



## **OTP Weekly Briefing – 8-14 September 2009**

### **1. Investigations and Prosecutions:**

#### *a. Situation in the [Democratic Republic of the Congo \(DRC\)](#)*

This situation was referred by the DRC in April 2004. The OTP opened its investigation in June 2004, focussing on Ituri where the most serious crimes had been committed by the main armed groups. Four arrest warrants have been issued against [Thomas Lubanga Dyilo](#) and [Bosco Ntaganda](#), leaders of the UPC, and [Germain Katanga](#) and [Mathieu Ngudjolo Chui](#), leaders of FNI and FRPI. The trial of [the Prosecutor v. Thomas Lubanga Dyilo](#) began on 26 January 2009. The trial of [Katanga and Ngudjolo Chui](#), charged with attacking and 'wiping out' the village of Bogoro, is scheduled for 24 November 2009. [Bosco Ntaganda](#) is at large.

In September 2008, the OTP announced the start of its investigation into alleged crimes in the Kivus.

#### ***Case: The Prosecutor v. Thomas Lubanga Dyilo***

#### ***Case: The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui***

7 September - In its consolidated response to the observations of the victims, the Office of Public Counsel for Victims (OPCV) and the authorities of the DRC on the Defence appeal against Trial Chamber II's decision on admissibility of the case against Germain Katanga, the Prosecution concurred generally with the observations that the case is admissible because DRC authorities did not investigate nor prosecute Germain Katanga in relation to the crimes in Bogoro.

#### ***The Kivus investigation***

9 September - The UN published two reports. The first focuses on crimes committed during an attack on the village of Kiwanja in North Kivu on 4-5 November 2008 conducted by the militia group "Congrès National pour la Défense du Peuple" (CNDP), led at the time by Laurent Nkunda and his Chief of Staff, [Bosco Ntaganda](#). The report confirms arbitrary executions and rapes by CNDP. Bosco Ntaganda was the commander with responsibility over the operations in Kiwanja, not only due to his position as CNDP Chief of Staff, but also as regional commander of CNDP in Rutshuru territory. The second report focuses on the actions of DRC armed forces, recounting cases of large-scale pillaging as well as arbitrary killings and sexual violence against civilian in North and South Kivu in October and November 2008.

#### *b. Situation in [Uganda](#)*

This situation was referred by Uganda in January 2004. The OTP opened its investigation in July 2004. Five arrest warrants have been issued against [top leaders of the Lords Resistance Army \(LRA\)](#): Joseph Kony, Vincent Otti (allegedly killed in 2007 on order of Kony), Okot Odhiambo, Raska Lukwiya (killed on 12 August 2006, whose arrest warrant has been withdrawn), and Dominic Ongwen. These arrest warrants are outstanding. Over the last 18 months, the LRA is reported to have killed more than 1,250, abducted more than 2,000 and displaced close to 300,000 in DRC alone. In addition there have been substantial numbers of killings and abductions in both South Sudan and Central African Republic.

#### *c. Situation in [Darfur, the Sudan](#)*

This situation was referred by the UN Security Council in March 2005. The OTP opened its investigation in June 2005. Three arrest warrants and one summons to appear have been issued against [Ahmad Harun and Ali Kushayb](#), [Omar Al Bashir](#), and [Bahar Idriss Abu Garda](#). Three arrest warrants are outstanding. Mr. Abu Garda [voluntarily appeared](#) before the Court pursuant to a summons and his initial appearance was on 18 May. After his initial appearance, he was allowed to leave the Netherlands. The confirmation of charges hearing is set for 19 October 2009.

**Case: *The Prosecutor v. Omar Hassan Ahmad Al Bashir***

**Case: *The Prosecutor v. Bahr Idriss Abu Garda***

10 September - The Prosecution filed the Document Containing the Charges (DCC) against Bahar Idriss Abu Garda in English and Arabic and the List of Evidence in English. On 11 September, the Prosecution also submitted the Arabic translation of the List of Evidence. The public version of the DCC and the List of Evidence will be made available next week.

11 September - The Pre-Trial Chamber decided to postpone the confirmation hearing, originally scheduled for 12 October 2009, until 19 October 2009.

*d. Situation in the [Central African Republic](#) (CAR)*

This situation was referred by the Central African Republic in December 2004. The OTP opened its investigation in May 2007. One arrest warrant has been issued against [Jean-Pierre Bemba](#) for crimes committed in 2002-2003. The [confirmation of charges hearing](#) was held on 12 to 15 January 2009. On 15 June, Pre-Trial Chamber II [partially confirmed the charges](#) and the Prosecutor [applied for leave to appeal](#) the Chamber's decision to decline to confirm certain charges on 22 June. The Office continues to monitor allegations of crimes committed since the end of 2005.

**Case: *The Prosecutor v. Jean-Pierre Bemba Gombo***

*e. Miscellaneous*

**2. Preliminary Examinations:**

*a. Afghanistan*

The Office made its examination public in 2007. It examines alleged crimes within the jurisdiction of the Court by all actors involved. The OTP met outside Afghanistan with Afghan officials and organizations. The OTP sent requests for information to the Government of Afghanistan and has received no answer yet.

*b. Colombia*

The Office made its examination public in 2006. It examines alleged crimes within the jurisdiction of the Court and investigations/proceedings conducted in Colombia against the alleged most serious perpetrators, paramilitary leaders, politicians, guerrilla leaders and military personnel. The Office is also analysing allegations of international networks supporting armed groups committing crimes in Colombia.

9-11 September - Representatives of the Colombian authorities (Major General Oscar Adolfo Naranjo Trujillo, National Police General Director), judiciary (Justice Augusto Ibañez, President, Supreme Court of Justice) and civil society (Dr. Gustavo Gallón Giraldo, Director, Colombian Commission of Jurists), participated in the Consultative Conference in International Criminal Justice in NY, and addressed the role of the ICC in enhancing national proceedings in Colombia.

11 September - Prosecutor Moreno-Ocampo met with the Venezuelan Permanent Representative to the UN, Ambassador Jorge Valero Briceño, to discuss ways to prevent crimes in the world.

*c. Georgia*

The Office made its examination public on 14 August 2008. The Georgian Minister of Justice visited the OTP. Russia, a State not Party to the Statute, sent 3,817 communications to the OTP. The Prosecutor requested information from the Governments of Russia and Georgia on 27 August 2008. Both the Russian and Georgian authorities responded. The Office conducted a visit to Georgia in November 2008.

d. [Palestine](#)

On 22 January 2009, the Palestinian National Authority lodged a declaration with the Registrar under article 12(3) of the Rome Statute which allows States not party to the Statute to accept the Court's jurisdiction. The OTP is examining all issues related to its jurisdiction, including whether the declaration accepting the exercise of jurisdiction by the Court meets statutory requirements, whether crimes within the Court's jurisdiction have been committed and whether there are national proceedings in relation to alleged crimes.

9 September - The OTP received a number of memoranda by academics and civil society/lawyers associations on the jurisdictional aspect of its analysis, including a *Legal Memorandum Opposing Accession to the International Criminal Court Jurisdiction by Non-State Entities*, from the European Centre for Law and Justice.

e. Côte d'Ivoire

The Court has jurisdiction over the situation in Côte d'Ivoire by virtue of an Article 12(3) declaration submitted by the Ivorian Government on 1 October 2003. The declaration accepts the jurisdiction of the Court as of 19 September 2002. The most serious crimes, including alleged widespread sexual violence, were committed in 2002-2005. On 17-18 July, high-level representatives of OTP visited Abidjan.

f. [Kenya](#)

The Office made its examination public in February 2008. The Prosecutor has received numerous Article 15 communications on the post-election violence. On 3 July 2009, a common statement was issued in The Hague by a [Government delegation from Kenya](#) lead by Justice Minister Kilonzo and the Prosecutor. It stated that in order to prevent a recurrence of violence during the next election cycle, those most responsible for previous post-election violence must be held accountable. Kenyan authorities committed themselves to refer the situation to the Court if efforts to conduct national proceedings fail. On 9 July 2009, the African Union Panel of Eminent African Personalities, chaired by Kofi Annan, announced the submission to the OTP of a sealed envelope containing a list of persons allegedly implicated and supporting materials previously entrusted to Mr. Annan by the Waki Commission on the post-election violence. On 16 July, Prosecutor Moreno-Ocampo received the sealed envelope and 6 boxes containing [documents and supporting materials compiled by the Commission](#). The Prosecutor opened the envelope, examined its content and resealed it. On 14 July, the Prosecutor received two reports from the Kenyan authorities on witness protection measures and on the status of legal proceedings carried out by national authorities.

10 September - Mr. Maina Kiai, former Chairman of the Kenya Nation Human Rights Commission, in a speech to the Consultative conference on international justice, emphasized the impact of ICC's monitoring of the Kenyan situation, as well as the high support the Court enjoys from civil society in Kenya and in Africa.

g. Statistics on [Article 15 Communications](#) and other preliminary examination activities



12 September - Prosecutor Moreno-Ocampo and Deputy Prosecutor Fatou Bensouda held a meeting of the OTP Advisory council in New York with Special Gender Adviser, Professor Catharine MacKinnon, and Special Adviser on crime prevention, Professor Juan Méndez, to plan their activities for the next 3 years.

### **3. Cooperation – Galvanizing Efforts to Arrest:**

8 September - Prosecutor Moreno-Ocampo met with Patricia O'Brien, UN Under-Secretary-General for Legal Affairs and UN Legal Counsel. They discussed ongoing cooperation.

9 September - Prosecutor Moreno-Ocampo met with Alain le Roy, UN Under-Secretary-General for Peacekeeping. They discussed the arrest warrants against Bosco Ntaganda and Joseph Kony and MONUC's mandate and commitment to support the DRC authorities, on their request, to assist in such arrests.

9-11 September - Prosecutor Moreno-Ocampo and Deputy Prosecutor Fatou Bensouda participated in the Consultative Conference on International Criminal Justice in New York and presented the OTP 2009-2012 draft Prosecutorial Strategy in an effort to allow the other actors forming part of the international justice system including regional courts, international law enforcement bodies, and organizations working toward the control of violence to prepare their own plans, so as to encourage a comprehensive and coordinated approach, while at the same time respecting the autonomous mandate of each actors. The Honorable Lloyd Axworthy, Former Canadian Minister of Foreign Affairs and President of the University of Winnipeg; Justice Hassan B. Jallow, ICTR Prosecutor; Major General Naranjo Trujillo, National Police General Director of Colombia; Mr. Laren Poole, President of Invisible Children, Inc.; and Peter Slort, Commissioner of the National Amsterdam Police, explained how different actors worked in support of the ICC. Other participants included the President and Registrar of the ICC; Bill Pace, Convenor of the CICC chaired a panel on the role of civil society with Kenneth Roth, Executive Director of HRW as speaker; Ambassador Wenaweser, ASP President, Ambassador Lomonaco, Vice-President of the ASP, Ambassador Muburi-Muita, Permanent Representative of Kenya to the UN participated in a panel on states' role while Peter Bell, Senior Fellow at the Hauser Center, moderated a panel on humanitarian issues and Professor Aptel, Senior Fellow at ICTJ, moderated a panel on complementarity attended by H.E. Dr. Luzolo Bambi Lessa, DRC Minister of Justice. The papers presented in the different sessions can be found on the conference's [website](#). Professor MacKinnon, OTP Special Gender Adviser, provided an overview of international jurisprudence on gender crimes. OTP Special Adviser on crime prevention, Professor Méndez, led a panel on the role of Regional Courts and Commissions.

### **4. Coming Events:**

- 14 September - Prosecutor's visit to Washington
- 15 September - Prosecutor's Keynote address, [Research Conference "The ICC and Complementarity: From Theory to Practice"](#), The Hague
- 16 September - Prosecutor's Presentation, International Conference on Fighting Impunity in peacebuilding Contexts, The Hague
- 17 September - Prosecutor Moreno-Ocampo to attend the ICC ceremony to welcome the Republic of Chile as a new State Party, The Hague
- 23 September - Prosecutor's Keynote address, Global Creative Leadership Forum, New York
- September 2009 - Publication of the UN Fact Finding Mission Report on the Gaza Conflict
- September 2009 - Continuing consultations and publication of the Report of AU High Level Panel on Darfur
- 1<sup>st</sup> October - Prosecutor Moreno-Ocampo will attend the ICC ceremony to welcome the Czech Republic as a new State Party, The Hague
- 6 October - Trial Chamber I resumes proceedings in [The Prosecutor v. Lubanga Dyilo](#)
- 6-7 October - OTP-NGO bi-annual roundtable, The Hague
- 16 October - Visit of the Arab League Independent Fact finding Committee on Gaza, the Arab League Secretariat and the Palestinian National Authority in the context of OTP analysis of jurisdiction in the Palestine situation, The Hague
- 19 October - Pre-Trial Chamber I: Confirmation of charges hearing in [The Prosecutor v. Abu Garda](#)
- 26-27 October - Prosecutor's visit to Ecuador in the context of preliminary examination activities in the region

- 9-10 November - Prosecutor's participation in symposium "The ICC that Africa Wants", Cape Town
- 11-13 November - Prosecutor's visit to Rwanda on the occasion of the International Prosecutors' colloquium, Kigali
- 20-22 November - Prosecutor's participation in the World Economic Forum's Summit on the Global Agenda, Dubai
- 24 November - Trial Chamber II: Start of the Trial of [\*The Prosecutor v. Germain Katanga and Mathieu Ngudjolo\*](#)
- December - Prosecutor's report to the UNSC on the Darfur situation pursuant to UNSCR 1593 (2005)

\* *This document reflects the views of the Office of the Prosecutor of the ICC. For more information, contact Mrs. Olivia Swaak-Goldman, International Cooperation Adviser in the Office of the Prosecutor, at [Olivia.Swaak-Goldman@icc-cpi.int](mailto:Olivia.Swaak-Goldman@icc-cpi.int)*