



OTP Weekly Briefing

23-29 March – Issue #30

THIS WEEK'S HIGHLIGHT PROSECUTOR VISITS EU REPRESENTATIVES

PREVIEW:

- Thabo Mbeki confirms full respect for ICC, page. 5.

23 March - The Prosecutor briefed a joint meeting of the Foreign Affairs Committee, Development Committee and Human Rights Subcommittee of the European Parliament in Brussels. He met with Vice-President of the European Commission and High Representative of the EU for Foreign Affairs and Security Policy, Catherine Ashton. The Prosecutor thanked the EU for its continued leadership in promoting international action against impunity. He highlighted the consistency of EU support. Certainty of prosecutions will contribute to the prevention of crimes against humanity, war crimes and genocide, regardless of the official capacity of the offender. The Prosecutor and the EU High Representative discussed the new European External Action Service (EEAS) and the possibility to involve the OTP in the training of future staff of EEAS.

Other meetings included Edward McMillan-Scott, Vice-President of the European Parliament, and Heidi Hautala, Chair of the Human Rights Subcommittee of European Parliament, as well as former President Thabo Mbeki, Chair of the African Union High Level Panel for Darfur, and Véronique De Keyser, the Chief Observer of EU Election Observation Mission to Sudan.

Finally, the Prosecutor gave a briefing at the European Policy Centre and a public lecture with 800 attendants after being awarded the Amnesty International Chair 2009-2010 from the University of Ghent.



I. Investigations and Prosecutions

Over the week, the OTP presented 11 filings in the various cases and conducted 5 missions in 5 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.

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.

24 March - US Assistant Secretary of State for African Affairs, Johnnie Carson, [stated](#) in a US House of Representatives Committee on Foreign Affairs hearing that *"Kony has been elusive to the Ugandan military as Osama bin Laden has been to allied operations. It is very difficult terrain that he is operating in, it is very difficult to go after him, the Ugandans have made a real effort, but it has been real difficult."* Assessing current LRA capacity and whereabouts, he said the LRA had been significantly degraded as a fighting organization over the last 18 months, with many of its top commanders captured or killed and the remainder operating in very small groups in Central African Republic and occasionally South Sudan.

28 March - Human Rights Watch (HRW) issued a [report](#) on LRA attacks in December in northeastern DRC which left more than 320 dead and 250 others abducted, including at least 80 children. The UN Secretary General's Special Representative in the DRC, Alan Doss, [said](#): *"We have to look at this as a problem dealing with small groups that move around a great deal. This requires better intelligence gathering, it requires particularly air mobility, and of course co-operation with the local people."*

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.

16 March - Yousef Koda, head of the Islamic Al Wasat party, on Al Arabiya TV [said](#) that President Al Bashir should step down and the NCP should nominate someone else for the presidency.

25 March - UN DPKO head Alain Le Roy [called for](#) a full investigation of an ambush of 63 UNAMID peacekeepers in the Jebel Marra area of Darfur, calling the event *"a very grave and serious incident."* UN sources informally expressed their belief that the attack was carried out by Government militia/*Janjaweed*.

28 March - Hassan Al Turabi, leader of People Congress Party, during an election rally [exposed](#) the mind set of President Al Bashir on the issue of rape in Darfur. According to Al Turabi, an unnamed member of the Sudanese commission of inquiry into Darfur told him back in 2004 that Al Bashir, commenting on the rapes, said that if a woman from western Sudan was sexually assaulted by a Ja'ali [Al Bashir's tribe], she should be grateful and feel honored, denying this was rape.

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.

24 March - During a meeting of OTP with representatives of Kenyan civil society, facilitated by FIDH, the protection of witnesses and victims, the time-frame of ICC work, and the importance of interaction with all actors of Kenyan civil society, including women and youth groups, were addressed.

25 March - Speaking before the European Policy Centre in Brussels, the Prosecutor [reiterated](#) that until the Pre-Trial Chamber authorizes an investigation his Office has *"no witnesses in Kenya."*

26 March - Former UN Secretary-General and head of the AU Panel of Eminent African Personalities, Kofi Annan, [said](#) he is concerned about reports of intimidation of witnesses to the post-election violence of December 2007-January 2008. *"Action by Government to ensure effective witness protection is critical,"* Annan said, calling on President Mwai Kibaki and Prime Minister Raila Odinga to work together.

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.

25 March - UK's Ambassador to the UN, Sir Mark Lyall Grant, [said](#) the UK supported a recommendation by the UN Special Rapporteur on Human Rights in Burma that the ICC opens an investigation. The Ambassador said the UN Security Council's permanent members were *"not sufficiently unanimous"* in their views to allow an ICC referral to happen immediately, but if such a proposal were tabled the UK would support it. Nearly 200 MPs have backed the referral campaign.

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.

22 March - In its [resolution](#) extending the mandate of UNAMA, the UN Security Council reaffirms that UNAMA and the UN Secretary-General Special Representative for Afghanistan will continue to lead international civilian efforts to improve the rule of law, including transitional justice, and to support the OHCHR in promoting accountability.

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.

18 March - The Colombian Supreme Court [sentenced](#) former Senator Alvaro Araújo Castro to nine years and three months in prison for conspiracy with paramilitaries in intimidating voters in the 2002 elections. In February the Colombian Supreme Court sentenced former Senator Alvaro García Romero to 40 years of prison for the massacre of twelve people in 2000.

19 March - Sixteen professional military accused of killing of civilians who were later presented as guerrilla deaths in combat (a conduct known as 'false positive') were reportedly [released](#) because no trial was commenced within the timeframe of 200 days mandated by Colombian Law..

23 March - Two FARC commanders of the front 47 were [sentenced](#) to 60 years in prison for the attack in Montebonito, department of Caldas, where policemen and civilians were killed.

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.

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.

22 March - The UN Human Rights Council [decided](#) to establish a committee of independent experts to monitor and assess any proceedings undertaken by Israel and Palestinian authorities, their independence and conformity with international standards. The Committee will present its report at the fifteenth session of the Human Rights Council in September 2010.

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. 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.

III. Cooperation – Galvanizing Efforts to Arrest

22-25 March - At the resumed 8th session of the ASP in New York, the US Ambassador-at-Large for War Crimes, Stephen Rapp, declared that *"the Obama administration would like to meet with the Prosecutor and the other officials of the Court to examine ways we can help."* On CNN, Stephen Rapp [said](#) that the US Government will support key prosecutions currently being pursued by the ICC, including the indictment of Sudanese President Al Bashir. OTP's Director of JCCD, Béatrice Le Fraper du Hellen, indicated the interest of the Office for US support on arrests. The Director of JCCD also met with UN Legal Counsel Patricia O'Brien and UN DPKO head Alain Le Roy.

23 March - The Deputy Prosecutor and young staff of OTP met with visiting students from Duke University, Basel University, Cambridge University and the London School of Economics, all part of the ICC Students Network. Educational projects are part of the prosecutorial strategy's objective to maximize the preventive impact of the OTP.



23 March - Briefing the Foreign Affairs and Development Committees of the European Parliament, Thabo Mbeki [reiterated](#) the common understanding between his High Level Panel and the ICC Prosecutor that the arrest warrants issued by the Court were a given matter. The Panel was to focus on the other crimes committed in Darfur given the complementary nature of the ICC.

25 March - The Prosecutor met with mediators involved in conflict resolution and peace processes, including Joyce Neu, Senior Associate with Facilitating Peace; Ram Manikkalingam, Director of the Dialogue Advisory Group and Associate Professor at the University of Amsterdam; and Sara Cobb, Associate Professor at George Mason University and former director for the Institute for Conflict Analysis and Resolution. They discussed the upcoming Review Conference in Kampala, in particular the agenda item on peace and justice, as well as how the Office could benefit from the mediators' prior experiences and ways to collaborate and further exchange in the future.

25 March - UN Secretary-General Ban Ki-Moon, while [confirming](#) that he had no plan to meet President Al Bashir during the Arab League summit in Libya, reaffirmed his respect for the decision of the ICC to issue an arrest warrant against the president. "I need to respect this decision of ICC. That's my role, to keep justice," said Ban.

IV. Coming Events

- 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
- 8 April - Prosecutor participates in a Technology, Entertainment and Design (TED) conference in Buenos Aires.
- 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 Special Gender Adviser to the Prosecutor Catherine MacKinnon participate in "International Gender Justice Dialogue", Puerto Vallarta, Mexico
- 26 April - Prosecutor delivers key note address at a South/North dialogue organized by Africa Legal Aid, entitled "The Bashir Arrest Warrant: The World vs Africa or the African Union vs the People of Africa?"
- 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