



OTP Weekly Briefing

Issue #113

22 to 29 February
2012

- **ICC Judges will deliver judgment in the Lubanga case on 14 March**
- **PTCIII expanded its authorisation for the investigation in Côte d'Ivoire to include crimes allegedly committed between 19 September 2002 and 28 November 2010**

NEWS

ICC Judges will deliver judgment in the Lubanga case on 14 March



29 February - Trial Chamber I will [deliver](#) its decision on the innocence or guilt of Thomas Lubanga Dyilo in a public hearing on 14 March at 10.00 a.m.

The trial against Mr Lubanga Dyilo is the first trial before the ICC. It started on 26 January 2009 and the closing statements were presented on 25 and 26 August 2011.

In the event of a conviction, the Chamber will later consider the appropriate sentence to be imposed. Irrespective of whether the accused is acquitted or convicted, the Court is required to establish the principles to be applied in relation to reparations, and it may make orders as regards awards of reparations to victims.

Even before the final decision, this first trial of the Court has helped to trigger debates on child recruitment in countries such as Colombia and Sri Lanka, and the release of child soldiers in Nepal. The Special representative of the UN Secretary-General on children in armed conflicts, Radhika Coomaraswamy, factored in such potential and used it as a tool to campaign around the world, and secure even more releases. This is an example of how to use the law to prevent crimes.

The Lubanga judgment will also be an opportunity to focus on how States and other relevant actors can contribute to justice through national education curricula. This interest of the Office of the Prosecutor was expressed in its prosecutorial strategy for 2009-2012: education as one of the fundamental means to maximize the impact of the work of the Court and to contribute to the prevention of future crimes. The Office is helping by connecting countries and actors interested and by providing information related with its own activities.

Pre-Trial Chamber III expanded the temporal scope of the situation in Côte d'Ivoire

22 February - In light of further information provided by the Prosecution, PTCIII [decided](#) to expand its authorisation for the investigation in Côte d'Ivoire, originally limited to alleged crimes committed since 28 November 2010 and future crimes, to include crimes allegedly committed between 19 September 2002 and 28 November 2010. The Chamber took the view that the violent events in Côte d'Ivoire in this period, although reaching varying levels of intensity at different locations and at different times, are to be treated as a single situation. It concluded that in the course of these events, acts of murder and rape that could amount to war crimes or crimes against humanity were committed.

OTP Activities

OVERVIEW

7 situations under investigation
14 cases in relation to 24 persons
9 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).

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 (more information next week)

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](#).

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

20 February - The Prosecution and Registry submitted their fifth joint monthly [report](#) on Zaghawa language translation. The Registry stated that due to the reduced budget for 2012, the contract of the two Zaghawa language translators who have been undergoing training will not be extended beyond the end of April 2012 (nor will any other potential trainees be recruited) unless otherwise instructed by the Chamber. If the trial date is set within a year, provided that funds are available, the two trainees will be invited to return for a two month preparation for trial. The Prosecution submitted that the contract of the Zaghawa Language Assistant who joined the Office in January 2012 was renewed for an additional month, during which he is expected to commence the redaction of six Prosecution witness statements while undergoing further training.

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

24 February - Trial Chamber III [decided](#) that due to the scheduling difficulties and the postponement of the testimony of witness 36, the status conference on the scheduling and preparation of the presentation of evidence by the defence, originally scheduled for 28 February 2012, shall be postponed until the week of 12 March. It ordered the Defence to submit by 5 March information on, inter alia: the estimated amount of time required to prepare its presentation of evidence; the stage reached in its investigations; the anticipated number of witnesses to be called; and a preliminary estimate of the amount of time needed for presentation of its evidence. It also ordered the Defence to indicate whether protective measures may be required for its witnesses; whether it intends to call expert witnesses; and whether, on a preliminary basis, a decision has to be made as to whether the accused will testify.

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)

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

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 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)**

29 February - The organization “Youths of Babanoussa” reportedly [urged](#) citizens to participate in a demonstration against Ahmed Harun for his failure as governor to deliver basic services to Babanoussa, as well as addressing the soaring cost of living. Harun reportedly recently addressed a parliamentary subcommittee on defense and security, arguing that the army intervention in South Kordofan was stabilizing the situation. However, the National Congress Party is under growing pressure from its own members in South Kordofan to remove Harun from his position; they submitted a memo to the party’s leadership, arguing that Harun exceeded the executive, legal and legislative limits of his position. Additionally, Abdel-Rasoul al-Nur, a tribal leader of the Arab Misseriya, echoed calls for Harun to be dismissed and blamed Harun for not consulting South Kordofan tribes to end the ongoing conflict and opting instead for the military option.

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

Current location: Khartoum, Sudan

28 February - President Al Bashir has [reportedly](#) received an invitation from Iraqi counterpart Jalal Talabani to attend the Arab League summit in late March in Baghdad, Iraq. In turn, Sudan’s Minister of State for Foreign Affairs, Mansour al-Agab, invited the Iraqi government to participate in a conference in Istanbul to discuss relief of Sudan’s external debts and economic assistance to help Khartoum cope with the loss of oil revenues as a result of South Sudan’s secession. Al Bashir has also been invited by the UN’s International Telecommunication Union to attend a summit due to be held in Doha, Qatar from 5-7 March on telecommunication in the Arab world.

1 March - In a hearing before the House Foreign Affairs Committee, U.S. Secretary of State Hillary Clinton [told](#) members of Congress that President Al Bashir was undermining the Comprehensive Peace Agreement with the South: *“The people of South Sudan voted for independence and ever since, despite Bashir going to [South Sudan president] Salva Kiir’s inauguration, there has been a steady effort to undermine this new state [...] I think that what we’ve got with Bashir is a very determined effort to try to undo the results of the comprehensive peace agreement”*. Clinton added. The Secretary of State suggested that the U.S. is prepared to take measures against Bashir personally but did not elaborate: *“We will certainly look at trying to up the pressure on Khartoum and on Bashir personally”*.

IV. Other Co-operation

22 February - Prosecutor-elect Fatou Bensouda made a keynote address at the African Leadership Center Simulation Seminars at King’s College in London, highlighting how the work of the ICC can contribute to help shape efforts to achieve transformative change in Africa *“By setting an example, supporting institution-building, and through multi-leveled interface and cooperation, together we can transform the public response to massive crimes, including sexual violence, in national jurisdictions in and outside Africa”*.



27 February - Prosecutor-elect Fatou Bensouda met with the Bulgarian Minister of Justice, Ms. Diana Kovatcheva, as well as with the Bulgarian Attorney-General, Mr. Boris Velchev, at the Court. Minister Kovatcheva reiterated Bulgaria’s strong support to the work of the Court and of the OTP, and congratulated the Prosecutor-elect for her election.

V. Upcoming Events

February						
27	28	29				

March						
			1 <i>Prosecutor-elect participates in the Ariadne Annual Policy Briefing, The Hague</i>	2	3	4
5	6	7	8	9	10	11
12	13 <i>Prosecutor and Prosecutor-elect hold bilateral meetings, Geneva</i>	14	15	16	17	18
19	20	21	22	23	24	25

26	27	28	29	30	31	

VI. 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*