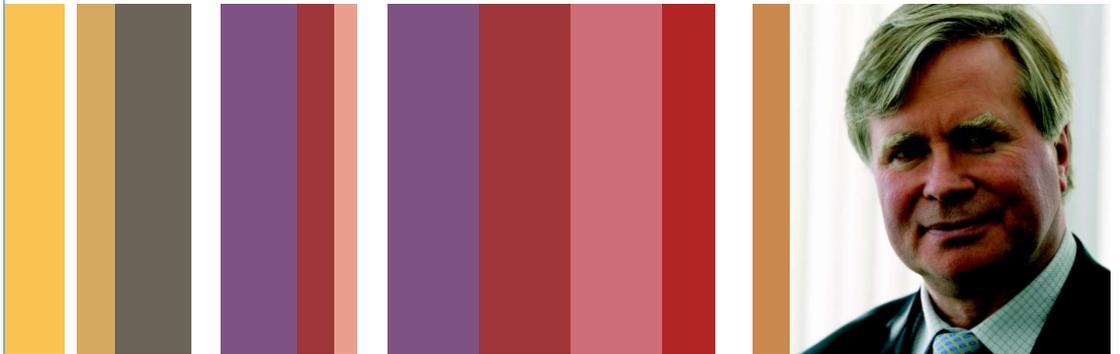


News Letter #07 April 2006

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International
Criminal
Court



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Editorial

One of the fundamental principles of a fair trial is equality of arms. This principle does not establish a strict mathematical equation but calls for a proper balance between prosecution and defense. This balance can be seen in terms of rights, but also relates to means and quality.

While the Office of the Prosecutor forms an integral, albeit independent, part of the ICC, the Registry, as a neutral organ, ensures that the rights of the defense are fully protected.

As a consequence, the appropriate structures have been set up within the Registry. In addition to the Defense Support Section, the Office of Public Counsel for the Defense has been established. A similar office has also been set up for victims. It is of the utmost importance that the Court can rely upon a network of qualified counsel, for both defense and victims, that mirrors the international character of the institution. In this newsletter you will learn more about, *inter alia*, what has been done so far in the field of representation of the accused and victims.

Bruno Cathala, Registrar

Message of the President

Following his arrest and surrender into the custody of the Court, Mr Thomas Lubanga Dyilo made an initial appearance before Pre-Trial Chamber I on 20 March. Mr Lubanga is accused of committing crimes in the territory of the Democratic Republic of the Congo since July 2002. As a result of the cooperation received in Mr Lubanga's arrest and surrender, it is now possible for trial proceedings to begin. The Court is prepared for this phase of its operations.

The Court is also preparing for the future. As requested by the Assembly of States Parties, the Court is developing a set of overarching objectives and expected accomplishments for the institution as a whole. We are preparing a Strategic Plan which sets out our mission, goals for the coming years and a strategy for achieving those goals. The Court's senior management has largely agreed to the substance of the Plan. We discussed the current stage of our work with the Committee on Budget and Finance in April. Issues addressed include ensuring the effectiveness, impartiality, transparency and efficiency of the Court, developing its institutional identity and ensuring the rights of all participants in proceedings.

An integral part of the strategic planning process is the development of a Court Capacity Model. The Model is a planning tool designed to provide estimates of the number of investigations, trials and appeals the Court can conduct in a given year with different levels of resources. The Model will also facilitate the proper alignment of resources with activities.

I am looking forward to working with my colleagues in responding to the exciting challenges ahead.

Judge Philippe Kirsch, President of the ICC

Visit of the United Nations Secretary-General to the International Criminal Court

On Wednesday 12 April 2006, the United Nations (UN) Secretary-General, Mr Kofi Annan paid an official visit to the International Criminal Court (ICC). Mr Annan and his delegation visited a courtroom and later met with the members of the Presidency and Deputy Prosecutor Ms Fatou Bensouda.



During the meeting, the President of the Court, Judge Philippe Kirsch, and Ms Bensouda provided an overview of the activities of the Court and of the Office of the Prosecutor respectively. Judge Kirsch thanked the UN Secretary-General for his personal long-standing support for the ICC and for the support of the UN. Mr Annan and his hosts also discussed cooperation between the UN and the ICC as well as the role of the ICC in the system of international criminal justice. The ICC Statute was negotiated under the auspices of the UN. Following the establishment of the ICC, Judge Kirsch and Mr Annan signed the Relationship Agreement between the ICC and the UN in October 2004. On 8 November 2005, Judge Philippe Kirsch addressed the United Nations (UN) General Assembly during the session of the UN General Assembly discussing the first-ever report of the ICC to the UN.

Mr Thomas Lubanga Dyilo Arrested and Transferred to The Hague

On 17 March 2006, Mr Thomas Lubanga Dyilo, a Congolese national and alleged founder and leader of the *Union des Patriotes Congolais* (UPC) was arrested in Kinshasa and transferred to the International Criminal Court as part of the judicial proceedings under the Rome Statute (the 'Statute').

Thomas Lubanga is alleged to have committed war crimes, as set out in article 8 of the Statute, in the territory of the Democratic Republic of the Congo since July 2002.

Pre-Trial Chamber I issued a sealed warrant of arrest against Mr Lubanga on 10 February 2006. The Chamber found that there were reasonable grounds to believe that Mr Lubanga had committed the following war crime: conscripting and enlisting children under the age of fifteen and using them to participate actively in hostilities. The Chamber also requested that the Democratic Republic of the Congo arrest and surrender him to the Court. The Registrar notified the Congolese authorities of the decision on 14 March 2006, as instructed by the Pre-Trial Chamber.

On 17 March 2006, Pre-Trial Chamber I unsealed the warrant of arrest against Mr Thomas Lubanga.

As provided under article 59 of the Statute, Mr Lubanga appeared before the competent judicial authority in Kinshasa. The Congolese authorities cooperated with the Court in the

spirit of the Statute by promptly executing its request. The French Government agreed to cooperate with the Court and, for the purpose of executing the decision of Pre-Trial Chamber I, provided a military aircraft to transfer Mr Lubanga. MONUC also provided support to the operation.

Mr Lubanga is the first person to be arrested and transferred to the International Criminal Court since the entry into force of the Statute in July 2002. The Prosecutor of the Court initiated investigations in the Democratic Republic of the Congo in 2004 after the Congolese Government referred the situation in that country to the Court.

The Court issued its first warrants of arrest in July 2005 in the situation in Uganda against five leaders of the Lord's Resistance Army. Investigations are also ongoing in the situation in Darfur, which was referred to the Prosecutor of the International Criminal Court by the United Nations Security Council on 31 March 2005.

A public hearing on procedural matters was held on Monday 24 April 2006.



Initial appearance of Mr Thomas Lubanga Dyilo before the ICC

FAQ about Detention put to Terry Jackson, Chief Custody Officer of the ICC

How many accused can the temporary Centre hold?

Inside a Dutch penitentiary in The Hague, where the Centre is situated, we have twelve cells. International standards require single cell occupancy, we therefore have space for twelve detained persons. If the number of detained persons increases above twelve, the Court will re-negotiate with the Dutch authorities for additional accommodation.

What international standards govern the detention of accused charged and detained by the ICC?

There are a number of international instruments which apply in this situation and all are important. However, the three most commonly referred to are:

- The United Nations Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules)
- Basic Principles for the Treatment of Prisoners
- Basic Principles for the Protection of all persons under any form of Detention or Imprisonment

Have the rules governing the detention of accused been finalised?

Yes, the rules governing detention are contained in Section Five of the Regulations of the Registry which have recently been approved by the Presidency. The Standard Operational Procedures for the Unit come from the Regulations of the Registry. This has allowed us to commence operations in the Temporary Detention Centre in The Hague.

How many hours a day will the accused spend in their cells?

It is our aim to create a routine day for detained persons that will see them largely out of their cells. We would like to maximise the time they spend with other people to keep their minds active. A lot of this depends upon the daily routine within the establishment as a whole, but in general our routine will include a fairly long liberty day with lock-up at 8.30 p.m. most days.

What facilities will be available to detained persons?

The wing in which the cells are located is self-contained. Each cell has integral sanitation, meaning that each individual has their own toilet and washing area. Showers are contained within the wing and each detained person will have full access to these. The wing has a large dining area which doubles as a common room. Below the accommodation floor are the visiting rooms for family and legal visits and an outside yard for fresh air exercise.

In addition we hope to offer each detained persons courses in a second language. The Centre has a small gym, where detained persons will be offered a dedicated session once a week with a physical education instructor. Our first detained person is already making good use of these facilities.

What other provisions are in place with regards to the physical and mental wellbeing of detained persons?

Spiritually: We are using the services of the host prison, which has a number of people, who perform a pastoral role. Depending upon the faith of the accused, they will visit the Centre regularly.

Culturally: Food is always a very delicate issue in prisons. If the food is not of suitable standards, it can affect detained persons adversely in many ways. When you look at the wide cultural base with which we have

the potential to deal, this becomes a larger problem still. We will have to pay a great deal of attention to providing the proper nutritionally sound diet to people from different parts of the world.

Linguistically: For the immediate future, thanks to the Conference Interpretation and Translation Section (STIC), our linguistic requirements are well catered for and in addition to the duty interpreters on call, we have identified the major documents that will give initial information to the detained person. Those have been translated into the languages that we think we will work in initially. Obviously, we will build as time goes on, but we are confident that the initial information required by detained persons will be available to them in their own languages.

In addition to this, our Centre staff were selected, in part, due to their sound language skills.

Gender issues: International standards require segregation of male and female detained persons in terms of "living accommodation". If, however, for example we have one female detained persons, we must ensure that she has contact with other people. We would look at the situation in terms of her spending recreational time with the other detained persons, but in terms of living accommodation, she would have her own accommodation.

For what other reasons would detained persons be segregated?

There are a number of scenarios which could emerge where the segregation of an individual or group from others might be necessary. Two more obvious examples are: It is possible that warring factions could be held in the Centre and they may have to be segregated from each other in order to protect them and maintain good order within the Detention Centre, or if someone's life appeared to be under threat from another person then this could be another reason for them to be segregated.

What should a detained person expect when they arrive at the Centre?

I think that it is fair to say that anyone arriving here will be apprehensive about what they might face. People obviously judge from their own experiences. Some of them will be fairly frightened or traumatised in some way or another, having made the journey to The Hague, so during the initial few hours following their arrival, it is vital to accomplish certain things:

- The detained person must be carefully introduced to their new environment.
- We must establish early contact with them, talk to them, and get them to talk about whatever fears they may have.
- There are also a number of official tasks to be carried out at this time.
- Our job is to make sure that that first night and the following few days are spent making sure that the person is settled; that he/she understands where they are and why they are here and understands what is going to happen in the coming days.
- The detained person also has to be fully medically examined and it must be ensured that any medical conditions are carefully monitored and treated by qualified persons.

Continued on page four

Continued from page three:

An induction period will follow during which the detained person will be introduced to the procedures and routine of the Centre so that each day has structure, meaning and understanding. This is a vitally important part of the coping process and builds up the individuals confidence.

This process has been carefully followed in the case of our first detained person, who has now settled well into the routines.

What is the policy regarding visits, who can visit a detained persons?

We see our situation as different from anything that has happened before, because we do not know exactly from where in the world visitors will come. It is essential that we try to optimize the time visitors have here and show as much consideration and sympathy as we can. This could mean making visits available over the weekend where that is justifiable. We will have to be reasonably flexible in this area in order for the families to get the best from the time that they have since they will not generally be able to travel back and forth frequently.

Have agreements been made with the International Committee of the Red Cross (ICRC) monitoring detention?

Presently these discussions are still on-going, but we are near to signing a formal agreement with the ICRC for them to become the international body that will monitor the Centre.

The Registry and the Rights of the Defence

It goes without saying that giving appropriate support to defence counsel appearing before the International Criminal Court (ICC) is important.

It is in fact fundamental. Articles 55 and 67 of the Rome Statute, and rules 8 and 20 to 22 of the Rules of Procedure and Evidence provide the framework within which the Defence Support Section (DSS) has worked since its inception.

While the two articles grant a number of rights to persons who may become, or already are, defendants before the Court, and it is the Chamber that is in charge of guaranteeing they are respected, the rules provide that the Registrar has specific responsibilities that affect the exercise of these rights.

One tool used by the Registry to protect these rights is the establishment and management of a list of counsel to uphold the requirements laid out in the Rules and the Regulations of the Court. Defendants enjoy the broadest freedom possible, while the appropriate level of quality is ensured through the following requirements of any lawyer appearing before the Court:

- competence in international or criminal law and procedure;
- ten years experience in criminal proceedings as judge, prosecutor or in another similar capacity;
- excellent knowledge and fluency in at least one of the working languages of the Court;
- not having been convicted of a serious criminal or disciplinary offence considered to be incompatible with the nature of the office of counsel before the Court.

Although the presence of 133 persons in the list goes a considerable way towards guaranteeing that all persons requiring legal assistance can be assisted by counsel from the list, the Registry aims to extend the list as much as possible in order to encourage freedom of choice. The geographical distribution and gender balance are issues that deeply concern the Court, although the current situation is a true reflection of the applications received so far.

To address the first issue, the Defence Support Section has repeatedly requested international and national associations to encourage their members to apply for inclusion in the list. As to the gender balance issue, the Registry is

developing a strategy to encourage women to present their applications in the hope that their numbers will grow in both absolute and relative terms.

Parallel to the list of counsel, the Registry has developed a legal aid system to be applied if defendants cannot afford the costs of their legal assistance. This project, based on the assumption that counsel do not work alone, provides for different compositions of legal teams according to the phase of the proceedings, taking into account their changing needs as proceedings move forward. In order to allow counsel to choose the members of their teams, the Registry will create, upon the adoption of the Regulations of the Registry, a list of professional investigators and a list of assistants, which will include specialists in different fields and legal professionals who do not meet all the requirements to be included in the list of counsel.

The Registry has also prepared the draft Code of Professional Conduct for Counsel, which was transmitted to the Assembly of States Parties by the Presidency and adopted by the latter last December. The Defence Support Section has also contributed to the process of drafting the Regulations of the Court and the Regulations of the Registry.

These results would not have been possible without close and permanent contact with the legal profession: an unprecedented consultation effort has been made by the Registry, through its seminars on counsel issues, its frequent written consultations and direct contacts undertaken with associations and lawyers from all over the world. It has enabled the Section to properly address the concerns, hopes and points of view of the professionals who will in the end be in charge of representing defendants before the International Criminal Court.

The Office of Public Counsel for Victims

For the first time in the history of international criminal justice, the negotiators of the Rome Statute placed victims at the heart of proceedings.

The Statute enables victims to make representations, submit observations and have their views and concerns presented at all phases of proceedings and considered “when [their] personal interests [...] are affected.” In addition, the Statute provides victims with the possibility of seeking reparation for the harm suffered as a result of these crimes. As a result, the role of the Court is not only punitive but also restorative.

Pursuant to rule 90, sub-rule 1, of the Rules of Procedure and Evidence “a victim shall be free to choose a legal representative”. But given the potentially high number of victims who might wish to participate in the proceedings and in order to assist victims to exercise the rights conferred to them by the Statute, regulation 81 of the Regulations of the Court directs the Registrar to “establish and develop an Office of Public Counsel for victims.”

Accordingly, on 19 September 2005, the Office of Public Counsel (OPCV) was established.

The Mandate of the Office

In accordance with regulation 81 of the Regulations of the Court, the Office shall function as an independent office. Its members shall not receive instructions from anybody in relation to the conduct of the representation of victims. The Office falls within the Registry solely for administrative purposes.

This independence is a prerequisite for carrying out its mandate of assisting and representing victims and legal representatives of victims.

Such independence will allow the Office to work without being subjected to pressure of any kind and will preserve the privileged relationship between victims and their legal representatives.

According to regulation 81, sub-regulation 4, of the Regulations of the Court, the Office “shall provide support and assistance to the legal representative for victims and to victims, including, where appropriate, legal research and advice; and appearing before a Chamber in respect of specific issues”.

Pursuant to regulation 80 of the Regulations of the Court, members of the Office may be appointed as legal representatives of victims.

Functions will include:

- the conduct of legal representation of victim(s) or a group of victims whenever appointed by a Chamber or by the Registrar;
- the assistance to legal representatives of victims in any form agreed upon;
- the production of factual background documents on the situations before the Court,
- the production of research papers and the provision of advice on selected aspects of international criminal law, in particular on law relevant to victims’ participation and reparations,
- the production of a bibliography on international criminal law.

Work Currently being Undertaken

Since its establishment, the Office has been working on the implementation of its administrative structure through, *inter alia*, recruitment of staff and the drafting of both internal administrative instructions regarding the independence of the Office, the drafting of guidelines to regulate the relations of the Office with other organs or sections of the Court.

Moreover, the Office is building up an electronic legal database which contains, at this point, some 180 articles relating to victims’ participation and reparations, as well as to their protection. In addition to the electronic legal database which will be linked to the the Court’s general project on legal tools, the OPCV is currently setting up a library to be used primarily by the members of the Office but that will also be available for consultation by legal representatives of victims.

Last but not least, contacts have been established with bar associations, lawyers and NGOs gathering lawyers to discuss the more appropriate forms of cooperation between them and the Office, since one of its functions is to assist the legal representatives of victims in performing their duties before the Court.

Key challenges ahead

A major challenge in the near future is the full establishment of the Office through the continued recruitment of staff, so that the Office will be fully operational by July this year. Since this is the first time in the history of international criminal justice that such an Office has been created, the members of the Office are constantly trying to identify the best and the most flexible structure, to be able to respond to the expectations of victims and their legal representatives. Due to limited resources, the Office is also attaching a great deal of importance to the identification of local partners in the field. Indeed, representation of victims cannot be effective without the possibility of having direct access to them and communicating with them in their own languages. That is why assessing the feasibility of establishing a cooperation scheme with local lawyers is a priority for the Office, together with determining the extent of this cooperation.

The Office web page has been finalised and has been included on the Court website.

From left to right: Orchlón Narantsetseg (Mongolia), Associate Legal Officer, Paolina Massidda (Italy), Principal Counsel, José-Enrique García-Alcalá y Nieto (Spain), Administrative Assistant, Sarah Pellet (France), Legal Officer, Kalala, Mulamba (DR Congo), Intern.



Passing of Dr Medard Rwelamira

"Many of us lose in Dr Rwelamira a dear friend; all of us lose in him a highly professional and always friendly colleague. We will all remember Dr Rwelamira as a warm and generous human being. Our thoughts are with his family at this difficult time," said Judge Philippe Kirsch, President of the International Criminal Court.

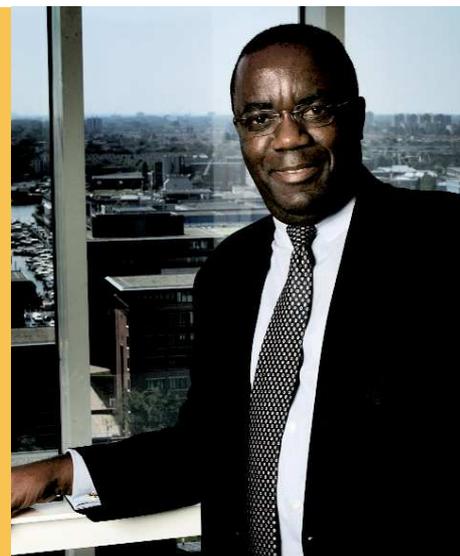
Dr Medard Rwelamira, Director of the Permanent Secretariat of the Assembly of States Parties passed away in Pretoria, South Africa, on 3 April, 2006.

His funeral was held on Saturday 8 April in his hometown of Bukoba, United Republic of Tanzania. Judge Akua Kuenyehia, First Vice-President, attended the service on behalf of the Court.

Dr Rwelamira was appointed Director of the

Permanent Secretariat of the Assembly of States Parties to the Rome Statute in 2004. He participated in the process of the establishment of the International Criminal Court. Having obtained South African citizenship, from 1997 to 2001 he led the South African delegation to the Preparatory Commission and was Chief Legal Adviser to the South African Delegation to the 1998 Diplomatic Conference of Plenipotentiaries that adopted the Rome Statute. He also served as a Vice-President of the Commission on the establishment of the ICC and coordinated Part IV of the Statute on the "Composition and Administration of the Court".

Dr Rwelamira is survived by his wife Juliana and his three daughters: Adeline, Adele and Anita.



Dr Medard Rwelamira, 1948 - 2006

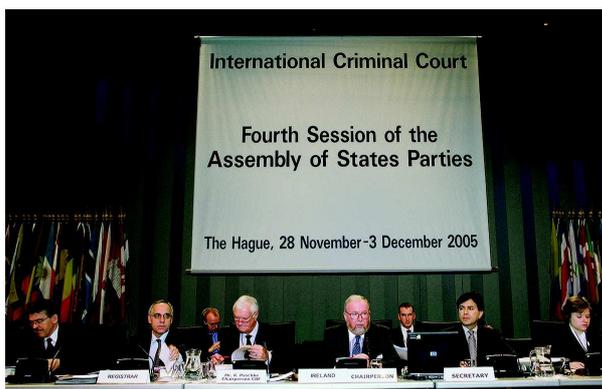
Outcome of the Fourth Session of the Assembly of States Parties

At its fourth session, held in The Hague, from 28 November to 3 December 2005, the Assembly, *inter alia*, adopted the Code of Professional Conduct for counsel and the Regulations of the Trust Fund for Victims; established guidelines for the selection and engagement of gratis personnel at the Court; approved the programme budget for 2006 at the level of € 80,471,200, and a total of 624 staff; established a New York Liaison Office; decided on the procedure for filling vacancies in the Board of Directors of the Trust Fund for Victims and the Committee on Budget and Finance; adopted an amendment regarding the term of office of members of the Board of Directors of the Trust Fund for Victims; approved amendments to the Financial Regulations and rules relating to the Contingency Fund; and decided on the venues and approximate dates of its fifth, sixth and seventh sessions (2006-2009).

Resumed fourth session

At its resumed fourth session, held at United Nations Headquarters from 26 to 27 January 2006, the Assembly elected the following judges of the International Criminal Court: Mr Hans-Peter Kaul (Germany), Mr Erkki Kourula (Finland), Ms Akua Kuenyehia (Ghana), Mr Sang-hyun Song (Republic of Korea), Ms Ekaterina Trendafilova (Bulgaria) and Ms Anita Ušacka (Latvia). The terms of office began on 11 March 2006.

The Assembly then elected by consensus the following as members of the Committee on Budget and Finance: Mr Lambert Dah Kindji (Benin), Mr David Dutton (Australia), Mr Fawzi Gharaibeh (Jordan), Mr Myung-jae Hahn (Republic of Korea), Ms Elena Sopková (Slovakia) and Mr Santiago Wins (Uruguay). The three year



Fourth Session of the Assembly of States Parties, The Hague, 28 November, 3 December 2005

terms of office of these six members began to run as from 21 April 2006.

As regards the interim premises needed to accommodate the expected growth in Court staff in 2006, the Assembly considered a report on interim premises presented by the Court (ICC-ASP/4/INF.2), heard a statement by the host State and adopted resolution ICC-ASP/4/Res.12, which sets the procedure for the preparation of a Bureau report and its subsequent submission to the Committee on Budget and Finance.

Bureau

On 14 February 2006, the Bureau reconstituted its two Working Groups, one based in The Hague and the other in New York and adopted their respective terms of reference.

The Bureau mandated The Hague Working Group to address the following issues: the interim premises; initiating the Court's strategic planning process; proposals to improve equitable geographic representation and gender balance in the recruitment of staff; the budget; the permanent premises; and host State issues,

including issuance of visas for participants in the Assembly and political dialogue at the ambassadorial level (Vice-Presidents).

The Bureau adopted special terms of reference relating to the interim premises, according to which the process was facilitated by the two Vice-Presidents of the Bureau, Ambassador Erwin Kubesch (Austria) and Ambassador Hlengiwe Mkhize (South Africa). The Working Group considered this issue urgently, including the so-called interim interim premises, and consulted widely in order to ensure, *inter alia*, that the views of the Court are heard.

The Working Group of the Bureau in New York was mandated to address the following issues: participation in the Assembly of States Parties (including measures to increase both the number of ratifications and the participation of developing countries), arrears (including suggestions to promote timely payment and guidelines for submission of documentation regarding exemption requests), proposals for an independent oversight mechanism, and assistance in setting up the New York Liaison Office.

The Fourth Session of the Assembly of States Parties, in depth

Trust Fund for Victims

After extensive consultations in a working group established to consider the draft Regulations of the Trust Fund for Victims established under Article 79 of the Statute, the Assembly approved the Regulations on 3 December. The Regulations deal with the management and oversight of the Trust Fund by the Board of Directors and the Secretariat and how contributions to the Fund will be received and managed. The Regulations also set out the framework for the use of the funds, including the circumstances in which the Fund will be seized, and matters relating to the implementation of its activities and projects. For instance, procedures are established as to how the Fund will act when a Chamber of the Court orders that an award of reparations against a convicted person be made through the Trust Fund, which according to rule 98 of the Rules of Procedure and Evidence it may do where it decides to make collective or individual awards that are difficult for the Court to implement. The Regulations also deal with how the Board may use other resources raised through voluntary contributions, and the circumstances in which it may itself initiate specific activities to provide physical or psychological rehabilitation or material support for the benefit of victims and their families. Where the Board wishes to initiate such an activity, the Regulations provide that it must notify the relevant Chamber, and if the Chamber has not responded within a certain period of time indicating that the proposed activity would pre-determine any



Resumed Fourth Session of the Assembly of States Parties, New York, 26-27 January 2006

issue to be determined by the Court or interfere with fair trial rights, then the Board may proceed. The ASP also adopted resolutions relating to the filling of vacancies on the Board of Directors of the Trust Fund for Victims and the terms of office of the Members. Mme Simone Veil, Chair of the Board of Directors, addressed the Assembly during the opening plenary. In her speech, she stressed the importance of adopting the Regulations in order to enable the Trust Fund to proceed with its work, and appealed to States to contribute to the Fund, which had reached the symbolic one million euro mark.

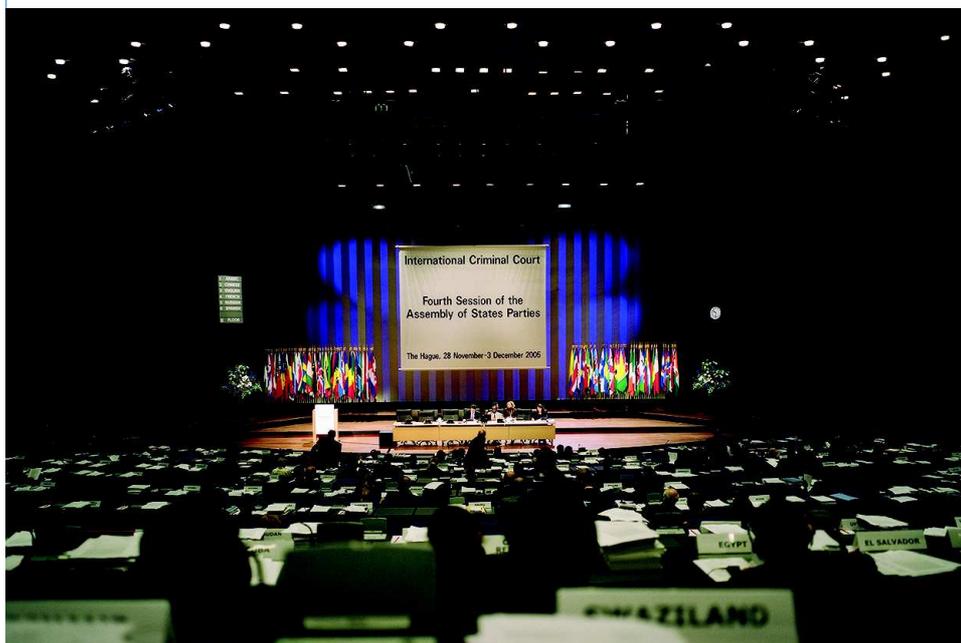
Budget and Finance

The process leading up to the adoption of the 2006 Programme Budget by the Assembly of States Parties involved regular dialogue with States Parties, discussions in formal working groups such as those created by the Assembly Bureau, as well as informal discussions held through Diplomatic Briefings

and with other players, including the Friends of Court and non governmental organisations. This preparatory work culminated with the adoption of the 2006 Programme Budget by the Assembly of States Parties. The increase over the previous Budget is closely linked to the challenges the Court faces in the field activities (nature of the ongoing conflicts, geographical specificities of the countries concerned, environmental conditions, linguistics, logistics, security requirements) and judicial proceedings at Headquarters. The following assumptions underlie the 2006 Programme Budget: the Office of the Prosecutor will examine up to eight situations and continue one investigation; a fourth situation will be opened in mid-2006; and one trial will begin in May 2006 and another in July 2006. With the adoption of the Programme Budget, the Assembly of States Parties also concluded that the Court should keep a certain degree of budgetary flexibility while maintaining the necessary transparency and accountability.

Outreach

Registry has developed initial situation-related outreach strategies for Uganda and the Democratic Republic of the Congo, in consultation with the inter-organ External Communications Group and ICC staff working on situations under investigation, and with the advice of local partners. Work is ongoing to complete a strategy for the Court's outreach activities in relation to Darfur, Sudan. Building upon these situation-specific strategies and following the request of the Assembly of States Parties at its last session, the Court has initiated preparation of a detailed strategic plan in relation to its outreach activities to be submitted for consideration to the Committee on Budget and Finance and the Assembly of States Parties in advance of the fifth session of the Assembly. The detailed plan will include a strategic assessment and proposal regarding the Court's outreach-related goals, the structure and resources required for the Court to carry out an effective outreach programme in the short and medium term, as well as identified indicators to measure its performance. In preparation of the outreach plan, the Court is taking into account the invaluable experience of the International Criminal Tribunals for the Former Yugoslavia and Rwanda and the Special Court for Sierra Leone, as well as that of non-governmental organisations in carrying out outreach activities in support of these institutions. The plan will also take into account the role of players other than the Court in conducting outreach in situations affected by its activities.



Fourth Session of the Assembly of States Parties, The Hague, 28 November - 3 December 2005

Inauguration Ceremony of the Six Judges Elected by the ASP

On Friday 10 March 2006, the six judges of the International Criminal Court elected in January by the ASP made a solemn undertaking at the seat of the Court in an open session presided over by Judge Philippe Kirsch, President of the Court. The solemn undertaking was witnessed by the President of the Assembly of States Parties, Ambassador Bruno Stagno Ugarte, in accordance with rule 5 of the Rules of Procedure and Evidence of the Court.

Ambassador Stagno Ugarte noted that the solemn undertaking "marks a renewal of our commitment to avoid the reign of impunity in a world where for far too long justice has frequently been denied to those who have been victims of genocide, war crimes and crimes against humanity".

The six judges were elected for nine-year terms. Five of them already held ICC judgeships: Judges Akua Kuenyehia (Ghana), Sang-hyun Song (Republic of Korea), Hans Peter Kaul (Germany), Erkki Kourula (Finland) and Anita Ušacka (Latvia). Judge Ekaterina Trendafilova (Bulgaria), who was elected for the first time by the Assembly of States Parties, also made a solemn undertaking.

In his closing remarks, Judge Philippe Kirsch reiterated that the judges' first duty, as members of the Plenary Assembly of judges, would be to elect members of the Presidency and assign judges to Divisions. The six elected judges were joined by the other ICC judges, Prosecutor Luis Moreno-Ocampo, Deputy Prosecutor Fatou Bensouda and Registrar Bruno Cathala.



Judge Akua Kuenyehia (Ghana)



Judge Sang-hyun Song (Republic of Korea)



Judge Hans Peter Kaul (Germany)



Judge Erkki Kourula (Finland)



Judge Anita Ušacka (Latvia)



Judge Ekaterina Trendafilova (Bulgaria)

Photo: ICC-CPI / Hans Horstjijk

ICC Judges Plenary, 11 March 2006

In plenary session on 11 March, the judges elected the Presidency of the Court by an absolute majority. Judges Philippe Kirsch (Canada) and Akua Kuenyehia (Ghana) were re-elected President and First Vice-President of the Court, and Judge René Blattmann (Bolivia) was elected Second Vice-President. They will serve for three-year terms.

As provided in the Statute, the First Vice-President shall act in place of the President in the event that the President is unavailable or disqualified. The Second Vice-President shall do so in the event that both the President and the First Vice-President are unavailable or disqualified. The Presidency's functions may be grouped in three main areas: administrative, judicial and external relations. Administrative functions include exercising managerial oversight of the Registry and ensuring effective delivery of services by the Registry to the judiciary. Judicial functions include organising the judicial work of the Chambers and carrying out specific judicial functions assigned to the Presidency by the Statute, Rules of Procedure and Evidence and Regulations of the

Court. The Presidency's external relations activities include negotiating and concluding agreements on behalf of the Court and promoting public awareness and understanding of the Court. Following the election of the Presidency, the judges discussed the composition of the judicial Divisions. They maintained the current composition of Divisions and assigned Judge Ekaterina Trendafilova to the Pre-Trial Division. The Divisions are as follows:

Pre-Trial: Judges Akua Kuenyehia, Claude Jorda, Hans-Peter Kaul, Mauro Politi, Fatoumata Diarra, Sylvia Steiner and Ekaterina Trendafilova.

Trial: Judges René Blattmann, Karl Hudson-Phillips, Elizabeth Odio Benito, Maureen Harding Clark, Anita Ušacka and Sir Adrian Fulford.

Appeals: Judges Philippe Kirsch, Georghios M. Pikiş, Navanethem Pillay, Sang-hyun Song and Erkki Kourula.

Prosecutor Reports 'Significant Progress' in Darfur Investigations

On 13 December, ICC Chief Prosecutor Luis Moreno-Ocampo addressed the United Nations Security Council on the progress of the ICC's actions regarding the situation in Darfur, Sudan. The situation prevailing in Darfur since 1 July 2002 was referred to the Court by the Security Council on 31 March 2005 under Resolution 1593.

The Prosecutor reported that many developments had been made in the Darfur investigation since Mr Moreno-Ocampo's previous address to the Security Council on 29 June 2005. According to his report, the next step in the process will focus on selecting the criminal incidents to be prosecuted, as well as 'those persons bearing greatest responsibility for those incidents.' The Prosecutor explained that at this point in time, no decisions have been made as to whom to prosecute.

Mr Moreno-Ocampo said that the Court's efforts in Darfur have been complicated by the region's complex political transition as well as by the atmosphere of continued violence. In particular, protection for victims and witnesses has been an issue of paramount concern. The Prosecutor called for the implementation of an effective system of protection for victims and witnesses. Because such a system is not yet in place, investigations have only taken place outside of Darfur, reported the Prosecutor.



Chief Prosecutor Luis Moreno-Ocampo

'Despite these limitations significant progress has been made in the investigation', wrote the Prosecutor in his Second Report to the Security Council Pursuant to UNSC 1593 (2005).

In order to increase the investigation's opportunities to collect relevant evidence in Darfur, the Prosecutor intends to seek increased

cooperation from the government of Sudan. The Prosecutor ensured the Security Council that the first steps towards a cooperative relationship have been made and that he will keep the Council informed on further developments.

The Relationship between the ICC and the UNSC

On 30 November 2005, then Senior Legal Adviser and Chief of the Legal Advisory Section of the Office of the Prosecutor, Morten Bergsmo, spoke at a Side Event at the 4th Session of the Assembly of States Parties to the International Criminal Court. This seminar, held in the World Forum Theatre and organized jointly by the Nordic countries, addressed the topic of the relationship between the ICC and the United Nations Security Council. Mr Bergsmo's remarks focused specifically on the potential challenges for the ICC of Security Council referrals.

Although Security Council referrals are often thought to be different than referrals from States Parties or article 15 communications, Bergsmo pointed out that all situations are investigated in the same manner by the ICC. He stated that 'the day-to-day reality in the ICC Office of the Prosecutor to date is that the investigation into alleged crimes referred to the

Court by the Security Council does not really differ from the other two investigations'. No matter how jurisdiction is triggered, the situation and potential investigation are approached following the same procedure.

Against this background, Mr Bergsmo observed that few legal challenges specific to Security Council referrals to the ICC had been envisaged so far. Some may take the view that selective justice is a legal challenge specific to such cases. The concern would be that the Security Council, a supremely political body, is selective in choosing the situations it refers to the ICC. He stated during the event, however, that there is no automaticity in the Court's handling of situations referred by the Security Council. The Prosecutor has a statutory duty to assess whether there is 'reasonable basis to proceed with an investigation' also when there is such a referral. This is exactly what the OTP did in the Darfur situation. The Security

Council referred the situation in Darfur to the ICC on 31 March 2005, but the decision to commence the actual investigation did not come before June 2005.

Mr Bergsmo then addressed practical challenges of Security Council referrals. State co-operation remains a prominent issue, partly because of the flexibility given to states under article 99(1) of the ICC Statute. This article gives States 'generous discretion to decide how requests for assistance from the Court should be implemented', Bergsmo observed. This could pose a challenge for the ICC. However, when a government has referred a situation to the Court, it will be widely expected that it goes out of its way to assist the Court in its work. Fortunately, he remarked, the Security Council established a very clear obligation for the Government of Sudan to co-operate with the ICC on the situation in Darfur in its referral-resolution.

OTP Meeting with the NGOs at the ASP

On Wednesday, 30 November 2005, senior members of the Office of the Prosecutor met with participants from over thirty non-governmental organizations (NGOs) and several members of the press at the annual Assembly of States-Parties. The discussion group, which hailed from four continents, met to discuss the two situations and one case currently under investigation by the OTP and to enhance the partnership between the OTP and NGOs.

Chief Prosecutor Luis Moreno-Ocampo opened the session by summarizing the most recent developments in the Court's case in Northern Uganda and the Court's two current situations in the Darfur region of Sudan and the Democratic Republic of Congo. He emphasized the difficult aspects of the Office's mandate, such as maintaining both confidentiality and clarity, and he elaborated on the issue of witness and victims security. Security has increasingly become a hot topic in the Darfur situation; lack of security has caused most of the investigation to take place outside of Darfur and within Khartoum because it is simply "unsafe to be there," as the Prosecutor made

clear. Despite these challenges, however, the Office has made several developments and, because of this, has grown from 40 employees just two years ago to over 150 today.

After summing up the situations and before opening the floor for questions, the Prosecutor emphasized the important role of NGOs in the development of the Court and thanked the NGOs for making meetings like this one possible.

Throughout the rest of the session, participants demonstrated much interest in the Office's progress in the DRC situation. The Prosecutor responded to queries about the status of the investigation by stating that there is an 'increasing possibility' that arrest warrants may be requested.

Other questions centered on the means through which the Court plans to enforce its decisions and the manner in which certain terms are defined.

Since last October's issuance of arrest warrants for five Ugandan rebels, the question of how

these rebels will be brought into custody has been continuously debated. The fact that the Court does not have a police force causes the Court to rely on the states involved in situations to arrest those for which warrants are issued. If the state cannot handle the security required, they must request international support, a point which was reiterated at the conference.

The definition of gravity became another central discussion point of the meeting. 'How is gravity defined?' and 'Who defines it?' became two major questions from the session's participants. Deputy Prosecutor Fatou Bensouda and the Chief Prosecutor both explained that OTP defines gravity via the analysis of evidence.

The discussion session lasted for a good two hours, with OTP and NGO representatives milling around afterwards to meet and discuss issues addressed even further. This discussion session, though informative enough when not paired with any other events, also served as a precursor to the NGO Conference at the ICC in January, during which NGOs had the opportunity to follow-up on topics discussed here and to meet with all organs of the Court.

Serge Brammertz takes over as Head of the UN Investigation into the Assassination of Former Premier Rafiq Hariri in Lebanon

On 24 January 2006 ICC Deputy Prosecutor (Investigations) Serge Brammertz officially took over as head of the UN investigation into the assassination of former Premier Rafiq Hariri in Lebanon. Serge Brammertz was appointed to the post of Commissioner of the UN International Independent Investigation Commission (UNIIC) in Lebanon by Secretary-General Kofi Annan, succeeding Detlev Mehlis of Germany.

Having informed the President of the Court and following consultations with the Bureau of the Assembly of States Parties ICC Chief Prosecutor Luis Moreno-Ocampo granted Serge Brammertz a six month leave of absence from the ICC Office of the Prosecutor. In a statement issued to the media the Prosecutor said that Serge Brammertz was granted leave to lead the UNIIC "as a contribution to the search for truth and accountability in a matter of grave concern to the international community".

The ICC Office of the Prosecutor is currently making significant progress in the investigations



Serge Brammertz
Photo: ICC-CPI / Wim van Cappellen

relating to the Democratic Republic of Congo, Northern Uganda and Darfur. To ensure the unhampered continuation of the investigations during the absence of Mr Brammertz, Chief Prosecutor Luis Moreno-Ocampo will personally direct the Investigation division

with Michel de Smedt, head of the Investigations, Planning and Support Section, leading the operational work. Deputy Prosecutor (Prosecutions) Fatou Bensouda has assumed the representational responsibilities of Mr Brammertz.

President Kirsch visits India and Pakistan

In December 2005, President Kirsch visited India as a follow-up to a visit made in 2004, when he was the keynote speaker at the 2nd International Law Conference of the Indian Society of International Law in Delhi. In 2005, the Indian Society of International Law focused their 3rd International Conference specifically on 'The Emerging Trends in International Criminal Jurisprudence.' Upon the Society's invitation to return to India, President Kirsch

spoke at the inauguration of the conference. While in India, he also delivered a keynote address at the conference to launch the ICRC's Study of Customary Humanitarian Law. The conference was co-hosted by the ICRC and the Asian-African Legal Consultative Organisation. He had a number of other meetings, including with Members of Parliament, several government ministers and judges, as well as local NGOs and the media.

The President also visited Pakistan at the invitation of the Research Society of International Law (RSIL) based in Lahore. RSIL organised a number of lectures for the President in Islamabad and Lahore to audiences including high-ranking government and military officials, academics, and journalists. As in India, he also had high-level contacts with parliamentarians, government officials, and judges.

ICC participates in Outreach Workshops in Northern Uganda



Workshop held in Kitgum for NGOs



Workshop held in Gulu for Traditional Leaders

Between 20 and 31 March 2006, the International Criminal Court participated in a number of informative workshops in Northern Uganda.

The first of three workshops, held in Gulu was organised in association with the Acholi

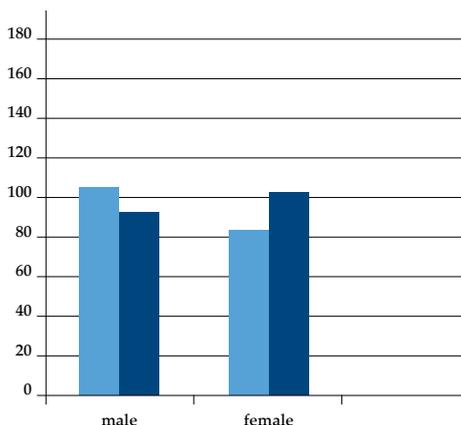
Religious Leaders Peace Initiative (ARLPI), the second with the Acholi cultural institution Ker Kwaro Acholi and the third with the Gulu NGO Forum in partnership with the Uganda Coalition for the International

Criminal Court (UCICC). Approximately 120 people participated during the three programmes.

Further workshops, held in Kitgum Lira and Soroti, were organised by the local NGO Forums in partnership with the UCICC. Over 120 members of local NGOs participated.

The aim of the workshops, part of the ICC outreach programme for Uganda, was to provide information about the ICC and listen to concerns expressed by representatives of those local communities most effected by the work of the Court. During the workshops ICC staff presented information on the Court's investigation in Northern Uganda, the procedure for victims to participate in Court proceedings, the Witnesses Protection, and a general overview of the Court, including its mandate and jurisdiction. In addition, participants were updated on the Court's Public Information and Outreach programme for Uganda. The need to continue to disseminate information on the ICC to the local communities was also discussed.

Latest Recruitment Figures



Of the 390 ICC Staff Members from 67 countries, 203 are male and 187 are female.

Not including:
22 on elected posts
97 on temporary posts

■ professional
■ General service

Latest Documents

Trial Chamber I

Situation in the Democratic Republic of Congo

- 03.05.2006 - Registrations in the record of material presented at the ex parte closed hearing of 2 February 2006
ICC-01/04-01/06-19 English
- 02.05.2006 - Observations of the Defence relating to the system of disclosure in view of the Confirmation Hearing
ICC-01/04-01/06-92 English
- 02.05.2006 - Prosecution's Final Observations on Disclosure
ICC-01/04-01/06-91 English
- 02.05.2006 - Demande de prorogation de délai pour l'envoi du mémoire du Représentant légal des victimes VPRS 1 à 6 suite aux observations du Procureur et du Conseil de la défense, au sujet du statut de victime des demandeurs VPRS 1 à VPRS 6 dans le cadre de l'affaire "Le Procureur c. Thomas Lubanga Dyilo". ICC-01-04-01-06-90 - French
- 01.05.2006 - Prosecution Response to Thomas Lubanga Dyilo's Brief in Support of the Appeal ICC-01/04-01/06-89 English
- 01.05.2006 - Filing of Incriminating Evidence and Potentially Exculpatory Evidence ICC-01/04-01/06-87 English
- 27.04.2006 - Decision: "Decision on the Presiding Judge of the Appeals Chamber" English
- 26.04.2006 - Summary of Decisions : "Decisions on the Registrar's request for extension of his mandate in relation to the execution of the arrest warrant against Mr Thomas Lubanga Dyilo" English
- 26.04.2006 - Summary of Decision : "Decision convening an in camera meeting with the Prosecution on 2 May 2006" English
- 26.04.2006 - Prosecutions Response to inter alia the Request of the Defence for Unrestricted Access to the Entire Record of the Situation in the DRC ICC-01/04-01/06-86 - English
- 26.04.2006 - Prosecution's Submission of Further Information and Materials (Dated 18.03.2006 - Reclassified as public, pursuant to Decision ICC-01/04-01/06-80) ICC-01/04-01/06-39-AnxD - English
- 26.04.2006 - Submission of Formatted and Redacted Documents (Dated 18.03.2006 - Reclassified as public, pursuant to Decision ICC-01/04-01/06-80) ICC-01/04-01/06-39-AnxA - English
- 25.04.2006 - Submission of the Proposed Redacted Transcript of the in camera Meeting of 17 March 2006 ICC-01/04-01/06-84 - English
- 25.04.2006 - Prosecutor's Application for Extraordinary Review of Pre-Trial Chamber I's 31 March 2006 Decision Denying Leave to Appeal (with Annex) ICC-01/04-141 - English
ICC-01/04-141-Anx1 - English
- 21.04.2006 - Decision Reclassifying Certain Documents in the Record of the Situation in the Democratic Republic of the Congo
ICC-01/04-140 - English
- 21.04.2006 - Decision on the Prosecution's Application for Leave to Appeal the Chamber's Decision Of 17 January 2006 On The Applications For Participation In The Proceedings Of VPRS 1, VPRS 2, VPRS 3, VPRS 4, VPRS 5 And VPRS 6
ICC-01/04-135 - Translation: English | French
- 20.04.2006 - Decision on the Agenda of the Hearing of 24 April 2006
ICC-01/04-01/06-82 - English

Trial Chamber II

Situation in Uganda

- 11.04. 2005 - Prosecutor's Submission of BBC News Article dated 4 October 2005 as Referred To During Hearing Held on 6 October 2005 (Dated 11.10.2005 - Reclassified as public pursuant to Decision ICC-02/04-01/05-78) ICC-02/04-01/05-51 - English
- 11.04. 2005 - Registration in the Record of the Memorandum of Service regarding the Transmission to the Republic of Sudan of the Requests for Arrest and Surrender in accordance with the Decision on the Prosecutor's Urgent Application dated 26 September 2005 (Dated 07.10.2005 - Reclassified as public pursuant to Decision ICC-02/04-01/05-78) ICC-02/04-01/05-49 - English
- 11.04. 2005 - Registration in the Record of the Memorandum of Service regarding the Transmission to the Republic of Uganda of the Requests for Arrest and Surrender in accordance with the Decision on the Prosecutor's Urgent Application dated 26 September 2005 (Dated 07.10.2005 - Reclassified as public pursuant to Decision ICC-02/04-01/05-78) ICC-02/04-01/05-48 - English
- 11.04. 2005 - Versement au dossier par le Greffier du procès-verbal de transmission à la République démocratique du Congo des demandes d'arrestation et de remise conformément à la Décision relative à la demande urgente du Procureur datée du 26 septembre 2005 (Dated 07.10.2005 - Reclassified as public pursuant to Decision ICC-02/04-01/05-78) ICC-02/04-01/05-47 - French
- 11.04. 2005 - Submission of Information Regarding Dominic Ongwen (Dated 05.10.2005 - Reclassified as public pursuant to Decision ICC-02/04-01/05-78) ICC-02/04-01/05-43 - English
- 11.04. 2005 - Decision on the Prosecutor's Urgent Application dated 26 September 2005 (Dated 27.09.2005 - Reclassified as public pursuant to Decision ICC-02/04-01/05-78) ICC-02/04-01/05-27 - English
- 11.04. 2005 - Registration in the Record of Material presented during the ex parte Hearing Held in Closed Session on 16 June 2005 (Dated 27.06.2005 - Reclassified as public pursuant to Decision ICC-02/04-01/05-78) ICC-02/04-15 - English
- 11.04. 2005 - Decision to Hold a Hearing on the Protection of Victims and Witnesses in connection with the Prosecutor's Application for Warrants of Arrest and the Prosecutor's Application dated 13 June 2005 (Dated 17.06.2005 - Reclassified as public pursuant to Decision ICC-02/04-01/05-78) ICC-02/04-13 - English | Translation: French
- 11.04. 2005 - Decision on the "Prosecutor's Application to Disclose to Internal Auditor certain Information Relating to the Amended Application for Warrants' dated 13 June 2005 (Dated 17.06.2005 - Reclassified as public pursuant to Decision ICC-02/04-01/05-78) ICC-02/04-12 - English | Translation: French