



OTP Weekly Briefing

NEWS

Issue 106

30 November - 5
December 2011

- Prosecutor presents new case in Darfur
- Laurent Gbagbo initial appearance before the ICC



ICC Prosecutor Presents New Case in Darfur

2 December - The ICC Prosecutor requested Pre-Trial Chamber I to issue an [arrest](#) warrant against the current Sudanese Defense Minister Abdelrahim Mohamed Hussein for crimes against humanity and war crimes committed in Darfur from August 2003 to March 2004.

The evidence allowed the OTP to conclude that Mr. Hussein is one of those who bear the greatest criminal responsibility for the same crimes and incidents presented in previous warrants of arrest for Ahmed Harun and Ali Kushayb issued by the Court on 27 April 2007. Mr. Hussein was then Minister for the Interior for the Government of Sudan and Special Representative of the President in Darfur, with all of the powers and responsibilities of the President. Mr. Hussein delegated some of his responsibilities to Mr. Harun, the Minister of State for the Interior, whom he appointed to head the "Darfur Security Desk."

The crimes were perpetrated during attacks upon the towns and villages of Kodoom, Bindisi, Mukjar and Arawala in the Wadi Salih and Mukjar Localities of West Darfur. The attacks followed a common pattern: the Government of Sudan forces surrounded the villages, the Air Force dropped bombs indiscriminately and foot soldiers, including Militia/Janjaweed, killed, raped and looted the entire village, forcing the displacement of 4 million inhabitants. Currently, 2.5 million remain in camps for Internally Displaced Persons. The Prosecutor considered that Mr. Hussein should be arrested in order to prevent him from continuing with the commission of crimes within the jurisdiction of the Court. He [stated](#) that "the evidence shows that directly and through Mr. Harun, Mr. Hussein played a central role in coordinating the crimes, including in recruiting, mobilizing, funding, arming, training and the deployment of the Militia/Janjaweed as part of the Government of the Sudan forces, with the knowledge that these forces would commit the crimes." Human Rights Watch [expressed](#) that "the warrant request is an important step to advance justice for the many victims of crimes in Darfur", while Amnesty International recalled that this development "also highlights the continuing failure of Sudan and other governments to cooperate with the ICC by arresting the other suspects,"

After careful consideration, the OTP decided to publicly seek a warrant against Mr. Hussein to encourage further public focus on Government of the Sudan policy and actions, and promote cooperation in taking action to arrest Mr. Hussein and the 3 other individuals subject to ICC warrants, as established by UN Security Council Resolution 1593 (2005).

First appearance of Laurent Gbagbo before Pre-Trial Chamber III



5 December - Pre-Trial Chamber III set the date for the start of the confirmation of charges hearing in the case of *The Prosecutor v. Laurent Koudou Gbagbo* for 18 June 2012. This decision was announced at the initial appearance of Laurent Koudou Gbagbo before the ICC. During this hearing, in the presence of the Prosecution and the Defence, represented by Mr. Emmanuel Altit, Pre-Trial Chamber III verified the identity of Mr. Gbagbo and ensured that he was clearly informed of the charges brought against him and of his rights under the Rome Statute of the ICC.

The international community welcomed Laurent Gbagbo's transfer to The Hague and expressed the need to give him a fair trial. Catherine Ashton, High Representative of the EU for Foreign Affairs, stated that *"the EU reiterates its support for the ICC in its struggle against impunity and the promotion of a law-based international order,"* while affirming also that *"equitable justice is essential for the consolidation of peace in Côte d'Ivoire."*

OTP Activities

OVERVIEW

7 situations under investigation

14 cases in relation to 25 persons

19 arrest warrants – 11 outstanding

Phases:

8 preliminary examinations in 4 different continents

1 initial appearance

3 confirmation of charges proceedings

4 trials

I. Preliminary Examinations

Preliminary examinations refer to the analytical process by which the OTP assesses whether there is a reasonable basis to proceed with an investigation in a given situation.

In accordance with Article 15 of the Statute, the OTP proactively gathers and evaluates information from multiple sources, including "communications" from individuals and parties concerned ([phase 1](#) – **initial review**). Following a sequential process, and irrespective of the mechanism by which the jurisdiction of the Court is triggered, the Office then applies the same legal criteria laid out in Article 53 of the Statute, namely **temporal/territorial/personal jurisdiction** ([phase 2a](#)), **subject-matter jurisdiction** ([phase 2b](#)), **admissibility**, including complementarity and gravity ([phase 3](#)) and the **interests of justice** ([phase 4](#)).

Currently, the OTP is conducting preliminary examinations into eight situations: [Palestine](#) (phase 2a), [Afghanistan](#), [Honduras](#), [Korea](#) and [Nigeria](#) (phase 2b), [Colombia](#), [Georgia](#) and [Guinea](#) (Phase 3).

20 communications that may fall under Article 15 were received by the Office in the month of November. 8 of these communications were manifestly outside the jurisdiction of the Court; 12 communications warranted further analysis or were linked to a situation already under analysis. The total number of Article 15 communications received to date is 9,332 of which 4,399 were manifestly outside the jurisdiction of the Court.

II. Investigations and Prosecutions

1. Situation in the [Democratic Republic of the Congo](#) (DRC) – Referred: April 2004 Investigation Opened: June 2004

Trials

The Prosecutor v [Thomas Lubanga Dyilo](#) – charged with war crimes against children committed in the Ituri region 2002 – 2003

Status: Trial finished on 26 August 2011, pending judgment

The Prosecutor v [Germain Katanga and Mathieu Ngudjolo Chui](#) – charged with war crimes and crimes against humanity committed during the attack of the village of Bogoro in the Ituri region on 24 February 2003

Status: Defence case presentation concluded

Confirmation of Charges Hearing

The Prosecutor v [Callixte Mbarushimana](#) – charged with war crimes and crimes against humanity, including massive sexual violence, committed in the North and South Kivus 2009 – 2010

Status: Hearing held from 16 to 21 September 2011, pending decision

Warrant Pending

The Prosecutor v [Bosco Ntaganda](#) – charged with war crimes against children committed in the Ituri region 2002-2003

Issued: 22 August 2006

2. Situation in [Uganda](#) – Referred: January 2004 Investigation opened: July 2004

Warrants Pending:

The Prosecutor v [Joseph Kony](#) et al. – charged with war crimes and crimes against humanity committed during LRA's insurgency activities in Northern Uganda 2002 – 2004

Issued: 8 July 2005

3. Situation in [Darfur, the Sudan](#) – Referred: March 2005 Investigation opened: June 2005

Trial

The Prosecutor v [Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus](#) – charged with war crimes committed during an attack against the Haskanita AU peacekeeping base in North Darfur on 29 September 2007

Status: Charges confirmed, trial date to be set

Prosecution to present additional evidence

The Prosecutor v [Bahar Idriss Abu Garda](#) – charged with war crimes committed during an attack against the Haskanita AU peacekeeping base in North Darfur on 29 September 2007

Warrants Pending:

The Prosecutor v [Omar Al Bashir](#) – charged with war crimes, crimes against humanity and genocide committed as part of the counter-insurgency campaign in Darfur 2003 – 2008 (at least)

Issued: 4 March 2009 & 12 July 2010

The Prosecutor v [Ali Kushayb](#) and [Ahmad Harun](#) – charged with war crimes and crimes against humanity committed during the attacks against the civilian population in Darfur August 2003 – March 2004

Issued: 27 February 2007

4. Situation in the [Central African Republic](#) (CAR) – Referred: January 2005 Investigation opened: May 2007

Trial:

The Prosecutor v [Jean-Pierre Bemba Gombo](#) – charged with war crimes and crimes against humanity, including a massive rape campaign, committed in CAR between 26 October 2002 – 15 March 2003

Status: Prosecution case presentation ongoing

5. Situation in [Kenya](#) – OTP request to start investigation: November 2009 Investigation opened: March 2010

Confirmation of Charges Hearing:

The Prosecutor v William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang – charged with crimes against humanity committed during the post-electoral violence in Kenya 30 December 2007 – end January 2008

Status: Hearing held from 1 to 9 September 2011, pending decision

The Prosecutor v Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali – charged with crimes against humanity committed during the post-electoral violence in Kenya 24 – 31 January 2008

Status: Hearing held from 21 September to 6 October 2011, pending decision

6. Situation in [Libya](#) – Referred: February 2011 Investigation opened: March 2011

Warrants Pending:

The Prosecutor v Saif Al Islam Gaddafi and Abdullah Al Senussi – charged with crimes against humanity committed during attacks on the civilian population by the Libyan Security Forces 15 February – at least 28 February 2011

Issued: 27 June 2011; Pre-Trial Chamber I ordered the termination of the case the Prosecutor v. Muammar Gaddafi, after Prosecution request (22 November 2011).

7. Situation in [Côte d'Ivoire](#) – OTP request to start investigation: June 2011 Investigation opened: October 2011

Warrant executed:

The Prosecutor v Laurent Gbagbo – charged with war crimes and crimes against humanity committed after the November 2010 Ivorian elections.

Issued: 23 November 2011 (under seal), unsealed on 30 November 2011

Status: initial appearance 5 December 2011; confirmation of charges hearing set for 18 June 2012

III. Arrests - Cooperation

9 PERSONS SOUGHT BY THE COURT



The Prosecutor v Bosco Ntaganda (more information [here](#))

Current location: **DRC, in and around Goma**

The Prosecutor v Joseph Kony et al (more information [here](#))

Current location: **variously, at different times, in the border area between DRC, CAR and South Sudan**

The Prosecutor v Saif Al-Islam Gaddafi and Abdullah Al-Senussi (more information [here](#))

Current location: **Libya**

The Prosecutor v Ahmed Harun and Ali Kushayb (more information [here](#))

Current location: **South Kordofan, Sudan (A. Harun)
Sudan (A. Kushayb)**

The Prosecutor v Omar Hassan Ahmad Al Bashir (more information [here](#))

Current location: **Khartoum, Sudan**

IV. Other Co-operation

29 November - The UN Security Council issued a [resolution](#) stressing the need to renew arms embargo and related sanctions against DRC amid illicit weapons flows within, into the country. The Resolution also stressed the importance for the Congolese Government to actively seek to hold accountable those responsible for war crimes and crimes against humanity in the country and of regional cooperation to that end, including through cooperation with the ICC. The Resolution also calls upon all States, especially those in the region, to take effective steps to ensure that there is no support, in and from their territories, for the illegal armed groups in the eastern part of the DRC, welcoming the positive international developments in regard to addressing the risks posed by armed group leaders in the diasporas, and *calls upon* all States to take action, where appropriate, against leaders of the FDLR and other illegal armed groups residing in their countries. It also calls upon the Congolese authorities to continue their fight against impunity, especially against all perpetrators of human rights and international humanitarian law violations, including sexual violence, including those committed by any illegal armed groups or elements of the FARDC.

2 December - At the Human Rights Council 18th Special Session to examine the situation of human rights in [Syria](#), UN High Commissioner for Human Rights Navi Pillay stated that *"Since March of this year, more than 4,000 people have reportedly been killed. Tens of thousands have been arrested. And more than 14,000 are reported to be in detention as a result of the crackdown. At least 12,400 have sought refuge in neighbouring countries and tens of thousands have been internally displaced. Reports of increased armed attacks by the opposition forces, including the so-called Free Syrian Army, against the Syrian military and security apparatus are also of concern."* Navi Pillay also affirmed that after the OHCHR Fact-Finding mission mandated by the Council concluded that crimes against humanity may have been committed in Syria, she *"encouraged the Security Council to refer the situation in Syria to the ICC."*

2 December - The Republic of Vanuatu deposited to the UN its instrument of accession to the Rome Statute. The Statute will enter into force for Vanuatu on 1 February 2012, making Vanuatu the 120th State Party to the Rome Statute. The President of the Assembly of States Parties to the Rome Statute, Ambassador Christian Wenaweser, said: *"This accession shows the Pacific Region's commitment to international criminal justice. It is also an important milestone for the Assembly, as the number of States Parties has now reached the number of States that voted in favour of the Rome Statute in 1998"*.

V. Upcoming Events

December						
5	6	7	8	9	10	11
12	13	14	15	16	17	18
Tenth Session of the Assembly of States Parties, New York	Tenth Session of the Assembly of States Parties, New York	Tenth Session of the Assembly of States Parties, New York	Tenth Session of the Assembly of States Parties, New York	Tenth Session of the Assembly of States Parties, New York		

			<i>Prosecutor reports to UN Security Council on Darfur, New York</i>			
19 <i>Tenth Session of the Assembly of States Parties, New York</i>	20 <i>Tenth Session of the Assembly of States Parties, New York</i>	21 <i>Tenth Session of the Assembly of States Parties, New York</i>	22	23	24	25
26	27	28	29	30	31	

VI. Other Information

* 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