



OTP Weekly Briefing – 30 September – 5 October 2009 – Issue #7

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*

2 October - In light of the pending appeal against its 14 July 2009 Decision giving notice that the legal characterisation of the facts may be subject to change in accordance with Regulation 55, Trial Chamber I decided to postpone the recommencement date of 6 October for trial to await the Appeals Chamber decision.

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

30 September - Judge Christine Van den Wyngaert replaced Judge Hans-Peter Kaul. Trial Chamber II will now be composed of Judge Fatoumata Dembele Diarra, Judge Bruno Cotte and Judge Christine Van den Wyngaert.

1-2 October - The Prosecution attended a status conference convened by Trial Chamber II in preparation of the trial in this case to ensure efficient proceedings. The conference covered a variety of issues, including the Prosecution's list of evidence, Prosecution witnesses to be called to testify at trial and Parties' agreements on facts.

The Kivus investigation

30 September - OTP conducted a mission to Italy and continued to liaise with the United Nations and States to further consolidate information on alleged crimes committed and on the structure and presence of armed groups and forces operating in the Kivus.

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*

29 September - Pursuant to the Pre-Trial Chamber's order of 1 September 2009, the Prosecution submitted its observations on four applications for participation as victims in the proceedings against President Al Bashir, stating that all the applicants meet the criteria to be recognised as victims in the case.

2 October - The Prosecution responded to the Amicus Brief presented by the Sudan Workers Trade Unions Federations (SWTUF) and the Sudan International Defence Group (SDIC), in respect of the Prosecution's Appeal against the Pre-Trial Chamber's decision not to retain the charges of genocide in the arrest warrant against President Al Bashir. The Prosecution submitted that the Amicus Brief defends the Impugned Decision but offers no substantive authority countering the Prosecution's arguments that the Pre-Trial Chamber employed the wrong evidentiary standard at the arrest warrant stage. The Prosecution thereby requested that the Appeals Chamber disregard the arguments advanced by the Amicus Curiae and grant the relief requested by the Prosecution in its Appeal.

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

25 September - Single Judge Sanji Mmasenono Monageng recognised thirty-four applicants as victims for the purpose of participating during the pre-trial stage of this case, as recommended by the Prosecution.

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

This situation was referred by the Central African Republic in December 2004. The OTP opened its investigations 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 rendered its confirmation of charges decision. On 18 September, the case was referred to the new Trial Chamber III. In parallel, the Office continues to monitor allegations of crimes committed since the end of 2005.

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

The OTP is preparing for trial and proceeds with its disclosure obligations. There are no undisclosed documents under Article 54 (3)(e) in this case.

e. Miscellaneous

2. Preliminary Examinations:

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

A preliminary examination must be distinguished from a formal investigation. It is a phase during which the Office assesses whether crimes falling under the ICC jurisdiction may have been, or are possibly being, committed in a given situation; whether genuine investigations and prosecutions are carried out by the competent authorities in relation to these crimes; and whether the possible opening of an investigation by the Prosecutor would not go against the [interests of justice](#). During this phase, the Office pro-actively evaluates all information on alleged crimes from multiple sources, including information from individual and groups also known as "communications" and submissions from parties concerned. The triggering of a preliminary examination does not imply that an investigation will eventually be opened.

b. 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 not yet received an answer.

c. 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 allegedly 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.

d. 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.

30 September - The European Union [Independent International Fact-Finding Mission on the Conflict in Georgia](#) issued its final report. Among other findings, the report concludes that violations of international humanitarian law were committed during and after the August 2008 armed conflict, relating to the conduct of hostilities, treatment of persons and property and forced displacement.

e. [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.

f. 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.

g. [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 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.

30 September - The Prosecutor sent a letter to Justice Minister Kilonzo. The Prosecutor also [reiterated](#) his resolve to address the post-election violence of early 2008 with the Kenyan leaders and to prevent recurring violence through a three-pronged approach: with the ICC prosecuting those most responsible; national accountability proceedings for

other perpetrators; and other reforms and mechanisms such as the Justice, Truth and Reconciliation commission to shed light on the full history of past events and to suggest mechanisms to prevent such crimes in the future.

3. Cooperation – Galvanizing Efforts to Arrest:

30 September - Deputy Prosecutor Fatou Bensouda met with Mabvuto Hara, President of the Southern African Development Community Lawyers Association (SADC LA), and Gilberto Correia, President of the Bar Association of Mozambique, during their visit to the Court organized by the International Bar Association.

1 October - During the ICC ceremony welcoming the Czech Republic as 110th State Party, Ambassador to The Netherlands Petr Mareš, quoted Hannah Arendt: *“the purpose of a trial is to render justice, and nothing else, even the noblest of ulterior purposes. The judicial process has a way of its own - laid down by law, a way which does not change whatever the subject of the trial may be”*. The Ambassador stressed that *“International peace and security will never work, if we do not bear the consequences of the responsibility. Every individual is responsible for his or her crimes against humanity, war crimes or crimes of genocide. Every State is responsible for the punishment of such crimes. The ICC is here not as a substitute for the responsibility of States, but to make them bear their responsibility themselves. [...] I began my short speech by quoting Arendt and I would like to finish using her words again. I am sure we can understand them as if they were formulated in connection with the activities of the ICC. To the question most commonly asked about the Eichmann trial: What good does it do? There is but one possible answer. It will do justice.”*

4-5 October - Deputy Prosecutor Fatou Bensouda attended the Ceremony for the Nuremberg International Human Rights Award, and the conference of the International Coalition of Cities against Racism, organized, with UNESCO. The Deputy Prosecutor spoke of the global justice system created in Rome.

4. Coming Events:

- 6-7 October - OTP-NGO bi-annual roundtable, The Hague
- 9 October - Visit of Vice-President for Integrity of the World Bank, Mr. Leonard McCarthy, to the Court and meeting with the Prosecutor to sign a Memorandum of Understanding
- Mid October 2009 - Publication of the Report of AU High Level Panel on Darfur
- 15-16 October - 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
- 28 October - Prosecutor receives award for his work in human rights, Universidad Complutense, Madrid
- 29-30 October - Deputy Prosecutor to address Workshop on Strengthening Justice Sectors in Africa, Kampala
- 30 October - Consultations on the draft Prosecutorial Strategy for 2009-2012 with States, The Hague
- 3 November - Consultations on the draft Prosecutorial Strategy for 2009-2012, Geneva
- 4 November - Prosecutor's briefing to the seventeenth Diplomatic Briefing, The Hague
- 5 November - Prosecutor's briefing to EU Ambassadors and representatives following the meeting of the ICC sub - group of the EU Public International Law Working group (“COJUR”), The Hague
- 9-10 November - Prosecutor to participate in symposium “The ICC that Africa Wants”, Cape Town
- 11-13 November - Prosecutor's visit to Rwanda for the International Prosecutors' colloquium, Kigali
- 18-26 November - [Eighth Session of the Assembly of States Parties](#), The Hague
- 20 November - Prosecutor to participate in the World Economic Forum, Summit on 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