



OTP Weekly Briefing

REMINDER: PROSECUTOR-ELECT FATOU BENSOUDA IS SWORN-IN AS THE NEW ICC PROSECUTOR ON 15 JUNE AT 11AM IN COURTROOM 1

Issue #124

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2012

- **Prosecutor-Elect Bensouda's Official Visit to Norway**
- **Malawi not to host AU summit after row over Sudan leader**



NEWS

Prosecutor-Elect Bensouda's Official Visit to Norway

7-8 June – Prosecutor-Elect Bensouda travelled to Oslo to participate in a seminar on the occasion of the tenth anniversary of the entry into force of the Rome Statute, entitled *Societal Reintegration of Victims of Core International Crimes*, organized by the Forum for International Criminal and Humanitarian Law, with support from the Royal Norwegian Ministry of Foreign Affairs, in co-operation with the University of Oslo. In her keynote, the Prosecutor-Elect stressed that *"justice cannot be done in and out of the Courtroom if the voices of victims (...) are not heard. Inside the Courtroom, it is important to highlight the different dimensions of the horrible crimes they suffered and the consequences. Outside the Courtroom, it will help to put focus on the victims in the planning, designing and implementing of prevention, demobilization and reintegration programs."*



During her visit, the Prosecutor-Elect also met with senior representatives of the Norwegian Ministries of Foreign Affairs and Justice. With the Norwegian State Secretary for Foreign Affairs, Gry Larsen, the Prosecutor-Elect discussed *inter alia* issues of cooperation and political and diplomatic support for the Court, as well as efforts to combat gender crimes. With the Norwegian State Secretary Pål Lønseth the Prosecutor-Elect discussed matters relating to judicial cooperation and other issues of mutual concern.

The Prosecutor-Elect also met with a delegation from the Norwegian Parliament, including the Chair of the Standing Committee for Foreign Affairs, Ine M. Eriksen.

Malawi not to host AU summit after row over Sudan leader

8 June - [Malawi](#) has [said](#) it will not host the AU summit in July because of disagreements over the attendance of Sudan's President Omar al-Bashir. The AU has lobbied for the arrest warrant to be deferred and urged Malawi to allow Mr Bashir to attend. **"Much as we have obligations to the AU, we also have obligations to other institutions,"** Malawi Vice-President Kumbo Kachali said. *"After considering the interests of Malawians, I want to inform Malawians that the cabinet met today and decided it was not interested to accept the conditions by the African Union, therefore Malawi is not hosting the summit,"* Vice-President Kumbo Kachali reportedly stated. Kachali further added *"the African Union has written us a letter informing us that if we don't allow al-Bashir to come to Malawi, then they will move the summit to Addis Ababa in Ethiopia."* Sudanese Ministry of Foreign Affairs has also issued an official request to the AU Commission to move the summit to Addis Ababa.

OTP Activities

OVERVIEW

7 situations under investigation
14 cases in relation to 23 persons
11 outstanding arrest warrants
7 preliminary examinations in 4 different continents
Phases
1 case before Pre-Trial Chambers
6 cases before Trial Chambers
1 verdict

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 seven situations: [Afghanistan](#), [Honduras](#), [Korea](#) and [Nigeria](#) (phase 2b), [Colombia](#), [Georgia](#) and [Guinea](#) (Phase 3).



11 June - The Prosecutor and the Prosecutor-Elect received the visit of a delegation from Colombia, led by the recently elected Colombian Attorney General Eduardo Montealegre. This visit falls within the existing framework of cooperation and exchange of experiences and information between the ICC and the Republic of Colombia.

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 of conscripting, enlisting and using children to actively participate in hostilities committed in the Ituri region 2002 – 2003

Status: Judgment delivered on 14 March 2012; hearing for submissions of sentencing set for 13 June 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 from 15 to 23 May 2012

Warrant Pending

The Prosecutor v [Bosco Ntaganda](#) – charged with war crimes of conscripting, enlisting and using children to actively participate in hostilities committed in the Ituri region 2002-2003

Issued: 22 August 2006

31 May - UN High Commissioner for Human Rights Navi Pillay [expressed](#) alarm at the significant increase in large-scale atrocities by armed groups in the east of the DRC – including killings, rape, and the looting and burning of entire villages – and called for urgent action by the Government to stop further violence and ensure justice for the victims. Ms. Pillay highlighted that, as shown by the recent conviction of the former rebel leader Thomas Lubanga Dyilo, militia leaders can and must be held accountable for the atrocities committed by elements under their command and strongly encouraged the ICC as well as the Congolese judicial authorities to continue to investigate and prosecute those responsible.

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](#).

6 June - The UN Security Council heard the [briefing](#) by Ms. Margaret Vogt, Special Representative and Head of the United Nations Integrated Peacebuilding Office in the Central African Republic (BINUCA). The UNSC members commended the continued efforts in coordination with the AU, the UN and international partners to end the regional threat posed by the LRA, including through the arrest and surrender of senior LRA leaders and welcomed the capture of Caesar Acellam on 12 May. They welcomed BINUCA's efforts, in collaboration with the Central African Republic Government and other UN actors in the region, to encourage the defection of LRA fighters and abductees and to support the repatriation and reintegration of those who leave the LRA's ranks. They stressed the vital importance of a comprehensive approach for a lasting solution to the LRA threat.

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

The Prosecutor v [Abdel Raheem Muhammad Hussein](#) - charged with war crimes and crimes against humanity committed during attacks against the civilian population in Darfur August 2003 – March 2004

Issued: 1 March 2012

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 completed the presentation of its case on 21 March 2012

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)

28 May - Prosecutor v. William Samoei Ruto and Joshua Arap Sang

The Sang Defence [filed](#) written submissions on the agenda items listed for discussion at the status conference scheduled for 11 June 2012. It noted, *inter alia*, that the trial date should be set after the next general elections in Kenya, currently scheduled for March 2013 and that at this stage, it anticipates disclosing evidence and calling witnesses who will testify in Kiswahili, Kalenjin and Kikuyu. It also requested that TCV order a briefing schedule for the Parties to submit written submissions on their interpretation of the law on the critical definition of organisation and organisational policy and brought to the Chamber's attention the lack of permanent office space in the ICC complex for the Defence.

The Ruto Defence [filed](#) written submissions on the agenda items for the 11 June 2012 status conference. Noting Mr. Ruto's intention to submit his candidature for the Presidency, it suggested that the trial commence after March 2013 when the elections are to be held. The languages anticipated to be employed are Kalenjin, Kikuyu and Kiswahili. It also requested early disclosure of information relating to all intermediaries used by the Prosecution in the case and for the Chamber to indicate whether the definition of 'organisation' adopted by PTCII in the confirmation decision is seen as binding on TCV.

The Prosecution [filed](#) written submissions on the agenda items for the 11 June 2012 status conference. It submitted, *inter alia*, that: the trial date will depend on witness protection issues as well as on cooperation by the Accused and the Government of Kenya; the main languages used will be English and French, with occasional Swahili interpretation, and in exceptional cases, Kikuyu or Kalenjin interpretation. It anticipated requiring 12 months for the presentation of its case and proposed a system of "rolling disclosure" as to the identities of witnesses. It stated that it intends to seek guidance from the Chamber on the permissible scope of witness preparation.

28 May - Prosecutor v. Francis Kirimi Muthaura and Uhuru Muigai Kenyatta

The Muthaura Defence [filed](#) written submissions on the agenda items for the 12 June status conference, noting, *inter alia*, that: its ability to be ready for trial is largely dependent upon the Prosecution completing its disclosure obligations; the main languages to be used at trial will be English and Swahili; and it intends to raise an alibi under rule 79(1)(a). It also raised additional issues it wished to discuss at the status conference, mostly related to the Prosecution's amended DCC and IDAC.

The Kenyatta Defence [filed](#) written submissions on the agenda items for the 12 June status conference, noting, *inter alia*, that it is unable to provide an estimate of the date of readiness for trial as it has not received notification of all the evidence to be used by the Prosecution in the proceedings, nor the identities of the witnesses it intends to rely upon; and it is anticipated that the languages of English, Kiswahili and Kikuyu will be used during the proceedings. It also submitted a number of additional issues relating to the Prosecution's amended DCC and IDAC and requested that the trial be held in Kenya for reasons of judicial economy and to ensure that the judicial process takes place within the territory affected.

The Prosecution [filed](#) written submissions on the agenda items for the 12 June status conference. It submitted, *inter alia*, that: the trial date will depend on witness protection issues as well as on cooperation by the Accused and the Government of Kenya; the main languages used will be English and French, with occasional Swahili interpretation, and in exceptional cases, Kikuyu or Kalenjin interpretation; and it intends to call expert witnesses to provide evidence as to the context in which the crimes were committed. It anticipated requiring 12 months for the presentation of its case and proposed a system of "rolling disclosure" as to the identities of witnesses. It stated that it intends to seek guidance from the Chamber on the permissible scope of witness preparation.

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; the Chamber decided that Libya could postpone the execution of the request to surrender Saif Al-Islam Gaddafi on 1 June 2012, pending a final determination on the admissibility challenge.

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.

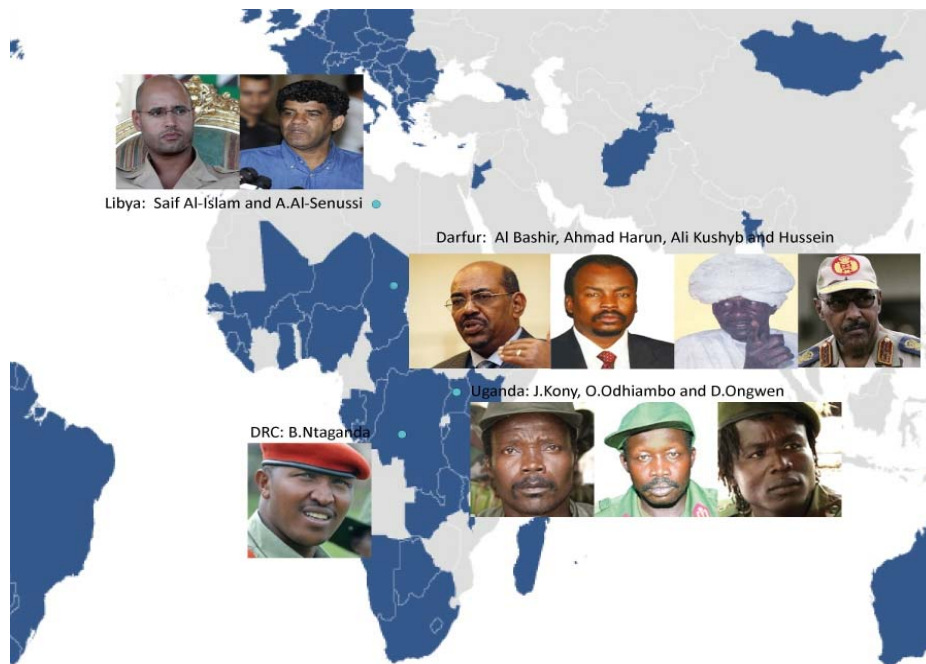
Issued: 23 November 2011 (under seal)

Status: initial appearance on 5 December 2011; confirmation of charges hearing set for 18 June 2012

12 June - Following the request submitted by Laurent Gbagbo's Defence, Pre-Trial Chamber I decided to postpone the opening of the confirmation of charges hearing in the case *The Prosecutor v. Laurent Gbagbo* to 13 August to preserve the rights of the Defence in fair proceedings. On 5 June 2012, Mr Gbagbo's Defence requested the Chamber to postpone the opening of the hearing to allow the Defence team to prepare for an effective and efficient defence. Deciding on this request, Pre-Trial Chamber I took into consideration the fact that, in the context of the legal aid accorded to Mr Gbagbo, the Defence team was granted additional resources by the Court shortly before the opening of the confirmation of charges hearing, initially scheduled on 18 June 2012. The Chamber decided to postpone the opening of the hearing, to give the Defence time to apply effectively these additional means for its preparation for the confirmation hearing.

III. Arrests - Cooperation

10 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 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**

The Prosecutor v Abdel Raheem Muhammad Hussein (more information [here](#))

Current location: **Khartoum, Sudan**

The Prosecutor v Saif Al-Islam Gaddafi and Abdullah Al-Senussi (more information [here](#))

Current location: **Libya / Mauritania**

IV. Other Co-operation



11 June - On the invitation of the Netherlands Ministry of Foreign Affairs, Prosecutor Moreno-Ocampo briefed the Ministry staff on recent developments in the work of the OTP and the Rome Statute system. Following the briefing, the Director General of Political Affairs Karel van Oosterom hosted a lunch to honour Prosecutor Moreno-Ocampo for his work over the past nine years. Prosecutor-Elect Fatou Bensouda and members of the diplomatic community also attended. Finally, Prosecutor Moreno-Ocampo and Prosecutor-Elect Bensouda met with Minister of Foreign Affairs, Uri Rosenthal, who thanked the Prosecutor and welcomed the election of the Prosecutor-Elect Bensouda.



6 June - At the invitation of the Danish Presidency, the OTP briefed Cojur-ICC about recent developments in the work of the Office.

V. Upcoming Events

June						
11	12	13 <i>Prosecutor attends the public hearing on sentencing in the Thomas Lubanga case</i>	14	15 <i>Swearing-in ceremony for the new ICC Prosecutor</i>	16	17
18	19	20	21	22	23	24
25	26	27 <i>Prosecutor Fatou Bensouda gives a speech at the Helen Stacy's Program on Human Rights, Stanford</i>	28	29	30	

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