

# TRIAL

SWISS ASSOCIATION AGAINST IMPUNITY



ACTIVITY REPORT  
2011

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**The fight against impunity in Switzerland & SCICC** - Bénédicte DE MOERLOOSE, *Legal Adviser*, Richard GREINER, *Coordinator of the Swiss Coalition for the ICC*, Damien CHERVAZ, *Solicitor*

**Trial Watch & Translators** - Michael SIEGRIST, *Person in Charge*, Frida CASTILLO, *Project Coordinator (until April)*, Lisa GAUFMAN, *Project Coordinator (April-October)*, Julie PENVEN, *Project Coordinator (since November)*, Almaz TEFFERA, *Intern*, César ROJAS OROZCO, *Intern*, Veronica ABREGO, Stéphanie ANGER, Katya AZARKINA, Rocio ARREDONDO, Elio BANETTE, Jastine BARRETT, Franck BARRAU, Jesus BERMUDEZ, Julie BERNATH, Camille BIDAÜ, Anne-Marie BUCHMÜLLER, May BUCHMÜLLER, Andreas BÜNGER, Anabel BUTLER, Gaele CARAYON, Claire CONSTANT, Silvia CORRADO, Camilla CRANE, Dina COLOMA, Dieudonné DAGBETO, Angela DAMEN, Daniela DE ANGELIS, Pierre D'HUART, Fanny DUFVENMARK, Marie-Astrid DUMAIS, Caroline EHLERT, Eric FELDMAN, Philippe FLORY, Jac FORTON, Stefan FROST, Andreja GRAH, Tom GRANT, Vanessa GREE, Caroline HARVEY, Sarah HAYES, Maria Isabel HENAO, Valeria HORVATH, Johanna IMPEY, Andrea IVANOVIC, Ana María JIMENEZ TRIANA, Elise JONES, Maarja KADAJANE, Justyna KASPERUK, Toni KERELEZOV, Anastasia KHAPILOVA, Doris KOPIEJWSKI, Geeta KOSKA, Anita KUNATH, France LAMBINET, Vincent LE JENTER, Arnaud LOUWETTE, Laura MACKENZIE, Stefanny MEDINA, Julie MCBRIDE, Leila NAJEB, Ikuko NAKAE, Zoleikha NOURI, Lorenzo PALESTINI, Ester PALOMARES, Silvia PALOMBA, Nevena PULJIC, Leonie REICHENECKER, Julia RÖNNAU, Camille ROUSSEL, Grisha SAFARIAN, Audrey SANGSUE, Mathilde SAVINI, Therese SCHMUDE, Andreas SCHNABL, Annemarie SCHNEITER, André SCHÖNMAIER, Simona SCHREIER, Anna SCHÜLER, Doudou SENGHOR, Chitragada SINGH, Alexander SPRING, Yannick TSCHUDI, Catherine TOMKINS, Philipp WAHL, Marlene WAEFLER, Alexandra VUILLARD, Catherine WINTRIP, Olga ZIORI, *Volunteer Editors and Translators*

**News** - Julie JARNO, *Coordinator*, Audrey BAETE, Tineke BAIRD, Lucie BEAUDOUIN, Claire CATHERINET, Nadège FRANDON, Flore HARDY, Nathalie HEYMANS, Daniele PERISSI, Nathalie PERROT, Linda ZUFFEREY

**Journal** - Anne ALTHAUS, *Co-Editor*, Elisabeth BAUMGARTNER, *Co-Editor*, Brigitt ALTWEGG, *Layout*

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## Director's message



The need for universal justice continues to grow, here and elsewhere. The past year has illustrated this on numerous occasions.

Is impunity for the most serious crimes declining, however? It is hard to say.

In any case, TRIAL continues to move forward. The year 2011 saw the birth of a new programme to fight against impunity for the perpetrators, accomplices and instigators of serious crimes in Switzerland. The entering into force of a new law for which TRIAL worked hard to advocate during many years finally allows TRIAL to fully commit to a subject that inspired its creation. Thus, in 2011, TRIAL has worked on three major cases concerning a former chief of police of Guatemala, a vice-ambassador from Sri Lanka and an Algerian general, as well as on two cases involving Swiss companies.

Our legal support for victims of serious crimes has also grown. In addition to submitting numerous cases and reports regarding Algeria, Bosnia-Herzegovina, Burundi, Kenya, Nepal and Libya, TRIAL has developed a training programme for local civil society actors to enable them, in time, to submit cases themselves to international human rights bodies. Such training courses were implemented in Bosnia-Herzegovina, Burundi, Kenya and Nepal. On an individual case level, TRIAL is currently defending over 200 victims before various international bodies through more than 70 cases.

This growth would not have been possible without stabilising our financial situation and expanding a dynamic team of dedicated staff and committed volunteers.

The commitment of each and everyone allowed TRIAL to be ranked among the top 100 NGOs in the world according to *The Global Journal*!

A big thank you to all those who contributed and who will accompany TRIAL in 2012, the year of its 10th anniversary.

Philip Grant

## SUPPORT FOR THE VICTIMS OF SERIOUS CRIMES

In 2011, TRIAL **submitted nine new cases** to the United Nations Human Rights Committee and to the Committee against Torture, including the **very first case ever submitted against Burundi**. Two of the cases concern Bosnia-Herzegovina, three Algeria and three others Nepal. The association is hence in charge of over 70 cases concerning over 200 victims of international crimes.

TRIAL's submissions are starting to bear fruit: Four years after the submission of the first individual cases, TRIAL has received **four first decisions condemning Algeria**. Three out of these decisions concern enforced disappearances and were issued by the Human Rights Committee. The forth case, which concerns death under torture, is the **first condemnation of Algeria by the Committee against Torture**.

Apart from the individual cases, TRIAL has also submitted several reports concerning Bosnia-Herzegovina to various international human rights bodies. In May 2011, TRIAL and 12 local organisations specialised in supporting victims of rape and other forms of sexual violence during the war submitted a 62 page **report to the United Nations Special Rapporteur on Violence against Women, its causes and consequences**, which elaborates on the human rights violations these victims are still suffering from today. In October 2011, TRIAL and 19 associations of victims

of sexual violence, former concentration camp detainees and families of victims of enforced disappearances in Bosnia-Herzegovina submitted a 52 page report to the **Committee against Torture** to highlight how Bosnia-Herzegovina's authorities have not followed the recommendations that the Committee issued in November 2010. Finally, in December 2011, TRIAL and 16 associations of victims of sexual violence, former concentration camp detainees and families of victims of enforced disappearances in Bosnia-Herzegovina from diverse backgrounds submitted a 51 page report to the **Human Rights Committee** to echo Bosnia-Herzegovina's second periodic report.

**Our information and lobbying work** has also gained in importance in Bosnia-Herzegovina: In March 2011, a workshop including representatives of civil society, governmental agencies and international organisations offered the possibility to discuss the difficulties that families of victims of enforced disappearance are facing and identify possible actions to remedy these difficulties.

In addition, TRIAL submitted a general allegation and over three dozen cases concerning the enforced disappearances in the Mont Elgon region in **Kenya to the United Nations Working Group on Enforced or Involuntary Disappearances**.



*Frida Castillo, legal advisor at TRIAL, shows the representatives of Western Kenya Human Rights Watch how to prepare submissions to the United Nations Working Group on enforced or involuntary disappearances, Bungoma, April 2011.*

Working for victims of serious crimes has been possible in particular thanks to **reinforced presence on the ground**, which allows TRIAL to maintain links with the victims and partners, to gather elements of the evidence and - depending on the local security situation - to lobby authorities.

Over the past year, TRIAL has made a significant effort to train local actors, who often have insufficient training in regards to the possibilities of acting on an international level to defend human rights. To reinforce their capacities, TRIAL was not only regulating remote work, but also carrying out practical training sessions in various countries: Burundi (January/February), Bosnia-Herzegovina (March and July), Kenya (April) and in Nepal (December). These training sessions will continue in 2012.

TRIAL has also decided to implement a project in **Mexico** that aims to submit various reports to several bodies of the United Nations in 2012. Finally, an evaluation mission was carried out in the **Ivory Coast** at the end of 2011 to evaluate a partnership project proposed by a local organisation, which could take off around the middle of 2012.



## FIGHT AGAINST IMPUNITY IN SWITZERLAND

On 1 January 2011, Swiss law was updated in regards to international crimes: crimes against humanity are now punishable, and a detailed list of war crimes now appears in the Swiss penal code. In the wake of this change, TRIAL has created a programme "Fight against impunity in Switzerland," which aims to track down individuals and businesses in Switzerland that are responsible for or complicit in these crimes. This initiative has already led to several legal cases in 2011. In order to attain these results, TRIAL has hired a specialised attorney-at-law and can count on the expertise of the attorneys-at-law of its Committee.

© Trokilinochchi - Bombed Water Tower, Kilinochchi, Sri Lanka.



In 2011, TRIAL thus filed several criminal complaints and denunciations. Most of these cases are confidential (particularly those actions aimed at businesses), but several cases made public have been hotly debated in the press and by the public at large.

### The Khaled Nezzar case



On 19 October 2011, TRIAL filed a criminal complaint against Khaled Nezzar who was visiting Geneva. General Khaled Nezzar, a former Algerian defence minister and one of the major actors in the coup d'état of January 1982, is considered one of the main officials responsible for the widespread use of torture, enforced disappearances and extrajudicial executions against opponents and Islamists during the first years of the "Dirty War," which caused around 200 000 deaths and led to 20 000 missing persons. Following the denunciation by TRIAL and two criminal complaints filed by victims of torture, Khaled Nezzar was arrested by the police and held by the Office of the Attorney General of Switzerland for two days. He was then freed on the condition that he would present himself for the rest of the criminal procedure which is currently taking place.

### The Jagath Dias case



TRIAL and the Society for Threatened Peoples (SPM) opposed the nomination of M. Jagath Dias as Sri Lanka's vice-ambassador in Switzerland. Before becoming a diplomat, M. Jagath Dias was a General of the 57<sup>th</sup> division in the Sri Lankan army, charged with attacking the Tamil Tigers during the final offensive against the rebels in 2008-2009. A detailed report by the ECCHR accuses him of having committed war crimes: his division is suspected to have bombed civilians and protected areas, such as hospitals and churches. Confronted with the passivity of the authorities who were requested to revoke his diplomatic status, the two organisations filed a criminal complaint against Jagath Dias to the Office of the Attorney General in August 2011. The action of the two associations has been fruitful since Jagath Dias was finally called back to Sri Lanka. This is allegedly the first case of a diplomat relieved from his duties due to suspicions of international crimes. In a decision dated 16 September 2011, the Office of the Attorney General also found that several episodes of the conflict revealed the personal involvement of Jagath Dias "for the abuses committed" and decided that a criminal investigation would be opened if Mr. Dias returned to Switzerland.


### The Erwin Sperisen case



TRIAL continues to follow closely the case of Erwin Sperisen, a former Guatemalan police chief against whom the association had filed criminal complaints in 2008 and 2009 for cases of extrajudicial executions, enforced disappearances, torture and sexual violence committed in Guatemala between 2004 and 2007. A request for assistance (rogatory letter) was sent to the Guatemalan authorities in spring 2011, upon which the latter sent a report to the Geneva Attorney's Office at the end of the year. Several new tracks are now being explored by TRIAL and significant developments are expected in 2012.

### The G.W. Bush case

Knowing that the former US President George W. Bush was planning to hold a conference on February 12, 2011 in Geneva, the *Center for Constitutional Rights* (CCR) and the *European Center for Constitutional and Human Rights* (ECCHR) prepared a criminal complaint against Mr. Bush with the help of TRIAL's legal assistance. In violation of the Convention against Torture, Mr. Bush had notably authorised the CIA to abduct individuals and detain them in secret centers where they were subjected to "advanced interrogation techniques" such as the much decried practise of *waterboarding*, the deprivation of sleep and food, temperature variations, etc. Since Mr. Bush cancelled his visit, probably due to fears linked to a criminal procedure, the criminal complaint could not be submitted.



**UNIVERSAL JURISDICTION:  
PUSHING UN COMMITTEES  
TO SPEAK THE LAW LOUD  
AND CLEAR**

Through brief shadow reports addressed to the Committee against Torture and the Committee on the Rights of the Child, TRIAL aims to encourage these two bodies to remind States that have ratified the Convention against Torture – or the optional protocol of the Convention on the Rights of the Child with respect to the involvement of children in armed conflict – the need to include in their legislation provisions on universal jurisdiction. These treaties provide for universal jurisdiction to be one of the tools to effectively fight torture or the use of children in armed conflicts.

In 2011, TRIAL also submitted reports to these two bodies concerning Thailand, Greece, the Democratic Republic of Congo, Germany, Bulgaria and Sri Lanka. On the basis of these reports, the two Committees have actually made some very interesting recommendations to these States, pushing them to better define the crimes to be prosecuted in their criminal codes and to provide for the principle of universal jurisdiction to repress them more efficiently.

TRIAL plans to continue this activity so that these two Committees are led to systematically render similar recommendations, thus developing a kind of jurisprudence that other bodies, judicial or not, may quote, and that locals may invoke in their lobbying for amendments to national laws.





**SCICC:** *Christians for the Abolition of Torture (CAT) | Southern Alliance (Swissaid, Action de Carême, Pain pour le prochain, Helvetas, Caritas and EPER) | Amnesty International – Swiss chapter | Association for the prevention of torture (APT) | Swiss World Federalists | Humanrights.ch | International Commission of Jurists, Swiss chapter | Swiss Human Rights League | World organisation against torture (WOAT) | Society for threatened peoples | TRIAL*

## SWISS COALITION FOR THE INTERNATIONAL CRIMINAL COURT

**TRIAL ensures the coordination of the activities of the Swiss Coalition for the International Criminal Court (SCICC) by bringing together the main human rights associations in Switzerland.** The SCICC in particular promotes the integration in Swiss law of international principles in order for Switzerland to increase its involvement in the fight against impunity. In order to achieve this objective, the SCICC also launches public opinion campaigns.

Very active in connection with the implementation of the Rome Statute of the International Criminal Court in Swiss law, the SCICC felt that after the legal changes that took place in January 2011, Switzerland should build capacity in line with its ambitions in the fight against impunity. The SCICC launched a national campaign as well as a petition with the goal of establishing – within the Office of the Attorney General – a **dedicated unit in charge of prosecuting international crimes** ("war crimes unit"). This action was launched after it was discovered that despite the presence in Switzerland of many people suspected of committing atrocities, these crimes remain largely unpunished. Concurrent with the campaign, an interpellation was filed in the federal parliament in collaboration with the SCICC to ask the authorities by what means they were planning on acting in the fight against impunity.

In 2011, the SCICC's Web site was also completely revised and updated. It can be accessed at the following address: [www.trial-ch.org/coalition.html](http://www.trial-ch.org/coalition.html)

## TRIAL WATCH

Trial Watch is an online database that currently consists of almost **900 profiles** offering a large audience easy access to multiple procedures concerning international crimes before international or national tribunals. It also includes hundreds of cases that are under universal jurisdiction.

Each profile consists of a brief explanation of the facts, a summary of the legal process, as well as useful links to documents enabling site visitors to deepen their knowledge on the files they select: rulings, NGO reports, bibliographies, etc.

The Trial Watch database covers **over 60 different** countries where violations have been committed, such as Cambodia, ex-Yugoslavia, Argentina, Libya, Guatemala, Sierra Leone, etc., as well as **over 60 trial** sites, including national, international and hybrid tribunals, such as Chile, Kosovo, Switzerland, the ICC, or even the ICT.

The year 2011 was a very productive one for Trial Watch. During the year, we focused mainly on the quality control of the web site and the published profiles. The team, composed of about 40 volunteers and two interns, provided considerable work that resulted in the following achievements:

- ✓ The drafting of **more than 80 new** profiles and development of cases under **universal jurisdiction**, including in particular Yvonne Ntacyobatabara Basebya (Netherlands), Tite Barahirwa (France), Khaled Nezzar (Switzerland), Sadi Bugingo (Norway) and Emmanuel Nkunuzwimye (Belgium).
- ✓ The translation of **more than 100 profiles** in the different working languages.
- ✓ The development of new or under-represented situations such as Colombia, Libya, Lithuania and Ivory Coast.
- ✓ The continued monitoring of the quality of the French and English versions of the web site.
- ✓ The updating of the database for better access and improvement of profiles.
- ✓ The inclusion of the search bar included in each profile to enable easier navigation.



*Stéphane Hessel, who participated in the drafting of the Universal Declaration of Human Rights in 1948, receives a standing ovation after his conference "Justice for the victims of State crimes: a universal request" on December 6, 2011.*

## EVENTS

From 5 to 9 December, TRIAL organised a human rights week at the University of Geneva. This included a photo exhibition (*The Rescuers*, in collaboration with PROOF, Media for Social Justice), film screenings (*Granito* with the producers Paco de Onis and Pamela Yates and *Impunity* with the director Juan José Lozano), as well as conferences (with Stéphane Hessel on justice for the victims of State crimes, with Philip Grant on the fight against impunity in practice and with Giorgio Malinverni on the protection of human rights during armed conflict). On 27 May 2011, TRIAL also organised a successful Charity Ball and in November 2011, TRIAL actively participated in the Pravo ljudski human rights festival in Bosnia-Herzegovina.

## PUBLICATIONS

TRIAL has continued to publish:

- ✓ The *TRIAL Journal* (June 2011).
- ✓ The *News*, a daily synthesis of the latest international criminal law news, sent out in weekly installments to over 2,000 subscribers.



# Global Accounts 2011\*

Association / Project	Revenues 2011	Expenses 2011	Result 2011
Office costs	111,274	118,691	-7,417
Support to victims	392,018	398,225	-6,207
Legal actions in Switzerland	72,455	64,729	7,726
Corporate Responsibility	37,833	38,371	-538
Trial Watch	0	6,790	-6,790
ICC Legal Tools	7	193	-186
Trial Watch	2,250	1,310	941
Fundraising, communication, events	52,879	39,848	13,032
<b>Annual Result 2011</b>	<b>668,716</b>	<b>668,156</b>	<b>560</b>

\* for the final version approved by the financial controller and TRIAL's General Assembly, please consult the organisation's website.



### *International and non-governmental organisations*

United Nations Voluntary Fund for Victims of Torture

Amnesty International, Swiss Chapter

International Commission of Jurists, Swiss Chapter

### *Foundations*

Open Society Institute

Foundation MISEREOR

Euro-Mediterranean Foundation for Human Rights

Antenna Technologies Foundation

Anonymous Foundation

### *Swiss Confederation and foreign States*

Federal Department of Foreign Affairs (FDFA)

Embassy of the Netherlands in Sarajevo

Embassy of Switzerland in Sarajevo

Embassy of Switzerland in Nairobi

### *Canton and Municipalities*

Service for International Solidarity, Geneva

Chancery of the State of Geneva

City of Geneva

City of Meyrin

City of Carouge

Municipality of Vevey

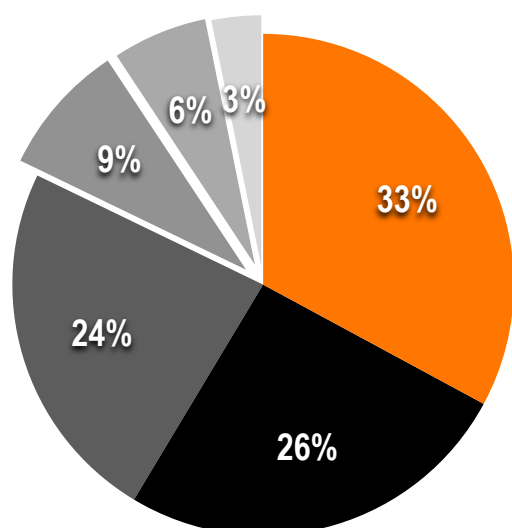
Municipality of Plan-les-Ouates

Municipality of Bernex

Municipality of Meinier

### *The members of TRIAL and of the SCICC*

### *Various individual donors*



- Foundations (33%)
- Swiss Confederation and foreign States (26%)
- Canton and Municipalities (24%)
- Various individual donors (8%)
- International and non-governmental organisations (6%)
- The members of TRIAL and of the SCICC (3%)

# Financial Support 2011

# Outlook for 2012

## Support for the victims of serious crimes

- ☑ Submission of approximately 15 **new cases** to international human rights bodies concerning Algeria, Bosnia-Herzegovina, Burundi, Libya and Nepal. Monitoring the 70 cases already submitted.
- ☑ Submission of numerous **alternative** reports concerning several countries before the Human Rights Committee, the Committee Against Torture, the Committee on the Rights of the Child and the new Committee on Enforced Disappearances.
- ☑ Implementation of **practical training courses** for lawyers and representatives of local NGOs in Bosnia and Herzegovina, Burundi and Nepal.
- ☑ Proposed start of new initiatives in Ivory Coast and in Tunisia.

## Fight against impunity in Switzerland

- ☑ Further monitoring of **ongoing** cases.
- ☑ **Submission of new cases** that are still confidential.
- ☑ Drafting of a **legal manual** on the fight against impunity under Swiss law and also of a **manual on corporate responsibility**.
- ☑ Continued campaign for the creation of a **war crimes unit**.
- ☑ Increased commitment on the issue of corporate responsibility.
- ☑ Taking position on the draft law on **private military companies**.

## Fight against impunity abroad

- ☑ **Investigations on some cases** involving suspects in several European countries and in the United States.

### Software for drafting cases

- ☑ **Creation of a software tool** for lawyers and local NGOs to help them prepare and edit cases to be submitted to international bodies on human rights.

### Trial Watch

- ☑ Drafting and translation of **new profiles**.
- ☑ Continued quality control.

### Publications

- ☑ Continued publication of **Journal** and **News**.

### Swiss Coalition for the ICC

- ☑ Commitment for an effective implementation of the **Rome Statute** and monitoring of commitments made by Switzerland at the Kampala Conference.
- ☑ Continued lobbying in support of the ratification by Switzerland of the **Convention against enforced disappearances**.
- ☑ Outreach work for the introduction of a specific provision on **torture in the Swiss Penal Code**.

### Events surrounding TRIAL's 10<sup>th</sup> anniversary

- ☑ Various conferences and round-table discussions, concerts, aperitifs and **information events**.
- ☑ Production of a **comic strip** on international justice.
- ☑ **Poster competition**.
- ☑ Overhaul of **web site**.

# TRIAL

**fights against the impunity** of perpetrators, accomplices and instigators of the gravest crimes under international law (genocide, crimes against humanity, war crimes, torture and enforced disappearances).

**defends the victims' interests** before Swiss courts, international human rights bodies and the International Criminal Court.

**raises awareness among the authorities and the general public** regarding the necessity of an efficient national and international justice system for the prosecution of international crimes.

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