



OTP Weekly Briefing

16-22 February – Issue #25

THIS WEEK'S HIGHLIGHT

15-19 February - The OTP sent a mission to Guinea, led by Deputy Prosecutor Fatou Bensouda, in the context of its preliminary examination activities. The delegation was welcomed by Guinea's Minister of Foreign Affairs and Minister of Justice.

In a statement the Deputy Prosecutor said: *"The aim of our visit was to observe what has been done about the painful events of 28 September, 2009, here in Conakry so that justice should be done to the victims. We have received full cooperation of the Guinean authorities. We have also met with civil society, in particular women's groups. I believe crimes against humanity have been committed. I can tell you that there is international consensus: perpetrators of the crimes will be prosecuted either by Guinea or by the ICC. There is no third option."*

PREVIEW:

- OTP will provide Pre-Trial Chamber all information on Kenya, *page 3*.
- Prosecutor gave keynote address at opening of 2010 London International Model UN, *page 4*.



Press conference in Conakry



Visit to the stadium "28 Septembre", Conakry

The delegation visited the Conakry stadium, where rights groups say more than 150 people died, more than 1,200 were injured, and unprecedented sexual violence was inflicted on dozens of women, when Guinean troops attacked opposition leaders and supporters gathered for a rally on 28 September last year. The Deputy Prosecutor also visited military camps, a hospital and a morgue, and met Guinea's transitional Prime Minister Jean-Marie Dore, cabinet ministers, judges and magistrates from all Guinean courts, and representatives of victims' groups.

I. Investigations and Prosecutions

Over the week, the OTP presented 8 filings in the various cases and conducted 6 missions in 6 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 [the Prosecutor v. 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.

15 February - In a statement Global Witness [called on](#) companies to require their suppliers of DRC minerals to declare exactly which mine the minerals come from and to carry out spot checks and audits to back up these declarations. Global Witness recalled that the main warring parties in eastern Congo - including the FDLR and the Congolese army - control much of the lucrative trade in minerals and that these groups regularly commit horrific abuses against the civilian population, including mass murder, rape, torture and forced recruitment.

17 February - During a working visit to eastern DRC, Assistant Majority Leader of the US Senate, Richard Durbin, [called upon](#) Rwanda to publish the names of FDLR fighters accused of violating human rights. “*Opportunity should be given to people who were not involved in horrific crimes to go back to Rwanda,*” he said. He added that the international community should be instrumental in solving the problem of FDLR in the DRC.

Case: *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*

15 February - The Prosecution sought leave to appeal the Oral Rulings of 8 and 9 February 2010 issued by Trial Chamber II, which together prevent a party from showing a witness his or her prior statements or asking leading questions for the limited purpose of resolving inconsistencies between that statement and in-court testimony, unless that party is ready to have the witness declared completely hostile, or the Chamber considers the witness lacks memory. The Prosecution submitted, *inter alia*, that the issue impacts on the Prosecution’s duty to establish the truth and to ensure the effective prosecution of crimes and that all statutory requirements for interlocutory appeals are met.

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.

19 February - LRA rebels [reportedly](#) attacked the city of Rafai, in the eastern part of the Central African Republic, killing two civilians, injuring fourteen, and kidnapping around thirty persons.

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. 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. The Prosecutor will seek leave to appeal this decision.

17 February - UNAMID [claimed](#) that recent fighting between Government troops and rebels in Darfur has killed many people and caused thousands to flee their homes.

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 [27 April 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.

13 February - Further allegations of threats against persons perceived to be ICC witnesses emerged. An individual who [reportedly](#) warned the police of an imminent attack on IDP's that was being planned by a group he was affiliated to during the post-election violence, has been hiding with the help of human rights organisations after having received death threats.

17 February - Kenyans for Justice and Development, a Kenyan civil society group, issued a [statement](#) welcoming the Prosecutor's intervention in Kenya and commending it as *"a major step towards holding criminally accountable all those who masterminded and executed the 2007/2008 pre and post election mayhem."*

18 February - Pre-Trial Chamber II issued a decision requesting the OTP to provide clarification and additional information, in relation to the existence of a State plan or organizational policy, and the existence of national proceedings. The OTP will provide all the information requested as soon as possible.

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.

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.

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. Visits to both countries are planned for 2010.

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.

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.

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.

III. Cooperation – Galvanizing Efforts to Arrest



18 February - As part of the Office's educational projects, the Prosecutor participated in a "Challenge the Future" workshop in Bochum, Germany, where he spoke with 80 high school students from the region on the work of his Office and the world challenges ahead. The "Challenge the Future" project is under the patronage of Nobel Peace laureates, Archbishop Desmond Tutu and Shimon Perez.

18 February - The OTP gave a briefing on the Rome Statute and the Court during a seminar on the ICC in El Salvador. The seminar was inaugurated by the Minister of Foreign Affairs and was attended by high level representatives of the legislative, the executive, the judiciary as well as parliamentarians of the main

political parties and representatives of civil society, contributed to promote and intensify the dialogue in connection with the Rome Statute and its ratification.

19 February - The Prosecutor gave the keynote address at the Opening Ceremony of the 2010 London International Model UN, addressing more than 1,000 student delegates from over 46 countries. The Prosecutor presented the existence of the new international criminal justice system, *"based on national States and national monopoly of forces, but moving beyond the Westphalia model. States are integrating efforts to protect all their citizens. [...] They shifted the paradigm - from national self-regulation to international scrutiny and the rule of law. For principles or self-interest they adopted a rule of law paradigm; they agreed to respect the decisions of an independent and permanent International Criminal Court."* The Prosecutor further



stressed: *"The Rome Statute is in motion, recognizing the rights of the victims of massive crimes. Those individuals, who in the past had been ignored, are now being represented in Court against individuals with military and political power. Step by step, the Rome Statute system is moving ahead and creating a new international dynamic, affecting the outcome of other institutions. [...] Future leaders like you will define how fast and how far justice will go. The process might be painful and controversial, but it will change international relations forever."*



IV. Coming Events

➤ 23 February - Prosecutor meets Baroness Scotland QC, Attorney General for England and Wales and Northern Ireland

- 26-27 February - Deputy Prosecutor participates in IBA workshop on implementing legislation in Malawi
- 6 March - Deputy Prosecutor participates in the WOMEN Inc. International Festival, Amsterdam
- 7-10 March - Deputy Prosecutor delivers keynote address for International Women's Day, School of Law of the University of California, Davis, and Santa Clara University School of Law
- 12 March - Deputy Prosecutor participates in "Gender-Based Violence and Access to Justice in Conflict and Post-Conflict Areas" conference organized by Cornell Law School, Washington
- 17 March - Prosecutor meets with Shirin Ebadi, Nobel Peace Prize Winner, and Mr. Karim Lahidji, Vice-President FIDH
- 22-25 March - Resumed session of the meeting of the Assembly of States Parties, New York
- 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
- 6 April - Prosecutor participates in the International Forum of the 37th FIDH Congress, on Justice, Yerevan, Armenia
- 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 - Start of the trial *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