Work in Progress / Travaux en cours

International Criminal Court – Senior Officials Take Office

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With the most senior officials now appointed, the International Criminal Court is setting its course. The eighteen judges of the Court were inaugurated in March, 2003, witnessed by various leaders and representatives of the international community. In his address, the United Nations Secretary-General Kofi Annan stated that “these eleven men and seven women, representing all regions of the world and many different cultures and legal traditions, have made themselves the embodiment of our collective conscience”. The principal administrator of the Court, Registrar Mr. Bruno Cathala, was appointed on July 4, and the Court’s Prosecutor, Mr. Luis Moreno Ocampo, took office on June 16. His Deputy-prosecutor, Mr. Serge Brammertz, made his solemn undertaking on November 3, 2003. Another important election took place in September 2003, namely the election of members of the Board of Directors of the Victims Trust Fund: Her Majesty Queen Rania Al-Abdullah, Óscar Arias Sánchez, Tadeusz Mazowiecki, Archbishop Desmond Tutu, and Simone Veil. In September 1999 staff members were working in the Court’s temporary building, the Arch, in The Hague. That same month, the Assembly of States Parties adopted the Court’s budget for the year 2004, totaling EU 55,000 and entailing 395 staffing posts.

With a case looming, the new officials of the Court are busy preparing for its arrival. Since the entry into force of the Rome Statute in July 2002, no case has been referred to the Court, neither by the United Nations Security Council nor from any of its 92 member states. However, during the same time, the office of the Prosecutor received numerous communications from NGOs and individuals. The first likely case before the Court concerns a situation in one of its member states, the Democratic Republic of Congo. The Prosecutor has announced that he is conducting preliminary examinations of atrocities committed in Ituri, which could potentially constitute genocide, crimes against humanity and war crimes, all of which fall within the jurisdiction of the Court.

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Registrar Mr. Bruno Cathala’s imminent task is to set the Court physically on the ground. He is not entirely new to the job, as he served as the Registrar of the Court in his function as the Director of Common Services since October 2002. His former experience as the Deputy Registrar at the International Criminal Tribunal for the former Yugoslavia will, without doubt, come in handy. His initial task is complicated by the fact that the Court is not a part of the United Nations and therefore does not enjoy its institutional support; he does not enjoy the privilege of being able to call in technical expertise which has done the job so often before. The temporary building of the Court is now being transformed into facilities serving a judicial body, including separate facilities for the office of the Prosecutor, media center, court rooms, and public gallery. Access by victims has to be ensured, as well as facilities for the defence. All the infrastructure must be carefully considered, in particular the information technology system adopted. Having the right IT system in place at the outset will be crucial for the effective functioning of the Court, as well as for its finances in the longer term. The lessons learned from the ad hoc tribunals for the former Yugoslavia and Rwanda, where the same documents have been translated dozens of times, are a good example of bad investments.

While “establishing” the Court, the Registrar is handling the everyday administrator’s task, such as serving the Court’s officials, conducting a recruitment process, holding tight to the wallet, and presenting a reasonable budget to the Assembly of States Parties. External relations are a crucial component of his agenda, whether it is with states parties, the host government, regional and international organizations, civil society, or conceivable future states parties. States parties’ collaboration is now being put to the test. Hopefully, their late payments of assessed contributions are not a indication of dwindling commitment. The government of the Netherlands has to be held to its promise of giving the Court permanent premises, while at the same time taking into account the Court’s needs and interest. The recent activities of the office of the Prosecutor have already proven how dependent the Court is on cooperation with the United Nations, and the relationship agreement between the institutions, currently being negotiated, will hopefully substantiate the cooperation between the two. The Registrar acknowledges the vital role NGOs have played in the ICC process, and he has consulted with them regarding victims and defence issues. For instance, in October 2003, he held a seminar with NGOs on victims participation and related issues. However, he did not support the application by the new International Criminal Bar for recognition by the Assembly of States Parties, due to reservations about its representation and transparency, and since the application’s subsequent rejection, he has been assembling his own list of counsel for Assembly of States Parties’ approval.