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**MEDIA ADVISORY**  
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**United Nations Security Council Refers Libya to the ICC**

*ICC Prosecutor to Decide whether to Investigate  
Alleged Crimes against Humanity*

**WHAT:** On 26 February 2011, the Security Council of the United Nations (UNSC) unanimously adopted a resolution considering that the widespread and systematic attacks currently taking place in Libya against the civilian population may amount to crimes against humanity and referring the situation in Libya, a state not party to the Rome Statute, to the Prosecutor of the International Criminal Court (ICC). It is now up to the ICC Prosecutor to decide whether to open an investigation. The Security Council vote marks the second time it has referred a situation to the ICC.

**WHY:** In its resolution 1970 (2011), the UNSC expressed grave concern at the situation in Libya, condemned the violence and use of force against civilians, deplored the gross and systematic violation of human rights, expressed deep concern at the deaths of civilians, and rejected unequivocally the incitement to hostility and violence against the civilian population made from the highest level of the Libyan government.

For these reasons, the UNSC decided to refer the situation in Libya since 15 February 2011 to the ICC Prosecutor. The UNSC requested Libyan authorities to cooperate fully with and provide any necessary assistance to the Court and the Prosecutor pursuant to its resolution as well as urged all States and concerned regional and other international organizations to cooperate fully with the Court and the Prosecutor.

**HOW:** This referral marks the second time that the Security Council has sent a situation to the ICC under its Chapter VII authority. On 31 March 2005, the situation in Darfur, Sudan was referred to the ICC Prosecutor by UNSC Resolution 1593 (2005). A referral by the UN Security Council is one of the three ways that a situation can be brought to the ICC, which operates independently of the UN. In addition to a UN Security Council referral, situations

can be referred by States that are party to the ICC treaty or the ICC Prosecutor can initiate investigations on his own initiative, subject to the approval of the Court's pre-trial chamber.

**NEXT STEPS:** The referral by the UN Security Council does not automatically trigger an investigation. It will now fall to the ICC Prosecutor to analyze the seriousness of the information received and decide if there is a reasonable basis to proceed with an investigation. For this purpose, he can seek additional information from States, the UN, intergovernmental and non-governmental organizations or other reliable sources. The UNSC Resolution also invites the Prosecutor to address the UNSC within 2 months of the resolution's adoption and every 6 months thereafter on actions taken pursuant to the resolution.

**COMMENT:** "The referral by the UN Security Council is recognition that accountability and the rule of law play a key role in achieving peace and stability", said Sunil Pal, Head of the Legal Section at the Coalition for the International Criminal Court—a civil society network in 150 countries advocating for a fair, effective and independent ICC and improved access to justice for victims of genocide, war crimes and crimes against humanity. "The Coalition calls on the UN Security Council and its Member States to stand by their resolution and ensure that Libya and other states concerned as well as international and regional organizations cooperate fully with the Court and the Prosecutor in order for the situation in Libya to be fully addressed", Mr. Pal went on to say.

**BACKGROUND:** The ICC is the world's first, permanent international court to prosecute war crimes, crimes against humanity, and genocide. There are currently 114 ICC States Parties. Central to the Court's mandate is the principle of complementarity, which holds that the Court will only intervene if national legal systems are unable or unwilling to investigate and prosecute perpetrators of genocide, crimes against humanity, and war crimes. There are currently five active investigations before the Court: the Central African Republic; the Democratic Republic of the Congo; Darfur, the Sudan; Uganda, and Kenya. The ICC has publicly issued 12 arrest warrants and three summonses to appear. Three trials are ongoing. The Office of the Prosecutor has made public that it is examining at least ten situations on four continents, including Afghanistan, Chad, Colombia, Côte d'Ivoire, Georgia, Guinea, Honduras, South Korea, Nigeria, and Palestine.

*The Coalition for the International Criminal Court is a global network of civil society organizations in 150 countries advocating for a fair, effective and independent International Criminal Court and improved access to justice for victims of genocide, war crimes and crimes against humanity. For more information, visit: [www.coalitionfortheicc.org](http://www.coalitionfortheicc.org)*

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