

International Federation for Human Rights (FIDH)

PRESS RELEASE

Conclusion of landmark ICC Review Conference: Difficult compromise and commitments to be confirmed

Kampala, Paris, The Hague 14 June 2010 – Upon conclusion of the first Review Conference of the Statute of the International Criminal Court, the International Federation for Human Rights (FIDH) expresses reservations with respect to the adoption of the crime of aggression. It also recalls that victims' interests must be at the heart of States' decisions on the fight against impunity.

After two weeks of intense negotiations, the Review Conference adopted a significant amendment to the Statute which establishes the jurisdiction of the Court to prosecute those responsible of the crime of aggression, in limited circumstances. The amendment will only enter into force after having been ratified by 30 States and only if the Assembly of States Parties so decides after 1 January 2017.

“The adoption of this amendment is significant because it shows the interest of the international community to put an end to impunity for the crime of aggression. However, we regret that the International Criminal Court will have a limited jurisdiction over this crime, since its ability to investigate and prosecute the crime of aggression will depend on the approval of political actors” said Souhayr Belhassen, President of FIDH.

Indeed the Court will have jurisdiction over the crime of aggression, when either the Security Council refers the matter to the Court, or the Prosecutor is authorised by the Pre Trial Chamber to prosecute crimes committed on the territory or by nationals of a State Party, as long as the States concerned have not opted out of the Court's jurisdiction over the crime of aggression.

FIDH has called upon States to preserve imperatively the Court's independence and ensure access to justice by victims without further conditions. FIDH has opposed any interference of political bodies, including the UN Security Council, with the Court's jurisdiction, as this would severely undermine its independence.

The final outcome is the result of a difficult compromise. FIDH reiterates its call for States Parties and the Security Council to ensure that they will not use this amendment in a way that would establish double-standards in the pursuit of justice.

With regard to other amendments, FIDH welcomes the harmonisation of rules related to the use of prohibited weapons in international and non-international armed conflicts (Article 8). FIDH regrets that States Parties did not take the opportunity of the first ICC Review Conference to eliminate Article 124, which allows States to opt-out of the Court's jurisdiction with respect to war crimes for a period of seven years upon becoming a party to the Statute. This Article is to be revised in five years' time. FIDH will continue to advocate for its elimination as Article 124 limits the Courts jurisdiction over war crimes, and amounts, in practice, to a reservation otherwise not allowed by the ICC Statute.

During the first week of the Review Conference, representatives of States, international organisations and non governmental organisations embarked on an evaluation of the impact of the international criminal justice, including the performance of States in the prosecution of the most serious crimes.

The evaluation exercise showed, overall, that while the Court and States have made significant

accomplishments, there are also shortcomings which must be addressed without delay.

FIDH calls for the decisions that were made to now be translated into practice. In this sense, States must lend political and financial support to the Court so that the ICC can fully implement its mandate with respect to victims. They must equally continue to support and, where appropriate, protect non-governmental organisations and human rights defenders who assist victims to access justice. Furthermore, States must recognise and incorporate the rights of victims into national legislation. Those rights include the right to be involved in processes affecting them, to physical and psychological protection and to reparations.

FIDH also welcomes the fact that the States reaffirmed that amnesties for international crimes are no longer an option in the context of negotiations to put an end to conflicts. States must continue to affirm the central role of justice in peace-building processes, and that accountability should never be compromised in the search for peace. The views of victims must imperatively be considered in these processes.

Moreover, FIDH stresses that reinforced cooperation from all actors is vital for the ICC to function effectively. Additionally, States must imperatively support the fight against impunity by conducting national proceedings for international crimes, in order to strengthen the effectiveness of the ICC system.

For more information on the Review Conference and FIDH's position, please refer to the FIDH

Position Paper and Press Release issued at the opening of the Conference: "ICC Review Conference: Renewing Commitment to Accountability"

<http://www.fidh.org/First-Review-Conference-of-the-ICC-Rome-Statute>

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