



# INTERNATIONAL COURT OF JUSTICE

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## Press Release

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### **Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)**

**The Court to deliver its Judgment on Friday 20 July 2012 at 3 p.m.**

**Reading to be broadcast live on the Court's website**

THE HAGUE, 16 July 2012. On Friday 20 July 2012, the International Court of Justice (ICJ), the principal judicial organ of the United Nations, will deliver its Judgment in the case concerning Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal).

A public sitting will take place at 3 p.m., during which the President of the Court, Judge Peter Tomka, will read the Court's Judgment. This sitting will be broadcast live and in full on the Court's website (via the "Multimedia" link). It will immediately be made available as a recorded webcast (VOD) on the Court's website and, shortly thereafter, will be uploaded to the United Nations multimedia site (<http://www.unmultimedia.org/tv/webcast/>).

It should be noted that, owing to the renovation of the Great Hall of Justice of the Peace Palace, where the Court usually sits, this public sitting will be held in the Japanese Room on the first floor of the Peace Palace. There are only a very limited number of seats available in the Japanese Room. Additional seating will, however, be provided in the Small Hall of Justice on the ground floor of the Palace, where the public sitting will be shown live on a large screen.

#### History of proceedings

On 19 February 2009, Belgium instituted proceedings against Senegal, on the grounds that a dispute exists "between the Kingdom of Belgium and the Republic of Senegal regarding Senegal's compliance with its obligation to prosecute" the former President of Chad, Hissène Habré, "or to extradite him to Belgium for the purposes of criminal proceedings".

In its Application, Belgium maintains that Senegal, where Mr. Habré has been living in exile since 1990, has taken no action on its repeated requests to see the former President of Chad prosecuted in Senegal, failing his extradition to Belgium, for acts characterized as including crimes of torture and crimes against humanity (see Annual Report 2008-2009 et seq.).

To found the Court's jurisdiction, Belgium, in its Application, invokes the unilateral declarations recognizing the compulsory jurisdiction of the Court made by the Parties pursuant to Article 36, paragraph 2, of the Statute of the Court, on 17 June 1958 (Belgium) and 2 December 1985 (Senegal).

Moreover, the Applicant indicates that “[t]he two States [are] parties to the United Nations Convention against Torture of 10 December 1984”. The Convention was ratified by Senegal on 21 August 1986, without reservation, and became binding on it on 26 June 1987, the date of its entry into force. Belgium ratified the Convention on 25 June 1999, without reservation, and became bound by it on 25 July 1999. Article 30 of that Convention provides that any dispute between two States parties concerning the interpretation or application of the Convention which it has not been possible to settle through negotiation or arbitration may be submitted to the ICJ by one of those States. Belgium contends that negotiations between the two States “have continued unsuccessfully since 2005” and that it reached the conclusion on 20 June 2006 that they had failed. Belgium states, moreover, that it suggested recourse to arbitration to Senegal on 20 June 2006 and notes that Senegal “failed to respond to that request . . . whereas Belgium has persistently confirmed in Notes Verbales that a dispute on this subject continues to exist”.

At the end of its Application, Belgium requests the Court to adjudge and declare that:

- “— the Court has jurisdiction to entertain the dispute between the Kingdom of Belgium and the Republic of Senegal regarding Senegal’s compliance with its obligation to prosecute Mr. H. Habré or to extradite him to Belgium for the purposes of criminal proceedings;
- Belgium’s claim is admissible;
- the Republic of Senegal is obliged to bring criminal proceedings against Mr. H. Habré for acts including crimes of torture and crimes against humanity which are alleged against him as perpetrator, co-perpetrator or accomplice;
- failing the prosecution of Mr. H. Habré, the Republic of Senegal is obliged to extradite him to the Kingdom of Belgium so that he can answer for these crimes before the Belgian courts”.

Belgium’s Application was accompanied by a request for the indication of provisional measures. It explains therein that while “Mr. H. Habré is [at present] under house arrest in Dakar . . . it transpires from an interview which the President of Senegal, A. Wade, gave to Radio France International that Senegal could lift his house arrest if it fails to find the budget which it regards as necessary in order to hold the trial of Mr. H. Habré”. The Applicant states that, “in such an event, it would be easy for Mr. H. Habré to leave Senegal and avoid any prosecution”, which “would cause irreparable prejudice to the rights conferred on Belgium by international law . . . and also violate the obligations which Senegal must fulfil”.

Public hearings were held from 6 to 8 April 2009 to hear the oral observations of the Parties on the request for the indication of provisional measures submitted by Belgium.

At the close of the hearings, Belgium asked the Court to indicate the following provisional measures: “the Republic of Senegal is requested to take all the steps within its power to keep Mr. Hissène Habré under the control and surveillance of the Senegalese authorities so that the rules of international law with which Belgium requests compliance may be correctly applied”. For its part, Senegal asked the Court “to reject the provisional measures requested by Belgium”.

In its Order made on 28 May 2009, the Court found, by thirteen votes to one, that “the circumstances, as they [then] present[ed] themselves to [it], [were] not such as to require the exercise of its power . . . to indicate provisional measures” (see Annual Report 2010-2011).

By an Order of 9 July 2009, the Court fixed 9 July 2010 as the time-limit for the filing of a Memorial by the Kingdom of Belgium and 11 July 2011 as the time-limit for the filing of a Counter-Memorial by the Republic of Senegal. The Memorial of Belgium was filed within the time-limit thus fixed.

By an Order of 11 July 2011, the President of the Court extended the time-limit for the filing of the Counter-Memorial of the Republic of Senegal from 11 July 2011 to 29 August 2011. The Counter-Memorial was filed within the time-limit thus extended.

Public hearings were held from 12 to 21 March 2012. At the conclusion of those hearings the Parties presented their final submissions to the Court:

For the Kingdom of Belgium:

“For the reasons set out in its Memorial and during the oral proceedings, the Kingdom of Belgium requests the International Court of Justice to adjudge and declare that:

1. (a) Senegal breached its international obligations by failing to incorporate in due time in its domestic law the provisions necessary to enable the Senegalese judicial authorities to exercise the universal jurisdiction provided for in Article 5, paragraph 2, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
  - (b) Senegal has breached and continues to breach its international obligations under Article 6, paragraph 2, and Article 7, paragraph 1, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and under other rules of international law by failing to bring criminal proceedings against Mr. Hissène Habré for acts characterized in particular as crimes of torture, war crimes, crimes against humanity and crimes of genocide alleged against him as perpetrator, co-perpetrator or accomplice, or, otherwise, to extradite him to Belgium for the purposes of such criminal proceedings;
  - (c) Senegal may not invoke financial or other difficulties to justify the breaches of its international obligations.
2. Senegal is required to cease these internationally wrongful acts
    - (a) by promptly submitting the Hissène Habré case to its competent authorities for prosecution; or
    - (b) failing that, by extraditing Mr. Habré to Belgium without further ado.”

For the Republic of Senegal:

“In the light of all the arguments and reasons contained in its Counter-Memorial, in its oral pleadings and in the replies to the questions put to it by judges, whereby Senegal has declared and sought to demonstrate that, in the present case, it has duly fulfilled its international commitments and has not committed any internationally wrongful act, I would ask the Court, on behalf of my country, to find in its favour on the following submissions and to adjudge and declare that:

1. Principally, it cannot adjudicate on the merits of the Application filed by the Kingdom of Belgium because it lacks jurisdiction as a result of the absence of a dispute between Belgium and Senegal, and the inadmissibility of that Application;
2. In the alternative, should it find that it has jurisdiction and that Belgium’s Application is admissible, that Senegal has not breached any of the provisions of the 1984 Convention against Torture, in particular those prescribing the obligation to “try or extradite” (Article 6,

paragraph 2, and Article 7, paragraph 1, of the Convention), or, more generally, any other rule of conventional law, general international law or customary international law in this area;

3. In taking the various measures that have been described, Senegal is fulfilling its commitments as a State Party to the 1984 Convention against Torture;
4. In taking the appropriate measures and steps to prepare for the trial of Mr. H. Habré, Senegal is complying with the declaration by which it made a commitment before the Court.
5. It consequently rejects all the requests set forth in the Application of the Kingdom of Belgium.”

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### **Note to the press and public**

1. The public sitting for the delivery of the Judgment will be held in the **Japanese Room** on the first floor of the Peace Palace. There are only a very limited number of seats available in the Japanese Room. Additional seating will, however, be provided in the Small Hall of Justice on the ground floor of the Palace, where the public sitting will be shown live on a large screen. **Mobile telephones must be switched off.**

2. **Media representatives** are subject to an **online accreditation procedure**, details of which can be found in the Media Advisory attached to this Press Release. **The accreditation procedure will close at midnight on Wednesday 18 July 2012.**

3. **Individual visitors** (with the exception of members of the Diplomatic Corps) **and groups are subject to an online admission procedure.** They are kindly requested to fill out the relevant form on the Court’s website (click on “Attending a Hearing”). **The admission procedure will close at midnight on Wednesday 18 July 2012.**

4. **This sitting will be broadcast live and in full** on the Court’s website (via the “multimedia” link), from 3 p.m. local time. On the same day, it will also be made available for three months as a recorded webcast (VOD) on the Court’s website. Shortly after the reading, it will be uploaded to the United Nations multimedia site (<http://www.unmultimedia.org/tv/webcast/>), where it will remain archived.

5. At the end of the sitting, a Press Release, a Summary of the Judgment and the full text of the Judgment will be distributed. All of these documents will be made available at the same time on the Court’s website.

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The International Court of Justice (ICJ) is the principal judicial organ of the United Nations. It was established by the United Nations Charter in June 1945 and began its activities in April 1946. The seat of the Court is at the Peace Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in New York. The Court has a twofold role: first, to settle, in accordance with international law, legal disputes submitted to it by States (its judgments have binding force and are without appeal for the parties concerned); and, second, to give advisory opinions on legal questions referred to it by duly authorized United Nations organs and agencies of the system. The Court is composed of 15 judges elected for a

nine-year term by the General Assembly and the Security Council of the United Nations. Independent of the United Nations Secretariat, it is assisted by a Registry, its own international secretariat, whose activities are both judicial and diplomatic, as well as administrative. The official languages of the Court are French and English. Also known as the “World Court”, it is the only court of a universal character with general jurisdiction.

The ICJ, a court open only to States for contentious proceedings, and to certain organs and institutions of the United Nations system for advisory proceedings, should not be confused with the other — mostly criminal — judicial institutions based in The Hague and adjacent areas, such as the International Criminal Tribunal for the former Yugoslavia (ICTY, an ad hoc court created by the Security Council), the International Criminal Court (ICC, the first permanent international criminal court, established by treaty, which does not belong to the United Nations system), the Special Tribunal for Lebanon (STL, an independent judicial body composed of Lebanese and international judges, which is not a United Nations tribunal and does not form part of the Lebanese judicial system), or the Permanent Court of Arbitration (PCA, an independent institution which assists in the establishment of arbitral tribunals and facilitates their work, in accordance with the Hague Convention of 1899).

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**Media advisory**

**Questions relating to the Obligation to Prosecute or Extradite  
(Belgium v. Senegal)**

**Accreditation procedure for the delivery of the Court's Judgment  
on Friday 20 June 2012 at 3 p.m.**

**Reading to be broadcast live and in full**

Media representatives are required to fill out the online accreditation form, available on the Court's website ([www.icj-cij.org](http://www.icj-cij.org)) under "Calendar". **Applications for accreditation must reach the Court by midnight on Wednesday 18 July 2012.** Only online application forms will be accepted. Each application will be checked by the Information Department, and replies will be sent by e-mail. Applications received after the deadline will not be considered.

**Entry to the Peace Palace**

Media representatives must bring with them their personal ID and press card. They are asked to arrive at the Peace Palace gates **between 1.30 p.m. and 2.30 p.m.** **Only duly accredited individuals with valid identification will be permitted to enter the Peace Palace grounds.**

No parking is allowed in the Peace Palace grounds apart from satellite vehicles. Media wishing to park satellite vehicles are requested to fill in the appropriate fields in the online accreditation form. NB: Television media wishing to broadcast a live reading of the Judgment should contact the Information Department in advance, as the sitting will take place in a temporary courtroom.

**Access to the courtroom**

Media representatives should take particular note of the fact that, owing to the renovation of the Great Hall of Justice of the Peace Palace, where the Court has its seat, this public sitting will be held in the Japanese Room, on the first floor of the Peace Palace. Chairs reserved for media representatives are located at the back of the room. Photographers and camera crews are only permitted to enter the room for a few minutes at the start of the sitting. Photographers and camera crews must keep to the right-hand side of the room.

**Press room**

Proceedings will be transmitted live in English and French to the Press room. The room is equipped with Wi-Fi and modem internet access. Live video and audio feeds are available via the breakout box (PAL video output). The Press Room will be open between **1.30 p.m. and 6 p.m.** on the day of the sitting. **Please note that all media representatives must leave the Peace Palace grounds by 6 p.m.**

Live webcast and multimedia files

**The public sitting will be broadcast live and in full (in Flash format)** on the Court's website (via the "Multimedia" link), from 3 p.m. local time. It will also be made available as a recorded webcast (VOD, in Flash format) on the Court's website (for three months) and, shortly after the sitting, will be uploaded to the United Nations multimedia site (<http://www.unmultimedia.org/tv/webcast/>), where it will be archived and available to view permanently.

**Three multimedia files in professional format (mpeg-2) will be available** on the "Multimedia" page of the Court's website approximately one hour after the conclusion of the sitting: (file 1) the reading of the operative part of the Judgment (detailing the decisions taken by the Court) by the President of the Court, Judge Peter Tomka (in French); (file 2) the reading of the operative part of the Judgment by the Registrar of the Court, Mr. Philippe Couvreur (in English); and (file 3) photographs taken from the side of the courtroom showing the Members of the Court, the representatives of the Parties and the rest of the courtroom during the sitting.

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