



OTP Weekly Briefing

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- After Gaddafi's death, ICC and INTERPOL call for Saif Al-Islam Gaddafi's surrender for trial

NEWS



After Muammar Gaddafi's death, ICC Prosecutor and INTERPOL call for Saif Al-Islam Gaddafi to turn himself in to face justice

20 October - Following the confirmation by the National Transitional Council of Colonel Gaddafi's death, INTERPOL and the ICC have [called](#) for Saif Al-Islam Gaddafi to turn himself in. Both institutions will coordinate with INTERPOL member countries to provide safe passage to The Hague where he is wanted for crimes against humanity, including murder and persecution. States Parties and the international community should work to secure Saif Al-Islam and Al Sanussi's arrest and safe transfer (surrender) to The Hague. INTERPOL Secretary General Ronald K. Noble and Prosecutor Moreno-Ocampo urged the former Libyan leader's son Saif to give himself up and for the national authorities of the country where he is hiding to guarantee and facilitate his safe transfer to the Netherlands to face justice.

"Following my discussions with Prosecutor Moreno-Ocampo, we agree that it is in the best interests of Saif Al-Islam Gaddafi as well as in the interests of justice that he surrender himself as swiftly as possible and face the charges leveled against him," said Secretary General Noble. *"Since our assistance was first requested, INTERPOL has been cooperating with both the ICC and the National Transitional Council of Libya to ensure that those individuals wanted for a range of serious crimes are located, apprehended and brought to justice,"* added the INTERPOL Chief. *"We call on all member countries to work with the ICC and INTERPOL to see that Saif Al-Islam Gaddafi is safely delivered to The Hague once he surrenders,"* concluded the leader of the world police body.

25 October – Rhissa ag Boula, an adviser to Niger's president, said he was in touch with Tuareg, who are helping guide Saif Al-Islam Gaddafi across the desert from Libya to Algeria and finally to Niger. Boula [stated](#) that: *"If he comes here, the government will accept him, but the Government will also need to respect its international obligations. It's up to him to decide (whether to come to Niger)."* Niger's government has said that members of the Gaddafi regime wanted by the ICC will be turned over to the Court.

OTP Activities

OVERVIEW

7 situations under investigation
12 cases in relation to 24 persons
18 arrest warrants – 11 outstanding
3 trials
3 confirmation of charges proceedings
8 preliminary examinations in 4 different continents

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)

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, pending judgment

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 ongoing

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: Hearing held from 16 to 21 September 2011, pending decision

Warrant Pending

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

Issued: 22 August 2006

10 - 14 October – In the case of *Prosecutor v. Germain Katanga*, Germain Katanga continued his [testimony](#), including under cross-examination by the Prosecution. One of the main topics addressed was his specific role/function at the time of the Bogoro attack. Katanga claimed that at the time of the attack he was only a coordinator with the APC and that it was only on 3 March 2003 that he was named President of the combatants. Katanga testified that on 8 February 2004, he officially became President of the FRPI, while adding that he could have used this title “by anticipation” from the summer of 2003 onwards. The Prosecution contradicted his testimony in this regard through the use of documentary evidence, including correspondence demonstrating that: Katanga was known as the military chief of the combatants (of Walendu Bindi) and as the President of the movement before the Bogoro attack; and before 2004, he was also referred to as the President of the FRPI and was ordering commanders of other camps. In response, Katanga attacked the authenticity of the documents and claimed lack of knowledge thereof. Katanga also testified that he did not participate in the 24 February attack on Bogoro because of the potential threat posed to his village by a commander, Kisoro, and a prohibition by a féticheur which impeded him from fighting.

Katanga refused to accept that an ethnic conflict between the Hema and the Ngiti/Lendu was prevailing at the time of the Bogoro attack. He testified about the presence of (mostly Ngiti) APC soldiers in Walendu-Bindi, denying that they were APC deserters. Katanga also denied the presence of sexual slaves (claiming that rape was a taboo) as well as that of child soldiers in Aveda. Katanga explained that if many children had been living in the camp, it was because they were part of the combatants' families. Katanga also testified that he signed the agreement on the cessation of hostilities of March 2003 (which mentions, inter alia, the engagement of the signatories to renounce the recruitment and use of child soldiers) without reading its content.

26 October – In the case of the *Prosecutor v. Callixte Mbarushimana*, Pre Trial Chamber I [rejected](#) the Defence Request for leave to Reply and the Prosecutor's request for leave to respond; and also rejected the Defence Request for a Hearing and the Defence Challenge to the Jurisdiction of the Court. These decisions were taken after the Defence had argued that the Court did not have jurisdiction to entertain the case against Callixte Mbarushimana, and that there was not sufficient nexus between the charges against Mr. Mbarushimana and the scope of the situation.

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

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

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

Confirmation of Charges Hearing:

The Prosecutor v. [William Samoei Ruto](#), [Henry Kiprono Kosgey](#) and [Joshua Arap Sang](#) – charged with crimes against humanity committed during the post-electoral violence in Kenya 30 December 2007 – end January 2008

Status: Hearing held from 1 to 9 September 2011, pending decision

The Prosecutor v. [Francis Kirimi Muthaura](#), [Uhuru Muigai Kenyatta](#) and [Mohammed Hussein Ali](#) – charged with crimes against humanity committed during the post-electoral violence in Kenya 24 – 31 January 2008

Status: Hearing held from 21 September to 6 October 2011, pending decision

14 October – In the case *Prosecutor v. Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali* the Prosecution [opposed](#) the challenges to the jurisdiction of the Court by the Defence teams of Mr. Kenyatta and Mr. Ali on the grounds, inter alia, that the issues raised by the Defence, such as the interpretation of “organisational policy” in article 7 and the adequacy of the Prosecution’s investigation, are not legal challenges to the Court’s jurisdiction but arguments that the Court should consider in closing submissions following the confirmation hearing. It further submitted that the Chamber should clarify that such arguments cannot be mischaracterised as jurisdictional or admissibility challenges in order to circumvent page limitations for post-confirmation briefs or to guarantee an automatic right of appeal.

26 October – In the case of the *Prosecutor v. William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang*, the Single Judge of Pre Trial Chamber II resolved, for the interests of the victims, to vary exceptionally the time limit prescribed by regulation 53 of the Regulations to the effect that the decision on the confirmation of charges pursuant to article 61(7) of the Statute in Case 1 will be issued at the same time as the decision in Case 2. The Single Judge also [recalled](#) the concern expressed by the legal representative of victims in Case 1 and in Case 2 about security issues. The legal representative of victims in Case 2 put forward a request, within the meaning of regulation 35 of the Regulations, that the decisions pursuant to article 61 (7) of the Statute in the two cases be issued at the same time as it is considered to be helpful if everything was resolved at the same time. Lastly, the Single Judge reiterated “*her appeal previously made in the Hearing in Case 2 to all concerned and citizens of the Republic of Kenya to respect the life, security and property of victims and witnesses and to refrain from engaging in any activities that are likely to trigger or exacerbate tension and violence in the Republic of Kenya*”.

6. Situation in [Libya](#) – Referred: February 2011 Investigation opened: March 2011

Warrants Pending:

The Prosecutor v. Muammar Abu Minya Gaddafi, Saif Al Islam Gaddafi and Abdullah Al Sanousi – 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

7. Situation in [Côte d'Ivoire](#) – OTP request to start investigation: June 2011 Investigation opened: October 2011

Status: 3 October 2011 – Pre Trial Chamber III authorizes the Prosecutor to open an investigation into the situation in Côte d'Ivoire since 28 November 2010

10 October – The Registry filed its [observations](#) to the Prosecution’s request for access to 1089 victims’ representations annexed to the VPRS’ Report, which the Registry had originally filed as confidential *ex parte*, available only to the Registry. The Registry submitted that, in general, representations under Article 15 should not be transmitted to any party or participant because they are intended for the exclusive use of the Chamber. In this particular instance, however, the Registry did not oppose the Prosecution’s request as many of the victims’ representations were addressed to the Prosecutor and appeared to have been submitted with the express intention of being considered as evidence.

III. Arrests - Cooperation

9 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 Muammar Gaddafi, 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)

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

Current location: **Khartoum, Sudan**

IV. Other Co-operation

21-22 October – Deputy Prosecutor Bensouda participated in the conference *The ICC in a politically divided world*, organized by Africa Legal Aid in Gaborone, Botswana, which saw the participation of representatives from various States Parties, including in the region, international organizations, non-governmental organizations, as well as the legal and academic community in Botswana. The Deputy Prosecutor spoke about the emergence of a new rule of law system, the relations between the ICC and Africa and the synergies between conflict management and the ICC.

V. Upcoming Events

November						
	1	2 <i>Prosecutor briefs the UN Security Council on the situation in Libya, New York</i>	3	4 <i>Prosecutor delivers keynote speech to ASIL mid year meeting, Los Angeles</i>	5	6 <i>Prosecutor attends screening of The Prosecutor at USC, Los Angeles</i>
7	8	9 <i>Prosecutor addresses Hague Academic Coalition Conference, The Hague</i>	10	11	12	13
14 <i>Prosecutor attends screening of The Prosecutor at University of Toronto, Toronto</i>	15 <i>Prosecutor attends screening of The Prosecutor at the University of Ottawa, Ottawa</i>	16 <i>Prosecutor addresses the JFK Forum, Harvard University, Cambridge MA</i>	17 <i>Deputy Prosecutor attends screening of The Prosecutor at Oxford University, Oxford</i>	18	19	20
21	22	23	24	25	26	27
28	29	30				

VII. Other Information

* 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