



OTP Briefing

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- Prosecutor starts a preliminary examination on Mali
- ICC Judges issue new arrest warrants for Bosco Ntaganda and Sylvestre Mudacumura
- ICC Judges sentence Lubanga to 14 years of imprisonment
- Prosecutor meets with French and Francophonie officials in Paris

NEWS

Prosecutor Bensouda starts a preliminary examination on the situation in Mali following the Government's referral



The Malian Minister of Justice, H.E. Malick Coulibaly and ICC prosecutor Fatou Bensouda

18 July – Prosecutor Bensouda issued the following [statement](#): “Today I received a delegation from the Government of Mali led by the Minister of Justice, H.E. Malick Coulibaly. The delegation transmitted a letter by which the Government of Mali, as a

State Party to the ICC, refers “the situation in Mali since January 2012” to my Office and requests an investigation to determine whether one or more persons should be charged for crimes committed. The Government of Mali submits that the Malian courts are unable to prosecute or try the perpetrators. The Malian delegation also provided documentation in support of the referral”. [see continuation on page 3]

ICC Judges issue new arrest warrants in DRC situation for Bosco Ntaganda and Sylvestre Mudacumura

13 July - Pre-Trial Chamber II [issued](#) a new arrest warrant for Bosco Ntaganda. Basing its decision on the evidence presented by the Prosecutor on 14 May 2012, the judges considered that there are reasonable grounds to believe that Bosco Ntaganda is responsible for three counts of crimes against humanity, consisting in murder, rape and sexual slavery, and persecution, and four counts of war crimes consisting of murder, attacks against the civilian population, rape and sexual slavery, and pillaging. The same day, Today, Pre-Trial Chamber II [issued](#) an arrest warrant for Sylvestre Mudacumura, following the request of the ICC Prosecutor, considering that there are reasonable grounds to believe that Mr Mudacumura is responsible for nine counts of war crimes, consisting of attacking civilians, murder, mutilation, cruel treatment, rape, torture, destruction of property, pillaging and outrages against personal dignity. In accordance with the warrant, Mr Mudacumura has allegedly engaged his individual criminal responsibility under article 25(3)(b) of the Rome Statute for ordering these nine counts of war crimes. On 16 July, the UNSC [issued](#) a press statement condemning the attacks by the M23 mutineers, reiterating their demands that the M23 and all armed groups, including the FDLR, cease immediately any further advances and all forms of violence in the eastern part of the DRC, and urged “that the commanders of M23, including Bosco Ntaganda, who is the subject of an ICC arrest warrant, be apprehended and brought to justice”.

ICC Judges sentence Thomas Lubanga Dyilo to 14 years of imprisonment

10 July - Trial Chamber I sentenced Thomas Lubanga Dyilo to a total period of 14 years of imprisonment. The Chamber also ordered that the time from Mr Lubanga's surrender to the ICC on 16 March 2006 until today should be deducted from this sentence.

The OTP [believes](#) that by sentencing Thomas Lubanga Dyilo to 14 years in prison for the crimes of enlisting, conscripting and using children under the age of 15 to participate actively in hostilities, ICC judges have sent a clear message to perpetrators of crimes: you will not go unpunished. The Prosecution had requested a longer sentence in line with the gravity of the crimes and the aggravating circumstances. The Prosecution is now studying the Judgment in detail and will consider whether or not to appeal. The Prosecution is also expecting to hear the judges' decision on reparations in order to ensure the victims of Lubanga's crimes see the full scale of justice. [*see continuation on page 3*]

Prosecutor Bensouda meets with French and *Francophonie* officials in first official visit to Europe following taking office



first Head of State to ratify the Rome Statute in February 1999.

Prosecutor Bensouda highlighted the good cooperation received from France, and stressed the need for continued and strengthened support ahead.

19 July – Prosecutor Fatou Bensouda held meetings with the French Minister of Foreign Affairs, Mr. Laurent Fabius, the Minister of Justice, Mrs. Christiane Taubira, the Minister of Women's Rights, Mrs. Najat Vallaud-Belkacem, and the diplomatic adviser to the President, Mr. Paul Jean-Ortiz, during her first official visit to a European State after taking office in June 2012. The Prosecutor also met OIF Secretary-General, Mr. Abdou Diouf, the



On 11 July, the Prosecutor participated in a francophone seminar on the ten years of existence of the ICC at the French embassy in The Hague, together with the ICC President and Registrar. Prosecutor Bensouda [presented](#) the OTP's contribution to the development and operationalization of the Court, "*which has gained a status and legitimacy as a crucial actor on the international scene regarding peace and justice*". The Prosecutor also highlighted the challenges ahead, including the risks for the independence of the Court and the OTP, the risks of isolation and the need for strong and consistent cooperation from States Parties.

OTP Activities

OVERVIEW

7 situations under investigation
15 cases in relation to 24 persons
12 outstanding arrest warrants
8 preliminary examinations in 4 different continents
Phases
1 case before Pre-Trial Chambers
6 cases before Trial Chambers
1 verdict

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 seven situations: [Afghanistan](#), [Honduras](#), [Korea](#), [Nigeria](#) and Mali ([phase 2b](#)), [Colombia](#), [Georgia](#) and [Guinea](#) (Phase 3)

MALI REFERRAL [*continuation of page 1*]: “The referral by the Government of Mali, which is the fourth referral by an African State Party, follows the 30 May 2012 decision by the Malian Cabinet to refer the situation to the ICC. It is in line with the 7 July 2012 request to the ICC by the ECOWAS Contact Group of Mali (composed of Benin, Burkina Faso, Côte d’Ivoire, Liberia, Niger, Nigeria and Togo) to “*launch the necessary enquiries in order to identify the perpetrators of these war crimes and to initiate the necessary legal proceedings against them.*”.

My Office has been following the situation in Mali very closely since violence erupted there around 17 January 2012. On 24 April, as instances of killings, abductions, rapes and conscription of children were reported by several sources, I reminded all actors of ICC jurisdiction over Rome Statute crimes committed on the territory of Mali or by Malian nationals. On 1 July, I stressed that the deliberate destruction of the shrines of Muslim saints in the city of Timbuktu may constitute a war crime under Article 8 of the Rome Statute.

I have instructed my Office to immediately proceed with a preliminary examination of the situation in order to assess whether the Rome Statute criteria stipulated under Article 53.1 for opening an investigation are fulfilled. I will make a public decision in due course.”

The referral of the situation in Mali by the Malian Government occurs in the context of a growing international consensus for investigation and prosecution of alleged crimes committed in this country since January 2012. On 5 July 2012, the Security Council unanimously adopted a [resolution](#) under Chapter 7, in which it stressed that attacks against buildings dedicated to religion or historic monuments can constitute violations of international law which may fall under the Rome Statute. On 7 July 2012, ECOWAS [called](#) upon the ICC to investigate and prosecute those responsible for war crimes in Mali. The AU followed on 19 July 2012 with a [solemn declaration](#) condemning the violations of human rights and the destruction of cultural heritage in Timbuktu as “*a serious violation of international law*” and urged that “*the perpetrators be brought to justice before the relevant international jurisdictions*”.

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 of conscripting, enlisting and using children to actively participate in hostilities committed in the Ituri region 2002 – 2003

Status: Judgment delivered on 14 March 2012; hearing for submissions of sentencing took place on 13 June 2012

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, closing oral statements set from 15 to 23 May 2012

Warrants Pending

The Prosecutor v [Bosco Ntaganda](#) – charged with war crimes of conscripting, enlisting and using children to actively participate in hostilities committed in the Ituri region 2002-2003; a second warrant was issued to include war crimes of murder, attacks against the civilian population, rape and sexual slavery, and pillaging, as well as crimes against humanity of murder, rape and sexual slavery, and persecution

Issued: 22 August 2006 & 13 July 2012

The Prosecutor v [Sylvestre Mudacumura](#) – charged with war crimes of attacking civilians, murder, mutilation, cruel treatment, rape, torture, destruction of property, pillaging and outrages against personal dignity committed in North and South Kivu Provinces of the DRC between 20 January 2009 and end of September 2010

Issued: 13 July 2012

LUBANGA SENTENCE [continuation of page 2]: The ICC's Prosecution continues to conduct investigations in the situation in Eastern DRC where violence is still ongoing and escalating. The local populations including children continue to be exposed to the dramatic consequences of war at the hands of armed groups supported by regional actors. Civilians are used as a bargaining tool in the search for power and economic gain. In the context of this situation, an arrest warrant was issued in 2006 by the Court for Bosco Ntaganda who is among those responsible for this situation. The Prosecution has recently asked for new charges of crimes against humanity and war crimes to be brought against him, including for murder, persecution, intentional attacks against civilians, rape and sexual slavery and pillaging. Recent information has surfaced that a new group called M23 associated with him has reverted to violence and armed confrontation against the DRC army. As a consequence civilians pay the highest price. This is unacceptable and must end. Those responsible for these crimes should be isolated, arrested and brought to justice. This is the only way to put an end to this vicious cycle of violence, reprisals and attacks against the civilian population in Eastern DRC.

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. On 11 July 2007, Pre-Trial Chamber I ordered to terminate the proceedings against [Raska Lukwiya](#). On 8 November 2007, the OTP submitted information to the PTC on the reported death of Vincent [Otti](#).

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

The Prosecutor v [Abdel Raheem Muhammad Hussein](#) – charged with war crimes and crimes against humanity committed during attacks against the civilian population in Darfur August 2003 – March 2004

Issued: 1 March 2012

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 completed the presentation of its case on 21 March 2012

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

Trials

The Prosecutor v [William Samoei Ruto and Joshua Arap Sang](#) – charged with crimes against humanity committed during the post-electoral violence in Kenya on or about 30 December 2007 – end January 2008

Status: Case sent to trial on 23 January 2012, date of trial set for 10 April 2013 (charges were not confirmed against Henri Kosgey, but the OTP will present additional evidence)

The Prosecutor v [Francis Kirimi Muthaura and Uhuru Muigai Kenyatta](#) – charged with crimes against humanity committed during the post-electoral violence in Kenya 24 – 28 January 2008

Status: Case sent to trial on 23 January 2012, date of trial set for 11 April 2013 (charges were not confirmed against Mohammed Ali, but the OTP will present additional evidence)

5 July - Pursuant to discussions at 11 June status conference, Trial Chamber V [ordered](#) the OTP to file an updated document containing the charges (DCC), by 21 August 2012, following consultations with the Defence. The Chamber indicated that it

was “persuaded that an updated post-confirmation DCC will assist in providing a readily accessible statement of the facts underlying each charge.” The Chamber directed the OTP to provide the defence with a draft DCC by 6 August 2012, and indicated that “thereafter, both parties are to liaise inter se with a view to resolving any areas of disagreement as to the whether the draft updated DCC properly reflects the Confirmation Decision.” The Chamber stated: “in preparing its updated DCC, the prosecution is to clearly indicate the material facts and circumstances underlying the charges as confirmed. In this connection, the prosecution should have particular regard for the entitlement of the accused to be informed of the facts and circumstances in terms of times and locations and also, as far as possible, the precise numbers and identities of the victims and the means employed to commit the crimes.”

9 July - Trial Chamber V issued a decision announcing the dates for the commencement of the trials in the two Kenya cases. This decision also established a schedule for disclosure and various procedural steps that are to be undertaken by the parties prior to the opening of the trials. The trial in the case against Mr. Ruto and Mr. Sang will [begin](#) on 10 April 2013, and the trial in the case against Mr. Kenyatta and Mr. Muthaura will [begin](#) on 11 April 2013. The Chamber directed both the Prosecution and Defence teams of both accused to file a first joint submission on agreed facts by 3 September 2012. The Chamber directed the prosecution to file its witness and evidence list by 9th January 2013. The Chamber instructed the Prosecution to disclose to the Defence all incriminatory material, all material pursuant to Article 67(2), and all Rule 77 material by 9 January 2013. Additionally, the Prosecution’s Pre-trial brief is to be filed by 9 January 2013.

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; the Chamber decided that Libya could postpone the execution of the request to surrender Saif Al-Islam Gaddafi on 1 June 2012, pending a final determination on the admissibility challenge.

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)

Status: initial appearance on 5 December 2011; confirmation of charges hearing set for 13 August 2012

III. Arrests - Cooperation

11 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 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**

The Prosecutor v Abdel Raheem Muhammad Hussein (more information [here](#))

Current location: **Khartoum, Sudan**

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

Current location: **Libya / Mauritania**

IV. Other Co-operation



9 July - The Prosecutor met the UK Foreign Secretary William Hague during his visit to The Hague to mark the occasion of the 10th anniversary of the Rome Statute. They discussed the significant role played by international criminal justice in the context of foreign policy, and the continuing global revolution in accountability. The Prosecutor welcomed the UK Government's position that leaders responsible for atrocities should be held to account and its repeated call for all states to cooperate with the ICC to achieve the arrest of those facing ICC warrants, including Bosco Ntaganda, President Bashir and Joseph Kony. Both agreed on the importance of work to secure justice, peace, accountability and reconciliation in conflict and post-conflict situations and that there should be no hiding place or sanctuary for those indicted for crimes against humanity, war crimes or genocide. Following the Lubanga sentencing, the Foreign Secretary stated: *"The sentencing of Thomas Lubanga by the ICC will be welcomed by Lubanga's victims. It is a powerful reminder that those who commit the most serious international crimes will be held accountable for*

their actions. The Government of the DRC can rightly be proud of its contribution to bringing Lubanga to justice. I urge all states, particularly those in the Great Lakes region, to continue the fight against impunity by helping to bring to justice those who commit grave crimes threatening the peace, security and well-being of local communities, in particular women and children. As I said in my speech in The Hague yesterday, the United Kingdom will continue to give full support to the efforts and investigations of the ICC".

13 July - The Prosecutor attended the ceremony to welcome the Republic of Guatemala as the 121st State Party to the Rome Statute at the seat of the Court.

V. Upcoming Events

July						
22	23	24	25	26	27	28
<i>The Prosecutor participates in a symposium on Post-Conflict Transitions & International Justice organized by International Peace & Security Institute, The Hague</i>	<i>The Prosecutor participates in a symposium on Post-Conflict Transitions & International Justice organized by International Peace & Security Institute, The Hague</i>					
29	30	31				

August						
			1	2	3	4
5	6	7	8	9	10	11
12	13 <i>The Prosecutor attends the opening of the confirmation of charges hearing against Laurent Gbagbo, The Hague</i>	14	15	16	17	18
19	20	21	22	23	24	25 <i>The Prosecutor attends the Distinguished Lecture on the 2012 Jonathan I. Charney in International Law organized by Vanderbilt University of Law School, Nashville</i>
26 <i>The Prosecutor participates in 6th Annual International Humanitarian Law Dialogs organized at the Robert H. Jackson Center in Chautauqua, New York</i>	27 <i>The Prosecutor participates in 6th Annual International Humanitarian Law Dialogs organized at the Robert H. Jackson Center in Chautauqua, New York</i>	28 <i>The Prosecutor participates in 6th Annual International Humanitarian Law Dialogs organized at the Robert H. Jackson Center in Chautauqua, New York</i>	29 <i>The Prosecutor participates in the Cox Humanitarian Award Lecture and receives the Award for Advancing Global Justice at Case Western Reserve University School of Law, Cleveland</i>	30	31	

VI. Other Information



17 July - Prosecutor Bensouda was awarded an honorary doctorate degree by Middlesex University London in recognition of her work in international law and human rights. The Prosecutor stated: *"I see the degree as recognition, not only for my personal achievements, but more importantly for those of the ICC and the Office of the Prosecutor. The ICC grew from a groundbreaking idea on paper in 1998 in Rome, to an undisputed reality in the international arena today"*.

July 2012 - The OTP was awarded the Special Achievement Award by the International Association of Prosecutors (IAP) for its achievements in relation to the trial against Thomas Lubanga Dyilo. This Award recognises the Office *"for having overcome a number of very difficult challenges in order to achieve a conviction against Thomas Lubanga Dyilo for the war crime of conscripting and enlisting children under the age of 15 and using them to participate actively in hostilities from 2002-2003."* The Prosecutor will receive this honourable award on behalf of the Office at the upcoming Annual IAP Conference in October 2012.

* 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