

**SPECIAL COURT FOR SIERRA LEONE
OUTREACH AND PUBLIC AFFAIRS OFFICE**



Passengers disembarking from a ferry. Credit: Hansel Mags-King, Court Management

PRESS CLIPPINGS

Enclosed are clippings of local and international press on the Special Court and related issues obtained by the Outreach and Public Affairs Office

as at:

Thursday, 3 February 2011

Press clips are produced Monday through Friday.
Any omission, comment or suggestion, please contact
Martin Royston-Wright
Ext 7217

International News

Accused: Ruling Party Had No Authority Over Militias / <i>The Guardian</i>	Page 3
Kenya Must Revive Plan to Create ‘Credible’ Court, Odinga Says / <i>Bloomberg</i>	Page 4
Lebanon Could Face Sanctions if Mikati Withdraws From Tribunal / <i>The Daily Star</i>	Pages 5-6
ICC Head Says Against Plan to Defer Kenya Trials / <i>Radio Netherlands Worldwide</i>	Pages 7-8

The Guardian

Thursday, 3 February 2011

Accused: Ruling party had no authority over militias

President of the ruling party during the 1994 Rwandan genocide, Matthieu Ndirumpatse, has claimed before the International Criminal Tribunal for Rwanda (ICTR) that he had no powers to control or punish Interahamwe militias of his party, who killed innocent civilians.

"Crime issues are not under the powers of a political party. The party's power cannot substitute the power of the state," Ndirumpatse elaborated during his testimony on Tuesday.

Ndirumpatse, who started testifying on January 10, was being cross-examined by the prosecution attorney, Don Webster, for the second day.

Webster earlier wanted the accused to explain why there were several complaints about criminal acts of Interahamwe militias presented before him, but no action was taken against the perpetrators.

The complaints included that of the United Nations Assistance Mission for Rwanda (UNAMIR).

The accused explained that if Interahamwe militias had engaged into acts disturbing the party, he would have taken disciplinary action against the culprits in accordance with the party constitution, but said criminal matters are issues best handled by the state.

He went on narrating that Rwanda by then was in a multiparty system whereby state issues were separated from political party issues.

"I did not even have powers over the MRND ministers, as they were answerable to the Prime Minister and the Prime Minister is answerable to the President of the Republic," Ndirumpatse explained categorically.

He said though he was leading a ruling party, during their political rally like any other party, their security issues depended on the government, which would provide for them gendarmerie.

Cross-examination was to have continued yesterday.

Ndirumpatse is tried alongside his vice-president, Edouard Karemera, who has already concluded his defence case. They are charged mainly with crimes allegedly committed by members of their party, notably the Interahamwe militias.

Bloomberg

Wednesday, 2 February 2011

Kenya Must Revive Plan to Create ‘Credible’ Court, Odinga Says

By Sarah McGregor

Kenya should revive plans to create a “credible” local judicial system to persuade the International Criminal Court to refer investigations into post-election violence back home, Prime Minister Raila Odinga said.

The comments come after the ICC’s chief prosecutor, Luis Moreno-Ocampo, in December identified six Kenyans, including Finance Minister Uhuru Kenyatta, as the main instigators of the violence in 2008 that left 1,500 dead.

“We tried very hard two years ago to set up a local tribunal,” Odinga told reporters today in the capital, Nairobi. “Most of us wanted a local tribunal to try the perpetrators of post-election violence.”

The failure to push through the changes required to set up the court led the ICC to pursue its own investigation. The East African nation shouldn’t pass up another opportunity to create and approve legislation “to set up a credible local mechanism,” Odinga said.

The ICC would listen to any request from Kenya to try the suspects in a local court, Christian Wenaweser, president of the tribunal’s oversight body, said on Jan. 28. Under the arrangement, Kenya must show its judiciary is even-handed and the ICC would stay involved monitoring the tribunal, he said.

Kenya aims to use the ICC statutes to request a transfer of the cases to the local courts, President Mwai Kibaki said on Jan. 28. His position was endorsed by the African Union.

‘Powerful Forces’

There is resistance for the local option because some Kenyans believe “powerful forces” will meddle in the process to avoid being implicated and to keep out of jail, Odinga said.

Kenya’s new constitution enacted in August vowed to strengthen the country’s courts. The changes include allowing lawmakers to vet candidates for judges, who were previously appointed by the president, and the creation of a Supreme Court to settle disputes over elections and constitutional affairs.

Replacement of the chief justice, director of public prosecution and attorney general are among the planned changes. Odinga has rejected Kibaki’s nominations for the positions because he wasn’t consulted on the issue, as required by law.

Moreno-Ocampo requested that charges of crimes against humanity be filed against Kenyatta, who is also deputy prime minister, former Higher Education Minister William Ruto, Henry Kosgey, who resigned on Jan. 4 as industrialization minister, Cabinet Secretary Francis Muthaura, former police chief Mohammed Hussein Ali and Joshua Arap Sang, a radio presenter. The alleged crimes include murder, rape and forced displacement

All six men have denied the ICC’s accusations. The charges stem from fighting that erupted after then-opposition leader Odinga disputed the results of a December 2007 election that gave victory to Kibaki. The fighting subsided when Kibaki signed a power-sharing accord with Odinga.

To contact the reporters on this story: Sarah McGregor in Nairobi at smcgregor5@bloomberg.net.

To contact the editor responsible for this story: Andrew J. Barden at barden@bloomberg.net.

The Daily Star (Lebanon)

Thursday, 3 February 2011

Lebanon could face sanctions if Mikati withdraws from Tribunal

Analysts warn country would violate international, U.N. law if Cabinet backtracks

By Michael Bluhm

Analysis

BEIRUT: Lebanon would violate international law and could face U.N. sanctions if Prime Minister-designate Najib Mikati's government withdraws from agreements with the Special Tribunal for Lebanon, a number of legal experts said Wednesday.

A tribunal spokesperson said that Lebanon was bound to cooperate with the court under Chapter VII of the U.N. Charter, which stipulates that all U.N. member countries must provide "assistance" in carrying out decisions of the U.N. Security Council.

The Security Council established the tribunal in Resolution 1757 of May 2007, while differences over stances toward the court among Lebanon's polarized political factions brought down the Cabinet of caretaker Prime Minister Saad Hariri last month.

"What we see are obligations on the state of Lebanon; we obviously come under Chapter VII," said the STL spokesperson. The spokesperson declined to answer repeated questions about whether the tribunal was forming contingency plans for Lebanon's potential halt to cooperation.

Mikati was nominated by politicians siding with the Hezbollah-led March 8 alliance. Hezbollah leader Sayyed Hassan Nasrallah has said the court is part of a U.S. and Israeli conspiracy to weaken the group, and he called on all Lebanese to boycott any cooperation with the tribunal.

Sari Hanafi, professor of transitional justice at the American University of Beirut, predicted that any Cabinet led by Mikati would seek to end Lebanon's collaboration with the STL. Whether through the government or Parliament, the country could withdraw from its agreements to pay 49 percent of the court's costs, provide judges and cooperate on investigations, Hanafi added.

If Lebanon ceases to cooperate with the tribunal, the country would "absolutely" be breaching its international obligations as a member of the U.N., Hanafi said. "Lebanon will be in violation of international law," he said, adding that the March 8 bloc "doesn't care whether it is an infraction or not."

By violating international law, Lebanon could face sanctions such as those imposed on isolated nations such as Iran and North Korea, Hanafi said.

From the perspective of international law, the arrival of a new government does not provide any legal basis for revisiting a country's international obligations, said Said Benarbia, legal adviser to the Middle East and North Africa program at the International Commission of Jurists, based in Geneva.

"A change in governments ... is not a legitimate reason to change the state's engagements," Benarbia said. "If governments are to repeal their international agreements every time there are elections or a change in government, the whole international system [would] collapse."

Benarbia added that the "intimidation" raining down from many sides on the court was unacceptable. "All interference in judicial matters is unacceptable," he added.

However, a number of factors could stop the international community from turning Lebanon into a pariah state should it cease working with the court, Hanafi said. For instance, with the March 8 camp's close ties to Iran and Syria, the influence of the U.S. and its Western allies has waned considerably here, and so they do not have many means to punish Lebanon effectively, Hanafi added.

"The impact of the [backlash] against Lebanon will be minimal," he said, adding that he had recently told a Canadian diplomat the same thing. "The U.S. and France don't have any leverage against Lebanon." Saudi Arabia, on the other hand, still has enough sway here to affect the country's stance toward the STL, Hanafi added.

In addition, sanctions would be misdirected, because they would likely wind up hurting Lebanon's middle class, half of which supports the tribunal, Hanafi said. In any case, Washington could well be preoccupied with the situation in Egypt for the near term, leaving it less likely to focus intently on Lebanon, Hanafi said.

Former Ambassador Abdallah Bou Habib, head of the Issam Fares Center, a nonpartisan think tank, said that regardless of the success of any sanctions, any future Mikati-led Cabinet should not disrupt the country's collaboration with the court so as not to damage Beirut's international standing.

"This is important to Lebanon to be part of the world community," he said. "They should not touch the STL and Lebanon's international agreements and commitments."

Mikati's prospective government would not need to take any rash steps against the STL, because the protocol on cooperation between the country and the U.N. is set to expire in March 2012, Bou Habib added. Aside from Chapter VII concerns, negotiations later this year to renew that agreement would offer plenty of opportunities to limit or amend the range of cooperation, Bou Habib said.

The much-discussed option of severing Lebanese funding for the court also stands moot until the end of 2011, because the country has already sent in its share for the tribunal's \$65.7-million budget for this year, Bou Habib said.

The tribunal spokesperson could not confirm whether the court had received the payment but did say that Lebanon was bound under Chapter VII to honor its commitment to supply this share of the court's funding in its first three years. "When it comes to funding, the obligation on Lebanon is very clear, and it's under Chapter VII of the U.N. Charter," the spokesperson said.

If Lebanon cuts off further funding for the court, the U.N. will take over the hunt for substitute money to keep the tribunal running, Benarbia said. "It would be up to the U.N. to guarantee the continuity of the tribunal," he said. "It's the responsibility of the international community and even the U.N. to ensure the continuation of the tribunal."

Hanafi said wealthy nations that backed the tribunal's mission would have little trouble making up for the loss of Lebanon's roughly \$32-million contribution. Hanafi added he was "extremely surprised" the STL employed over 300 staff and said the budget could certainly be pared down.

As for the four Lebanese jurists among the tribunal's 11 judges, they could choose to stay on at the court even if Lebanon backed away from its agreements with the STL, Bou Habib said.

In the end, participation is not essential for judges from the countries under the jurisdiction of international tribunals, Hanafi said. For example, Serbia did not provide judges to – and under former President Slobodan Milosevic did not cooperate with – the International Criminal Tribunal for the former Yugoslavia, while no Rwandan judges sit on Rwanda's tribunal, Hanafi added.

In the end, however, tribunal Prosecutor Daniel Bellemare has submitted his indictment in the assassination of former Prime Minister Rafik Hariri, and so any machinations by Lebanon regarding its relationship with the court will not prevent a trial – even with the accused absent – and the release of evidence about the killing, Bou Habib said.

"Lebanon, no matter what it does, cannot stop the indictment from coming," he said.

Radio Netherlands Worldwide

Thursday, 3 February 2011

ICC head says against plan to defer Kenya trials



The president of the International Criminal Court (ICC) has said he is against Kenya's push to have the trials of post-election violence suspended, but backed plans for a local court to try them.

Senior Kenyan officials have been on a charm offensive seeking support from African presidents in persuading the United Nations Security Council -- which helped set up the ICC and regularly discusses the activities and mandate of the court -- to defer or suspend the trials until the local court is set up.

Christian Wenaweser, President of the Assembly of States Parties to the Rome Statute of the International Criminal Court, is in Kenya to meet government officials to discuss the ICC's concerns over a push by Kenya to block The Hague trials.

Before travelling to Kenya, Wenaweser met Jean Ping, the head of the African Union (AU) Commission, in Ethiopia to discuss Kenya's drive, spearheaded by Vice President Kalonzo Musyoka.

Musyoka met Ping last Friday, after saying Kenya had won support for its plan from several capitals around the continent.

"I emphasised to him (Ping) to declare that if the wish of the Kenyan government was to establish national proceedings, to investigate and prosecute as they have stated repeatedly, that would be something that from state parties' perspective would certainly be welcomed," Wenaweser said.

Wenaweser said he discussed with Ping that the issue did not require the intervention of the United Nations Security Council, and that it should be taken up directly with the ICC.

"This (requesting article 16 resolution from UN Security Council) is not the course of action that I would have advocated," said the head of the political arm of the ICC.

Kenya's plan, which has been criticised by rights groups across Africa who say it will undermine justice for the victims of the violence, is to win the backing of the AU heads of states at a summit starting on Jan. 30 in Addis Ababa.

ARTICLE 16

The east African country wants the AU to invoke article 16 of the Rome Statute that established The Hague court, and request the Security Council to defer the ICC trials, mirroring a previous attempt by the AU to seek the suspension of a case against Sudanese President Omar al-Bashir.

The AU request was rejected by the Security Council, which has not previously deferred an ICC investigation or prosecution.

The ICC has issued warrants for Bashir's arrest for genocide, war crimes and crimes against humanity in Sudan's Darfur region. The African Union has told its members not to cooperate with the ICC over Bashir.

Kenya argues it needs time to pass laws meant to revamp the judiciary and appoint a new Chief Justice as required under its new constitution promulgated in August, enabling the country to establish a local court or tribunal to try the cases.

Previous attempts to establish a local tribunal under the old constitution were blocked by Kenya's parliament, triggering the ICC's referral of the case to The Hague.

Prominent among the six Kenyan suspects are Finance Minister and Deputy Prime Minister Uhuru Kenyatta and William Ruto, the higher education minister who has been suspended to fight a corruption case.

The AU, which said last Friday during the visit by Musyoka to Addis Ababa that it was focused on combating impunity, has urged Kenya to work closely with the ICC over the trials.

"We haven't called for Kenya to ignore the ICC ... Kenya is in the process of setting up a judiciary which was not functioning to the confidence of the people before this constitution was put in place," said the commission's deputy chairman, Erastus Mwencha.

"Kenya is now saying directly (it wants) to set up a system that can enable it to try those individuals, and if the ICC will give them that opportunity then they will try (them). They have given the indication that they will work with the ICC."