

IN FOCUS: Coalition members call for more consistent approach to ICC referrals as UN Security Council debates rule of law and ICC

On 18 October, as the United Nations (UN) Security Council (“Council”) held its first-ever debate on peace and justice with a special focus on the role of the International Criminal Court (ICC), Coalition members called on the Council to adopt a more consistent approach in its referrals of situations for investigation by the ICC prosecutor. Under the Rome Statute (RS), the Council has the power to refer situations for investigation by the ICC prosecutor, which it has done for the situations in Darfur and Libya. However, there have been many calls for the referral of other situations around the world, most recently the ongoing conflict in Syria. In May 2012 the Coalition expressed support for a proposal put forward by a group of five countries calling on permanent members of the Council to consider refraining from using a veto to block Council action aimed at preventing or ending genocide, war crimes and crimes against humanity. Switzerland also circulated a sign-on letter to UN member states calling on the Council to refer the situation in Syria to the ICC prosecutor. During the Council debate, statements were made by UN Secretary General Ban Ki-moon, ICC President Sang-Hyun Song, Phakiso Mochochoko of the ICC Office of the Prosecutor (OTP), and President of the Assembly of States Parties (ASP) Ambassador Tiina Intelmann, as well some 50 UN member states.

CASES AND SITUATIONS

CÔTE D’IVOIRE

Key hearing pending in Gbagbo case

On 24-25 September, Pre-Trial Chamber (PTC) I held a closed hearing to discuss the fitness of Laurent Gbagbo to take part in a pending confirmation of charges hearing to decide whether to move his case to trial. On 20 August, a defense challenge to the jurisdiction of the Court was rejected by ICC judges. On 26 October, the Appeals Chamber rejected Gbagbo’s appeal challenging a decision denying him interim release.

LIBYA

ICC judges hear Libya’s admissibility challenge

On 8-9 October, PTC I held a public hearing to discuss Libya’s challenge to the admissibility of the cases against Saif Al-Islam Gaddafi and Abdullah Al-Senussi. On 5 September, Al-Senussi was extradited from Mauritania to

Libya. Gaddafi remains in detention in Libya.

DRC

Defense and prosecution file appeals in Lubanga case

On 3 October, Thomas Lubanga appealed both the guilty verdict and sentence handed down by ICC judges in the Court’s first trial earlier this year. He has asked for an acquittal and annulment, or a reduction, of the 14-year sentence. The ICC prosecutor has appealed for the sentence to be revised upwards. Meanwhile, all parties and participants, as well as the Trust Fund for Victims, have submitted observations on reparations proceedings in the case.

CAR

Defense case continues in Bemba trial

The presentation of the defense case in the Bemba trial has continued with the testi-

mony of six witnesses, although the trial was suspended for three weeks due to number of witness-related issues. Bemba is charged with crimes against humanity and war crimes allegedly committed in the Central African Republic in 2002-2003.

KENYA

New procedure for victims’ applications in Kenya cases

On 3 October, Trial Chamber V set up a new procedure for victims’ representation and participation in the two Kenya cases. Only victims who wish to actually appear in court now need to submit a written application, while victims who wish to participate in absentia through a common legal representative will be subject to a much less rigorous registration procedure.

CICC

Advisory Board meets with ICC Prosecutor

On 21 September, the Coalition’s Advisory Board met with ICC Prosecutor Fatou Bensouda to discuss key issues facing the ICC and the RS system.

ICC deputy prosecutor candidates outline qualifications

In an effort to promote the fair and transparent election of the most highly qualified candidate for the position of ICC deputy prosecutor during the November 2012 ASP, the three candidates nominated by the ICC prosecutor were asked to complete Coalition questionnaires on their background and experience. Coalition members also met with the candi-

dates to discuss their motivation in applying for this important position. The three candidates are: Ms. Raija Toiviainen (Finland); Mr. Paul Rutledge (Australia); and Mr. James Stewart (Canada).

States recognize the importance of the ICC and RS system during UN General Assembly

During the 67th UN General Assembly in September, with the encouragement of the Coalition, some 22 states made positive reference to the importance of the ICC and international justice. Twenty-seven states made similar statements at the Assembly’s high-level debate on the rule of law. States and the Coalition had encouraged states and organizations to make

Ratifications/accessions

Rome Statute: 121

Most Recent: Guatemala (2 April 2012)

APIC: 72

Most Recent: Switzerland (24 September 2012)

Universal Ratification Campaign 2012-13

September: Brunei-Darussalam

October: Singapore

November: Nicaragua, El Salvador

December: Oman

January: Togo, Thailand

pledges that would strengthen the RS system, including by implementing the Statute under domestic law, strengthening cooperation and ratifying the 2010 Kampala amendments, of which some 44 did.

REGIONAL

EUROPE

European Union—On 26 September and 18 October, at **meetings** of the Council of the European Union's Public International Law Working Group (COJUR-ICC), which brings together representatives of the 27 EU member states working on the ICC, the Coalition Secretariat and its members highlighted issues of importance in advance of the **November 2012 ASP**.

Italy—On 20 September, a **draft law** on cooperation with the ICC was amended and adopted by the Italian senate and sent back to the chamber of deputies for a second examination. The lower house had originally approved the law on 8 June 2011.

Switzerland—On 25 September, Switzerland **ratified** the Agreement on Privileges and Immunities of the ICC (APIC), fulfilling a pledge made at the 2010 Kampala Review **Conference**. On 12 October, a campaign launched by the Swiss Coalition succeeded in convincing the Swiss Federal Council to **create** a specialized unit with five full-time staff to conduct criminal investigations and prosecutions on genocide, crimes against humanity and war crimes.

UN Human Rights Council—On 5 October, in advance of the **14th Universal Periodic Review** (UPR) session (22 October-5 November), the Coalition sent **letters** to ICC states parties encouraging them to make recommendations in relation to the ICC to states due for review, which included three non-states parties (Pakistan, Sri Lanka and Ukraine) and 11 states parties (Argentina, Benin, Czech Republic, Gabon, Ghana, Guatemala, Japan, Republic of Korea, Peru, Switzerland and Zambia).

UN (Geneva)—In October, a Geneva-based "Friends of the ICC" group of states was created under the coordination of Costa Rica. One of the group's mandates is to convene meetings prior to UPR sessions to discuss possible

ICC-related recommendations. The Coalition encouraged the establishment of the group and participated in its first meeting to present recommendations for the 14th UPR session.

AFRICA

Côte d'Ivoire—On 26 September, the Côte d'Ivoire cabinet **adopted** two bills, one to revise the country's constitution to allow ratification of the RS and the second to ratify the RS. Both bills must still be approved by parliament to take effect.

Egypt—On 16 September, despite local and international objections, Sudanese President and ICC suspect Omar Al-Bashir travelled to Cairo to meet with newly elected Egyptian President Mohammed Morsi. Egypt is not currently a member of the ICC.

Ethiopia—On 17-18 October in Addis Ababa, the **African Union** (AU) and the ICC hosted a seminar on lessons learned from the Court's first 10 years. Over 50 representatives from 21 African states, the AU Commission and the ICC shared knowledge of ICC practices and procedures.

AMERICAS

Peru—On 18 October, a proposed law to implement RS crimes into the Peruvian criminal code was introduced to congress and placed on the agenda of the Commission of Justice and Human Rights. The bill is the result of consultations with civil society, independent experts, government agencies and members of parliament. Congress is expected to be more receptive to the bill than on two previous occasions, while the government has expressed an intention to complete the implementation process by 2013.

Colombia—On 18 October, peace talks between the government and the Fuerzas Armadas Revolucionarias de Colombia (FARC) began in Oslo, Norway, which seek to bring to an end almost 50 years of internal armed con-

flict. While largely welcoming the talks, civil society and others have **stressed** the need to include accountability measures for perpetrators of grave crimes in any peace process.

ASIA

Philippines—On 16 October, the Philippine senate and house of representatives approved a **law** criminalizing enforced disappearances, the first such legislation in Asia. Civil society hailed the law as a culmination of more than 20 years of advocacy on behalf of *desaparecidos* and their families. Meanwhile, on 15 October, after more than 40 years of armed conflict that claimed over 150,000 lives and displaced millions, the Philippine government and the Moro Islamic Liberation Front signed an agreement to end the conflict and establish an autonomous region in Mindanao, South Philippines.

MENA

Germany—On 5-6 October, the Wayamo Communication Foundation and the German Federal Foreign Office organized international media workshops and a conference for the **ICC's 10th anniversary** in Nuremberg. The conference focused on the role of the Nuremberg principles in developing and achieving universality of international criminal law. Coalition Convener William R. Pace and MENA Program Officer Amal Nassar participated in the panels and workshops related to the ICC and the Arab world.

Palestine—In September, a group of prominent international lawyers and academics wrote to ASP President Tiina Intelmann asking that the issue of Palestinian statehood be put on the agenda of ASP 11. In the OTP's decision earlier this year not to proceed with its preliminary investigation, it announced that deciding whether Palestine was a state was a matter for consideration for the UN General Assembly or the ASP.

GLOBAL PARTNERS

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