

DATABASE 2

LIST OF CASE-LAW ON HUMAN SECURITY IN THE MARITIME AND CYBER SPACE

Area	Language	Name	Date	Summary	Uploaded by
Maritime	EN	Human Rights Committee the View was adopted by the Committee under Article 5 (4) of the Optional Protocol, concerning Communication No. 3043/2017 against Malta	27.01.2021	The case concerns the shipwreck that occurred in the Mediterranean Sea on 11 October 2013 in which both Italy and Malta shifted responsibility for rescue to each other. In this shipwreck 268 people were confirmed dead.	
Maritime	EN	Human Rights Committee, the View was adopted by the Committee under Article 5 (4) of the Optional Protocol, concerning Communication No. 3042/2017 against Italy	27.01.2021	The case concerns the shipwreck that occurred in the Mediterranean Sea on 11 October 2013 in which both Italy and Malta shifted responsibility for rescue to each other. In this shipwreck 268 people were confirmed dead.	
Cyber	EN	Court of Justice of the European Union, <i>Facebook Ireland and Schrems</i> , case C-311/18, judgment of 16 July 2020	16.07.2020	The case concerns the request for a preliminary ruling made by the High Court of Ireland in the proceedings concerning the transfer of Mr Schrems' personal data by Facebook Ireland to Facebook Inc. in the United States. The referring court asked the Court whether the GDPR applies to transfers of personal data pursuant to the standard data protection clauses in Commission Decision 2010/87 , and also raised the question of the validity both of Decision 2010/87 and of Commission Implementing Decision 2016/1250 . The Court of Justice found Decision 2010/87 valid, while it declared Decision 2016/1250 invalid.	Giorgia Bevilacqua

HUMAN SECURITY with non-state-actors in the MARitime and CYber SPace
VALERE: VANviteLli pEr la RicERca

Maritime	EN	Court of Justice of the European Union, <i>European Commission v Ireland</i> . Case C-257/19, judgment (Fifth Chamber) of 9 July 2020.	9.07.2020	According to the Court, Ireland has failed to fulfil its obligations under Article 8(1) of Directive 2009/18/EC of the European Parliament and of the Council of 23 April 2009 establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending Council Directive 1999/35/EC and Directive 2002/59/EC of the European Parliament and of the Council by failing to establish an investigative body that is independent in its organisation, legal structure and decision-making from any person whose interests could conflict with the task entrusted to it.	Giuliana Doria
Maritime	IT	Court of Appeal Palermo (Corte di Appello di Palermo) Sez. IV, judgement No. 1525/2020	03.06.2020	The Court of Appeal of Palermo convicted the defendants, reversing the judgement of acquittal made by the Judge for Preliminary Investigations.	
Maritime	IT	The Italian Supreme Criminal Court (Suprema Corte di Cassazione penale) Sez. III, Sent., (ud. 16-01-2020), No. 6626 - <i>Sea Watch 3 Case</i>	20.02.2020	The Italian Supreme Court of Cassation rejected the appeal by the Agrigento Public Prosecutor's Office against the decision by the Judge for preliminary investigations (Giudice per le indagini preliminari - GIP), of the same Court, not to validate the arrest of Carola Rackete, captain of the vessel Sea Watch 3, for the notorious disembarkation in the port of Lampedusa occurred on 29 June 2019.	
Cyber	EN	The High Court of Justice, Queen's Bench Division, Divisional Court sitting at Cardiff Civil Justice Centre, <i>The Queen (on application of Edward Bridges) v. The Chief Constable of South Wales Police and The Secretary of State for the Home Department</i> , [2019] EWHC 2341 (Admin)	04.09.2019	The case concerns the use of Automated Facial Recognition technology (AFR) by South Wales Police (SWP) and whether the legal regime in the United Kingdom is adequate to ensure the appropriate privacy and data protection . The Claimant, Mr. Edward Bridges, contended that SWP's use of AFR "Locate" was in breach both of the requirements of ECHR article 8 and the requirements of the Data Protection Act (both of 1998 and 2018). In its judgment the High Court affirmed that the AFR technology used by SWP was consistent with the requirements of ECHR article 8, the Human Rights Act, and the Data Protection Act , deeming the current legal regime adequate to ensure the appropriate and non-arbitrary use of it .	Giorgia Bevilacqua

HUMAN SECURITY WITH NON-STATE-ACTORS IN THE MARITIME AND CYBER SPACE

VALERE: VANVITELLI PER LA RICERCA

Cyber	EN	Bundesverfassungsgericht (Federal Constitutional Court) No. 1 BvR 2835/17(Decisions)	19.05.2020	The First Senate of the Federal Constitutional Court held that the Federal Intelligence Service (Bundesnachrichtendienst – BND) is bound by the fundamental rights of the Basic Law when conducting telecommunications surveillance of foreigners in other countries, and that the statutory bases in their current design violate the fundamental right to the privacy of telecommunications	Maria Chiara Vitucci
Cyber	EN	Bundesverfassungsgericht Order of the First Senate of 6 November 2019 - 1 BvR 16/13 on the “Right to be forgotten”	6.11.2019	The First Senate of the Federal Constitutional Court held that claims for protection against the dissemination of old press articles by means of an online archive must be reviewed based on a balancing of the conflicting fundamental rights interests; in view of the realities of Internet communication, time must be considered as a particularly weighty factor in this balancing (“right to be forgotten”).	Giuliana Doria
Maritime	IT	Office of Judge for Preliminary Investigations of the Court of Agrigento (Ufficio del Giudice per le indagini preliminari, Tribunale Agrigento), ord. No. 2592 R.G. GIP.	02.07.2019	The Judge for Preliminary Investigations of the Court of Agrigento did not validate the arrest of the Commander of the motor vessel Sea Watch 3 and rejected the application of the precautionary measure charge. This is because the Judge considered that the contested case referred to in Art. 110 of the Navigation Code did not exist and, pursuant to Art. 51 of the Italian Criminal Code, the further case referred to in Art. 337 of the Italian Criminal Code was dismissed.	
Maritime	IT	Judge for Preliminary Investigations of the Court of Trapani (Tribunale di Trapani, Ufficio del Giudice per le indagini preliminari), sentence No. 112/19	03.06.2019	The Judge for Preliminary Investigations of the Court of Trapani, Dr Piero Grillo, following an abbreviated trial, acquits a Sudanese and a Ghanaian citizen rescued, together with 63 other shipwrecked people, by the tugboat Vos Thalassa in the Sicilian Channel in July 2018. They had been arrested at the time of disembarkation because they were accused of leading a protest against the crew of the merchant ship in order to avoid being brought back to Libya, as well as for facilitating illegal immigration. The legal solution adopted represents an absolute novelty.	

HUMAN SECURITY with non-state-actors in the MARitime and CYber SPace

VALERE: VANviteLli pEr la RicERca

Maritime	EN	International Tribunal for the Law of the Sea (Year 2019) <i>The M/V "Norstar" Case</i> (Panama v. Italy) (Judgment)	10.04.2019	This was the first time an international tribunal had ruled directly on the principle of freedom of navigation in international waters. Specifically, ITLOS found (by fifteen votes to seven) that by arresting and detaining the Panamanian-flagged M/V "Norstar", Italy had violated Article 87(1) of the 1982 UN Convention on the Law of the Sea (UNCLOS).	
Maritime	IT	Judge for Preliminary Investigations of the Court of Ragusa (Tribunale di Ragusa - Ufficio del Giudice per le indagini preliminari) Decree of rejection of request for preventive detention No. 1216 – 1282/18 R.G.N.R.	16.04.2018	The Judge for Preliminary Investigations of Ragusa rejected the request for preventive sequester, releasing the ship from custody, having considered that there was not even the <i>fumus</i> of the crime referred to in Article 12, paragraph 3, letter a) and b), 3-bis, of d.lgs. 286/98, after the Judge for Preliminary Investigations of the Court of Catania had already considered that the crime of criminal association did not exist.	
Maritime	IT	The Italian Supreme Criminal Court (Suprema Corte di Cassazione penale) Sez. I Sent., No. 5157 (rv. 272414)	22.11.2017	The Italian Supreme Criminal Court acknowledged the jurisdiction of the Italian judicial authority in relation to the crime of aiding and abetting illegal immigration, in a case where the vessel used to transport non-EU citizens, sighted while in the territorial sea, had been followed without interruption even on the high seas, where the boarding had taken place.	