

## BRIEFLY NOTED

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### JUDICIAL AND SIMILAR PROCEEDINGS

#### 1. Arrest Warrant Issued for Vladimir Putin (International Criminal Court – March 17, 2023)

<<https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and>> (link is to press release only)

On March 17, 2023, the International Criminal Court (ICC) issued an arrest warrant for Russian President Vladimir Putin. The court alleges that he is responsible for war crimes committed since Russia's invasion of Ukraine on February 24, 2022, including the illegal deportation of Ukrainian children to Russia. The Russian commissioner for children's rights, Maria Lvova-Belova, is also wanted by the ICC.

#### 2. Commission v. Poland (Court of Justice of the European Union – June 5, 2023)

<<https://curia.europa.eu/juris/document/document.jsf?text=&docid=274364&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=549829>>

On June 5th, 2023, The Court of Justice of the European Union (EU) ruled (at the time of writing, the judgment was not available in English) that the Polish Supreme Court's Disciplinary Chamber violated EU laws on "effective judicial protection, judicial independence, and the rule of law." The Court of Justice found that specific provisions of Poland's court reform law, including the creation of the Disciplinary Chamber of the Supreme Court, infringed upon the Charter of Fundamental Rights of the European Union and did not satisfy "the requirement of independence and impartiality." Furthermore, the Extraordinary Review and Public Affairs Chamber of the Supreme Court was criticized for having "monopolistic control" and being liable to weaken the "fundamental right to effective judicial protection enshrined in EU law." The ruling also highlighted violations related to data privacy, as judges were required to declare their memberships in political parties and associations, an action which the Court believed may "expose judges to risks of undue stigmatization."

### RESOLUTIONS, DECLARATIONS, AND OTHER DOCUMENTS

#### 1. Guidelines on Deinstitutionalization, Including in Emergencies (Committee on the Rights of Persons with Disability – September 9, 2022)

<[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/5](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/5)>

On September 9, 2022, the UN Committee on the Rights of Persons with Disabilities adopted the above guidelines, which are intended to complement the Committee's [guidelines](#) on the right to liberty and security of persons with disabilities under Article 14 of the [Convention on the Rights of Persons with Disabilities](#) and its [general comment No. 5](#) on Article 19 (the right to live independently and be included in the community). The guidelines take into account the experiences of those living with disability both before and during the COVID-19 pandemic, noting that the pandemic "uncovered widespread institutionalization, highlighting the harmful impact of institutionalization on the rights and lives of persons with disabilities, and the violence, neglect, abuse, ill-treatment and torture, including chemical, mechanical and physical restraints, that they experience in institutions." The guidelines emphasize that states have a duty to end institutionalization and suggest that states parties "should abolish all forms of institutionalization, end new placements in institutions and refrain from investing in institutions." They provide benchmarks relating to the deinstitutionalization process, including standards regarding women and girls with disabilities; children and adolescents with disabilities, and older persons with disabilities. The guidelines suggest that states should create an "enabling legal environment" for deinstitutionalization that includes the rights to legal capacity, access to justice, liberty and security, and equality and non-discrimination, and that all sources of law should be reviewed to identify provisions that facilitate or enable institutionalization or permit for gaps in the legal recognition and enforceability of the right to live independent and be part of the community. The guidelines also

provide detail in relation to developing inclusive community support services, systems, and networks, and providing access to mainstream services on an equal basis with others. The guidelines dedicate a section on how to continue and accelerate deinstitutionalization in emergency situations, such as the pandemic, but also in the context of conflict. They stress the need for states to provide oversight mechanisms and frameworks for remedies, reparations, and redress for survivors of institutionalization, and reference the need for international cooperation to support deinstitutionalization reforms.

**2. Report of the Independent International Commission of Inquiry on Ukraine (United Nations Human Rights Council – March 15, 2023)**

[https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiukraine/A\\_HRC\\_52\\_62\\_AUV\\_EN.pdf](https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiukraine/A_HRC_52_62_AUV_EN.pdf)

On March 16, 2023, the UN Independent International Commission of Inquiry on Ukraine released a report that found Russian forces in Ukraine violated international humanitarian law and conducted “indiscriminate and disproportionate attacks” against civilians. The report described Ukrainian civilians as living in “a climate of unbearable uncertainty and fear” and called for further investigation and accountability. The commission identified several violations of human rights and international humanitarian law, including Russia’s use of explosive weapons to attack Ukraine’s most densely populated areas and systematically target Ukraine’s energy infrastructure. The Commission also noted clear evidence of willful killings, unlawful confinement, torture, rape, sexual and gender-based violence, and the unlawful transfers of detainees. In some areas occupied for a long time, Russian forces established dedicated detention centers targeting Ukrainians they felt supported Ukrainian forces or opposed Russian ones. The report claims that after occupying certain regions, Russian forces violated international humanitarian law. It refers to the referendums held in occupied Donetsk, Kherson, Luhansk, and Zaporizhzhia which Russia claimed showed overwhelming support to formally join Russia. The Commission said that Russia unlawfully annexed these regions. The report also noted that in “in a limited number of cases” Ukrainian forces were also responsible for violations of international law. In response to the report’s findings, the Commission encouraged Russia and Ukraine to comply with international law, provide Red Cross access to affected regions, and conduct impartial and transparent investigation into the alleged violations of international law.

**3. Working Arrangement Agreement Signed (Interpol and Europol – April 25, 2023)**

<https://www.icc-cpi.int/news/icc-and-europol-conclude-working-arrangement-enhance-cooperation> (link is to press release only)

On April 25, 2023, the International Criminal Court (ICC) and European Union Agency for Law Enforcement Cooperation (Europol) signed a Working Arrangement that creates a legal framework to establish collaborative efforts between ICC and Europol and foster the sharing of information, knowledge, and expertise. ICC President Piotr Hofmański issued a statement expressing his approval of the framework, stating, “Europol’s expertise and specialist knowledge is world-leading and the ICC is fortunate to be able to benefit from it. I am confident that the strengthened relationship between the ICC and Europol can enhance the capacity of both our organisations to discharge their respective mandates aimed at ensuring that serious crimes do not go unpunished.” Europol Executive Director Catherine De Bolle also commented on the advantages of partnering with ICC, emphasizing that “the new level of cooperation with the ICC will allow for a more effective response to core international crimes, with all relevant actors working together and sharing information and resources to end impunity.”

**4. Report on Technical Visit to the United States and Guantánamo Detention Facility (United Nations Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism – June 14, 2023)**

<https://www.ohchr.org/sites/default/files/documents/issues/terrorism/sr/2023-06-26-SR-terrorism-technical-visit-US-guantanamo-detention-facility.pdf>

During a [press conference](#) on Monday, Fionnuala Ní Aoláin, the first U.N. Independent Investigator to visit Guantanamo Bay, reported that the 30 remaining prisoners held in the facility are subjected to “ongoing

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cruel, inhuman, and degrading treatment under international law.” In her report released on June 14th, she recognized the U.S. Government’s “substantial efforts to live up to its international human rights law obligations” but also urged the U.S. to ensure accountability for all violations of international law, including to victims of counter-terrorism practices and terrorism itself. She expressed deep concern about the lack of torture rehabilitation and the fact that 19 out of the 30 detainees at Guantanamo have never been charged with a crime. One of Ní Aoláin’s clear recommendations was the immediate closure of Guantanamo Bay.