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UNITED NATIONS JURIDICAL YEARBOOK

2007

Part Three. Judicial decisions on questions relating the United Nations and related
intergovernmental organizations

Chapter VII. Decisions and advisory opinions of international tribunals



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Chapter VII

DECISIONS AND ADVISORY OPINIONS OF INTERNATIONAL TRIBUNALS

A. INTERNATIONAL COURT OF JUSTICE¹

The International Court of Justice is the principal judicial organ of the United Nations. It was established in June 1945 by the Charter of the United Nations and began work in April 1946.

1. Judgments

- (i) *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, 26 February 2007.
- (ii) *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)*, Preliminary Objections, Judgment, 24 May 2007.
- (iii) *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*, Judgment, 8 October 2007.

2. Advisory Opinions

No advisory opinions were delivered by the International Court of Justice in 2007.

3. Pending cases as at 31 December 2007

- (i) *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti v. France)* (2006—).
- (ii) *Pulp Mills on the River Uruguay (Argentina v. Uruguay)* (2006-).
- (iii) *Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua)* (2005-).
- (iv) *Maritime Delimitation in the Black Sea (Romania v. Ukraine)* (2004-).

¹ The texts of the judgments, advisory opinions and orders are published in the *I.C.J. Reports*. Summaries of the judgments, advisory opinions and orders of the Court are provided in English and French on its website at <http://www.icj-cij.org>. In addition, the summaries can also be found in *Summaries of Judgments, Advisory Opinions and Orders of the International Court of Justice* (United Nations Publication, Sales Nos. E.97.V.7, E.05.V.12, E.08.V.6, (ST/LEG/SER.F/1 and Add. 1–3), which is published in the six official languages of the United Nations.

- (v) *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia v. Singapore)* (2003-).
- (vi) *Certain Criminal Proceedings in France (Republic of the Congo v. France)* (2003-).
- (vii) *Territorial and Maritime dispute (Nicaragua v. Colombia)* (2001-).
- (viii) *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)* (1999-).
- (ix) *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)* (1999-).
- (x) *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)* (1998-).
- (xi) *Gabčíkovo-Nagymaros Project (Hungary v. Slovakia)* (1993-).

B. INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA²

The International Tribunal for the Law of the Sea is an independent permanent tribunal established by the United Nations Convention on the Law of the Sea, 1982.³ The Agreement on Cooperation and Relationship between the United Nations and the International Tribunal for the Law of the Sea,⁴ signed by the Secretary-General of the United Nations and the President of the Tribunal on 18 December 1997, establishes a mechanism for cooperation between the two institutions.

1. Judgments

- (i) *Case No. 14—The “Hoshinmaru” Case (Japan v. Russian Federation)*, Prompt Release, 6 August 2007.
- (ii) *Case No. 15—The “Tomimaru” Case (Japan v. Russian Federation)*, Prompt Release, 6 August 2007.

2. Pending cases as at 31 December 2007

Case No. 7—Case concerning the Conservation and Sustainable Exploitation of Swordfish Stocks in the South-Eastern Pacific Ocean (Chile v. European Community) (2000-).

² For more information about the Tribunal’s activities, including relating to orders rendered in 2007, see the Annual report of the International Tribunal for the Law of the Sea for 2007 (SPLOS/174) and the Tribunal’s website at <http://www.itlos.org>. See also the *Reports of Judgments, Advisory Opinions and Orders/Recueil des arrêts, avis consultatifs et ordonnances, Volume 9 (2005–2007)*, Martinus Nijhoff Publishers, 2008.

³ United Nations, *Treaty Series*, vol. 1833, p. 3.

⁴ United Nations, *Treaty Series*, vol. 2000, p. 468.

C. INTERNATIONAL CRIMINAL COURT⁵

The International Criminal Court (ICC) is an independent permanent court established by the Rome Statute of the International Criminal Court, 1998.⁶ As at 31 December 2007, in accordance with the Statute and the Rules of Procedure and Evidence, the Prosecutor had opened investigations into four situations.

(i) *Situation in the Democratic Republic of the Congo ICC-01/04*

On 29 January 2007, Pre-Trial Chamber I confirmed charges of war crimes against Thomas Lubanga Dyilo. Both the prosecution and the defence sought leave of the Pre-Trial Chamber to appeal aspects of the confirmation of charges decision. The Pre-Trial Chamber dismissed these requests on 24 May 2007. A second appeal filed by the defence directly to the Appeals Chamber was also dismissed on 13 June 2007. Following the confirmation of the charges, the presidency constituted Trial Chamber I on 3 March 2007, which engaged in preparations for the opening of the trial. (*The Prosecutor v. Thomas Lubanga Dyilo* (ICC-01/04–01/06)).

On 2 July 2007, Pre-Trial Chamber I issued an arrest warrant under seal for Germain Katanga. Germain Katanga surrendered to the Court and was transferred to The Hague on 17 October, and made his first appearance before the Pre-Trial Chamber I on 22 October 2007. On 6 July 2007, Pre-Trial Chamber I issued an arrest warrant under seal for Mathieu Ngudjolo Chui. (*The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* (ICC-01/04–01/07)).

(ii) *Situation in Uganda ICC-02/04*

In 2005, five warrants of arrest were issued against five alleged members of the Lord's Resistance Army. On 11 July 2007, following the reception by ICC of a death certificate, Pre-Trial Chamber II terminated the proceedings against Raska Lukwiya and rendered the warrant of arrest without effect. (*The Prosecutor v. Joseph Kony, Vincent Otti, Raska Lukwiya, Okot Odhiambo and Dominic Ongwen* (ICC-02/04–01/05)).

(iii) *Situation in the Central African Republic ICC-01/05*

On 22 May 2007, the opening of an investigation into the situation in the Central African Republic was announced by the Prosecutor.

(iv) *Situation in Darfur, the Sudan ICC-02/05*

On 27 April 2007, Pre-Trial Chamber I issued warrants of arrest against Ahmad Muhammad Harun ("Ahmad Harun") and Ali Muhammed Ali Abd-Al-Rahman ("Ali Kushayb"). (*The Prosecutor v. Ahmad Muhammad Harun ("Ahmad Harun") and Ali Muhammed Ali Abd-Al-Rahman ("Ali Kushayb")* (ICC-02/05–01/07)).

⁵ For more information about the Court's activities, see Report of the International Criminal Court (A/62/314 and A/63/323). See also the Court's website at <http://www.icc-cpi.int/>.

⁶ United Nations, *Treaty Series*, vol. 2187, p. 3.

D. INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA⁷

The International Criminal Tribunal for the former Yugoslavia is a subsidiary body of the United Nations Security Council. The Tribunal was established by Security Council resolution 827 of 25 May 1993.⁸

1. Judgements delivered by the Appeals Chamber

- (i) *Prosecutor v. Miroslav Bralo*, Case No. IT-95-17, “Lašva Valley”, Judgment on Sentencing Appeal, 2 April 2007.
- (ii) *Prosecutor v. Radoslav Brđanin*, Case No. IT-99-36, “Krajina”, Judgment on Sentencing Appeal, 3 April 2007.
- (iii) *Prosecutor v. Vidoje Blagojević and Dragan Jokić*, Case No. IT-02-60, Judgment on Sentencing Appeal, 9 May 2007.
- (iv) *Prosecutor v. Fatmir Limaj, Isak Musliu and Haradin Bala*, Case No. IT-03-66, Judgment, 27 September 2007.
- (v) *Prosecutor v. Sefer Halilović*, Case No. IT-01-48, Judgment, 16 October 2007.
- (vi) *Prosecutor v. Dragan Zelenović*, Case No. IT-99-36, Judgment on Sentencing Appeal, 31 October 2007.

2. Judgements delivered by the Trial Chambers

- (i) *Prosecutor v. Domagoj Margetić*, Case No. IT-95-14-R77.6, Judgment on Allegations of Contempt, 7 February 2007.
- (ii) *Prosecutor v. Josip Jović*, Case No. IT-95-14 and 14/2-R77, Judgment, 15 March 2007.
- (iii) *Prosecutor v. Dragan Zelenović*, Case No. IT-99-36, Judgment, 4 April 2007.
- (iv) *Prosecutor v. Milan Martić*, Case No. IT-95-11, Judgment, 12 June 2007.
- (v) *Prosecutor v. Mile Mrkšić, Miroslav Radić, Veselin Šljivančanin*, Case No. IT-95-13/1, “Vukovar hospital”, Judgment, 27 September 2007.
- (vi) *Prosecutor v. Dragomir Milošević*, Case No. IT-98-29/1, “Sarajevo”, Judgment, 12 December 2007.

⁷ The texts of the indictments, decisions and judgements are published in the *Judicial Reports / Recueils judiciaires* of the International Criminal Tribunal for the former Yugoslavia for each given year. The texts are also available in English and French on the Tribunal’s website at <http://www.un.org/icty/index.html>. For more information about the Tribunal’s activities, see Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (A/62/172-S/2007/469 and A/63/210-S/2008/515).

⁸ The Statute of the Tribunal is annexed to the report of the Secretary-General pursuant to Security Council resolution 808 of 22 February 1993 (S/25704 and Add.1).

E. INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA⁹

International Criminal Tribunal for Rwanda is a subsidiary body of the United Nations Security Council. The Tribunal was established by Security Council resolution 955 (1994), adopted on 8 November 1994.¹⁰

1. Judgements delivered by the Appeals Chamber

- (i) *Prosecutor v. Emmanuel Nindabahizi*, Case No. ICTR-01-71-A, Judgement, 16 January 2007.
- (ii) *Prosecutor v. Mikaeli Muhimana*, Case No. ICTR-95-1B-A, Judgement, 21 May 2007.
- (iii) *Prosecutor v. Aloys Simba*, Case No. ICTR-01-76, Judgement, 27 November 2007.
- (iv) *Prosecutor v. Ferdinand Nahimana et al*, Case No. ICTR-96-11, Judgement, 28 November 2007.

2. Judgements delivered by the Trial Chambers

- (i) *Prosecutor v. Joseph Nzabirinda*, Case No. ICTR-2001-77-T, Judgement and Sentence, 23 February 2007.
- (ii) *Prosecutor v. Juvénal Rugambarara*, Case No. ICTR-00-59-T, Judgement and Sentence, 16 November 2007.
- (iii) *Prosecutor v. François Karera*, Case No. ICTR-01-74-T, Judgement and Sentence, 7 December 2007.
- (iv) *Prosecutor v. « GAA »*, Case No. ICTR-07-90-R77-I, Judgement and Sentence (case of false testimony and contempt of Tribunal), 4 December 2007.

⁹ The texts of the orders, decisions and judgements are published in the *Recueil des ordonnances, décisions et arrêts/Reports of Orders, Decisions and Judgements* of the International Criminal Tribunal for Rwanda. The texts are also available in English and French in the Tribunal's Judicial Records Database at <http://www.icttr.org>. For more information about the Tribunal's activities, see the annual report to the General Assembly and the Security Council: Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 (A/62/284-S/2007/502 and A/63/209-S/2008/514).

¹⁰ The Statute of the Tribunal is contained in the annex to the resolution.

F. SPECIAL COURT FOR SIERRA LEONE¹¹

The Special Court for Sierra Leone is an independent court established by the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone.¹²

1. Judgements delivered by the Trial Chambers

(i) *Prosecutor v. Alex Tamba Brima, Brima Bazzy Kamara and Santigie Borbor Kanu*, (Armed Forces Revolutionary Council (AFRC) Case), Case No. SCSL-04-16-T, Judgement, 20 June 2007; Sentencing Judgement, 19 July 2007.

(ii) *Prosecutor v. Moinina Fofana and Allieu Kondewa*, (Civil Defence Forces (CDF) Case),¹³ Case No. SCSL-04-14-T, Trial Judgement, 2 August 2007; Sentencing Judgement, 9 October 2007.

2. Judgements delivered by the Appeals Chamber

No judgements were delivered by the Appeals Chamber of the Special Court for Sierra Leone in 2007.

3. Selected decisions of the Appeals Chamber¹⁴

There were no decisions of the Appeals Chamber pertaining to jurisdictional and other matters relating to the competence of the Court in 2007.

4. Selected decisions of the Trial Chambers¹⁵

There were no decisions taken by the Trial Chambers pursuant to rule 98 of the Rules of Procedure and Evidence of the Special Court (Motion of judgment of acquittal) in 2007.

¹¹ The texts of the judgments and decisions are available on the Court's website at <http://www.sc-sl.org>. For more information on the Court's activities, see the Fourth annual report of the President of the Special Court, covering the period from January 2006 to May 2007, and the Fifth annual report of the President of the Special Court, covering the period from June 2007 to May 2008.

¹² For the text of the Agreement and the Statute of the Special Court, see United Nations, *Treaty Series*, vol. 2178, p. 137.

¹³ On 22 February 2007, Trial Chamber I was informed of the death of the first accused in the Civil Defense Forces Trial, Samuel Hinga Norman. Thus, on 21 May 2007, Trial Chamber I decided to terminate proceedings against Norman and that its Trial judgment would be rendered only against the remaining accused, Fofana and Kondawa, on the basis of the entirety of the evidence adduced during the trial.

¹⁴ Selected decisions of the Appeals Chamber pertaining to jurisdictional and other matters relating to the competence of the Court are covered in this section.

¹⁵ Only decisions of the Trial Chamber made pursuant to rule 98 of the Rules of Procedure and Evidence of the Special Court (Motions of judgment of acquittal) in 2007 are covered in this section.

G. EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

The Agreement between the United Nations and the Royal Government of Cambodia concerning the Prosecution under Cambodian Law of Crimes Committed during the period of Democratic Kampuchea, signed in Phnom Penh on 6 June 2003,¹⁶ entered into force the 29 April 2005 and established the Extraordinary Chambers in the Courts of Cambodia to prosecute the crimes committed during the period of Democratic Kampuchea.

No judgment was issued by the Trial Chamber or Supreme Court Chamber in 2007. However, the Co-Investigating Judges indicted and issued orders of Provisional Detention against Kaing Guek Eav alias Duch; Nuon Chea; Ieng Sary and Thirith; and Khieu Samphan.¹⁷ Furthermore, on 3 December 2007, the Pre-Trial Chamber rendered its decision on the Appeal by Kaing Guek Eav (Duch) against the Order for Provisional Detention, case No. 001/18-07-2007-ECCC-OCIJ-(PTC01).

H. SPECIAL TRIBUNAL FOR LEBANON

In 2007, the Special Tribunal for Lebanon was established pursuant to the Agreement between the United Nations and the Lebanese Republic on the establishment of a Special Tribunal for Lebanon, dated 22 January and 6 February 2007, and the resolution of the Security Council 1757 (2007) of 30 May 2007.¹⁸

¹⁶ United Nations, *Treaty Series*, vol. 2328.

¹⁷ On 31 July 2007; 19 September 2007; 14 November 2007; and 19 November 2007, respectively.

¹⁸ The Statute of the Tribunal, and the Agreement between the United Nations and the Lebanese Republic on the establishment of a Special Tribunal for Lebanon, to which it is attached, are reproduced in chapter II. B.