CHAPTER 11

UN Sanctions Targeting Individuals and ICC Proceedings: How to Achieve a Mutually Reinforcing Interaction

Marina Mancini

Abstract

This chapter shows that the Security Council sanctions mechanism and the ICC mechanism intersect in many ways. It examines how they impact on each other and investigates how frictions between them can be removed and a mutually reinforcing interaction can be achieved. The author submits that a harmonious relationship between the two mechanisms would be of mutual benefit and advance the achievement of their respective goals, and identifies several steps that should be taken to this end.

Keywords


1 Introduction

The practice of the last decade reveals that an increasing number of individuals are subject to both UN Security Council targeted sanctions and ICC investigation or prosecution. This can be explained by the fact that the Security Council sanctions often target individuals who are deemed responsible for situations threatening or violating international peace and security and that the ICC jurisdiction covers, in the words of Article 1 of the Rome Statute, “the most serious crimes of international concern”, which are frequently committed in those situations.

Indeed, the Security Council sanctions mechanism and the ICC mechanism may have a relevant impact on the attainment of each other’s goal, the maintenance or restoration of the international peace and security and the pursuit of individual accountability for the most serious international crimes respectively. Depending on the circumstances, they may support or hinder the achievement of each other’s goal. This chapter focuses precisely on the interplay between the
two mechanisms. It investigates how they impact on each other and explores how frictions between them can be removed and a mutually reinforcing interaction can be achieved.

2 UN Targeted Sanctions and ICC Investigations

For the reasons stated above, it is not surprising that the ICC Prosecutor initiates investigations in respect of crimes committed in situations which are also on the Security Council’s agenda. As at the time of writing (June 2015), the Prosecutor had opened an investigation into five situations in which targeted sanctions were adopted by the Security Council, namely the situations in the Democratic Republic of the Congo (2004), Darfur-Sudan (2005), the Central African Republic (2007), Libya (2011) and Côte d’Ivoire (2011). The situations in the Democratic Republic of the Congo and the Central African Republic were referred to the Prosecutor by the territorial State (self-referral), under Article 14 of the Rome Statute. Those in Darfur-Sudan and Libya were referred to the Prosecutor by a Security Council Resolution adopted under Chapter VII of the UN Charter, in accordance with Article 13 (b) of the Statute. As to the situation in Côte d’Ivoire, the Prosecutor initiated an investigation **proprio motu**, following the Pre-Trial Chamber authorization, pursuant to Article 15 of the Statute.

Whenever they intervene in the same situation, the ICC Prosecutor and the Security Council might greatly benefit, in fulfilling their respective mandates,

---

4 ICC-OTP, Statement: ICC Prosecutor to Open an Investigation in Libya, 2 March 2011.
8 ICC-02/11-14, Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Republic of Côte d’Ivoire, 3 October 2011.