



**Breakfast on Situations under Preliminary Examination and the Preventative Role of the Office's work**

13 January 2011

Last year the Office of the Prosecutor presented its policy on preliminary examinations. Today the Office is going to brief you on the situations under preliminary examination.

In accordance with the Rome Statute, the Office has three different core activities:

- a) the Office is responsible for conducting preliminary examinations in order to identify situations under the jurisdiction of the Court and eventually trigger the jurisdiction of the Court (article 15);
- b) to carry out investigations (article 54);
- c) to prosecute the cases before the Court.

Currently the Office is conducting preliminary examinations analyzing alleged crimes committed on the territory of seven States Parties: Colombia, Honduras, Guinea, Nigeria, Afghanistan, Georgia and Republic of Korea. Additionally the Office is assessing the declarations accepting the jurisdiction of the Court under article 12(3) of the Statute by Cote d'Ivoire and the Palestinian National Authority.

There are no other situations under preliminary examination. The Office has no mandate to evaluate situations where alleged crimes were committed by non-State Party nationals on the territory of non-States Parties.

The goal of the Statute is to end impunity to contribute to the prevention of future crimes. As elaborated upon in the Prosecutorial Strategy for 2009-2012, one of the objectives of the Office is to maximize its contribution to the fight against impunity and the prevention of crimes.

The practice of the Office has shown that the mere initiation of a preliminary examination has a deterrent impact. This impact will depend on the national and international support to the justice activities to end impunity. The Office has a legal mandate, with no flexibility to adjust to political considerations. Briefing you about the work on preliminary examination will increase the predictability of the Office's decisions and will allow your countries to factor in the Court's intervention in your political decisions. The Office is committed to organize periodic meetings to further discuss with States Parties and non-States Parties its preliminary examination activities.

The situations of Guinea and Cote d'Ivoire offer a concrete opportunity to use the Office's preliminary examination to prevent crimes.

Our experience to date has also shown that the agreement on respect for the law could help to overcome difficult crises. We saw this in Kenya where the AU represented by Kofi Annan spoke on behalf of the international community and included in the agreement the need for justice and

accountability. The Office requested last December the indictment of senior leaders from both parts of the government and there was no violence. Similarly in our 3<sup>rd</sup> DRC case, where the last hurdle has been removed to the surrender of Callixte Mbarushimana, States, including non-States Parties such as Rwanda, are working together to prevent additional crimes by the FDLR.

These investigations into Kenya and the FDLR are also opportunities to maximize the preventative impact of the Court, even before a final decision is taken by the judges.

Additionally, and in accordance with its positive approach to complementarity, based on the goals of the preamble and article 93(10) of the Statute, the Office will seek to encourage and cooperate with national and international efforts to conduct genuine national proceedings. Guinea is a recent example of this approach.