



OTP Weekly Briefing

ANNOUNCEMENT: On 15 March, at 11:00 (The Hague local time), Prosecutor Moreno-Ocampo will hold a press conference in relation to the decision on the guilt or innocence of Thomas Lubanga, that will be announced in a public hearing the day before.

Issue #114
1 to 9 March
2012

- Judges issue new arrest warrant in Darfur situation for Minister of Defense Hussein
- Leave to appeal Mbarushimana confirmation decision granted by the Judges
- Message from Deputy Prosecutor Fatou Bensouda for International Women's Day

NEWS



Judges issue arrest warrant for Sudanese Defence Minister Abdel Raheem Muhammad Hussein

1 March - Pre-Trial Chamber I [issued](#) an arrest warrant Mr Hussein for 41 counts of crimes against humanity and war crimes allegedly committed in the context of the situation in Darfur. Mr Hussein is currently Minister of National Defence of the Sudanese Government and former Minister of the Interior and former Sudanese President's Special Representative in Darfur.

Prosecutor Moreno-Ocampo stated that *"in 2003-2004, while serving as Minister for the Interior, Mr. Hussein had delegated responsibility to Mr Harun, who had coordinated massive attacks against villages in Darfur, and recruited Janjaweed, which, along with other ground forces, had killed and raped inhabitants. In addition, the Prosecutor's Office had presented the case of President Omar Al Bashir, who had supervised those attacks, and further, was responsible for the various forms of genocide that had occurred in the camps, including through direct killings, "unabated" rapes, and deplorable camp conditions that had allowed people to be exterminated"*.

Although the Court does not have jurisdiction regarding alleged crimes committed in the South, the Prosecutor stressed that the fact that the people that were being denounced for crimes in the south were those who had managed to commit crimes in Darfur showed the cost of impunity: *"Impunity is not just a legal problem, it [means] that there are new victims in different places."*
[Continuation on page 3]

Judges grant Prosecution leave to appeal Mbarushimana confirmation decision

1 March - Pre-Trial Chamber I [granted](#) the Prosecution leave to appeal the confirmation decision with respect to the following three out of four issues raised in the Prosecution's application regarding the chamber's decision not to confirm charges in the Callixte Mbarushimana case: (i) whether the correct standard of proof allows the Chamber to deny confirmation of charges supported by the Prosecution evidence, by resolving inferences, credibility doubts and perceived inconsistencies against the Prosecution and thereby preventing it from presenting its case at trial; (ii) whether a proper interpretation of the scope and nature of a confirmation hearing allows the Chamber to evaluate the credibility and consistency of witness interviews, summaries and statements without the opportunity to examine the witnesses that would be possible at trial; and (iii) whether the mode of liability under Article 25(3)(d) requires that the person make a 'significant' contribution to the commission or attempted commission of the crime.

OTP Activities

OVERVIEW

7 situations under investigation
14 cases in relation to 25 persons
10 outstanding arrest warrants
8 preliminary examinations in 4 different continents

Phases

2 cases before Pre-Trial Chambers
6 cases before Trial Chambers

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 eight situations: [Palestine](#) (phase 2a), [Afghanistan](#), [Honduras](#), [Korea](#) and [Nigeria](#) (phase 2b), [Colombia](#), [Georgia](#) and [Guinea](#) (Phase 3).

UPDATE ON GUINEA: The national investigation into the 28 September 2009 events has led to a major step forward with the indictment of Lt-Col. Tiegboro Camara, Head of the national agency against drug-trafficking, organized crime and terrorism and one the three main suspects identified by the UN Commission of Inquiry that investigated the alleged crimes committed in Conakry stadium. The OTP will soon pay a visit to Conakry to further encourage the Guinean authorities in demonstrating that complementarity can actually work. The OTP will continue mobilizing the international community, including the UN system, to further assist the victims, in particular the victims of sexual violence, and support the panel of investigative judges.



9 March - The Prosecutor and the Deputy Prosecutor received the visit of a delegation from the Republic of Nigeria led by Mohammed Bello Adoke, Minister of Justice and Attorney-General of Nigeria. The meeting offered a chance to discuss the status of the preliminary examination of the situation in Nigeria and the prospects for further cooperation between the OTP and the Nigerian authorities. The Nigerian delegation extended an invitation to Deputy Prosecutor Fatou Bensouda to pay a visit to Nigeria in the near future.

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 against children committed in the Ituri region 2002 – 2003

Status: Trial finished on 26 August 2011, judgment to be delivered on 14 March 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 to start on 15 May 2012

Confirmation of Charges Hearing

The Prosecutor v [Callixte Mbarushimana](#) – charged with war crimes and crimes against humanity, including massive sexual violence, committed in the North and South Kivus 2009 – 2010

Status: Pre-Trial Chamber I declines to confirm the charges (16 December 2011); leave to appeal was granted on 1st March

Warrant Pending

The Prosecutor v [Bosco Ntaganda](#) – charged with war crimes against children committed in the Ituri region 2002-2003

Issued: 22 August 2006

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](#).

5 March - Invisible Children launched its Kony 2012 campaign, with the goal of ensuring that Joseph Kony is arrested in 2012 and the LRA is disarmed. More information here: <http://www.kony2012.com/>

6 March - UNHCR [expressed](#) strong concern at the displacement of several thousand people in North Eastern DRC following renewed LRA attacks on the rise after a recent lull. They noted that other civilians could be displaced in areas that humanitarian agencies still cannot reach as a result of insecurity and poor road access. They noted that since 2006, in the North-Eastern region of DRC alone, more than 830 LRA attacks have been reported. During these attacks, more than 2000 people have been killed and almost 3,000 people abducted.

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

[Continuation to highlight page 1]: 3 March - President Al Bashir reportedly blamed the West for the warrant issued against Minister of Defense Abdel Raheem Hussein. Addressing an annual gathering of the pro-government Popular Defence Forces (PDF) militias, he said, “Two days ago, or yesterday, I heard that they (ICC) wanted our brother Abd-al-Rahim in the ICC. Why? O people, the issue of Darfur, they said the matter for which they wanted Abd-al-Rahim happened in 2003. If it happened in 2003, why did they remember it now? Because the plot that they hatched for Blue Nile and South Kordofan (states) had failed. It failed at the hands of the (Sudan) Armed Forces. Therefore, they want to assault the symbol of the armed forces, the defence minister. They think that this will affect the morale of the armed forces, but we said that on behalf of the armed forces, we will defend Sudanese honour, leadership, orientation and Islamic project.” On 5 March, Mr Hussein allegedly rejected the arrest warrant issued for him, describing it as politically driven and generally targeting the Sudanese States.

The EU [welcomed](#) the arrest warrant, describing it as a breakthrough in the fight against impunity in Sudan: “Putting an end to impunity and bringing the perpetrators of these crimes to justice contribute to the prevention of such crimes”. FIDH and ACJPS [recalled](#) that “Omar al Bashir, President of Sudan and Ahmed Harun, governor of South Kordofan – who are also facing arrest warrants from the ICC for international crimes committed in Darfur – have, together with Abdel-Rahim Mohamed Hussein, supported and encouraged the SAF's military actions in South Kordofan and Blue Nile”. “The role played by those three men in the ongoing violent attacks in South Kordofan and Blue Nile is reminiscent of their role in the Darfur conflict. This is an unbearable example of the threat to peace and security which can emanate from the failure to address accountability. In this context, execution of the outstanding arrests warrants is critical for the sake of both justice and peace in [Sudan]”.

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 case presentation ongoing

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 to be set (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 to be set (charges were not confirmed against Mohammed Ali, but the OTP will present additional evidence)

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; Pre-Trial Chamber I ordered the termination of the case *the Prosecutor v. Muammar Gaddafi*, after Prosecution request (22 November 2011)

1 March - Libya's general prosecutor has [demanded](#) that Egypt hand over 40 men accused of collaboration with former Libyan dictator Muammar Gaddafi before and during an eight-month uprising that toppled his regime. Abdel Aziz al-Hassadi, the Libyan prosecutor general, said that the 40 face corruption allegations as well as accusations of complicity in killings during the uprising. Among those wanted are Gaddafi's cousin, Ahmed Gadhaf al-Dam, former Foreign Minister Ali al-Treki, military intelligence chief Bouzeid al-Jabou and Ali al-Kelani, who was said to be responsible for torture.

2 March - The UN Commission of Inquiry released its latest [report](#), due to be presented to the Human Rights Council, concluding that Colonel Qaddafi's forces had perpetuated war crimes and crimes against humanity, including murder, torture and attacks on civilians using excessive force and rape. The UNCOI also concluded that anti-Gaddafi forces "*committed serious violations*," including war crimes and breaches of international human rights law, and called on Libya's interim government to do more to halt violence by revolutionary militias seeking revenge on real or perceived Gaddafi loyalists. It also called on NATO to do more to investigate the air raids it conducted in Libya.

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 18 June 2012

III. Arrests - Cooperation

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

Current location: Libya

The Prosecutor v Ahmed Harun and Ali Kushayb (more information [here](#))

**Current location: South Kordofan, Sudan (A. Harun)
Sudan (A. Kushayb)**

4 March - Ahmad Harun reportedly said he expects President Al Bashir will declare a state of mobilization and alert to counter the foreign plots being hatched against the nation. The governor accused Western countries and organizations most notably Israel of spearheading a campaign to destroy the country's entire structure and not just to overthrow the regime. He said South Sudan was being furnished for this purpose in cooperation with Khartoum's opponents. Harun said South Kordofan was the point from which they wanted to infiltrate Sudan's body adding that this would be made impossible.

The Prosecutor v Omar Hassan Ahmad Al Bashir (more information [here](#))

Current location: Khartoum, Sudan

7 March - The Kenyan High Court declined to lift the arrest warrant issued against Sudan President Omar Al Bashir. At the same time, Lady Justice Cecilia Githua of the Judicial Review Division directed Makadara MP Gideon Mbuvi Kioko, who is seeking to lift the arrest warrant to file his application in the proper division, the Constitution and Human Rights Division.

7 March - In regard to his visit to South Sudan to the Yida refugee camp, US Congressman Frank Wolf [wrote](#) that "In speaking with the refugees in the camp, I heard echoes of Darfur -- accounts of ethnic cleansing, mass murder and rape of innocent civilians in the region. As any Sudan watcher knows, this is familiar ground for Sudanese President Omar Bashir -- an internationally indicted war criminal. There are 25,000 people and growing in the camp. Many of the women I met with recounted how their villages were pillaged and burned by uniformed Sudanese soldiers. They said the soldiers, armed with AK-47s and machine guns, would show up in trucks, tie people

up and then execute them. They relayed stories of women and young girls being routinely raped. They lived in fear of daily Antonov bombing raids that indiscriminately shelled civilian populations -- a trademark of the Bashir regime. (Those same planes now fly over the camp, too.) The refugees pleaded with me to take one important message back to America: bring Bashir to justice. Warrants for Bashir's arrest were issued by the ICC in 2009 and 2010 and it is time for a concerted, serious effort by leaders around the globe to hold him accountable. Bashir has left a trail of death and destruction in his wake -- and, as my trip made clear, persists in his murderous aims even today."

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

Current location: Khartoum, Sudan

IV. Other Co-operation

V. Upcoming Events

March						
			1 <i>Deputy Prosecutor participates in the Ariadne Annual Policy Briefing, The Hague</i>	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16 <i>JCCD Director participates in high-level Meeting of Experts, Parliamentarians and Other Policy-makers on the Relationship between the ICC and the UN Security Council organized by PGA, London</i>	17	18
19	20	21	22	23	24	25
26	27	28	29	30 <i>Deputy Prosecutor delivers a keynote address at the Journée d'études on the role of the Defence organized by the ICB, Geneva</i>	31	

April						
						1
2	3	4	5	6	7	8
9	10	11	12 <i>Deputy Prosecutor delivers Robert Jackson Keynote address at the conference "Africa and International Law: Taking stock and moving forward" at Albany Law School, NY</i>	13 <i>Deputy Prosecutor delivers Robert Jackson Keynote address at the conference "Africa and International Law: Taking stock and moving forward" at Albany Law School, NY</i>	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

VI. Other Information

1 March - The Kuwait National Assembly reportedly [issued](#) a number of recommendations regarding the crisis in Syria, among them Kuwait's support of calls to turn the Syrian regime to the ICC for war crimes and cutting off political and commercial ties with it.

* 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