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Prosecutor v. Goran Hadžić (IT-04-75-T)

On 16 December 2013, the Defence presented its arguments before the Trial Chamber in accordance with the Rule 98 *bis* of the Rules of Procedure and Evidence, maintaining that the evidence against Goran Hadžić is insufficient, and as such there is no case to answer.


Goran Hadžić

Defence Counsel noted that the case law supports partial dismissal of numerous charges. It argued that no counts in the indictment had been proven during the Prosecution's case. In particular, the crimes charged in the indictment – crimes which happened in Operation Group South, and crimes in Serbia – were not sufficiently connected to Hadžić's individual criminal responsibility.

The Defence also argued that the Prosecution - having failed to make a specific assertion, or proffer specific evidence as to the nature of the armed conflict under international humanitarian law - did not demonstrate that international humanitarian law effectively applied in respect of the specific crimes which occurred in Serbia. The Defence argued that if the responsibility of a person cannot be proven – in respect of the crimes challenged - no conviction should be entered and an acquittal is warranted.

On 18 December 2013, the Prosecution responded to the Defence's arguments, citing evidence which allegedly proves the crimes within the indictment, and Hadžić's alleged participation in the joint criminal en-

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terprise. According to the Prosecution, the purpose of this enterprise was the permanent removal of the non-Serb population from Serb-controlled areas in Croatia. The Prosecution claimed that there is evidence that the crimes which the Defence challenges happened and that this is sufficient to sustain a 98 *bis* challenge.

Regarding the detention facilities situated in Serbia (outside the Republic of Serbian Krajina territory), the Prosecution highlighted that Hadžić visited and cooperated with Serbia and the Yugoslav People's Army units.

The Chamber will render its decision in relation to the 98 *bis* arguments due course.

ICTY RPE
Rule 98 *bis*
At the close of the Prosecutor's case, the Trial Chamber shall, by oral decision and after hearing the oral submissions of the parties, enter a judgment of acquittal on any count if there is no evidence capable of supporting a conviction.

Prosecutor v. Radovan Karadžić (IT-05-95-T/18-I)


Sveto Veselinović

On 16 December, Sveto Veselinović testified for the second time in the trial, after re-instatement of the genocide charge. Veselinović has been asked to comment on testimony given previously by a Prosecution witness. Veselinović allegedly had meetings with Karadžić in Pale, deciding that one-third of Muslims in Rogatica would be killed, one-third would be converted to orthodox religion and one-third would leave on their own. Veselinović denied having this conversation with Karadžić. The Prosecution also presented an intercepted conversation between Veselinović and Karadžić concerning the Rogatica municipality.

Sveto Kovačević, elected President of the Čelinac Municipal Assembly and member of the Serb Democratic Party (SDS), testified on the same day. His statement given previously to the Karadžić Defence team concerned his role in the riots occurring in Čelinac in 1992. The participants in these riots were arrested and tried. Furthermore he stated that Čelinac became part of the Autonomous Region of Krajina (ARK). During cross-examination Kovačević was questioned about the protection he provided to the Čelinac population. He stated to have offered them full protection and to have ensured that the municipal authorities prosecuted those involved in the riots of Čelinac. Finally, he stated that he participated in creating the policy for the SDS and that it never included any plan to expel Muslims from Serb areas.

Milomir Stakić, Vice-President of the Prijedor Municipal Assembly of the SDS, testified on 16 and 17 December. His previously given statement covered the increasing tension in Prijedor and the task of the Prijedor Crisis Staffs to preserve peace and avoid armed conflict. The tension led to the introduction of a curfew and a request to surrender illegal weapons.

Stakić was questioned about several decisions taken by the Prijedor Crisis Staff, such as the release of imprisoned persons. Furthermore, he was questioned on the Dayton Agreement and the general public mobilisation of forces and resources in Republika Srpska. Finally, he testified that there was no plan or policy to expel Muslims from Prijedor and that the crimes which occurred there were not pursuant to any direction from Karadžić or the national authorities.

Appellant Ljubiša Beara (*Popović et al.)* testified on 17 December. He invoked Rule 90(E) of the ICTY Rules of Procedure and Evidence, pertaining to the execution of prisoners in Srebrenica. He confirmed that he had not spoken with Karadžić during the war and could therefore not have informed him of any executions of prisoners from Srebrenica. Beara will be cross-examined on the 22 January.

ICTY RPE
Rule 90(E)
A witness may object to making any statement which might tend to incriminate the witness. The Chamber may, however, compel the witness to answer the question. Testimony compelled in this way shall not be used as evidence in a subsequent prosecution against the witness for any offence other than false testimony.

On 18 December, Radomir Radinković, an officer at the Manjača Camp for

prisoners of war testified as to the conditions in the camp. His cross-examination focused on the healthcare and food available in Manjača and on relevant Red Cross reports investigating these conditions. Furthermore, Radinković testified to the strict behavioral rules that applied to policemen and camp guards in relation to the treatment of prisoners. Disciplinary measures were taken against those who were not performing their job in accordance with standards outlined by the Geneva Conventions.

Simo Mišković, the President of the SDS in Prijedor from 1991 onwards, testified on 18 and 19 December. His Defence statement covered the take-over of Prijedor in 1992. Cross-examination focused on the process of decision making in the Prijedor municipal authorities. He further testified that the SDS in Prijedor had no policy or plan to expel Muslims.

LOOKING BACK...

International Criminal Court

Five years ago...

From 12 to 15 January 2009, Pre-Trial Chamber III of the ICC held hearings to determine whether the Prosecutor had sufficient evidence against Jean-Pierre Bemba Gombo to proceed to trial.

Jean-Pierre Bemba Gombo

This process lasted until March 2009, when Pre-Trial Chamber III adjourned the confirmation hearing and asked the Prosecutor to reconsider how he had charged Bemba. It was not until 15 June 2009, that Pre-Trial Chamber III decided that there was sufficient evidence to proceed to trial on three counts of war crimes and two counts of crimes against humanity. The Chamber rejected the Prosecution's request for three other counts. It also found that the Prosecutor had failed to provide sufficient evidence to charge Bemba with torture as a count of crimes against humanity and war crimes, and outrage on personal dignity as a war crime. The trial is currently still ongoing before the ICC.

International Criminal Tribunal for the Former Yugoslavia

Ten years ago…

On 21 January 2004, Simo Zarić's request for early release was granted by Judge Theodor Meron, ICTY President. The Request was granted for a variety of factors, which included "the gravity of the offence committed by Simo Zarić, as detailed in the Judgement", as well as "Simo Zarić's resolve to be reintegrated into society, his good behaviour in detention, his attachment to his family and his prominence in his community".

The President also took into consideration the fact that" Zarić's application is receivable because he has served over two-thirds of his sentence (...)", which is the time convicted persons become eligible for early release in most of the States that have signed an agreement with the ICTY on the enforcement of sentences.

Simo Zarić

Simo Zarić was found guilty on 17 October of one count of crimes against humanity and sentenced to six years imprisonment.

International Criminal Tribunal for Rwanda

Fifteen years ago...

On 25 Janurary 1999, the trial of Alfred Musema, former Director of Gisovu Tea factory in Kibuye Prefecture, began. The Prosecution sought to link the Accused to the massacres of Tutsis in Kibuye, Rwanda in 1994. Musema was charged with seven counts of genocide, conspiracy to commit genocide, crimes against humanity and serious violations of Article 2 Common to the Geneva Conventions. In November 2001, the Appeals Chamber found him not guilty of Count 7 (rape as crime against humanity), in light of the additional evidence presented. The Appeals Chamber added, however, that the Trial Chamber's findings as to the sentence imposed would have been the same if it had acquitted Musema of the charge in question and accordingly affirmed the single sentence of life.

NEWS FROM THE REGION

Bosnia and Herzegovina, Croatia & Serbia

More Effective Cooperation Between Bosnia, Croatia and Serbia in War Prosecutions

In December 2013, the first trilateral meeting between Bosnia and Herzegovina (BiH), Croatia and Serbia was held in Sarajevo, after the three former Yugoslav countries signed protocols on cooperation with regard to the prosecution of perpetrators of war crimes, crimes against humanity and genocide. Following these protocols, the countries will be cooperating by sharing information, data and evidence in war cases.

The protocols prevent the abuse by war crime suspects and indictees of their double nationality in order to evade prosecution after having fled the country in which they committed the crimes. Constitutional and legal provisions of the three above-mentioned countries do not allow for the extradition of their citizens who have been charged with war crimes, but the protocols also hold the possibility to transfer the trial to the justice system of the country were the perpetrator is in hiding.

The Bosnian and Serbian Prosecutors said that they have thus far exchanged information about 70 potential suspects as a result of this protocol. The Serbian Prosecutor's Office has, within the framework of the cooperation protocol between the respective countries, also received evidence from their Bosnian counterpart related to the crimes committed in 1995 in Sebrenica and in Višegrad. The Bosnia-Croatia protocol has led on the arrest of Ivan Hrkać in Croatia, a Bosnian Croat suspected of the commission of war crimes in 1993 in Široki Brijeg.

During the meeting, the Prosecutors decided to appoint and exchange liaison officers in order to facilitate prosecution and improve communication. Goran Salihović, BiH Chief Prosecutor, explained in this respect that these officers will be in constant contact with the Prosecutor's Offices of BiH, Croatia and Serbia in order to enable successful work on a technical level. He considered the meeting extremely successful as not only cooperation in the exchange of evidence in certain cases was demonstrated during this meeting, but as the decision taken regarding the future appointment of liaison officers emphasises the friendly relationship, which has been established between the different Prosecutor's Offices.

Meeting of Prosecutors in Sarajevo

Serbia

Retrial in Serbia for Former Bosnian Serb Soldiers

In April 2013, two former soldiers, Nedjelko Sović and Rejko Bekić were found guilty of the murder of the Bosniak civilian Mehmed Hrkić in 1992 in the village of Osoje near Bosanski Petrovac in Bosnia.

Both Sović and Bekić were originally from Bosanski Petrovac but fled to Serbia after the end of the war and obtained the Serbian nationality.

While the initial indictment was raised by the Cantonal Court in the Bosnian town of Bihać in October 2012, Bosnia and Serbia do not have an extradition treaty and the plea hearing could thus not be held. When the Serbian war crimes Prosecutor's Office raised an indictment against the two men, the case was transferred to Belgrade.

Special Court in Belgrade

In December 2013, the Appeals Court in Belgrade ruled that the case had not been proven, stating that the Special Court in Belgrade "didn't prove the facts properly" and subsequently ordered retrial for both men after they had been convicted for war crimes and sentenced to eight years each.

NEWS FROM OTHER INTERNATIONAL COURTS

Extraordinary Chambers in the Courts of Cambodia

By Charlotte Pier, Intern Defence Team, Case 004

The views expressed herein are those of the author(s) alone and do not necessarily reflect the views of the Extraordinary Chambers in the Courts of Cambodia (ECCC).

The Defence teams in Case 002 participated in the Trial Management Meeting held on 11 and 12 December. Both Defence teams raised administrative issues in relation to Case 002/02. The Nuon Chea Defence team raised no objection to the possibility of convening a second panel to hear case 002/02 and suggested the precise scope of the trial be left open until a later date. The Khieu Samphan Defence team asserted that Case 002/01 must be finally adjudicated and the appeal process, if any, completed before the evidentiary hearings in Case 002/02 can start. The team further indicated that the scope of the trial and all further legal issues need to be resolved before the trial commences.

The Trial Chamber subsequently issued a decision not to establish a second panel to hear Case 002/02. The Khieu Samphan Defence team must now file submissions to support its assertions and both Defence teams must file submissions on the fitness of the Accused and on the scope of the trial.

The Case 003 Defence filed a motion asserting that grave breaches of the Geneva Convention cannot be applied at the ECCC for crimes that allegedly occurred in 1975-79 due to the expiration of the applicable statute of limitations for such crimes. The Defence also continued to file other submissions to protect the client's interests.

In Case 004, the Defence Support Section assigned So Mosseny and Bit Seanglim as National Co-Lawyers to represent two different suspects named in the Third Introductory Submission submitted by the International Co-Prosecutor to the Office of the Co-Investigating Judges on 7 September 2009. The National Co-Lawyers are currently in the process of assembling their respective Defence teams. The Defence teams in Cases 003 and 004 continue to review publicly available material, as they do not yet have access to the relevant case files.

International Criminal Court

The views expressed herein are those of the author(s) alone and do not necessarily reflect the views of the International Criminal Court (ICC).

On 16 December, the Appeals Chamber of the ICC dismissed the Prosecutor's Appeal against Pre-Trial Chamber I's decision adjourning the hearing on the confirmation of charges in the case against Laurent Gbagbo. Following this decision, Pre-Trial Chamber I will establish in due course a new calendar on the disclosure of additional evidence and submissions of the Prosecutor, Defence and victims participating in this case.

On 3 June 2013, Pre-Trial Chamber I had issued by majority a decision adjourning the hearing on the confirmation of charges and requested the Prosecutor to "consider providing, to the extent possible, further evidence or conducting further investigation" with respect to a number of specified issues.

In its judgment, the Appeals Chamber dismissed the Prosecutor's appeal against Pre-Trial Chamber I's decision. The Appeals Chamber noted that, on appeal, the Prosecutor argued that she had relied on the four incidents with which Gbagbo had been charged to establish that an 'attack against any civilian population' pursuant to Article 7 of the Rome Statute had taken place. The Appeals Chamber found that this did not accurately reflect the charges that the Prosecutor had presented for the purpose of the confirmation of charges hearing. The Appeals Chamber noted that at the confirmation of charges hearing, the Prosecutor relied on 41 incidents, in addition to the four incidents with which Gbagbo was charged, in order to establish that an attack had taken place.

As a result, the Appeals Chamber found that the Prosecutor had failed to demonstrate that Pre-Trial Chamber I erred by treating all 45 incidents as forming the 'attack against any civilian population' in the meaning of Article 7 of the Rome Statute.

Special Tribunal for Lebanon

The views expressed herein are those of the author(s) alone and do not necessarily reflect the views of the Special Tribunal for Lebanon (STL).

On 20 December 2013, the Trial Chamber of the STL decided to try Hassan Habib Merhi in his absence.

In issuing this decision on trial *in absentia*, the judges relied on reports from the Lebanese authorities detailing their efforts to apprehend the Accused and to inform him of the charges against him. The judges also relied on efforts by the Special Tribunal for Lebanon to publicise the indictment against Merhi and on its widespread coverage in the Lebanese media.

An indictment against Merhi was confirmed in July 2013 and served on the Lebanese authorities to search for, arrest and transfer the Accused to the custody of the STL.

The Trial Chamber concluded that Merhi has absconded or otherwise could not be found and all reasonable steps had been taken to secure his appearance before the STL and to inform him of the charges by the Pre Trial Judge.


Hassan Habib Merhi

The STL is the only international tribunal that allows for trial *in absentia*, which is permissible under Lebanese law. Trials *in absentia* are a measure of last resort possible under strict conditions, i.e. if the Accused has waived the right to be present; if the Accused has fled or cannot be found; if the State concerned has not handed the Accused over to the Tribunal.

The Prosecution has now applied to join Merhi's case with the four Accused in the *Ayyash et al.* case. If permitted, Merhi would then be jointly charged and tried in the *Ayyash* proceedings.

DEFENCE ROSTRUM

Use of Force and the Prohibition of Intervention in Foreign Civil Wars

By Shubhangi Bhadada

Forcible intervention in an armed conflict is any cross-border act by an external party during an internal conflict, however limited in scope, which involves the mobilisation of actors having the potential to apply physical force and does not constitute a pure peacekeeping operation. Forcible intervention is subject to not only principles of non-intervention, but also to laws on the use of force including Article 2(4) of the UN Charter.

UN Charter Article 2(4)

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

The rules prohibiting forcible intervention in civil conflict have developed through General Assembly resolutions designated to elaborate on the use of force rules under the UN Charter, particularly Article 2(4), which deals with only inter-state conflicts. General Assembly Resolution 375 (1949) on the *Rights and Duties of States* and Resolution 2131 (1965) on the *Inadmissibility of Intervention* prohibit intervention in any form and for any reason in the affairs of another State, including armed intervention, other forms of interference and fermenting civil strife in another State.

Further, the 1970 *Declaration on Friendly Relations* spells out the content of the prohibition of the use of force in relation to civil conflict, including the duty of non-intervention. The International Court of Justice in the *Nicaragua* case and *Armed Activities on the Territory of Congo* has acknowledged these provisions of the Declaration on Friendly Relations as customary international law.

The *Nicaragua* judgement clearly laid down the law on non-intervention and held that intervention is wrong when it uses methods of coercion, particularly in the case of an intervention that uses force, whether in the direct form of military action, or in the indirect form of support for subversive or terrorist armed activities within another State. Assistance of this kind is equated to use of force by the assisting a State when the acts committed in another State involve a threat or use of force (General Assembly Resolution 2625). There is, thus, considerable overlap between the rules of forcible intervention and the customary law related to prohibition of use of force under Article 2(4). The ICJ held that acts that constitute a breach of the principle of non-intervention might also, if they directly or indirectly involve the use of force, constitute a breach of the principle of non-use of force in international relations.

However, it is widely accepted and acknowledged that the government of a State has a right to invite a third party to use force and this is not seen as wrongful under the rules prohibiting use of force. Forcible intervention with the consent of the government can be seen as not violating Article 2(4) since there is no use of force by a State against another. The ICJ in *Nicaragua* also acknowledged that a government may invite outside help, but a third State may not forcibly help the opposition to overthrow the government. Though in practice help has been given to the opposition, this has usually not been in the form of direct military force but rather through assistance in other ways.

This right has to use force at the invitation of the government in order to keep the government in power or to maintain domestic order, has been taken for granted and is seen as implicitly acknowledged in the *Definition of Aggression,* where it states that the failure of a foreign army to leave or actions in excess of the invitation will constitute aggression. This is also one of the justifications given by France with respect to its intervention in Mali recently. However, this is still problematic as it would violate the principles of non-intervention, non-interference in domestic affairs and potentially the right to self-determination of people.

One way that the pre-emptive character of the rule prohibiting the use of force can be reconciled with this principle of permitting use of force by consent, is by seeing consent as a constituent part of the primary rule of prohibition of the use of force and as an intrinsic part of the norms of non-intervention. The lack of the same is essential for there to be a breach of these norms. Under this formulation, if there is consent, no breach of the prohibition itself is taken as opposed to

seeing consent as a factor that negates the wrongfulness of the breach. This formulation seems to be accepted in practice and it can be argued that if a State validly consents to another State using force in its territory, the requirement that there is use of force by one State against another is not fulfilled. However, the International Law Commision (ILC) recognises consent as one of the factors excluding unlawfulness while recognising the possibility in principle of consenting to a use of force. This is arguably done so that consent is defined and there are strict conditions laid down for its validity.

The consent must be from the highest authorities of the State and not of local, dissident or diplomatic authorities. Further, the ILC has specified that the consent must be valid in international law, clearly established, really expressed, internationally attributable to the State and anterior to the commission of the act to which it refers. Moreover, consent can be invoked as precluding the wrongfulness of an act by another State only within the limits, which the State expressing the consent intends, with respect to its scope and duration.

In cases of civil war, however, there is an exception to the consent rule, wherein any form of interference or assistance is generally prohibited and such interference can be seen as a breach of the prohibition of use of force in international law. The reason for this exception can be understood due to the two essential problems that exist in such cases, which make consent insufficient. The first deals with the issue of the existence of competing authorities, all of whom claim to be the highest authority of the State, and thus claim to be in a position to validly consent on behalf of the State for outside intervention. The second problem is the question of whether there can be military intervention in supporting those authorities against rebel groups in an internal conflict at all (even assuming that the consent has come from the highest authority).

There are two criteria, international recognition and effective control over the territory of the State, both of which are mutually reinforcing and need to be satisfied for the establishment of the legitimate highest authority of the State. Only such legitimate authority has the right to request or consent to outside armed intervention in the manner discussed above. In cases of civil war, where the situation is in turmoil, there is often neither clear recognition nor effective control by one party over the situation. The situation is further complicated where different States may recognise different fractions of the civil war as the legitimate authority of the State. Even though State practice shows that governments, once in control, are often continued to be recognised and do act on behalf of the State well beyond having lost effective control; up until the time that another identifiable group has gained control of the country. However, this is not enough for the requirement of valid consent to be fulfilled in cases of request for an armed intervention that will not breach the international rules against the use of force. This can be seen in the case of Syria where the Syrian opposition has been recognised as the sole legitimate representative of the people of Syria by a number of States, though it is acknowledged at the same time that Assad's government as the government of Syria.

Further, the requirement of effective power over the State is itself brought into question by the government's request for help against a rebellion, since it can be said that it is not in *de facto* control of the State, thereby leading to the conclusion that it cannot request on behalf of the State for intervention. Thus, there is the need for the rule of 'neutrality' in such situations, since there is doubt as to the identity of the government that legitimately represents a State and the request cannot be identified as coming from the highest authority of the State without challenge. In such cases, it is generally said that international law imposes a duty of abstention and consent would not be sufficient to justify an outside military intervention.

In regards to the second problem of purpose of the intervention, the State should be seen as a whole under the principle of non-intervention and not just the government or any other political part. Under this formulation, outside military action, even if conducted on appeal of the government would infringe the principle of non-intervention insofar as it is designed to influence the outcome of a conflict that is purely internal to the State in question. Duty of non-intervention can be seen as implicit in Article 2(4) of the UN Charter as 'political independence' implies free and unhampered development for States, and intervention might thus be said to amount to aggression if it reaches a certain level. However, even otherwise, the prohibition of non-intervention in the inter-

nal affairs of a State has developed as a pre-emptory norm. There is thus a duty to abstain in the event of civil war and no outside military support is allowed, whether in favor of the government or the rebels. This is the strongest reason for non-intervention in cases of civil wars.

This can be seen from State practice as well; no State claims a right to intervene in a civil war at the request of the government of the State. Instead, such military intervention is justified on the basis of humanitarian ends, need to maintain law and order or peace (whether for its own ends or on request of the government), or as a response to outside interference. Though, the sincerity of these motives officially advanced by the intervening powers can be questioned. Thus, although it often does not correspond to reality, a third State providing military aid to the government invariably claims to be doing so while maintaining a strictly neutral attitude in the event of internal strife. Moreover, the provision of arms and equipment does not seem to be included in this restriction and thus, it can be seen that governments are still in a favourable position under international law as opposed to rebels.

However, basing this exception of the right to third State intervention with the consent of the government in a civil war on the theory of self-determination is problematic for a number of reasons. Practise shows that the stress is often given to the unity and independence of the State rather than to the free aspirations of people. Suppression of a secessionist movement, thus is not technically against the principle of self-determination, unless the unit is recognised by the international community as being entitled to self-determination (e.g Palestine). While self-determination is the right of people to choose their own government without any outside interference, it does not mean that it needs to be a democratic government or even one that reflects the will of the majority of the people. Further, it is submitted that the principle of self-determination does not vest the legal right of the representation of a State in the people as that principle protects the State from external interference rather than vesting any right in the people as such. The rule against intervention in civil wars cannot be based on any right owed to the rebels, since such rebels, other than national liberation movements, have no personality in international law. This can be seen from the prohibition against aids to such rebels. The duty of self-determination is negative in effect, i.e. it involves a duty to not impose a foreign government on recognised groups.

Therefore, though the exception is widely accepted, issues arise in its interpretation and application. The first major issue with this exception is the classification of the conflict. The line between mere unrest and a civil war is controversial and far from clear. States usually are reluctant to acknowledge that the unrest has reached the level of a civil war as this is seen as legitimising the opposition forces. Further, whether the conflict can be categorised as a fight for self-determination or not, additionally complicates the issue. Finally, the question as to whether it is a pure civil war or there has been any outside intervention in support of one of the parties, as well as the scope of such outside intervention, affect the rights of third states to intervene.

Further, despite the fact that consent is not sufficient in cases of internal strife (as discussed above) most states in practice have relied on an invitation by the government to justify their intervention and use of force: the intervention is claimed to be lawful either because they are dealing with only internal unrest as opposed to a civil war (the conflict having reached the threshold of civil war is refuted in such cases), are responding to terrorism, or they are helping the government to respond to prior intervention. Sometimes, states have also chosen to argue that their intervention is only for the protection of foreign nationals with the consent of the government or have used this justification as an additional point. However, practically the third State has done more than mere protection of its nationals, as can be seen in the case of France's intervention in Chad or the United Kingdom's intervention in Sierra Leone.

In cases where the existence of a civil war has not, or cannot be, denied, the exception to the rule of non-intervention in such conflicts is that intervention at the request of the government is permissible only if there has been prior foreign intervention against the government. In such cases, the third State has claimed that there is a request by the government as well as prior foreign intervention. Further, if the intervention can be categorised as an armed attack under Article 51 of the UN Charter, then the government may legitimately ask for help from third States under collective self-defence. However, even in cases where the attack is not enough to satisfy the criterion of

armed attack, the government of the State in conflict can call for help from a third State against such intervention under Article 2(4) of the UN Charter. This is because such intervention by a third State in support of the government is seen in line with Article 2(4), seeking to uphold the political independence and the right to self-determination of the State and its people.

This is thus the best-established exception to the prohibition of intervention and possibly the most abused. The USSR used this justification in Czechoslovakia and in Afghanistan. However, in both cases no prior foreign intervention was subsequently found to exist. Further, the invitation by the government was itself suspect. In the case of Czechoslovakia, the government denied such invitation in the UN. In Afghanistan, the USSR overthrew the previous government and installed a new government and subsequently relied on an invitation by such new government.

Thus, as can be seen from the above, the law relating to the prohibition of the use of force in cases of civil war is far from clear and practice often points to one way while in theory it may be the other way. Rather than only legal considerations, a number of political considerations often seep into the justifications given and are accepted in cases of such forceful intervention.

BLOG UPDATES AND ONLINE LECTURES

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Megan Fairlie, **W(h)ither now the reputation of the ICTY?**, 1 January 2014, available at: http://tinyurl.com/n3eetr6.

Blair Glencorse, **Putting Local Justice First in Liberia**, 3 January 2014, available at: http://tinyurl.com/q7ektqq.

Kevin Jon Heller, **Why the Muslim Brotherhood (Wrongly) Believes the ICC Can Investigate,** 6 January 2014, available at: http://tinyurl.com/o5khlzb.

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WE'RE ON THE WEB!

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The ADC-ICTY would like to express its appreciation and thanks to Emma Boland, Carlos Fonseca Sánchez, Ivan Kochovski and Aoife Maguire for their hard work and dedication to the Newsletter. We wish them all the best in the future.

On behalf of the ADC-ICTY and the Newsletter team, we wish you a happy, prosperous and successful new year!

We look forward to a continued cooperation in 2014.

EVENTS

Distinguished Speaker Series—Joschka Fischer

Date: 15 January 2014

Location: The Hague Institute for Global Justice, Sophialaan 10, The Hague.

More Info: http://tinyurl.com/o67nc57

Complementarity in the Line of Fire: The Catalysing Effect of the International Criminal Court in Uganda and Sudan

Date: 23 January 2014

Location: Faculty of Law, University of Amsterdam, Oudemanhuispoort 4-6, Amsterdam.

More Info: http://tinyurl.com/kuy88hw

International Criminal Defence Lawyers Meeting (ICDL)

Date: 25 January 2014

Location: Hotel InterContinental, Berlin, Germany.

More Info: http://tinyurl.com/pm3m7bq

OPPORTUNITIES

Secretary to Judge, The Hague

International Court of Justice (ICJ)

Closing Date: 20 January 2014

Associate Case Manager (Defence), Leidschendam

Special Tribunal for Lebanon (STL)

Closing Date: 21 January 2014

Senior Legal Officer, Voorburg

Eurojust

Closing Date: 31 January 2014

Project Officer (International Cooperation and Assistance), The Hague

Organization for the Prohibition of Chemical Weapons (OPCW)

Closing Date: 3 February 2014