

BRIEFLY NOTED

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JUDICIAL AND SIMILAR PROCEEDINGS

1. Armenia v. Azerbaijan (No. 4) (Indication of Interim Measures) (European Court of Human Rights – December 21, 2022)

<<https://hudoc.echr.coe.int/eng-press?i=003-7528728-10337270>> (link is to press release only)

On December 21, 2022, the European Court of Human Rights indicated interim measures in the case *Armenia v. Azerbaijan* (no. 4). The request for interim measures brought by the Government of Armenia alleged that Azerbaijan was blocking Armenians' access to the Lachin Corridor which, according to a press release from the Court, is used by Armenian residents in Nagoro Karbakh to access vita services, including medical care. In its decision to indicate provisional measures, the Court noted that Azerbaijan was obligated under Article 6 of the Trilateral Statement signed November 9, 2020, to “guarantee the security of persons, vehicles and cargo moving along the Lachin Corridor in both directions.” The Court also reiterated Azerbaijan's obligations under the European Convention of Human Rights, in particular Articles 2 (right to life), 3 (prohibition of torture, inhuman or degrading treatment), 6 (right to a fair trial), and 8 (right to respect for family life). The Court ordered Azerbaijan to take measures to ensure that seriously ill persons in need of medical treatment were granted safe passage through the Corridor.

2. Ukraine and Netherlands Cases against Russian Federation Partially Admissible (European Court of Human Rights – January 2023)

<<https://hudoc.echr.coe.int/eng-press?i=003-4945099-6056223>>

On January 25, 2023, the European Court of Human Rights (ECtHR) ruled that applications made by Ukraine and the Netherlands against Russia are admissible in full, and another application made by Ukraine against Russia is partly admissible. *Ukraine v. Russia (I)*, deemed admissible in full, was brought against Russia in 2014 following Russia's invasion of Crimea. It alleges that Russia is responsible for unlawful military attacks against civilians, the shooting down of Flight MH17, and the execution and torture of civilians and Ukrainian soldiers. The court previously ruled that the complaint was admissible in 2021. The Netherlands also brought a case against Russia concerning Malaysian Airlines flight MH17 which was en route from Amsterdam to Kuala Lumpur when it was shot down by a missile allegedly fired by pro-Russian separatists in July 2014. The court found that the separatists were “managed and coordinated” by the Russian government and reasoned that Russia could therefore be a party in the case. *Ukraine v. Russia (II)*, also brought to the court in 2014, alleged that orphans and children placed in foster care had been forcibly transferred to Russia without proper protocol. The case was deemed partially admissible as the court found that the Ukrainian government had not fully exhausted domestic legal measures available to them in resolving the issue.

3. German Genocide Conviction of ISIS Member (Case 3 StR 230/22, German Federal Court of Justice – January 17, 2023)

<<https://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=en&nr=132381&pos=0&anz=1>> [in German only]

On January 17, 2023, the German Federal Court of Justice published its judgment [in German only] of November 30, 2022, confirming the November 2021 conviction of Taha A.-J., an ISIS member, for genocide, crimes against humanity, and war crimes against Yazidi victims in Fallujah, Iraq. According to a press statement issued by the victim's counsel, this is the first-ever conviction of an ISIS member for genocide. The Federal Court of Justice held that “. . . the organised enslavement of women and girls, especially in connection with religious re-education [. . .] served to destroy the Yazidis religious minority in order to establish an Islamic caliphate. All in all, the approach was capable of bringing about . . . the (partial) destruction of this group as such.” Taha was sentenced to life in prison. No further appeal is possible. See also a press release in German from the Court.

RESOLUTIONS, DECLARATIONS, AND OTHER DOCUMENTS**1. COP27 Draft Agreement on Climate Change (November 2022)**

<<https://unfccc.int/sites/default/files/resource/Presidency%20non-paper2%20on%20cover%20decisions.pdf>>

This month's COP27 [climate summit](#) in Sharm El-Sheikh resulted in a draft agreement on climate change (called a cover decision). At 20 pages, the draft covers several issues, including food and energy crises, emissions, financing, technology, capacity building, cooperation, and periodic review of progress. According to [The Guardian](#) (which provides a helpful breakdown of key aspects of the draft), the many placeholders in the draft demonstrate that "some of the most contentious issues . . . have yet to be resolved."

2. Resolution on the Principles of the Charter of the United Nations underlying a comprehensive, just and lasting peace in Ukraine (U.N. General Assembly – February 16, 2023)

<<https://undocs.org/Home/Mobile?FinalSymbol=A%2FES-11%2FL.7&Language=E&DeviceType=Desktop&LangRequested=False>>

On February 23, 2023, one day before the first anniversary of Russia's invasion of Ukraine, the UN General Assembly adopted a resolution calling for "a comprehensive, just and lasting peace in Ukraine." The resolution urges member states to support peace in the region and calls upon Russia to "completely and unconditionally withdraw all of its military forces from the territory of Ukraine within its internationally recognized borders" and adhere to international humanitarian law regarding civilian safety and attacks on Ukraine's infrastructure. The resolution passed with 141 votes in favor, 7 against, and 32 abstentions. Although the vote was symbolic and non-binding, many repeatedly emphasized hope that the resolution would lead to the end of the war. UN Secretary-General António Guterres [stated](#), "While prospects may look bleak today we must all work, knowing that genuine, lasting peace must be based on the UN Charter and international law. The longer the fighting continues, the more difficult this work will be."