



OTP Weekly Briefing

29 June - 5 July – Issue #44

THIS WEEK'S HIGHLIGHT:

UN SECURITY COUNCIL UNDERLINES ROLE OF ICC IN FIGHTING IMPUNITY

PREVIEW

- Italy and the United States make pledges to support arrests, p. 4.

29 June - The UN Security Council issued a [Presidential Statement](#) providing that “the fight against impunity for the most serious crimes of international concern has been strengthened through the work of the International Criminal Court (...)” and it “intends to continue forcefully to fight impunity and uphold accountability with appropriate means (...)”. This statement is relevant to the Darfur situation, as the Prosecutor - [as previously reported](#) - briefed the Council on 11 June, highlighting the need to ensure consistent support for Court decisions. On 14 June, the Security Council also met with all actors involved in the mediation process in Darfur.

The Statement, adopted under Mexican Presidency, followed a [debate](#) on promoting and strengthening the rule of law in the maintenance of international peace and security that heard from 36 speakers. In the Statement, the Security Council “emphasizes the responsibility of States to comply with their relevant obligations to end impunity and to thoroughly investigate and prosecute persons responsible for war crimes, genocide, crimes against humanity or other serious violations of international humanitarian law in order to prevent violations, avoid their recurrence and seek sustainable peace, justice, truth and reconciliation.”

Finally, the Security Council “expresses its commitment to ensure that all UN efforts to restore peace and security themselves respect and promote the rule of law,” recognizing that “sustainable peacebuilding requires an integrated approach.”

Some States, including Norway, Australia and France, also underlined the role of the Security Council with regard to securing compliance with arrest warrants, in particular with regard to the situation in Darfur, as referred to the Prosecutor by Security Council Resolution 1593 (2005).

I. Investigations and Prosecutions

Over the week, the OTP presented 5 filings in the various cases and conducted 2 missions in 2 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.

30 June - UN Secretary-General Ban Ki Moon [confirmed](#) that MONUSCO will continue to support military operations against illegal armed groups, in particular FDLR and LRA, operating in eastern DRC. “[These] groups (...) continue to cause untold suffering to the population of eastern DRC. [The] United Nations Security Council authorized MONUC to support the military operations against these armed groups. This support is provided under certain conditions. That will remain the case with the new mandate.”

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 1,500, abducted more than 2,250 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.

28 June - UN Security Council members [condemned](#) attacks by the LRA in the Central African Republic and called for the countries of the region and the UN missions to continue to enhance coordination and information-sharing with a view to dealing with the threat posed by the LRA.

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 have been issued, against [Ahmad Harun and Ali Kushayb](#), and against [Omar Al Bashir](#), which are outstanding. Also three summons to appear have been issued, against [Bahar Idriss Abu Garda](#) and against [Abdallah Banda Abaker Nourain and Saleh Mohammed Jerbo Jamus](#). 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. The OTP [requested](#) leave to appeal this decision on 15 March and this was denied by the PTC on 23 April. The OTP will present additional evidence. On 25 May the PTC Chamber issued its '[Decision informing the United Nations Security Council about the lack of cooperation by the Republic of the Sudan](#)' in the case against Harun & Kushayb. On 17 June, Abdallah Banda Abaker Nourain and Saleh Mohammed Jerbo Jamus [appeared](#) voluntarily before the ICC, to answer charges of war crimes for their roles in the 2007 attack against African Union peacekeepers in Haskanita. The Pre-Trial Chamber set the [confirmation of charges hearing](#) for Banda and Jerbo for 22 November 2010.

30 June - Hasan al-Turabi, leader of opposition General People's Congress Party who several times called for the surrender of President Al Bashir to the ICC, answering questions whether he still maintained his position on the legitimacy of Al Bashir's presidency, said: "(...) *I did not change my mind on the International Criminal Court whose laws, which I want applied to all, have not changed. Now, my position is still the same.*"

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 14 July. On 27-28 April, the Trial Chamber held a hearing on admissibility. 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. On 31 March the Pre-Trial Chamber authorized the Prosecutor to commence an investigation covering alleged crimes against humanity committed between 1 June 2005 and 26 November 2009. The Prosecutor made his first visit to Kenya since the beginning of the investigation on 8-12 May.

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.

42 communications that may fall under Article 15 were received by the Office in the month of June. 31 of these communications were manifestly outside the jurisdiction of the Court; 11 communications warranted further analysis or were linked to a situation already under analysis. The total number of Article 15 communications received to date is 8,808, of which 3,976 were manifestly outside the jurisdiction of the Court.

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.

30 June - The Justice and Peace proceedings reached their [first conviction](#) for crimes against humanity against two paramilitary leaders of the Montes de María bloc. Edwar Cobos, a.k.a. Diego Vecino, and Uber Bánquez, a.k.a. Juancho Dique, confessed to two massacres in March 2000, and the kidnapping of nine persons in April 2003.

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. A second mission to Georgia was conducted in June 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. On 3 May, the OTP published a [“Summary of submissions on whether the declaration lodged by the Palestinian National Authority meets statutory requirements.”](#) The OTP has not made any determination on the issue.

29 June - A delegation from the Palestinian National Authority visited the Office of the Prosecutor in The Hague.

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. In 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 informed of its 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. From 19-21 May a second OTP mission met with the Guinean Minister of Justice, Col. Lohalamou, and Guinean judges. The Guinean authorities extended full cooperation to the Court.

III. Cooperation – Galvanizing Efforts to Arrest

28 June - As highlighted in the consolidated list of the pledges submitted by States Parties and non Parties during the Review Conference, several States pledged to increase political support to the ICC, including the UK, Venezuela and Costa Rica. Additionally, the US pledged it would *“renew its commitments and strengthen its capabilities to protect and assist civilians caught in the LRA’s wake, to receive those that surrender, and to support efforts to bring the LRA leadership to justice.”* Italy pledged it would *“adopt national policies in view to enforce its cooperation with the ICC, in particular in contributing to arrest operations and the execution of arrest warrants requested by the ICC.”*

30 June - OTP senior representatives participated in the 4th World Forum on Human Rights in Nantes, France, organized by the international permanent secretariat “Human Rights and local governments” under the high patronage of UNESCO, and made a presentation on the ICC’s contribution to the protection and enforcement of Human Rights.

IV. Coming Events

- 12 July - Prosecutor participates in an International Student Debate at the University of Amsterdam
- 14 July - Start of trial of the case *Prosecutor v. Jean-Pierre Bemba Gombo* (there is a pending request from the Defence to suspend the beginning of the trial)
- 14-16 July - Deputy Prosecutor participates in an International Conference on ‘Africa and the Future of International Criminal Justice’ at the University of Witwatersrand, Johannesburg
- 19-20 August - Prosecutor pays an official visit to Guatemala
- 20 August - Deputy Prosecutor participates in ISS and SADC Lawyers Association annual conference, Lumbumbashi
- 31 August-1 September - Deputy Prosecutor participates in 4th international Humanitarian Law Dialogs, Chautauqua
- 9 September - Prosecutor delivers closing speech at the 15th IAP Annual Conference, ‘Crossing Borders’, The Hague
- 21 September - Deputy Prosecutor delivers speech at a conference of the Konrad Adenauer Stiftung, ‘Everything that is just. International jurisdiction in Africa’, Berlin
- 28-29 September - Deputy Prosecutor gives a presentation on human trafficking at the Global Economic Symposium, Istanbul

* 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