

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

*Twelfth Diplomatic Briefing of the International Criminal Court*

*The Hague, 18 March 2008*

*Information Package  
(As of 13 March 2008)*

*Summary of activities since the eleventh Diplomatic Briefing  
10 October 2007, The Hague*

Over the last few months, the ICC has taken several important steps forward. The judicial activities of the Court are in full gear, and as the Court stands on the verge of its first trial, the ICC has moved into a significant phase in its development.

The Court has achieved a great deal of progress in its judicial proceedings. At present, the Court is actively involved in four situations, has issued 9 public arrest warrants, and is preparing for its first trial. At the Pre-Trial level in the situation in the Democratic Republic of the Congo, the cases of Germain Katanga and Mathieu Ngudjolo Chui have been joined and their confirming hearing has been set for 21 May. At the Trial level, preparations for the case of Thomas Lubanga are ongoing and the trial is scheduled to begin on 23 June. Preparations for a second trial are to begin in the summer. At the Appeals level, several important issues are pending.

The Prosecutor is conducting two new investigations into potential cases in Darfur, and one investigation into a potential case in the Central African Republic. He is also preparing his third case in the Democratic Republic of the Congo. He is currently analysing situations on three continents.

Although the Court is already operating at a high level of judicial activity, the issues the Chambers are addressing have been novel, complex questions that bring to light many of the delicate balances that need to be struck in judicial proceedings before the Court. The modalities of victim participation and the need to balance the disclosure of information with the rights of the defence and the protection of witnesses are among these complex questions. In addressing these issues, the Chambers have had to interpret and supplement basic rules provided by the Statute and the instruments of the Court. Judicial consideration of these issues inevitably takes time at this early stage but is indispensable in order to provide some clarity, efficiency and consolidation in approach on these issues.

Completing a full cycle will also help us to better understand how the different stages of proceedings work in practice. A trial will also be a defining moment in terms of maximising the impact of the Court.

During the reporting period there were a number of important developments in the situations in the Democratic Republic of the Congo, Uganda, in Darfur, Sudan and in the Central African Republic. The main issues addressed through legal proceedings before the Court in the context of each of the situations and cases presently before the ICC are outlined below, followed by an overview of progress in investigations and outreach activities conducted by the Court.

## I. Situation in the Democratic Republic of the Congo

1. The situation in the Democratic Republic of the Congo (“DRC”) was referred to the Court by that State Party in March 2004. The Prosecutor opened an investigation into the situation on 23 June 2004. So far, three arrest warrants have been issued, unsealed and executed for persons in the DRC.

The majority of proceedings in the situation during the reporting period relate to issues of victim participation and to the activities of the Victims’ Trust Fund (“VTF”). As regards the VTF, on 24 January 2008, the VTF notified the Chamber of its intention to undertake projects that would address the harm caused by the conflict in the DRC and by the crimes within the jurisdiction of the Court. Observations have been submitted by the participants, but no decision has been taken by the Chamber to date.

### *Requests for leave to appeal and pending appeals*

During the reporting period, 5 requests for leave to appeal were filed in the context of the situation. The Chamber granted the request of the Office of Public Counsel for Defence (“OPCD”) to appeal a decision issued by the Chamber on 3 December 2007 on the production of relevant supporting documentation and the disclosure of exculpatory evidence by the OTP. The Office of Public Counsel for Victims (“OPCV”), the Prosecutor and the OPCD filed requests for leave to appeal a decision by the Chamber dated 24 December 2007 related to victim participation. The Prosecution’s appeal concerned the manner in which applications by victims to participate are to be addressed and victim participation is to be realised under Article 68(3). The Prosecution submitted that victims’ rights to participate should not be dependent on case-by-case decisions with no agreed criteria. Leave to appeal was granted to the Prosecution and OPCD requests in part, and the OPCV request was rejected *in limine*. These appeals are all still pending before the Appeals Chamber.

Finally, the OPCV request to appeal a decision rendered by the Chamber on 10 December regarding access of the legal representative to documents filed in the record of the situation was rejected.

### *Case The Prosecutor v. Thomas Lubanga Dyilo*

#### Background

A warrant of arrest for Mr. Thomas Lubanga Dyilo was issued, unsealed and executed in early 2006. On 29 January 2007, Pre-Trial Chamber I confirmed charges of war crimes against Mr. Thomas Lubanga Dyilo, alleged leader of the *Union des Patriotes Congolais pour la Reconciliation et la Paix* (UPC) and Commander-in-Chief of its military wing, the *Forces Patriotiques pour la Libération du Congo*

(FPLC). Mr. Lubanga Dyilo is accused of the war crimes of enlisting, conscripting and using children under the age of fifteen years to participate actively in hostilities.

Following the dismissal of various appeals of aspects of the decision on the confirmation of charges, the Presidency constituted Trial Chamber I on 3 March 2007 and referred the case of the *Prosecutor v. Thomas Lubanga Dyilo* to that Chamber for trial. On 12 July 2007, the judges of Trial Chamber I elected Judge Adrian Fulford as Presiding Judge in the case against Mr. Thomas Lubanga Dyilo.

### **A. Judicial developments during the reporting period**

During the reporting period, the proceedings in the case against Mr. Lubanga related primarily to questions of preparation for trial, and to issues requiring early determination, including: the procedures to be adopted for instructing expert witnesses; the approach to be adopted to witness familiarisation and witness proofing; the manner in which evidence should be submitted; the modalities of victims' participation in proceedings before the Court; and questions related to the timing and manner of disclosure and implications for victim protection and the rights of the defence.

Another important issue under review is the status before the Trial Chamber of evidence submitted during Pre-Trial proceedings, and of decisions taken by the Pre-Trial Chamber.

#### ***Case The Prosecutor v. Germain Katanga***

On 2 July 2007, PTCI issued a sealed arrest warrant for German Katanga, finding that there were reasonable grounds to believe that Mr. Katanga, as the highest ranking FRPI commander, played an essential role in the planning and implementation of an indiscriminate attack against the village of Bogoro, the territory of Ituri, on or around 24 February 2003. Mr. Katanga is accused of crimes against humanity and war crimes. The warrant was unsealed on 18 October 2007 and Mr. Katanga's initial appearance before the Court was held on 22 October 2007. On 30 January 2008, PTCI postponed Mr. Katanga's confirmation from 28 February. The date has now been set to 21 May 2008.

During the reporting period, the large majority of judicial filings related to issues of disclosure of materials by the Prosecutor, the need for redactions of information that could affect the security and well-being of victims and witnesses, and questions related to the defence of Mr. Katanga, including matters of his language of communication. Mr. Katanga's defence team has been constituted, and includes Mr. David Hooper as Lead Counsel, and Caroline Buisman and Göran Sluiter as Assistant Counsel to the Defence.

Finally, the Pre-Trial Chamber recently joined the cases of Mr. Katanga and Mr. Ngudjolo, the third person to be transferred to the Court in execution of an arrest warrant. Their confirmation hearing has been set for 21 May. The Prosecution had initially submitted one arrest warrant application and had requested the two cases be joined as both detainees participated in the same attack and face nearly identical charges.

## *Requests for leave to appeal and pending appeals*

Five applications for leave to appeal were filed in the *Katanga* case during the reporting period: four by the defence, and one by the Prosecution. Leave was granted to two of the requests in full and in part to one of the defence requests. All three of these appeals are currently pending before the Appeals Chamber.

Among the appeals, the Pre-Trial Chamber granted the Prosecutor's application dated 10 December 2007 for leave to appeal the following two issues: (1) the question of whether the Rome Statute and the Rules of Procedure empower the Chamber to authorise redactions for the protection of "innocent parties", that is, persons who are not victims, current or prospective Prosecution witnesses or sources, or members of their families; and (2) the refusal of PTC I to authorise the redaction of the location of interviews of witnesses, and the identifying information of current and former staff members of the OTP and VWU at this stage of the proceedings. The Prosecutor argued that the immediate resolution of these issues would materially advance proceedings and that they affect the fair and expeditious conduct of the proceedings.

Leave to appeal was also granted to the defence on 14 December by PTCI but only in relation to the second issue raised by the Defence, namely whether the Pre-Trial judge had incorrectly determined that potential witnesses for the Prosecution who had been or were about to be interviewed by the Prosecution could be characterised as "Prosecution sources" and, hence, should have their identifying information redacted. PTCI rejected the defence's claim on the first issue, namely that the decision on the Prosecution's request for authorisation to redact witness statements was issued without hearing the Defence first.

Finally, the third appeal was granted by PTCI to the Defence on 18 January 2008. The Defence had filed a request for leave to appeal of the Chamber's decision of 21 December 2007, by which it rejected Mr. Katanga's request for services of interpretation and translation in Lingala. The defence argued that PTCI had incorrectly found that Mr. Katanga's competency in French meets the standards established in the Rome Statute, and that Mr. Katanga does not perfectly understand and speak the language used in proceedings. The Defence also argued that interpretation in Lingala during the proceedings was indispensable to ensure the fundamental rights of the defence. The OTP submitted a response, which, while contesting the merits of the Defence's position, agreed that the language issue significantly affects the fair and expeditious conduct of proceedings.

The two other requests for leave to appeal by the Defence were rejected. The first, challenging the 21 December 2007 decision of the Single Judge on the Prosecution request for authorisation to redact witness statements was rejected *in limine*, as the application was filed after the expiration of the time-limit for filing requests for leave to appeal. The second, filed by the Defence, related to the 7 February 2008 decision of the Single Judge requiring that the defence be provided with a redacted version of the applications for victim participation.

## *Case The Prosecutor v. Mathieu Ngudjolo Chui*

On 7 February 2008, the Chambers made public the arrest warrant for Mr Mathieu Ngudjolo Chui, a Congolese national and alleged former leader of the National integrationist Front (FNI) and a Colonel in

the National Army of the Government of the Democratic Republic of the Congo [Forces armées de la RDC/ Armed Forces of the DRC ] (FARDC). The warrant of arrest, issued on 6 July 2007 under seal, lists six counts of war crimes and three counts of crimes against humanity in the territory of Ituri, in the DRC. Mr Mathieu Ngudjolo Chui was surrendered by the DRC authorities and arrived at the ICC detention centre in The Hague on 7 February 2008.

The Pre-Trial Chamber also set the date for the confirming hearing of Mr. Chui for 21 May 2008. As mentioned above, PTCI is joined the cases of Mr. Katanga and Mr. Chui.

## **B. Investigations**

With the arrests of Katanga and Ngudjolo the OTP completed the first phase of the DRC investigation, focusing on the horrific crimes committed by leaders of armed groups active in Ituri since July 2002. The Office is now moving on to a third case in the DRC. In the selecting process for a third case, the OTP is paying particular attention to the numerous reports of crimes committed by armed groups in the North and South Kivu provinces, including numerous reports on horrific sexual crimes. The OTP received the views and concerns of victims and associations in this regard at the seat of the Court on 13 March 2008. The OTP is also monitoring the situation of those individuals who may have played a role in supporting and backing armed groups which committed crimes under the jurisdiction of the Court.

To move forward with investigations and prosecutions in the DRC the Office continues to rely heavily on the cooperation of all States. As in the cases of the leaders of Ituri armed groups, arrest warrants have to be executed.

## **C. Outreach**

The Outreach team conducted activities related to the preparation for the upcoming trial of Mr. Lubanga, mainly in the Ituri region where the majority of the communities affected by the crimes under investigation are concentrated.

In January, the team conducted a one-week workshop in Bunia targeting community leaders, religious leaders, human rights NGOs, and journalists with the purpose of broadening their understanding of the ICC and their engagements towards the Court. Furthermore, this year, the team started targeting new groups, mainly women's associations and students.

In addition, the Outreach team prepared Interactive Radio programs in French, Swahili and Lingala with the aim of explaining the elements of a fair trial to the public. Moreover, listening clubs have been established in Bunia and its surroundings which will allow the public to address their questions and concerns via radio and also to evaluate the impact of these programs.

## **II. Situation in Uganda**

The situation in Uganda was referred to the Court by that State Party in December 2003. The Prosecutor opened an investigation into the situation on 29 July 2004. Warrants of arrest were issued and later unsealed in redacted form for five alleged members of the Lord's Resistance Army for crimes against humanity and war crimes in 2005. On 11 July 2007, following confirmation by the Government of Uganda and submission of a death certificate, Pre-Trial Chamber II terminated the proceedings against Mr. Raska Lukwiya, thereby rendering the warrant of arrest without effect.

The remaining four warrants are still outstanding and have not been executed.

### **A. Judicial developments during the reporting period**

In the context of the situation, judicial developments during the reporting period related primarily to victims' participation and to activities proposed by the Trust Fund for Victims ("TFV").

On 20 December 2007, the Single Judge rejected the Prosecutor's application for leave to appeal the Single judge's decision on victims' applications for participation dated 10 August 2007. The Prosecutor had sought leave to appeal on the issue of the extent and manner in which victims may participate in an investigation under Article 68(3), arguing that the wording of the decision could be interpreted as envisaging modalities for participation going beyond the framework established by Article 68(3) in terms of "expressing views and concerns".

On 28 January, the Executive Director of the Secretariat of the TFV, on behalf of the Board of Directors of the TFV, notified Pre-Trial Chamber II of its intention to undertake several activities in northern Uganda, having assessed the rehabilitation and support needs of groups of victims in the region. The activities were summarised as being related to three main areas, namely physical rehabilitation; psychological rehabilitation; and material support. The filing also specified that for the implementation of the projects, the TFV relies on the support of intermediaries in order to benefit from their local expertise and experience, and to ensure the protection of victims who would benefit by decreasing the possible perception of a direct association of these individuals with the Court. According to the TFV, its projects would not necessarily be limited to those victims who had already been granted the status of victim in the context of proceedings before the Court, but could potentially benefit a much larger group of victims of the conflict in Uganda.

To date, the Prosecutor and the legal representative for victims of the situation have filed observations relating to the activities proposed by the TFV expressing no reservation on the proposed activities. The Chamber has also requested the OPCD to file observations. The Chamber has 45 days, which can be extended, to inform the Board in writing that a specified activity or project would predetermine an issue to be determined by the Court, including the determination of jurisdiction, admissibility, or that would violate the presumption of innocence, or be prejudicial to or inconsistent with the rights of the accused to a fair and impartial trial.

## ***Case The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen***

During the reporting period, in the case *The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo, Raska Lukwiya and Dominic Ongwen*, the Chambers reclassified and rendered public various documents that had previously been filed on an under seal or confidential basis, or that had included redactions of information that could affect the protection of the safety of victims or witnesses.

On 15 February 2008, the Single Judge decided to appoint the principal counsel of the OPCV as legal representative for the applicant previously granted the status of victim in the situation and for the 5 applicants granted the status of victims in the case *The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo, Raska Lukwiya and Dominic Ongwen*. OPCV was also appointed as legal representative for one of the applicants previously granted the status of victim in both the situation and the case.

On 29 February 2008, the Chamber requested information from the Republic of Uganda, preferably by no later than 28 March 2008, on the implications and consequences for execution of the outstanding warrants of arrest of the agreement and annexure on accountability and reconciliation reportedly concluded by the Government of Uganda and the Lord's Resistance Army (LRA) on 29 June 2007 and 19 February 2008, respectively.

### **B. Investigations**

On 2 October 2007, the Office of the Prosecutor received reports that one of the persons who was the subject of an arrest warrant, Mr. Vincent Otti, had been killed reportedly by members of the Lord's Resistance Army. The Prosecutor subsequently issued requests for information to MONUC, the Governments of Uganda and the DRC. Due to the reported location of the body of Vincent Otti in an inaccessible location in the DRC, the Office of the Prosecutor is preparing a mission to collect evidence to assess the veracity of these reports.

The remaining outstanding warrants have yet to be executed. Court representatives, in their contacts with relevant interlocutors, stress the importance of increasing regional cooperation to execute the arrest warrants. After the reported killing of Otti, several LRA members defected to MONUC in the DRC and have been subsequently repatriated to Uganda. The Prosecutor views these defections as encouraging and believes that efforts to encourage further defections should be pursued by the relevant parties in order to isolate the top LRA commanders.

The Office of the Prosecutor continued to collect and analyse information regarding the alleged movement of the LRA to the Central African Republic as well as attacks allegedly being committed by the LRA in DRC and Southern Sudan.

The Office has also sought further information from the Ugandan Government with regard to allegations of crimes committed by soldiers of the Uganda People's Defence Force.

## **C. Outreach**

During the reporting period, the Court expanded its outreach activities from civil society networks, local authorities and traditional leaders to mass outreach activities targeting the populations of northern Uganda most directly affected by the conflict at a grass-roots level. With the support of the camp leadership, Court staff and officials participated in several “town-hall” meetings in internally displaced persons camps throughout Northern and Eastern Uganda reaching thousands of victims directly. The outreach team, based in Kampala, also held numerous training workshops with civil society and traditional leaders to assist them in educating their constituents and responding to questions about the Court, thereby multiplying the impact of the Court’s outreach efforts. The Court also continued to support radio talk-show programmes on justice and the Court in a popular local radio station in Northern Uganda.

Since December 2007 activities have been focused on strengthening existing partnerships with local and traditional leaders and creating new ones, with the aim of reaching a wider audience in the affected communities, in the Northern part of the country.

Apart from the workshops organised for local leaders in Pader, Kitgum and Lira districts of Northern Uganda, the outreach team finalised the interactive radio talk shows that will be broadcast via four local radio stations located in Teso, Lango and Madi sub-regions of Northern Uganda.

Mass outreach and town-hall style meetings have been planned to take place in the first half of this year in Soroti and Kaberamaido districts, North Eastern Uganda.

## Situation in Darfur, Sudan

The situation in Darfur, Sudan was referred to the Court by the United Nations Security Council by resolution 1593 of 31 March 2005. The Prosecutor decided to open an investigation into the situation on 6 June 2005.

### *Case The Prosecutor v. Ahmad Muhammad Harun (“Ahmad Harun”) and Ali Muhammad Ali Abd-Al-Rahman (“Ali Kushayb”)*

#### Background

On 25 April 2007, Pre-Trial Chamber I issued warrants of arrest for Mr. Ahmad Muhammad Harun (“Ahmad Harun”) and Mr. Ali Muhammad Ali Abd-al-Rahman (“Ali Kushayb”). The Chamber determined that there were reasonable grounds to believe that Mr. Harun had committed twenty counts of crimes against humanity and twenty-two counts of war crimes and that Mr. Kushayb had committed twenty-two counts of crimes against humanity and twenty-eight counts of war crimes.

On 4 June 2007, the Court issued requests for arrest and surrender for Mr. Harun and Mr. Kushayb to Sudan, all States Parties to the Rome Statute, all United Nations Security Council members that are not party to the Rome Statute and the States of Egypt, Eritrea, Ethiopia and Libyan Arab Jamahariya. The warrants have not yet been executed.

#### **A. Judicial developments during the reporting period**

During the reporting period, all judicial developments took place in the context of the situation, and the majority of judicial activity related to issues of victim participation and disclosure of exculpatory information during the application process for victim participation in the situation.

##### *Requests for leave to appeal*

Three requests for leave to appeal were filed and granted during the reporting period. Both the OPCD and the Prosecution appealed PTCI’s 14 December 2007 decision granting procedural status to 11 victim applicants, allowing them to participate in proceedings at the investigation stage. The Prosecution sought leave to appeal in relation to the issue of “whether a ‘procedural status of victim’ can be granted in the proceedings, independent of victims who are granted the right to participate within the terms of Article 68(3) and Rule 89, and provides for a definition of the personal interests diverting from the Appeals Chamber’s jurisprudence.” The OPCD also appealed a decision on the production of relevant supporting documentation and the disclosure of exculpatory evidence by the OTP issued by the Chamber on 3 December 2007, a question which is also linked to the victim application process.

All three appeals are currently pending before the Appeals Chamber.

## **B. Investigations**

During the reporting period the Office of the Prosecutor conducted 3 missions in 3 countries. In accordance with UN Security Council resolution 1593 (2005) the Prosecutor presented his sixth report to the Security Council on 5 December 2007 on the status of the investigation into the situation in Darfur. The Prosecutor reported to the Security Council that the Government of the Sudan has not complied with its legal obligations under UNSCR 1593. On 17 October, the Registry submitted a request to the Sudan for an update as to “activities undertaken in the execution of the warrants and as to any difficulty which may have arisen”, with a time limit of 15 November. The Court has received no response from the Sudan.

There are expressions of support in Khartoum in Harun’s favour. Since the issuance of the warrants, Ahmad Harun has been maintained in his current position of Minister of State for Humanitarian Affairs and even served as acting Minister during the temporary withdrawal of the SPLM from the Government. He accompanied President Bashir to Darfur on 18 June 2007. He, along with the Minister of Interior and Director General of the Police, attended the 5 September meeting when President Bashir appointed Nafie Ali Nafie to the Darfur portfolio in charge of the talks in Sirte; on this occasion Ahmad Harun reported on the “improvement” of the humanitarian situation in Darfur. He was also appointed in September to a Committee on human rights violations and breaches of the Constitution in the south and north. As of 18 November, the government official website announced that Ahmad Harun has now been appointed to the UNAMID national monitoring mechanism group, overseeing the deployment of UNAMID.

In his 5 December report to the Security Council, the Prosecutor indicated that the Office has opened an investigation into who is bearing the greatest responsibility for ongoing attacks against civilians, as well as who is maintaining Harun in a position to commit crimes and is instructing him.

The Prosecutor also stated that the Office has reports of an increasing number of attacks against humanitarian personnel and peacekeepers, as happened in Haskanita, with rebel involvement. Therefore, the Office has opened an investigation into the attacks or threats of attack on peacekeepers and aid personnel, which can constitute a war crime under the Rome Statute.

In order to promote greater awareness of the Office’s activities and to lay the groundwork for greater cooperation, the Prosecutor separately briefed governments of the region—including the Foreign Ministers of Qatar, Jordan and Egypt—as well as the Secretary-General of the Arab League. The Prosecutor also met with senior officials of the United Nations in New York and the Deputy Prosecutor, Fatou Bensouda, met with the Chairperson of the AU, Alpha Oumar Konare, at AU Headquarters.

The Office continues to work with key actors—States Parties, non-States Parties, and international organisations—to develop and implement an arrest strategy for Ahmad Harun and Ali Kushayb.

Due to the recent events in Chad, the Court has evacuated non-essential international staff from Chad which had an impact on the schedule of the operations in the country.

## **C. Outreach**

Owing to security concerns, no outreach activities were conducted within the Sudan. However, the Court continues to conduct outreach activities in the region with key representatives of the legal community, civil society and journalists, including workshops and seminars.

The Court's Outreach team completed the script for the radio programming which will be broadcasted by the end of February in the refugee camps in Chad and the IDP camps in Darfur. In addition, the team has created drama theater performance to be performed in four languages Fur, Zaghawa, Masalit and Arabic, Sudanese Spoken in the refugee camps in Chad. However, due to the security reasons, the launching of the drama was postponed.

## **Situation in the Central African Republic**

The situation in the Central African Republic was referred to the Court by that State Party to the Rome Statute on 22 December 2004.

On 22 May 2007, the Prosecutor announced that he had decided to open an investigation into the situation in the Central African Republic. The decision by the Prosecutor followed a thorough analysis of available information which led to the determination that the jurisdiction, admissibility and interests of justice requirements of the Rome Statute were satisfied.

Following the opening of the investigation, the Court began the processes of identifying appropriate field premises in the Central African Republic and developing its outreach capabilities and strategy for the situation.

On 18 October 2007 the Court opened its fifth field office in Bangui, Central African Republic. The office is currently operational and supporting the Court's increasing activities in the country. It is providing important logistical, technical and administrative support for investigative and outreach activities. The OTP and the Registry have also worked closely to make sure that the appropriate mechanisms are in place to ensure the security of witnesses and so that interviews can take place.

### **Investigations**

The Office of the Prosecutor is investigating allegations of serious crimes perpetrated in CAR, in particular during the armed conflict of 2002-03. Some of the worst allegations relate to killings, lootings and rapes which allegedly occurred during intense fighting in October – November 2002 and from February-March 2003. There emerged a pattern of massive rapes and other acts of sexual violence perpetrated by armed individuals. Sexual violence appears to have been a central feature of the conflict. A distinctive feature of the CAR situation is this high reported number of victims of rape – at least 600 victims identified in a very short period of 5 months. The real numbers are likely higher as such acts are customarily underreported. The Office is also monitoring acts of violence committed since 2005 in the northern part of the country.

Since CAR does not yet have legislation implementing its obligations under the Rome Statute, the Court has specified with the CAR authorities the conditions governing its presence and activities on the CAR territory as well as practical mechanisms of judicial cooperation. Two distinct agreements have been signed for these purposes by the CAR Government, with the Registrar (October 2007) and with the Prosecutor (December 2007) respectively. The OTP is also seeking to enhance cooperation with a number of national and international partners, and has submitted a number of requests for assistance aiming at furthering a timely investigation.

### **Outreach**

On 7 February 2008, the Prosecutor Luis Moreno-Ocampo visited Bangui in order to meet with the victims and the population of CAR. He met with the inhabitants of a violence-affected district and held a 2 hour-long public meeting with victims and the broader population. He also met with Government

officials in relation to the current investigation and discussed accountability mechanisms about more recent crimes. In regard of on-going developments in CAR, the Prosecutor also emphasized that any conflict management initiative should respect the framework established by the Rome Statute. Amnesties do not bar prosecution by the ICC.

The Court's outreach team started conducting the activities in CAR by organising workshops targeting the representatives of key groups of society mainly, journalists, HR and victims organisations, groups of women and youth, lawyers, religious leaders with the aim of developing the potential partnerships with them. The Court intends to maintain and develop regular contact with the CAR population through interactive radio programmes.

The position of the Outreach Coordinator (to be based in Bangui) which was approved during the last ASP, has been already advertised.

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See the website of the Court, <http://www.icc-cpi.int/>, for the full listing and text of public decisions and orders. Information on hearings, including a forthcoming schedule of hearings can also be found on the site.

## **Analysis of other potential situations**

The Office of the Prosecutor received and analysed 181 new Article 15 communications relating to purported crimes during the reporting period, among which 160 were dismissed as manifestly outside the jurisdiction of the Court. The Office is also proactively reviewing open source documents. A number of situations are the subject of ongoing analysis, including the situation in Côte d'Ivoire, a State not party to the Rome Statute which has lodged a declaration accepting the exercise of jurisdiction by the Court. Currently the Office is analysing situations on three continents.

In these situations, the Office continued to assess whether crimes had been committed, to analyze the jurisdiction and admissibility of possible cases and to assess whether the opening of an investigation would not be in the interests of justice.

The Office has sought to carry out a mission to Cote' D'Ivoire since early 2006. The Government has agreed in principle to the mission as far back as June 2006, yet the mission scheduled the following month was eventually adjourned at the Government's request. The Ivorian authorities have since then not taken appropriate steps to facilitate the mission despite repeated requests.

The Prosecutor also conducted an official visit to Colombia on 17 October 2007, during which he met with victims, judges, prosecutors and national authorities. The purpose of the mission was to receive information on ongoing national prosecution efforts for crimes that fall within the jurisdiction of the ICC.

The Prosecutor has received a number of reports containing information on alleged crimes in Kenya. The Prosecutor has sought further information from a range of institutions in Kenya and the situation remains under analysis. The Prosecutor emphasizes that these steps are taken in the course of his examination of the situation under Article 15 of the Rome Statute. No decision to open an investigation has been taken.

## Other developments and miscellaneous reporting information

### *Election of Registrar and Deputy-Registrar*

Further to the recent resignation of the current Registrar, effective as of 9 April 2008, a plenary of judges met from 25-28 February to interview 9 candidates for the position of Registrar. On 28 February, the judges of the Court elected Ms. Silvana Arbia (Italy) as the new Registrar of the International Criminal Court.

The judges of the Court will elect a Deputy Registrar from the full list of candidates submitted to the Court at a future plenary meeting.

### *Office of Public Counsel for Victims (OPCV) and Office of Public counsel for Defence (OPCD)*

Both of these offices played pivotal roles in judicial proceedings during the reporting period. An overview of their activities is presented below.

#### OPCV

- Developed victims' database to manage legal assistance and legal representation provided to victims and legal representatives.
- Provided legal advice on 70 occasions and assistance with legal research 22 times to legal representatives in three situations and two cases.
- Is providing legal assistance to 42 applicants in the Uganda situation and to 43 applicants in the *Kony and others* case.
- Is providing legal assistance to 38 applicants in the DRC situation.
- Is providing legal representation to 2 victims in the Uganda situation.
- Is providing legal representation to 6 victims in the *Kony and others* case.
- Is providing legal representation to 35 victims in the DRC situation.

#### OPCD

- Submitted observations on victims' applications to participate in the situations (DRC – 104 applications; Sudan – 21 applications).
- Submitted observations related to the Trust Fund for Victims' notification on the implementation of its projects.
- Principal Counsel acted as defence counsel during the initial appearance hearing of Mr Mathieu Ngudjolo Chui.
- Provided legal assistance for the defence counsel designated to represent Mr Mathieu Ngudjolo Chui.
- Provided legal assistance to the defence teams of *Thomas Lubanga Dyilo and Germain Katanga*.

### *Information on contributions of States*

The current status of contributions received by states as of 1 March 2008 is presented below.

- Contributions received: 28.43% (only) of the total 2008 (€90,382,100)
- Contributions received: 97.85% of the total 2007 (€88,871,800)

- Contributions received: 97.79% of the total 2006 (€80,417,200)
- Outstanding contributions for 2004 and 2005 amount respectively to 0.03% and 0.72%

### *Human Resources*

The status of recruitment of posts and their gender and geographic representation as of 1 March 2008 is found below.

- Number of staff on established posts: 545 (female 48.62%, male 51.38%)

Staff subject to geographical representation:

- 16.53 % from the African Group of States (target: 12.77%)
- 5.79 % from the Asian Group of States (target: 19.53%)
- 7.02 % from the Group of Eastern Europe (target: 7.37%)
- 11.57 % from the Latin American and Caribbean Group of States (target: 13.05%)
- 59.09 % from the Western European and others Group of States (target: 47.28%)

Applications received in 2007: 20,020. In 2008 (as at 1<sup>st</sup> March): 2,235

## Ratifications

Recent ratification of the Agreement on Privileges and Immunities of the International Criminal Court: United Kingdom

### I. Sixth session of the Assembly of States Parties<sup>1</sup>

- The sixth session of the Assembly of States Parties was held at United Nations Headquarters from 30 November-14 December 2007. The Secretary-General of the United Nations, H.E. Mr. Ban Ki-Moon, addressed the Assembly during the general debate, held on 3-4 December 2007.
- The Assembly elected judges to fill three judicial vacancies on Court<sup>2</sup>: Mr. Bruno Cotte (France), Mr. Daniel David Ntanda Nsereko (Uganda) and Ms. Fumiko Saiga (Japan). The term of office of Judge Fumiko Saiga will expire on 10 March 2009, while the terms of office of Judge Bruno Cotte and Judge Daniel David Ntanda Nsereko will expire on 10 March 2012. Judge Saiga will be eligible for re-election. By resolution ICC-ASP/6/Res.6, the Assembly amended the pension scheme regulations for judges.
- The Assembly elected by acclamation six members of the Committee on Budget and Finance for three-year terms, commencing on 21 April 2008: Mr. David Banyanka (Burundi), Ms. Carolina María Fernández Opazo (Mexico), Mr. Gilles Finkelstein (France), Mr. Juhani Lemmik (Estonia), Mr. Gerd Saupe (Germany) and Mr. Ugo Sessi (Italy).
- The Assembly elected H.E. Mr. Christian Wenaweser, Permanent Representative of Liechtenstein to the United Nations, as President of the Assembly for the seventh to ninth sessions.
- The Assembly approved a programme budget for the Court for 2008 of €90,328,100, an increase of 9.8 per cent over the 2007 budget, and a staffing level of 679. It also decided on the Working Capital Fund for 2008 in the amount of €7,405,983, the scale of assessment for the apportionment of expenses of the Court, and the financing appropriations for the year 2008.
- By resolution ICC-ASP/6/Res.5, the Assembly amended the Financial Regulations and Rules to require annual reporting by the Internal Auditor to the Committee on Budget and Finance.
- The Assembly, by resolution ICC-ASP/6/Res.1, decided that the permanent premises of the Court would be constructed on the Alexanderkazerne site, and authorised the host State to

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<sup>1</sup> The Official Records of the sixth session of the Assembly are available on the website of the Court ([www.icc-cpi.int](http://www.icc-cpi.int)) under section “Assembly of States Parties/Official Records”.

<sup>2</sup> The vacancies arose from the resignations of Judge Maureen Harding Clark (Ireland), Judge Karl Hudson-Phillips (Trinidad and Tobago) and Judge Claude Jorda (France) in 2007.

hold an architectural design competition, which was launched on 4 February 2008.<sup>3</sup> In addition, the Assembly established an Oversight Committee, composed of ten States Parties, with a mandate to provide strategic oversight for the project. The design competition was launched on 4 February 2008 and will close on 1 April 2008.

- The Special Working Group on the Crime of Aggression discussed further the definition of the crime of aggression and the conditions for the exercise of jurisdiction by the Court. In the latter regard, two new elements, the role of the Pre-Trial Chamber, and the “green-light” option (which envisages a role for the Security Council), were considered.
- By resolution ICC-ASP/6/Res.2, the Assembly decided to hold a Review Conference, with a duration of five to ten working days, in the first semester of 2010. It also endorsed the draft rules of procedure of the Review Conference.

## II. Committee on Budget and Finance

- The Committee on Budget and Finance will hold its tenth session from 21 to 25 April 2008 in The Hague, and will consider, *inter alia*, the programme performance of the 2007 budget, the programme performance of the 2008 budget (first quarter), human resources, legal aid and the premises of the Court.

## III. Bureau of the Assembly of States Parties

- At its 17<sup>th</sup> meeting, on 14 December 2007, the Bureau designated H.E. Ms. Kirsten Biering, Ambassador of Denmark to the Netherlands, as Coordinator of The Hague Working Group.
- At its 18<sup>th</sup> meeting, also on 14 December 2007, the Bureau agreed to extend the mandate of its Working Groups in The Hague and New York, which will consider the following issues:

### *The Hague Working Group*

- Engage with the Court on the strategic planning process and its concrete implementation, including on the priority issues identified in resolution ICC-ASP/5/Res.2, and continue the dialogue with the Court on Outreach;
- Consider the issue of the budget of the Court, while respecting the special role of the Committee on Budget and Finance; and
- Cooperation.

### *The New York Working Group*

- Continue to monitor the implementation of the plan of action of the Assembly of States Parties for achieving universality and full implementation of the Rome Statute of the International Criminal Court;
- Review on a regular basis the status of payments received throughout the financial year and consider additional measures to promote payments by States Parties;

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<sup>3</sup> [Http://www.icc-architectural-competition.com](http://www.icc-architectural-competition.com)

- Engage with the Court on concrete proposals for an independent oversight mechanism; and
- Carry out consultations with a view to submitting proposals as regards the venue of the Review Conference to the resumed sixth session of the Assembly and continue the preparations of the Review Conference, including financial and legal implications, as well as practical and organizational issues.
- The Bureau designated H.E. Mr. Yves Haesendonck, Ambassador of Belgium to the International Organizations in the Netherlands, as focal point to continue the work on cooperation, Ms. Polly Ioannu (Cyprus) as facilitator for the issue of the arrears of States Parties and Mr. Sabelo Sivuyile Maqungo (South Africa) as facilitator for the issue of the Review Conference.
- At its first 2008 meeting, held on 11 February, the Bureau appointed H.E. Mr. Andreas Mavroyiannis, Permanent Representative of Cyprus to the United Nations, as facilitator for the issue of the independent oversight mechanism.
- Bearing in mind that at the beginning of the seventh session, in November 2008, the Assembly would have to elect a new Bureau for the seventh to ninth sessions, the Bureau appointed focal points to liaise with their respective regional groups in order to ascertain which States would be interested in being part of the incoming Bureau.

#### IV. Working Groups

- The President of the Assembly, H.E. Mr. Bruno Stagno Ugarte (Costa Rica), participated in the first meeting of The Hague Working Group, held on 17 January 2008. At its second meeting, on 18 February, the Working Group, inter alia, considered the issue of permanent premises and, in this connection, heard a presentation by the Chief Government Architect of the Netherlands, Mr. Mels Crouwel, on the architectural design competition.
- The Chief Government Architect indicated that the aim is to announce, at the seventh session of the Assembly, in November 2008, three prize-winners who will be invited to negotiations on the terms and conditions of a contract to prepare detailed designs.
- Informal consultations of the New York Working Group were held on 30 January 2008, to consider the issue of the venue of the Review Conference. A further meeting will be held in April to continue deliberations on this issue.

#### V. Oversight Committee

- At its first meeting on 30 January 2008, the Oversight Committee of States Parties for the permanent premises of the Court appointed H.E. Mr. Jorge Lomonaco, Ambassador of Mexico to the Netherlands, as Chairperson. In addition, the Committee identified several issues that would require its attention in the near future: the recruitment of the Project Director, preparation of the proposed budget for 2009 for major programme VII, consideration of financing options, as well as issues related to the architectural design competition.
- At its second meeting, held on 13 February, the Committee appointed H.E. Mr. Lyn Parker, Ambassador of the United Kingdom to the Netherlands, as Vice-Chairperson. The Committee also

established two sub-groups on the recruitment of the Project Director and on the financing of the project.

VI. Future sessions of the Assembly

- The Assembly will hold a resumed sixth session from 2 to 6 June 2008, in New York, to discuss proposals concerning the venue of the Review Conference, as well as for meetings of the Special Working Group on the Crime of Aggression.
- By resolution ICC-ASP/6/Res.2, the Assembly decided to hold its seventh session from 14 to 22 November 2008 in The Hague. A first resumption of the seventh session, devoted to the election of judges and members of the Committee on Budget and Finance, is scheduled to take place in New York from 19 to 23 January 2009. A second resumption, devoted to the Special Working Group on the Crime of Aggression, is foreseen to take place towards mid-2009.

*Elections*

- At its second meeting, the Bureau decided to fix the nomination period for the third election of judges from 21 July to 13 October 2008.
- The same nomination period applies for the election of six members of the Committee on Budget and Finance.

VII. 10<sup>th</sup> anniversary of the adoption of the Rome Statute

- On 17 July, the international community will mark the 10<sup>th</sup> anniversary of the adoption of the Rome Statute. The Bureau is considering options for an event to commemorate this anniversary.

VIII. Entry into force of the Headquarters Agreement between the International Criminal Court and the host State

The Headquarters Agreement between the International Criminal Court and the host State entered into force on 1 March 2008.

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