



OTP Weekly Briefing

9-15 March – Issue #28

THIS WEEK'S HIGHLIGHT

10 March - An OTP delegation led by the Director of JCCD, Béatrice le Fraper du Hellen, wound up a two day program of meetings with senior Russian officials, following an invitation by the Russian Federation. In its first ever [visit](#) to Russia, the OTP confirmed its full support for any genuine proceedings on the alleged crimes committed during the armed conflict in South Ossetia, Georgia, in August 2008, including alleged attacks against civilians as well as against forces who were acting as part of a peace keeping mission.

"In the criminal justice system established in Rome, States have the primary responsibility to investigate and prosecute. As in all the situations, we have offered to support in every possible way efforts by the Russian judiciary to do justice for all victims of these crimes," said Prosecutor Moreno-Ocampo. "This is positive complementarity at work."

The program included notably meetings with senior officials of the Office of the Prosecutor General and the Investigative Committee of the Russian Federation, the Ministries of Defence and [Foreign Affairs](#) of the Russian Federation and other key judicial and government actors. *"We highly appreciate the outcome of the meetings with the delegation from the Office of the Prosecutor," said the Director of the Legal Department of the Ministry of Foreign Affairs of the Russian Federation, Kirill Gevorgian.*

The Director of JCCD with General Marat Kulahmetov, Military Advisor, Ministry of Foreign Affairs, and Kirill Gevorgian, Legal Advisor, Ministry of Foreign Affairs.



PREVIEW:

- Parliament Uganda passes ICC Bill with provisions on surrender, [page 2](#).
- Deputy Prosecutor attends events for International Women's Day, [page 5](#).

I. Investigations and Prosecutions

Over the week, the OTP presented 12 filings in the various cases and conducted 6 missions in 4 countries.

I.1. 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, focusing 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 [Thomas Lubanga Dyilo](#) began on 26 January 2009. The trial of [Katanga and Ngudjolo Chui](#) began on 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.

11 March - Global Witness [reported](#) that former rebels from the CNDP have established "mafia-style extortion rackets covering some of the most lucrative tin and tantalum mining areas" in the Kivus. The CNDP was led by Bosco Ntaganda before integrating into the Congolese regular armed forces during 2009. Bosco Ntaganda is the object of an ICC arrest warrant for crimes committed in Ituri and CNDP elements under his command are now accused of committing war crimes and crimes against humanity in the Kivus.

11 March - The US Department of State 2009 human rights [report](#) for the DRC focuses in particular on the conflict in the Kivus "driven to a large degree by the illegal exploitation of natural resources." The US report accuses CNDP forces integrated into the FARDC, FDLR and Mai Mai militia of serious crimes that could fall under the jurisdiction of the ICC, including mass

killings and widespread rape: “Scores of women were abducted and forced to serve as sex slaves in FDLR camps, where they were raped repeatedly for weeks at a time.” Recalling the ICC arrest warrant against Bosco Ntaganda, the report notes that no action has been taken towards its execution.

I.2. 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 Lord’s 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. Since early 2008, the LRA is reported to have killed more than 1,250, abducted more than 2,000 and displaced well over 300,000 in DRC alone. In addition, over the past year, more than 80,000 people have been displaced, and close to 250 people killed by the LRA in Southern Sudan and the Central African Republic.

10 March - The Ugandan Parliament [approved](#) the International Criminal Court Bill, designed to enable the cooperation with the ICC as set out in the Rome Statute, including through the arrest and surrender to the ICC of persons against whom ICC warrants have been issued.

10 March - The LRA Disarmament and Northern Uganda Recovery Act [passed](#) the Senate stage of its consideration by the US Congress and will now be considered by the House of Representatives. Senator Feingold, one of the Bill’s sponsors [said](#): “*The passage of this bill sends a message that the US will no longer stand by and watch the LRA terrorize innocent civilians across central Africa, kidnap thousands of children and force them to become child soldiers.*” Senator Inhofe added that “[...] *this legislation also directs President Obama to coordinate Executive Branch action to eliminate the root of the problem by apprehending Joseph Kony.*”

11 March - The Enough Project [reported](#) that an LRA contingent has taken refuge in southern areas of Darfur, controlled by the Government of Sudan. According John Prendergast “*it is unsurprising that the regime is again providing safe haven for the LRA. Absent a cost for this, we will likely see the LRA unleashed again later this year to destabilize the referendum in southern Sudan.*” John Norris, Enough’s Executive Director, said: “*This is a very disturbing development. The move by the Government of Sudan to provide the LRA with safe haven demands a firm, rapid, and well-coordinated response from the United States and its partners.*” The Sudan’s UN Ambassador dismissed the report.

I.3. 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. The Prosecution [appealed](#) the decision of the majority of the Chamber to dismiss the charges of genocide against President Al Bashir. On 3 February the Appeals Chamber ruled that it was a legal error to reject the charges of genocide against President Al Bashir. Abu Garda [voluntarily appeared](#) before the Court pursuant to a summons. Following his initial appearance on 18 May 2009, he was allowed to leave The Netherlands. The confirmation of charges hearing was held on 19-30 October 2009. On 8 February 2010 the Pre-Trial Chamber issued a decision declining to confirm the charges.

Case: *The Prosecutor v. Al Bashir*

10 March - The legal representative of four recognized victims [presented](#) an application to submit observations as to whether President Al Bashir had the requisite specific intent and is criminally responsible for the crime of genocide. The application indicates that the crimes suffered by the victims are consistent with a campaign of genocide.

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

15 March - The OTP filed its request for leave to appeal the decision of Pre-Trial Chamber I declining to confirm the charges against Bahar Idriss Abu Garda. The Prosecution argued that the Pre Trial Chamber exceeded its role at the confirmation stage and used incorrect standards of evidence. It thus made findings that the Prosecution considers are vitiated by legal and procedural errors.

I.4. Situation in the [Central African Republic \(CAR\)](#)

This situation was referred by the CAR in December 2004. The OTP opened its investigation in May 2007. One arrest warrant has been issued against [Jean-Pierre Bemba Gombo](#) for crimes committed in 2002-2003. The [confirmation of charges hearing](#) was held on 12-15 January 2009. On 15 June 2009, Pre-Trial Chamber II rendered its confirmation of charges decision. On 18 September, the case was referred to Trial

Chamber III. The trial is set to start on [5 July 2010](#). In parallel, the Office continues to monitor allegations of crimes committed since the end of 2005.

I.5. [Kenya](#)

The Office made its examination of the post-election violence of December 2007-January 2008 public in February 2008. 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 5 November the Prosecutor informed President Kibaki and Prime Minister Odinga of his view that crimes against humanity had been committed and of his duty, in the absence of national proceedings, to act. Both the President and the Prime Minister committed to cooperate with the Court. On 26 November the Prosecutor requested authorization from Pre-Trial Chamber II to open an investigation, noting that: 1,220 persons had been killed; hundreds raped, with thousands more unreported; 350,000 people were forcibly displaced; and 3,561 injured as part of a widespread and systematic attack against civilians.

I.6. Miscellaneous

11 March - The UN Special Rapporteur on human rights in Burma, Tomás Ojea Quintana, [recommended](#) that the UN should consider establishing a Commission of Inquiry into war crimes and crimes against humanity by the Burmese Government, and noted that “the possibility exists that some of these human rights violations may entail categories of crimes against humanity or war crimes under the terms of the Statute of the International Criminal Court.”

II. Preliminary Examinations

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

A preliminary examination is the first phase of the Office of the Prosecutor activities, in order to assess if an investigation should be opened. It is a phase during which the Office first assesses the jurisdiction of the Court, whether crimes falling under the ICC jurisdiction may have been, or are possibly being, committed in a given situation; if the conditions are met, whether genuine investigations and prosecutions are being carried out by the competent authorities in relation to these crimes; and, as a third step, whether the possible opening of an investigation by the Prosecutor would not go against the [interests of justice](#). During this phase, and in accordance with Article 15, the Office proactively evaluates all information on alleged crimes from multiple sources, including “communications” from individuals and parties concerned. The triggering of a preliminary examination does not imply that an investigation will be opened.

II.1. 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.

10 March - Human Rights Watch [endorsed](#) a statement from the Transitional Justice Co-ordination Group, representing 24 Afghan civil society organizations, asking the Government of Afghanistan to repeal a law that would grant amnesty to belligerent parties if they adhere to the Constitution. The [International Center for Transitional Justice](#) and the [Afghanistan Analysts Network](#) have also issued statements against the law. The National Reconciliation, General Amnesty and National Stability Law, which was passed by parliament in 2007 but published only in December 2009, does not consider exception in the granting of amnesties in case of crimes committed under the Rome Statute.

II.2. 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.

4 March - OHCHR issued a [report](#) pointing out violations of international humanitarian law, including the killing of civilians, committed by illegal armed groups and, in a lesser degree, by Colombian security forces; thousands of cases of enforced disappearance that remain unsolved; increasing reports of sexual violence and forced displacements; more than 10,000 cases of torture being investigated by the National Prosecutor's Office; and extrajudicial executions that, whilst decreasing, represent a

caseload of 1,273 cases with a total of 2,077 victims. The report also addresses the increasing number of politicians and public officials being investigated for their alleged links with paramilitary organizations.

II.3. 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, has 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 and to Russia in March 2010.

10 March - Georgia acceded to the Agreement on the Privileges and Immunities of the ICC, bringing the total number of ratifications/accessions to 63.

II.4. [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 will examine issues related to its jurisdiction: first whether the declaration accepting the exercise of jurisdiction by the Court meets statutory requirements; and second whether crimes within the Court's jurisdiction have been committed. The Office will also consider whether there are national proceedings in relation to alleged crimes. A delegation from the Palestinian National Authority, and Representatives of the Arab League visited the Court on 15-16 October 2009 to present a report in support of the PNA's ability to delegate its jurisdiction to the ICC. On 11 January, the OTP sent a [letter](#) summarizing its activities to the United Nations at their request, in the context of following up on the Goldstone Report.

10 March - The European Parliament [adopted](#) a [resolution](#) urging the Israeli and Palestinian sides to conduct investigations within five months that meet international standards of independence, impartiality and effectiveness, in line with the UN General Assembly resolution of 26 February.

11 March - The Israel Defense Forces prosecution reportedly [filed](#) an indictment against two soldiers suspected of using a nine year-old boy as a human shield in south Gaza City during Operation Cast Lead.

II.5. 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 2009, high-level representatives of the OTP visited Abidjan.

9 March - The chairperson of national human rights commission of Côte d'Ivoire called for the organization of an independent investigation in order to determine responsibilities on the recent violence in the country.

10 March - The Rassemblement des Républicains (Rdr), led by former Prime Minister Alassane Dramane Ouattara, [declared](#) that they will start legal proceedings before national and international courts against authors of violence committed last February as well as March 2004 during demonstrations organized by the opposition coalition of which Rdr was part.

II.6. [Guinea](#)

The Office made its examination of the situation in Guinea public on 14 October 2009. Guinea is a State Party to the Rome Statute since 14 July 2003 and, as such, the ICC has jurisdiction over war crimes, crimes against humanity and genocide possibly committed in the territory of Guinea or by nationals of Guinea, including killings of civilians and sexual violence. The Office has taken note of serious allegations surrounding the events of 28 September 2009 in Conakry in accordance with Article 15 of the Statute. On 12, 13 and 15 January 2010, OTP high level representatives held consultations with President Compaore of Burkina Faso, mediator for the contact group on Guinea, and President Wade of Senegal to ensure that they are fully informed of its ongoing work. From 15 to 19 February 2010, the OTP sent a mission to Guinea, led by Deputy Prosecutor Fatou Bensouda, in the context of its preliminary examination activities.

4 March - A Human Rights Watch [letter](#) asked the transitional Government of Guinea "to address the longstanding culture of impunity and violence which has in recent years blighted the lives of hundreds of Guinean citizens, and torn apart the lives of thousands more" and to "make tangible progress" in ensuring accountability for the violence of 28 September 2009.

III. Cooperation – Galvanizing Efforts to Arrest

6-10 March - For International Women's Day (8 March), the Deputy Prosecutor participated in several events, in the Netherlands at WOMEN Inc. International Festival, and in the US where she delivered a keynote address at the School of Law of the University of California, Davis, and Santa Clara University School of Law. Talking about gender violence and international criminal law, the Deputy Prosecutor remarked: *"We have always endeavored to include charges of sexual and gender crimes in our applications, whenever relevant and justified by evidence. This has been the case in all of the situations in which we are currently investigating."*

6-14 March - An OTP delegation visited N'Djamena in relation to arrest and surrender cooperation matters.

8 March - A [report](#) of UN experts submitted to the UN Human Rights Council on the situation in the DRC highlighted the fact that *"[t]he fight against impunity is undermined by an apparent lack of political will to arrest and prosecute certain high-profile suspects, including Bosco Ntaganda, against whom the International Criminal Court issued an arrest warrant for war crimes."*

8 March - The Government of the Sudan confirmed that Vice President Taha would attend the extraordinary summit of the Inter-Governmental Authority on Development (IGAD) taking place in Nairobi. While the IGAD charter provides for invitations to be sent to Heads of State, Kenya as a State Party confirmed it would abide by its obligations under the Rome Statute.

10 March - *"President Al Bashir should be responsive to the International Criminal Court,"* Scott Gration, the US Special Envoy to Sudan, reportedly [said](#) during his visit to Nairobi.

15 March - Sudanese authorities [summoned](#) editors from two Sudanese opposition papers, accusing them of insulting President Al Bashir. Ajas al-Hurriya questioned Al Bashir's assertion that only 10,000 were killed in Darfur. Rai Al-Sha'ab printed articles saying that Al Bashir should hand himself over to the ICC.

IV. Coming Events

- 22-23 March - Prosecutor delivers the Amnesty International Chair public human rights lecture, Ghent University, and addresses a joint session of the Foreign Affairs Committee, the Development Committee and the Human Rights Subcommittee of the European Parliament, Brussels
- 22-25 March - Director of JCCD, Béatrice le Fraper du Hellen, attends resumed session of the meeting of the Assembly of States Parties, New York
- 24-25 March - Deputy Prosecutor attends a screening of *The Reckoning*, organised by Amnesty International, London
- 6 April - Prosecutor participates in the International Forum of the 37th FIDH Congress, on Justice, Yerevan, Armenia
- 6-8 April - Deputy Prosecutor participates in the University of North California Law School conference on the future of adversarial systems, speaks at Duke University on the selection of situations and cases by OTP, and delivers a speech at Chapel Hill, US
- 12-19 April - OTP participates in panels organized by the Alliance on Crime Prevention and Criminal Justice, in parallel to UNODC's 12th World Congress on Crime Prevention and Criminal Justice, Salvador, Bahia, Brazil
- 19-21 April - Deputy Prosecutor and Professor Catherine MacKinnon, Special Gender Adviser to the Prosecutor, participate in "International Gender Justice Dialogue" organized by Women's Initiatives for Gender Justice and Nobel Women's Initiative, Puerto Vallarta, Mexico
- 27 April - Hearing on admissibility in the case *Prosecutor v. Jean-Pierre Bemba Gombo*

** 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*