 2 June 2017, she was charged with torture and infliction of severe pain or suffering for her alleged involvement with Charles Taylor's rebel group, the NPFL, during the first Liberian civil war. She was charged with two counts of torture committed in Gbarnga, in central Liberia, and one count of torture committed in Gborplay, in the northeast. She allegedly allowed the rape of seven women at the headquarters of Charles Taylor's rebels.

On 11 August 2017, Westminster Magistrates' Court rejected her request for provisional release on bail.

On 19 October 2018, she entered a plea of not guilty to eight charges.

[Read more about the case](#)



# “SPECIAL MISSION IMMUNITY” CONFIRMED FOR EGYPTIAN OFFICIAL

Lt. General Mahmoud Hegazy

## Context

Judicial review proceedings concerning the decision of the Metropolitan Police not to arrest Egyptian official, Lt. General Mahmoud Hegazy, in connection with torture allegations

## Suspect

Lt. General Mahmoud Hegazy

## Country of residence of suspect

Egypt

## Charges

Torture

## Developments in 2018

On 19 July 2018, the Court of Appeal upheld the High Court’s judgment, considering that special mission immunity was a rule of customary international law, and that the Metropolitan Police’s refusal to arrest Lt. General Hegazy had been lawful.

## Current status

Case dismissed; under judicial review

## Facts

In August 2013, Egyptian security forces attacked a protest in support of ex-President Morsi in Rab’a al-

Adawiya Square, in Cairo. More than 817 demonstrators, including women and children, were killed during the event, and numerous acts of torture are alleged to have occurred.

## Procedure

The Freedom and Justice Party (FJP) learned that Lt. General Hegazy, director of the Egyptian Military Intelligence Service in 2013, would be visiting the United Kingdom in September 2015. The FJP requested that the Metropolitan Police arrest him during his visit.

The Metropolitan Police refused on the grounds that the United Kingdom’s Foreign and Commonwealth Office had granted him special mission immunity. Lt. General Hegazy subsequently left the country.

In 2016, four claimants – including the FJP, former ministers of the FJP government, and a British surgeon who worked in emergency field hospitals in Egypt – submitted an application for judicial review of the decision not to arrest Lt. General Hegazy. REDRESS and Amnesty International intervened in the proceedings.

On 5 August 2016, the High Court confirmed the decision of the Metropolitan Police not to arrest Mahmoud Hegazy on the grounds that he benefited from special mission immunity.

The claimants appealed the findings of the High Court.

## OTHER ONGOING CASES

- Emirati officials accused of torture of Qatari nationals; names withheld
- Vincent Bajinya, Célestin Ugirashebuja, Charles Munyaneza, Emmanuel Nteziyayo and Célestin Mutabaruka: investigation ongoing

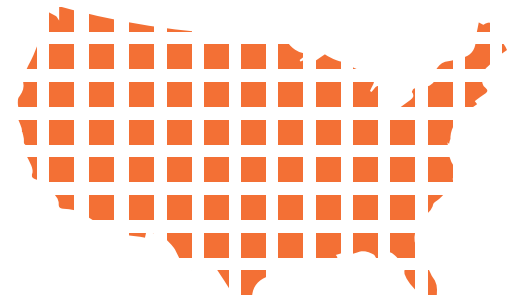
## Zoom in

### “Special missions” fall outside of accountability mechanisms

The Court of Appeal confirmed the High Court’s findings that under customary international law, a State receiving a special mission is required to ensure personal inviolability and immunity from criminal proceedings for members of that special mission.

It also found that this customary international law could be given effect by domestic common law (para. 135). Finally, the Court held that special mission immunity applies to jus cogens crimes such as torture (para. 108).

# THE UNITED STATES OF AMERICA



## HISTORICAL SENTENCE IN IMMIGRATION FRAUD CASE

Mohammed Jabbateh

### Context

Ongoing trial in Philadelphia (USA) for immigration fraud and perjury. The accused lied to the immigration authorities regarding his involvement in the first Liberian civil war (1989–1996)

### Suspect

High-ranking officer in the United Liberation Movement for Democracy in Liberia (ULIMO), a rebel group fighting against Charles Taylor's National Patriotic Front of Liberia (NPFL)

### Country of residence of suspect

United States of America

### Charges

Two counts of fraud in immigration documents, two counts of perjury

### Developments in 2018

On 19 April 2018, Mohammed Jabbateh was sentenced to 30 years in prison for immigration frauds and perjury. He appealed his conviction and sentence.

### Current status

Convicted; sentenced to 30 years of imprisonment

### Facts

During the first Liberian civil war (1989–1996), Mohammed Jabbateh was a high-ranking officer in the rebel group ULIMO.

In his capacity as ULIMO-K leader, Mohammed Jabbateh allegedly ordered, facilitated and encouraged murder of civilian non-combatants, enslavement and sexual enslavement, public raping, maiming of civilians, torture, conscription of child soldiers, execution of prisoners of war, and the desecration and mutilation of corpses.

### Procedure

Mohammed Jabbateh was arrested on 13 April 2016 in Philadelphia. He was placed under house arrest on 18 April 2016. Civitas Maxima and its Liberia-based sister organization, the Global Justice and Research Project (GJRP), has collaborated with the US Department of Homeland Security on the investigation since 2014.

The trial officially began on 2 October 2017 in Philadelphia. Over 20 victims came from Liberia to testify regarding crimes committed by Mohammed Jabbateh or under his control. They testified about rapes and torture, killings and looting, pillaging and acts of ritual cannibalism; committed personally or ordered, facilitated, and/or encouraged by Mohammed Jabbateh among his ULIMO fighters.

Mohammed Jabbateh's trial began on 2 October 2017 in Philadelphia. He was charged with two counts of fraud in immigration documents, and two counts of perjury stemming from statements he made in connection with his applications for asylum, and later for legal permanent residence in the United States of America. On 18 October 2017, he was found guilty by a jury on all four counts.

[Read more about the case](#)

## Field notes

**“The victims’ stories drive me to keep going”**

“When you go to the field, you realize that for years and years, people have kept their stories to themselves. This is especially true for sexual violence, which carries a lot of stigma. In a case in Liberia, a woman we had just interviewed felt so empowered to testify that she decided to tell her son he was born of rape. By doing so, she was able to reconnect with her everyday life: speaking about her past enabled her to deal with the present.

Collecting testimonies can be very emotional for the victims and witnesses. I carry these emotions back to The Hague and they become my fuel. I remember for whom I worked, I remember their testimonies. And it drives me to keep going, and to give my best for the victims.”

**Emmanuelle Marchand,  
Senior Legal Counsel for  
the NGO Civitas Maxima**

## LONG-TERM RESIDENT CONVICTED OVER MASS MASSACRES

Juontee Thomas Smith Woewiyu

### Context

Ongoing trial in Philadelphia (USA) for immigration fraud and perjury. The accused lied to the immigration authorities regarding his involvement in the first Liberian civil war (1989–1996).

### Suspect

Co-founders and leader of the National Patriotic Front of Liberia (NPFL)

### Country of residence of suspect

United States of America

### Charges

Immigration fraud, perjury

### Developments in 2018

The trial began on 11 June 2018. On 3 July 2018, he was found guilty of immigration frauds, false statement in relation to naturalization, and perjury. The sentencing judgment was scheduled to take place on 26 November 2018, but it was postponed.

### Current status

Convicted; awaiting sentence

### Facts

Juontee Thomas Smith Woewiyu is

one of the co-founders and leader of the National Patriotic Front of Liberia (NPFL). The NPFL was a military organization led by Charles Taylor, aiming to overthrow the Doe government. On 24 December 1989, the NPFL entered Liberia through the Côte d'Ivoire. By April 1990, the NPFL controlled 90% of the country.

The NPFL is accused of many international crimes, including sexual slavery, mass murders, and conscription of child soldiers. Juontee Thomas Smith Woewiyu was allegedly involved in the planning of attacks on civilians, including Operation Octopus in 1992. The operation led to the violent, attempted seizure of Monrovia, and resulted in the murder of thousands of combatants and civilians; including the executions of five American nuns.

Since January 1972, Juontee Thomas Smith Woewiyu has legal permanent residence in the United States. He applied for United States citizenship in January 2006.

### Procedure

On 30 January 2014, Juontee Thomas Smith Woewiyu was indicted on seven counts of perjury, six counts of immigration fraud and three counts of false statement related to his naturalization. Akin to Mohammed Jabbateh, Juontee Thomas Smith Woewiyu is accused of having lied on his citizenship application; failing to disclose his association with the NPFL, and that he was connected to crimes committed by the NPFL.

On 12 May 2014, he was arrested in Newark Airport as he was returning from Liberia. In October 2014, bail was paid, and a Federal Judge from Philadelphia granted him temporary release before his trial, under the condition that he stayed under house arrest.

[Read more about the case](#)

## CIVIL CASES TAKE OVER CRIMINAL PROCEEDINGS

In the United States, suspects of international crimes who reside or visit the country can be subject to civil suit for violations of international law committed outside of the United States, based on two different bases:

### **The Alien Tort Statute (ATS)**

gives U.S. federal courts jurisdiction to hear lawsuits filed by non-U.S. citizens for torts committed in violation of international law. Over the past 30 years, the ATS has been used successfully in cases involving torture, state-sponsored sexual violence, extrajudicial killing, crimes against humanity, war crimes and arbitrary detention.

### **The Torture Victim Protection Act (TVPA)**

allows U.S. citizens and non-citizens alike to bring civil claims for torture and extrajudicial killing committed in foreign countries. The Foreign Sovereign Immunities Act (FSIA) and the Anti-Terrorism Act also permit civil claims against perpetrators of mass atrocity under limited circumstances.

These civil cases not only offer survivors an opportunity to face their abusers in a court of law, they can also pave the way for criminal proceedings. Below are some notable cases from this past year:

### ***Colvin v. Syrian Arab Republic***

In 2016, the Center for Justice and Accountability (CJA) brought the first war crimes lawsuit against the Assad regime for the murder of American war correspondent Marie Colvin. Filed in a federal court in Washington, D.C.,

the case brings an extrajudicial killing claim under the FSIA, which strips the immunity of designated state-sponsors of terrorism for the unlawful killing of U.S. nationals. In March 2018, plaintiffs filed a motion for default judgment against the Syrian government. The evidence submitted by CJA showed that senior members of the Assad regime conspired to kill Marie Colvin and other journalists engaged in independent reporting on the conflict, tracking them down through a web of informants and electronic surveillance. The court's decision is pending.

***Mamani v. Berzaín*** In 2007, the Center for Constitutional Rights brought a lawsuit in a federal court in Florida under the ATS and TVPA against the former President of Bolivia, Gonzalo Sánchez de Lozada, and the former Minister of Defense, Carlos Sánchez Berzaín. The claims arose from a brutal crackdown by the Bolivian military during a period of civil unrest in September and October 2003, during which over 50 civilians were killed and hundreds more were injured. In April 2018, a federal jury found Sánchez de Lozada and Sánchez Berzaín responsible for their roles in planning and ordering the crackdown that led to the extrajudicial killings. It marked the first time a former head of state has been found guilty in a U.S. court for human rights abuses. Plaintiffs were awarded \$10 million in compensatory damages. In May 2018, the judge in the case overturned the unanimous jury verdict. The case is now on appeal to the 11th Circuit Court of Appeals.

***Jane W. v. Thomas*** In February 2018, CJA filed a lawsuit in federal court in Pennsylvania under the ATS and TVPA on behalf of survivors of the Lutheran Church Massacre of 1990, the worst single atrocity of the Liberian civil war. Despite Liberia's Truth and

Reconciliation Commission identifying the perpetrators of this massacre, no one has ever been held to account. This civil action was brought against Moses Thomas, a former commander of the Special Anti-Terrorism Unit, an elite unit of the armed forces of Liberia. He is believed to be responsible for the Massacre, during which Liberian armed forces attacked a Red Cross designated shelter at the church and massacred 600 civilians. The claims against him include the commission of war crimes, crimes against humanity, torture, and extrajudicial killing. Thomas filed a motion to dismiss the complaint in April 2018, which the plaintiffs opposed. On 18 December 2018, the Court ruled that Moses Thomas will face trial in Philadelphia.

***Boniface v. Viliena*** In Haiti, armed groups that are aligned with political parties routinely kidnap, torture, and kill political opponents, journalists, and human rights advocates; while meting out vigilante justice, collecting bribes, and ensuring loyalty in the face of collapsed legal institutions. One of the leaders allegedly responsible for these abuses is Haitian Mayor, Jean Morose Viliena, who is also a U.S. legal permanent resident. In 2017, CJA filed a lawsuit in a federal court in Massachusetts, setting out claims under the ATS and TVPA against Viliena on behalf of three media activists and human rights defenders. This case seeks to hold Viliena accountable for a 2007 to 2009 campaign of killing, torture, and mass arson. In August 2018, the court ruled that claims related to torture, murder, and mass arson were permitted to proceed, following an attempt by the defendant to dismiss the complaint.

***Jara v. Barrientos*** In 2016, a federal jury in Orlando, Florida, found Pedro Pablo Barrientos Nuñez liable under the TVPA for the torture and extrajudicial killing of Víctor

Jara, a Chilean musician. Jara was killed in the days following General Augusto Pinochet's overthrow of democratically elected President Salvador Allende of Chile. CJA, which brought the case on behalf of Victor Jara's family, presented previously unused evidence to elucidate what transpired in the hours and days after the Pinochet coup; an important contribution to the record of truth. The court ordered Barrientos to pay \$8 million in compensatory damages and \$20 million in punitive damages to Jara's family. The government of Chile has since requested Barrientos' extradition to Chile to face criminal trial, a request that now resides with the U.S. government. In July 2018, a Chilean court sentenced eight retired Chilean military officers to 15 years in prison for their roles in Jara's death.



## Table of cases



Case	Country of prosecution	Country of commission	Charges					Current status	Page
			Torture	Genocide	Crimes against humanity	War crimes	Other charges		
Franco dictatorship - Rodolfo Martin Villa and others	Argentina	Spain	●		●			Passive personality case; under investigation	<u>13</u>
Prince Mohammed bin Salman	Argentina	Saudi Arabia	●			●		Preliminary examination ongoing	<u>15</u>
Syrian case in Austria	Austria	Syria				●	●	Conviction overturned; retrial ongoing	<u>16</u>
Syrian intelligence services	Austria	Syria			●	●		Under investigation	<u>17</u>
Rwandan nationals	Belgium	Rwanda		●		●		Detained; awaiting trial	<u>18</u>
Martina Johnson	Belgium	Liberia	●		●	●		Under investigation	<u>19</u>
The Iraqi twin brothers	Finland	Iraq				●	●	Appeal ongoing	<u>20</u>
Ahmed Jabbar Hasan	Finland	Iraq				●		Sentenced to 18 month sentence	<u>22</u>
Syrian nationals	France	Syria	●		●	●	●	Under investigation; 3 arrest warrants issued	<u>23</u>
Lafarge – Eric Olsen and others	France	Syria			●	●	●	Active personality case; under investigation; several indictments issued	<u>26</u>
Ahmed Hamdane El Aswadi	France	Iraq				●	●	Detained; under investigation	<u>28</u>
Prince Mohammed bin Salman	France	Saudi Arabia	●					Under investigation	<u>29</u>
Khalifa Haftar	France	Libya	●					Under investigation	<u>30</u>
Kunti K.	France	Liberia	●		●		●	Under investigation; in custody	<u>31</u>
QOSMOS	France	Syria	●					Active personality case; under investigation	<u>32</u>
Pascal Simbikangwa	France	Rwanda		●	●			25 year sentence confirmed; definitive sentence	<u>33</u>
Octavien Ngenzi	France	Rwanda		●	●			Sentenced to life imprisonment; confirmed on appeal	<u>34</u>
Tito Barahira	France	Rwanda		●	●			Sentenced to life imprisonment; confirmed on appeal	<u>34</u>
Claude Muhayimana	France	Rwanda		●	●			Pending trial	<u>35</u>
Philippe Hategekimana	France	Rwanda		●				Active personality case: awaiting extradition to France	<u>36</u>
Wenceslas Munyeshyaka	France	Rwanda	●	●	●			Case dismissed; on appeal	<u>37</u>

Case	Country of prosecution	Country of commission	Charges					Current status	Page
			Torture	Genocide	Crimes against humanity	War crimes	Other charges		
Laurent Bucyibaruta	France	Rwanda		●	●			Referred to the criminal court	<a href="#">39</a>
Sosthène Munyemana	France	Rwanda		●	●			Pending decision to refer him to trial	<a href="#">39</a>
Structural investigations against the Syrian government	Germany	Syria			●	●		Under investigation	<a href="#">41</a>
Jamil Hassan	Germany; see also France	Syria			●	●		Under investigation; under arrest warrant	<a href="#">43</a>
Structural investigations against non-state armed groups in Syria	Germany	Syria		●		●	●	Under investigation	<a href="#">44</a>
Mustafa K. Abdullah K. Sultan K. and Ahmed K.	Germany	Syria				●	●	On trial	<a href="#">45</a>
Abdul Jawad A.K.	Germany	Syria				●	●	On trial	<a href="#">46</a>
Abdulrahman A. A.	Germany	Syria				●	●	On trial	<a href="#">46</a>
Abdalfatah H.A.	Germany	Syria				●	●	On trial	<a href="#">46</a>
Ibrahim Al F.	Germany	Syria	●			●	●	Convicted; sentenced to life in prison	<a href="#">47</a>
Mohamad K.	Germany	Syria				●		Under investigation; in custody	<a href="#">48</a>
Raad A.	Germany	Syria				●	●	Under investigation; in custody	<a href="#">49</a>
Abbas R.	Germany	Syria				●	●	Under investigation; in custody	<a href="#">49</a>
Suliman Al-S.	Germany	Syria						Sentenced under appeal	<a href="#">50</a>
Ignace Murwanashyaka	Germany	Democratic Republic of the Congo				●	●	Sentenced; acquitted on appeal; pending retrial	<a href="#">51</a>
Straton Musoni	Germany	Democratic Republic of the Congo					●	Sentenced; appeal rejected	<a href="#">51</a>
Omaid N.	Germany	Afghanistan				●	●	In custody pending trial	<a href="#">52</a>
Ahmad Zaheer D.	Germany	Syria				●		Under investigation	<a href="#">53</a>
Gina Haspel and others	Germany	Different locations	●				●	Monitoring procedure (preliminary examination)	<a href="#">54</a>
Members of Israeli Defense Forces	Germany	Israel				●		Under pre-investigation	<a href="#">55</a>

Case	Country of prosecution	Country of commission	Charges					Current status	Page
			Torture	Genocide	Crimes against humanity	War crimes	Other charges		
Yahya Jammeh	Ghana	The Gambia				●	●	Pending investigation	<a href="#">56</a>
RWM Italia	Italy	Saudi Arabia					●	Active personality case; under investigation	<a href="#">57</a>
Rwandan national	Norway	Rwanda		●				Under investigation	<a href="#">58</a>
Paul Mwilambwe	Senegal	Democratic Republic of the Congo					●	Under investigation	<a href="#">59</a>
Inocente Orlando Montano Morales	Spain	El Salvador			●		●	Awaiting trial	<a href="#">60</a>
Carlos Vielmann Montes	Spain	Guatemala					●	Acquittal confirmed on appeal	<a href="#">61</a>
Members of the Syrian security and intelligence forces	Spain	Syria	●				●	Dismissed; recourse ongoing to the Spanish Supreme Court	<a href="#">62</a>
Theodore Tabaro	Sweden	Rwanda		●		●		Active personality case; on trial	<a href="#">63</a>
Lundin Petroleum - Alex Schneider and others	Sweden	Sudan			●	●		Under investigation	<a href="#">64</a>
Khaled Nezzar	Switzerland	Algeria	●			●		Investigation ongoing	<a href="#">65</a>
Ousman Sonko	Switzerland	The Gambia	●		●			Detained; under investigation	<a href="#">67</a>
Rifaat al-Assad	Switzerland	Syria				●		Under investigation	<a href="#">68</a>
Erwin Sperisen	Switzerland	Guatemala					●	Active personality case; pending retrial	<a href="#">69</a>
Eshetu Alemu	The Netherlands	Ethiopia	●			●		Active personality case; sentenced to life imprisonment; retrial ongoing	<a href="#">71</a>
Guus Van Kouwenhoven	The Netherlands	Liberia				●	●	Active personality case; sentenced to 19 years imprisonment; awaiting extradition	<a href="#">72</a>
Agnes Reeves Taylor	The United Kingdom	Liberia	●					Detained; under investigation	<a href="#">74</a>
Lt. General Mahmoud Hegazy	The United Kingdom	Egypt	●					Case dismissed; under judicial review	<a href="#">75</a>
Mohammed Jabbateh	The United States	Liberia					●	Sentenced to 30 years imprisonment	<a href="#">76</a>
Jucontee Thomas Smith Woewiyu	The United States	Liberia					●	Convicted; awaiting sentencing judgement	<a href="#">77</a>
Civil cases	The United States	Various					●	Under investigation	<a href="#">78</a>

# WHO WE ARE

## TRIAL INTERNATIONAL

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

## ECCHR

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

## FIDH

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

## FIBGAR

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

## REDRESS

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





# **TRIAL**

International

P.O Box 5116  
1211 Geneva 11  
Switzerland

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

[www.trialinternational.org](http://www.trialinternational.org)

---