

EUROPE UPDATE

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TOGETHER FOR JUSTICE

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LETTER FROM THE REGIONAL COORDINATOR, KIRSTEN MEERSSCHAERT DUCHENS

The international system of justice created by the Rome Statute (RS) has experienced many advances since the fateful 1998 conference in Rome when the international community agreed on its necessity—from the establishment and operationalization of the International Criminal Court (ICC) and its growth in membership to 122 states, to the recognition that justice must begin at home with a slow but steady increase in investigations and prosecutions of international crimes at the national level.

However, only universality, the full realization of the principle of complementarity, and effective and timely cooperation between states, the ICC and regional and international organizations will ensure that justice is done now so that a sustainable peace can become a short-term achievement rather than a long-term desire.

Even in Europe—a continent traditionally viewed as replete with long-standing staunch supporters of the ICC—steps still need to be taken to reach this

goal. Importantly, the past year has been one of great activity in Europe in relation to international justice: concrete advances towards ratification have been witnessed in Armenia and Ukraine; Sweden completed the implementation of the RS into its national legislation; the ICC's Office of the Prosecutor (OTP) opened preliminary examinations concerning Ukraine and the United Kingdom's actions in Iraq; Georgia ratified the Kampala amendments to the Rome Statute; and a variety of high-level seminars debated the virtues and vices of international justice and reflected on furthering its mainstreaming into the work of regional and international organizations, such as the European Union (EU) and the UN Human Rights Council.

As this edition of Europe Update contemplates some of these developments, we are also mindful of the work that remains to be done in the region and beyond. Indeed, as the Coalition for the ICC looks ahead to celebrating its 20th anniversary next year, we are reminded of the need for somber pause



Coalition regional coordinator for Europe, Kirsten Meersschaert Duchens
Credit: Al Luxembourg/Sam van Maris

in light of all the victims of genocide, war crimes, crimes against humanity, and aggression who have yet to see justice done. Hopefully the impact of the advancements of the last 20 years will see this dream realized and prevent subsequent generations from falling victim to these atrocious crimes.

UKRAINE: OTP OPENS PRELIMINARY EXAMINATION AT GOVERNMENT'S REQUEST

On 25 February 2014, just days after the ousting of former president Viktor Yanukovich, Ukraine's parliament **voted** to recognize ICC jurisdiction over alleged mass human rights violations during the Maidan protests. Although Ukraine signed the RS in 2000, it has yet to join the ranks of the **122** other states to ratify it. This is due in part to a 2001 Constitutional Court **ruling** that found the RS incompatible with the Ukrainian constitution. The Court concluded that an amendment would be necessary before ratification. On 9 April, the government of Ukraine made an official **declaration** under RS **Article 12.3** accepting ICC jurisdiction over crimes allegedly committed between 21 November 2013 and 22 February 2014.

The OTP then **opened** a preliminary examination to **determine** whether to conduct a full investigation.

The political and military tensions in eastern Ukraine in particular have made the redress and protection that ICC membership provides all the more urgent to obtain. There have been some encouraging signs. On 14 May, 199 MPs proposed to amend the constitution to allow for ratification of the RS. However, the government was dissolved in late July and the amendments will need to be passed by the new parliament following the October elections. On 23 May, then-acting president Oleksandr Turchynov **asked** the Constitutional Court to review the constitutional provisions related to RS ratification. This could lead to new interpretations which could allow for ratification more quickly than via a constitutional amendment.

The Coalition has long **encouraged** Ukraine to join the ICC, with the most recent **campaign** in July 2014. In the wake of the parliamentary vote and the Article 12.3 declaration, local and international civil society groups **stepped up** their efforts, with some, like **FIDH**, calling on Ukraine to expand its acceptance of ICC jurisdiction.

Despite the ongoing conflict, calls continue within Ukraine for ICC intervention and membership, demonstrating that justice is a key priority for Ukrainians and that the nascent Court is now looked to by many as the international body capable of addressing mass human rights violations wherever they may occur. Hopefully, this faith will translate into action with Ukraine joining the ICC in the near future.

UK UNDER ICC SPOTLIGHT FOR ALLEGED CRIMES IN IRAQ

In May, the OTP **re-opened** a preliminary examination into Iraq to consider allegations of detainee abuse committed by British military forces between 2003 and 2008. The move came following the **submission** of a communication in January by the European Center for Constitutional and Human Rights and Public Interest Lawyers. Iraq is not an ICC member. However, the Court could exercise jurisdiction over the situation due to the alleged involvement of nationals of the UK, which is a state party.

UNITED NATIONS, GENEVA

The Coalition **encouraged** ICC states parties to make ICC-related recommendations during the UN Universal Periodic Review sessions and attended several meetings of the Geneva-based Friends of the ICC group to discuss recent developments in international justice and their relation to the human rights focus of the UN bodies in Geneva.

On 13 June, the permanent missions to the UN in Geneva of Estonia, Botswana and Sweden, and

the Open Society Justice Initiative **organized** an event, entitled, "National Accountability for Atrocity Crimes: A Human Rights Priority," on the sidelines of the 26th session of the Human Rights Council. Panelists included then-**UN High Commissioner Navi Pillay**, former attorney general of Guatemala Claudia Paz y Paz and Ambassador Tiina Intelmann, president of the ICC's Assembly of States Parties.

WHAT HAPPENED IN EUROPE

ARMENIA—In April, as part of its Campaign for Global Justice, the Coalition sent a **letter** to Armenian President Serzh Sargsyan **calling for RS ratification**. The president's chief of staff **replied** that the issue of ratification has been included in the **draft strategy** of Constitutional reforms. In July 2014, the Civil Society Institute (CSI) and the Coalition conducted a two-day **training session** on the ICC for Armenian journalists and civil society to increase understanding of the ICC and RS, as well as to build capacity for advocacy to advance the ratification process. Representatives of the Armenian Constitutional Court and the International Committee of the Red Cross also participated.

BELGIUM—From 31 March-1 April, an international conference on the prevention of genocide was **organized** by EGMONT, the Royal Institute for International Relations and the Belgian Federal Public Service Foreign Affairs, Foreign Trade and Development Cooperation. Read the Chair's **conclusions**.

From 24-25 March, the Coalition's Europe regional coordinator participated in a "**Conference** on Implementing the EU Directive on Minimum Standards on Victims of Crime: Delivering Justice to Victims of Serious International Crimes in the EU" organized by member organization, REDRESS. Participants discussed the **existing legal framework** for victims in the EU and considered a **civil society proposal** for an EU Action Plan on combating impunity for international crimes within the EU's borders.

In Brussels on 13 October, the Coalition's Europe regional coordinator discussed the modalities for amending the Rome Statute to better address environmental crimes at a conference entitled "**End Ecocide on Earth**."

EUROPEAN UNION

In December 2013 in Brussels, the **15th EU-NGO Forum on Human Rights** focused on "The fight against impunity" and aimed to reinforce EU support for international justice, as evidenced in key policy instruments on the ICC and the forthcoming **EU policy** on transitional justice, due for adoption by the end of 2014.

From 21-22 May in The Hague, the Coalition and a number of its members participated as observers in the **EU Genocide Network's** 16th meeting which focused on the issue of investigating and prosecuting sexual and gender-based crimes under international criminal

GEORGIA—On 5 December, the First Deputy Minister of Justice of Georgia deposited his country's instrument of ratification of the Kampala Amendments which criminalize the use of chemical weapons or expanding bullets in non-international armed conflicts and define the crime of aggression.

THE NETHERLANDS—On 25 June, the Coalition's Europe regional coordinator took part in a public **debate** on "The ICC in the World: Misconceptions, Challenges and Ways Forward," held by the Hague Institute for Global Justice. The debate was organized in the context of the Transitional Justice Fellowship **program**, led by The Hague Institute and the Institute for Justice and Reconciliation of South Africa.

From 24-27 June, more than 40 representatives from Coalition member organizations met with top officials and staff of all organs of the ICC to discuss a range of critical issues, including the Office of the Prosecutor's strategic plan; reforms to the Registry; challenges with the Appeals Chamber's workload; the Court's budget; and new and existing preliminary examinations and situations, among other issues.

SLOVENIA—From 15-16 May, the Coalition participated in a seminar on the ratification and implementation of the Kampala Amendments to the RS in eastern Europe organized by the **governments of Liechtenstein and Slovenia** in collaboration with the Global Institute for the Prevention of Aggression. Five states in the region have now ratified the amendments (Croatia, Estonia, Georgia, Slovakia, Slovenia), and four more are expected to do so by 2015 (Albania, Czech Republic, Macedonia, Poland). Read the seminar **outcomes**.

law. Several civil society organizations **issued** a letter highlighting the main obstacles to effectively investigating and prosecuting such crimes. At the Network's 17th meeting in October, discussions centered on financial investigations and asset recovery, and featured a **side event** on victims' rights organized by Redress, Trial, FIDH, and ECCHR.

On 17 July, the European Parliament (EP) adopted a **resolution** on the crime of aggression by an overwhelming majority. The resolution reiterated the EP's full support for the work of the ICC and encouraged EU member

SPAIN—From 20-23 May in Madrid, the 1st International Congress on Universal Jurisdiction was **organized** by the Fundación Internacional Baltasar Garzón. The Coalition's Europe regional coordinator participated in a panel discussing "The Practice of Universal Jurisdiction & International Courts". The outcome of the Congress was a number of **proposals** for universal jurisdiction principles. Watch a **video** of the conference.

SWEDEN—In May, the Swedish parliament **approved** amendments to the Swedish penal code to cover crimes against humanity and to bring national legislation on genocide and war crimes into better alignment with the RS. The **Coalition** and **UNA-Sweden** welcomed the **legislation's** entry into force on 1 July.

TURKEY—In a 15 June **op-ed** entitled, "What happens if Turkey becomes a state party to the ICC?" Günel Kurşun, president of the Human Rights Agenda Association—a member of the **Turkish national Coalition for the ICC**—explored the benefits of Turkish ICC membership in light of the ongoing crisis in Syria. In September, the Coalition **called on** Turkey to accede to the RS.

UNITED KINGDOM—From 10-13 June, the UK **hosted** a Global Summit to End Sexual Violence in Conflict, bringing together representatives from more than 100 countries, international organizations and civil society, including **the Coalition** and many of its members from around the world. The Summit launched the **International Protocol** on the Documentation and Investigation of Sexual Violence in Conflict. During the event, the UK announced a £1 million contribution to the ICC Trust Fund for Victims. See the **Chair's summary** of the event and the Coalition's #GlobalJustice **blog post**.

states to ratify and implement the Kampala amendments to the RS. The resolution also called on the EU to ensure that ending impunity for RS crimes remain a key priority for the EU.

In February, June, September, and November, the Coalition secretariat and members addressed delegates of the Working Party of the Council of the European Union on Public International Law, sub-area ICC (COJUR-ICC) – a forum gathering legal advisors from the 28 EU member states to discuss policy and developments related to the ICC.



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