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International Criminal Court Seeks Authorization from the Pre-trial Chamber to Open Investigations of the 2008 Russo-Georgian War

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Fokus

ICC Prosecutor requests to probe into August War 2008.

Sources:
"Georgia to Push for Broader ICC Inquiry into 2008 War with Russia", 16 /10/2015
<http://www.eurasianet.org/node/75591>

"ICC Prosecutor Requests to Open Probe into August War", Civil Georgia, 14/10/2015 www.civil.ge

"ICC Prosecutor Visits Georgia" Civil Georgia, 15/10/2015 www.civil.ge

"The International Court of Justice dismisses Georgia's discrimination case on the basis of jurisdiction" The Hague Justice Portal, 1/4/2011
<http://www.haguejusticeportal.net/index.php?id=12527>

After seven years of preliminary examinations, the International Criminal Court (ICC) declared on October 8, 2015 that its chief prosecutor, Ms Fatou Bensouda, is seeking authorization to open investigations into alleged war crimes committed to the Georgian, Russian and South Ossetian sides during the war in Georgia in August 2008. In her request, the prosecutor focuses on killings, forcible displacements and persecution of ethnic Georgians, as well as destruction and pillaging of their property by South Ossetian forces (with possible participation of Russian forces). In the second set of alleged crimes, the Court seeks investigations into intentionally directing attacks against Georgian peacekeepers by South Ossetian forces, and against Russian peacekeepers by Georgian forces.

Although the Court still has to give its permission for the launch of investigations, the announcement itself created quite a stir in both Russia and Georgia. Russian authorities criticize that the prosecutor's application focuses more closely on crimes committed by South Ossetian forces (with possible Russian support) rather than on alleged war crimes committed by the Georgian forces. A statement issued by the Russian Ministry of Foreign Affairs says that the interpretations of the 160-page request would shield the regime of former Georgian President Mikheil Saakashvili, and "will hardly contribute to confidence towards the ICC prosecutor's office."

The Georgian authorities, however, welcome the move by the ICC and promise full cooperation with the prosecutor. In fact, the investigations seem to be the last resort for Georgia to look into alleged crimes committed during the war. In 2011 the International Court of Justice (ICJ) dismissed Georgia's case against Russia, wherein it accused Russia of ethnic cleansing in the two breakaway Georgian provinces of South Ossetia and Abkhazia. The ICJ upheld one of Moscow's preliminary objections and ruled that the case was outside its jurisdiction. Meanwhile, the Georgian government has officially suspended national proceedings in relation to the alleged war crimes during the August war, citing a fragile security situation in the occupied territories, concerns over safety of witnesses of alleged crimes, and lack of access to South Ossetian territory. Yet, critics of the Georgian government argue that proceedings were suspended as part of a new policy to reconcile and resume trade with Moscow.

This is the first time that the ICC prosecutor has requested the opening of investigations into a situation outside Africa. Whether or not this move will enhance the reputation of the Court, which has often been accused for being selectively biased against Africa, remains to be seen. However, it seems unlikely that it will lead to greater stability in the South Caucasus. On the contrary, since Russian and South Ossetian forces stepped up their policy of redrawing the border along the Administrative Boundary Line, the security situation for people living close to the breakaway region may rather deteriorate with the launch of investigations.

Verantwortung

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