


**Fifteenth session**

The Hague, 16-24 November 2016

**Report on the activities of the International Criminal Court**
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## I. The Court in brief: 2015-2016

### A. Introduction

1. The present report offers an overview of the activities of the International Criminal Court (ICC or Court) between **16 September 2015 and 15 September 2016**. The Court has maintained the practice of the past two years, structuring the report around the current situations before the Court and providing the most important statistics in a single table, in order to make available to the States Parties and relevant stakeholders a holistic view of the Court's activities.

### B. Overview of preliminary examinations and situations

2. During the reporting period, the Office of the Prosecutor (OTP or the Office) opened a preliminary examination into the situation in Burundi; continued preliminary examinations of the situations in Afghanistan, Colombia, Guinea, Iraq, Nigeria, Palestine, Ukraine, and of the Comoros referral; and concluded its preliminary examinations in Honduras and Georgia. The OTP published a report on its preliminary examination activities on 12 November 2015. A summary of preliminary examinations will be provided in part II of the present report.

3. As of 15 September 2016, the Court was seized of 19 cases and ten situations before the Court – Central African Republic (CAR I and CAR II); Uganda ; Democratic Republic of Congo (DRC); Darfur (Sudan) ; Kenya; Libya; Côte d'Ivoire; Mali and Georgia. A detailed overview of the activities emanating from each situation will be provided in Part III.

### C. ICC's years in numbers (*details provided in the annex*)

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In the courtroom	19 cases in 10 situations; 247 hearings with 85 witnesses testifying; 9708 victims represented; 707 decisions and 160 orders issued; 1 final judgment and 7 on interlocutory appeals rendered.
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Behind the courtroom	13,867 filings made; 46 defence and victims' teams assisted; 8 persons in custody; 3,748 victims applications for participation, with 2,292 victims granted participating status; 4,280 victims applications for reparation; 101 Lawyers added to the List of Counsel, with a total of 687; 444 Article 15 communications received; 2,245 Interpreter days; 34,581 transcribed pages; 24,792 translated pages; 12,138 visitors received, out of whom 9,849 attended hearings; 36,043 job applications processed, with 280 recruitments, and 736 staff members on established posts; 182 interns and 26 visiting professionals recruited; 1 Presidential Directive, 3 Administrative Instructions and 12 Information Circulars promulgated.
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In the field	52 witnesses/victims and 320 dependants relocated; 1,006 missions undertaken; 630 meetings with and workshops for affected communities, reaching out to around 33,696 individuals; 6 field offices, 1 field presence, and 1 liaison office; requests for arrest and surrender outstanding against 13 individuals.
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States-related	124 States Parties; 526 cooperation requests sent; 53 high-level visits from States welcomed at the Seat of the Court; 68 reports produced for the ASP and 68 documents for the CBF, amounting to 3,385 pages in total.
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## II. Preliminary examinations

### A. Afghanistan

4. Having found that the information available provides a reasonable basis to believe that Rome Statute crimes have been committed in the situation in Afghanistan, including sexual and gender-based crimes, and that the identified potential cases would be admissible before the Court, the Office began to gather information relevant for assessing whether there are substantial reasons to believe that an investigation would not serve the interests of

justice prior to making a decision on whether to seek authorization from the Pre-Trial Chamber to open an investigation. The Office engaged with relevant stakeholders to discuss matters relevant for the issue of the “interests of justice”, including the gravity of crimes and the interests of victims.

## **B. Burundi**

5. Since April 2015, Burundi has experienced violence between anti-Government protesters and Burundian security forces. In May 2015, the Prosecutor issued a public statement with regard to reports of pre-election violence in Burundi. The violence escalated following President Nkurunziza’s re-election for a third term in July 2015. Following a deterioration of the security situation in November 2015, the Prosecutor issued another public statement reminding all actors of the jurisdiction of the Court. On 25 April 2016, the Prosecutor opened a preliminary examination into the situation in Burundi, focused on acts of killing, imprisonment, torture, rape and other forms of sexual violence, as well as cases of enforced disappearances that have been allegedly committed since April 2015. Since then, the OTP has gathered information from various sources to determine whether there is a sufficient factual and legal basis to initiate an investigation. Throughout its activities with respect to the situation in Burundi, the OTP consulted with relevant stakeholders, including relevant UN bodies.

## **C. Colombia**

6. The OTP continued to analyse the relevance and genuine ability of national proceedings in order to reach determinations on admissibility. In doing so, it engaged with State authorities and relevant NGOs. The Colombian authorities took steps in their investigations against high-ranking officials for *false positives* cases, under the ordinary system, and against senior paramilitary leaders for sexual crimes and forced displacement under the Justice and Peace Law framework. During the reporting period, the OTP continued to carefully monitor developments relating to the negotiations between the Government of Colombia and the *Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo* (“FARC-EP”) and the beginning of the negotiations with the *Ejército de Liberación Nacional* (“ELN”). On 1 September 2016, the Prosecutor welcomed the announcement of the conclusion of the peace negotiations with the FARC-EP, highlighting the importance of genuine accountability in nurturing a sustainable peace. The Office will continue to closely monitor developments relevant to the finalization of the peace agreement and will continue its analysis of implementing legislation in order to assess its impact on the conduct of national proceedings relating to crimes under ICC jurisdiction.

## **D. Georgia**

7. The Office finalized its preliminary examination into the situation in Georgia and on 13 October 2015, pursuant to article 15 of the Statute, the Prosecutor requested the Pre-Trial Chamber I to authorize the commencement of an investigation into the situation in Georgia from the period 1 July 2008 until 10 October 2008. On 16 October 2015, the Prosecutor visited Tbilisi where she further informed victims and their representatives about her decision to request an authorization to open an investigation and explained the process of submitting victims’ representations to the Pre-Trial Chamber. More information can be found in paragraphs 60 to 62 regarding the start of the investigation.

## **E. Guinea**

8. The OTP continued to actively follow-up on the progress of national proceedings relating to the events of 28 September 2009 and to encourage Guinean authorities to hold to their commitment to set the stage for a trial in 2017. Additionally, the Office continued engaging with Guinean authorities, UN representatives, including with the UN Team of Experts on the Rule of Law and Sexual Violence in Conflict and the UN Judicial Expert deployed to support the panel of Guinean judges’ investigation, the EU and civil society to ensure and facilitate the adoption of pending investigative acts deemed essential for the

completion of the investigation in 2016. On 14 October 2015, following reports of growing tensions after the first round of presidential elections in Guinea, the Prosecutor issued a statement calling for calm and restraint from all political actors and their supporters. In February and June 2016, the OTP conducted missions to Conakry to take stock of the investigative steps taken by the panel of judges and gauge the prospect of completion of the national investigation and of the organization of a trial within a reasonable timeframe.

## **F. Honduras**

9. On 28 October 2015, the Office concluded that there was no reasonable basis to proceed with an investigation and decided to close the preliminary examination. A detailed report has been issued by the Prosecutor presenting the findings of the Office on subject-matter jurisdiction. Following the announcement, the OTP conducted a mission to Tegucigalpa, from 29 to 31 October 2015, to explain in detail its analysis and conclusions to Honduran authorities and civil society organizations.

## **G. Iraq/UK**

10. The OTP continued to gather and analyse information on alleged crimes by United Kingdom forces in the context of the armed conflicts in Iraq between March 2003 and July 2009. In this context, the Office further conducted a comprehensive evaluation of sources, including by carrying out missions to meet with relevant stakeholders and requesting further supporting material. The Office has also received and considered information on the progress of ongoing relevant national proceedings in the UK.

## **H. Nigeria**

11. In November 2015, the OTP found that the information available provides a reasonable basis to believe that crimes against humanity and war crimes under articles 7 and 8 of the Rome Statute have been committed in the context of the conflict between Boko Haram and Nigerian security forces. Since then, the OTP has focused on the admissibility assessment of the eight potential cases it has identified: six for conduct by Boko Haram and two for conduct by the Nigerian security forces. The Office conducted missions to Abuja in April and September 2016, during which it was able to engage with relevant civilian and military authorities and received information and supporting documentation relevant to these potential cases. The Office also examined new allegations of crimes committed in the situation in Nigeria including those unrelated to the conflict between Boko Haram and the Nigerian security forces.

## **I. Palestine**

12. The OTP continued to gather and evaluate information on alleged crimes committed by both parties to the 2014 Gaza conflict as well as certain alleged crimes committed in the West Bank and East Jerusalem since 13 June 2014, such as those related to settlement activities. The OTP also consulted and engaged with State authorities and intergovernmental and non-governmental organizations in order to address a range of issues relevant to the preliminary examination as well as specifically to seek additional information to further inform its assessment of the alleged crimes. The OTP held numerous meetings with national and international stakeholders and conducted a mission to Amman, Jordan, in March 2016. In October 2015, the Prosecutor also met with Palestinian President Mahmoud Abbas and addressed, among other things, the escalation of violence in the region and the need for calm and restraint by all sides.

## **J. Registered Vessels of the Union of the Comoros, the Hellenic Republic and the Kingdom of Cambodia**

13. On 6 November 2015, the Appeals Chamber, by majority, found inadmissible and dismissed *in limine* (without discussing the merits) an appeal filed by the Prosecutor on 27 July 2015 against the 16 July 2015 Decision of Pre-Trial Chamber I granting the

application of the Union of the Comoros for review of the Prosecutor's November 2014 decision not to proceed with an investigation. Following the Appeals Chamber's decision, the OTP undertook the process of reconsidering its original 2014 decision. In particular, the OTP reviewed its previous findings, in reference to the specific issues raised by the PTC decision requesting reconsideration, as well as further submissions and materials received since January 2016 from the Representatives of the Government of the Union of Comoros, with a view to reaching a final conclusion on the matter.

## **K. Ukraine**

14. Subsequent to Ukraine's second declaration lodged under article 12(3) of the Rome Statute on 8 September 2015, allowing the Court to exercise jurisdiction with regard to events occurring from 20 February 2014 onward, the Office carried out a factual and legal analysis of alleged crimes committed across Ukraine and in particular those related to Crimea and the fighting in eastern Ukraine, to determine whether the criteria established by the Rome Statute for the opening of an investigation are met. The Office engaged with a wide range of actors, including the Government of Ukraine, international and regional organizations, and Ukrainian civil society to discuss matters related to the preliminary examination. For this purpose, the Office conducted a mission to Kyiv in October 2015 and held meetings at the seat of the Court.

## **III. Situations before the Court**

15. During the reporting period, 2571 victims were admitted to participate in proceedings before the Court. Similarly, the Court also received 51 new applications forms for participation of victims, 714 application forms for reparations, 3581 joint application forms for participation and reparations. In addition the Court received representations by or on behalf of 6,335 victims, conveyed through 43 individual submissions and 26 collective submissions.

### **A. Situation in the Central African Republic**

#### **1. Investigations**

16. The investigations initiated by the Office of the Prosecutor on 24 September 2014 in the second CAR situation continue. The OTP focuses its current investigations into allegations of crimes that have reportedly been committed by the armed groups known as the ex-Séléka (broadly applicable for the entire period, regardless of the current composition of the groups currently claiming this name) on one side, and the anti-Balaka (idem), on the other side.

17. The OTP has set up two integrated teams that are working in coordination and consultation on two different aspects of this situation. The integrated teams are actively investigating on the territory of the CAR, in neighbouring countries, in the sub-region and beyond and anywhere where relevant information and/or potential witnesses have been identified. Teams of investigators are deployed on an almost permanent basis to the CAR, rotating regularly, to collect testimonies and various types of evidence, including technical and forensic evidence, and benefiting from the active cooperation of the CAR authorities, the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) and other local, regional and international partners.

#### **2. Judicial developments**

##### *a) The Prosecutor v. Jean-Pierre Bemba Gombo*

18. On 21 March 2016, Trial Chamber III unanimously found Mr. Bemba guilty of two counts of crimes against humanity (murder and rape) and three counts of war crimes (murder, rape and pillaging). On 21 June 2016, Mr. Bemba was sentenced to 18 years imprisonment by the Trial Chamber.

19. On 4 April 2016, Mr. Bemba lodged an appeal against Trial Chamber III's conviction. The Appeals Chamber granted an extension of time for his defence team to file the appeal by 19 September 2016. In addition, on 22 July 2016, the Defence and Prosecution filed an appeal against the sentencing decision. Reparations proceedings have commenced.

- b) *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*

20. The trial, in relation to charges of offences against the administration of justice pursuant to article 70 of the Rome Statute, opened on 29 September 2015 with the delivery of the Prosecutor's opening statements before Trial Chamber VII. The Defence's opening statements and presentation of evidence commenced on 29 February 2016. On 29 April 2016, Trial Chamber VII closed the submission of evidence in the case. The trial's closing oral statements were presented on 31 May 2016 and 1 June 2016. The judgment will be delivered on 19 October 2016.

### 3. Field Activities

21. The unstable security and political situation continued to influence the Court's field operations in CAR. Nonetheless, the Court continued efforts aimed at establishing a fully-fledged field office while securing the necessary cooperation from the Government for the ongoing cases. The progress made in the CAR situation would not have been achieved without the hard work of the field staff in Bangui. The cooperation of the CAR Government and support of MINUSCA during the forensic missions is particularly noteworthy.

22. The Court kept the affected communities apprised, to the extent possible, about the verdict and sentence in the Bemba case and key judicial developments in the Bemba *et al.* case. Due to security conditions, meetings and workshops with affected communities, journalists, national civil society members, local authorities, law professionals and students were solely carried out in Bangui.

## B. Situation in Côte d'Ivoire

### 1. Investigations

23. The OTP conducted 35 missions to nine countries for the purpose of collecting additional evidence, screening and interviewing or re-interviewing witnesses and securing the continued cooperation of partners.

24. In parallel, the OTP has continued investigations of alleged crimes committed by all parties to the conflict during the post-election period.

### 2. Judicial Developments

- a) *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*

25. On 28 January 2016, the trial of Messrs. Gbagbo and Blé Goudé opened before Trial Chamber I, commencing with the opening statements of the Prosecution. The trial proceedings are ongoing with the continued presentation of evidence by the Prosecution.

- b) *The Prosecutor v. Simone Gbagbo*

26. There were no major judicial developments to report. The request for the arrest and surrender of Ms. Gbagbo remains outstanding.

### 3. Field Activities

27. The Field Office continued conducting outreach activities with affected communities, NGOs, local leaders, media, and the youth of Abidjan in relation to the main judicial developments in the Gbagbo and Blé Goudé case. Similarly, outreach activities

were conducted in the western part of the country (Bangolo, Duékoué, Guiglo, Bolequin, Mans, Danané, and Toulepleu). The Field Office successfully concluded the contest “budding geniuses” on ICC with over 450 young Ivorians. The information gathered through the contest was simultaneously broadcast by seven radio programs on seven radio stations, reaching an estimated population of 2.5 million Ivorian people.

28. In addition to helping obtain the cooperation of the Government of Côte d’Ivoire in relation to the ongoing investigations, the Field Office in Abidjan facilitated the support and movement of witnesses.

## **C. Situation in Darfur**

### **1. Investigations**

29. As highlighted in its December 2015 and June 2016 reports to the UN Security Council pursuant to UN Security Council Resolution 1593 (2005), the OTP is continuing its investigations with a view to bringing justice to the victims of the alleged Rome Statute crimes committed in Darfur. Although the Office is constrained by the non-execution of the long outstanding arrest warrants and a severe lack of resources, it continues to interview witnesses, gather more documentary evidence, develop investigative leads with the potential for yielding evidence, and refine systems to gather information, also in relation to allegations of continuing crimes committed in Darfur.

30. Additionally, investigative opportunities have arisen in recent months to further develop the existing cases.

31. The OTP conducted 21 missions to seven countries and continues to monitor trends that could constitute crimes under the Rome Statute, including alleged aerial bombardments, ground attacks, killings, and attacks on civilians, sexual violence, forced displacement, attacks on humanitarian aid workers and peacekeepers, and arbitrary detentions.

32. Lack of full cooperation continues to hinder OTP’s investigative and prosecutorial activities. During this reporting period, Mr. Omar Al Bashir has regularly travelled across international borders. The Orders issued by Pre-Trial Chamber II on 15 April 2015 require that the Registrar, whenever the Court is informed of travel of a person subject to an arrest warrant to States Parties, remind those States Parties of their obligation to cooperate with the Court in the arrest and surrender of that person. The Orders furthermore require the Registrar to file a report with the Chamber concerning such travel. In addition to the visits to Uganda and Djibouti, discussed below, the Registry filed a report on 9 September 2016 in relation to media reports of Mr. Al Bashir’s visit to Chad on 8 August 2016.

### **2. Judicial developments**

#### *a) The Prosecutor v. Omar Hassan Ahmad Al Bashir*

33. On 11 July 2016, Pre-Trial Chamber II determined that Uganda and Djibouti had failed to comply with the request for the arrest and surrender of Mr. Al Bashir to the Court. Accordingly, the Presidency referred these findings of non-compliance to the Assembly of States Parties and the UN Security Council.

#### *b) The Prosecutor v. Abdallah Banda Abakaer Nourain*

34. On 19 November 2015, Trial Chamber IV made a finding that Sudan failed to cooperate with the Court by refusing to execute pending requests for the arrest and surrender of Mr. Banda. The Presidency referred this decision to the UN Security Council.

#### *c) The Prosecutor v. Ahmad Muhammad Harun ("Ahmad Harun") and Ali Muhammad Ali Abd-Al-Rahman ("Ali Kushayb")*

35. There were no major judicial developments to report. The request for the arrest and surrender of Messrs. Harun and Kushayb remains outstanding.

d) *The Prosecutor v. Abdel Raheem Muhammad Hussein*

36. There were no major judicial developments to report. The request for the arrest and surrender of Mr. Hussein remains outstanding.

**3. Field Activities**

37. As reported last year, the field situation has not changed. Due to the absence of proceedings as a result of the non-execution of arrest warrants, as well as the lack of cooperation or assistance by the Government of Sudan, including not granting access to its territory, the Court was not able to undertake any outreach activities.

**D. Situation in the Democratic Republic of Congo**

**1. Investigations**

38. The investigations into alleged crimes committed in the Democratic Republic of the Congo, in particular the Kivu provinces, continue. The OTP continued its investigation and its work in support to the on-going cases. It conducted 15 missions in 7 countries in relation to its investigation and trial preparation in the case against Mr. Ntaganda, for the purpose of, inter alia, collecting evidence, screening and interviewing witnesses and securing continued cooperation. Additionally, the OTP on various occasions requested the lifting of restrictions on UN and other sources' documents it intends to use during trial and has sought the assistance of the UN and other partners in making available (former) staff members to testify during trial.

39. Continuous discussion and liaison took place on the outstanding arrest warrant against the alleged military commander of the "Forces Démocratiques de Libération du Rwanda" (FDLR), Sylvestre Mudacumura. The OTP conducted one mission for its investigations related to alleged crimes committed by the FDLR in the Kivu provinces.

40. Beyond the existing cases, the Office continues its active examination of alleged crimes and potential cases in the DRC and keeps pro-active discussions with the DRC authorities on closing the impunity gap and fostering support for national investigations by DRC and third States into these crimes.

**2. Judicial developments**

a) *The Prosecutor v. Thomas Lubanga Dyilo*

41. On 22 September 2015, a panel of three judges of the Appeals Chamber decided not to reduce the sentence of Mr. Lubanga who, at the time, had four and a half years left to serve his total sentence. Following this, on 8 December 2015, the Presidency, taking note of Mr. Lubanga's preference to serve his sentence of imprisonment in his state of nationality, designated the DRC as the State of enforcement.

42. On 3 November 2015, the Trust Fund for Victims submitted its draft implementation plan for reparations before Trial Chamber II. Following the Chamber's request on 9 February 2016 for further information on the proposed reparations programme, reparations proceedings are underway. Further, proposals on the anticipated monetary amount of Mr. Lubanga's liability are due in December 2016.

b) *The Prosecutor v. Germain Katanga*

43. On 13 November 2015, a panel of three judges of the Appeals Chamber decided to reduce Mr. Katanga's total sentence of 12 years imprisonment by three years and eight months, setting the date for the completion of his sentence to 18 January 2016. On 8 December 2015, the Presidency designated the DRC as the state in which Mr. Katanga would serve the remainder of his sentence of imprisonment. As at the end of the reporting period, reparations proceedings are underway.



44. On 7 April 2016, the Presidency approved the prosecution of Mr. Katanga by the Democratic Republic of the Congo at the request of the DRC authorities. On 9 June 2016, the Appeals Chamber dismissed as inadmissible Mr. Katanga's appeal against the Presidency's decision.

c) *The Prosecutor v. Bosco Ntaganda*

45. On 2 September 2015, the trial commenced with the opening statements of the parties and the participants before Trial Chamber VI. The Prosecutor called its first witness on 15 September 2015 and the trial is on-going.

d) *The Prosecutor v. Sylvestre Mudacumura*

46. There were no major judicial developments to report. The request for the arrest and surrender of Mr. Mudacumura remains outstanding.

### 3. Field Activities

47. The Court's Field Office in Kinshasa continued to play a key role in securing the necessary cooperation from the Government for the implementation of requests for judicial cooperation. The United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) continued lending essential support to the Court's operations.

48. Outreach activities focused on publicizing the on-going trial of Mr. Bosco Ntaganda to the communities in Ituri and Kivu via various radio stations. Furthermore, the Field Office focused on increasing the understanding and managing expectations of the concerned population and stakeholders regarding the return of both Mr. Lubanga and Mr. Katanga to DRC as well as the on-going reparations proceedings before the Court.

## E. Situation in Georgia

### 1. Investigations

49. On 27 January 2016, Pre-Trial Chamber I granted the Prosecutor authorization to commence an investigation into the Situation in Georgia in relation to crimes that fall within the ICC's jurisdiction, allegedly committed in and around South Ossetia, between 1 July 2008 and 10 October 2008.

50. Since the authorization was granted by the Pre-Trial Chamber, the OTP has prepared for and commenced the process of evidence collection by, inter alia, reviewing material already in its possession, drafting the necessary strategic documents and plans and conducting a number of missions in close coordination with the Registry, or jointly when appropriate.

51. The OTP encourages cooperation from all parties throughout the investigation; such cooperation will contribute to the impartiality and the effectiveness of the investigation and will allow the OTP to access alleged crime scenes, relevant evidence and victims.

### 2. Field Activities

52. Following OTP's announcement of its intention to proceed with an investigation into the Georgia situation, the Registry's experts on victims' participation and reparations (VPRS) successfully conducted a field mission, assisting the submission of representations on behalf of 6,335 victims in relation to the Prosecution's proposed investigation. Following the Pre-Trial Chamber's authorization of the OTP's investigation into the Georgia situation, efforts were undertaken to plan a large scale information campaign to better inform the population of the mandate and activities of the Court.

## **F. Situation in Kenya**

### **1. Investigations**

53. The OTP continued to investigate alleged instances of offences against the administration of justice under Article 70 of the Rome Statute.

### **2. Judicial developments**

#### *a) The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*

54. On 5 April 2016, Trial Chamber V(A) decided by majority to terminate the case against Messrs. Ruto and Sang, to vacate the charges and to discharge the accused without prejudice to their prosecution afresh in future.

#### *b) The Prosecutor v. Walter Osapiri Barasa*

55. There were no major judicial developments to report. The request for the arrest and surrender of Mr. Barasa remains outstanding.

#### *c) The Prosecutor v. Paul Gicheru and Philip Kipkoeh Bett*

56. There were no major judicial developments to report. The request for the arrest and surrender of Messrs. Gicheru and Bett remains outstanding.

### **3. Field Activities**

57. The Kenya Field Office continued its efforts to engage with the diplomatic community, various stakeholders and NGOs, to explain essential aspects of the judicial process. The outreach team held press briefings and used mainstream media to explain key judicial decisions and provide updates on the on-going cases.

58. Further to the Trial Chamber's decision to terminate the proceedings in the cases against Mr. Ruto and Mr. Sang, without prejudice, interactive sessions were held with representatives of the community-based organizations explaining the decisions and the impact on victims.

## **G. Situation in Libya**

### **1. Investigations**

59. The OTP conducted 17 missions in seven countries and continues to monitor allegations of crimes committed by various armed groups and militias in Libya. During the reporting period, the OTP also closely cooperated with the United Nations Support Mission in Libya and the office of the Libyan General Prosecutor.

60. The investigative leads obtained and processed in the past months are connected both to investigations into officials linked to the reign of Muammar Gaddafi (some of whom may be involved also in ongoing crimes), as well as to the ongoing crimes in Libya, such as those alleged to have been committed by Daesh and Ansar Al-Sharia.

61. The Prosecutor presented her 10th and 11th reports to the Security Council on the situation in Libya, respectively on 26 October 2015 and 26 May 2016, updating the Council on the Saif Al-Islam Gaddafi and Al-Senussi cases and on the status of cooperation with the Government of Libya. The Office has continued to explore other avenues through which Mr. Gaddafi could be surrendered to the Court. In this sense, the Office has requested the Pre-Trial Chamber I to order the Registry to transmit the request for Saif Al-Islam Gaddafi's arrest and surrender directly to Mr. al-'Ajmi al-'Atiri, commander of the Abu-Bakr al-Siddiq Battalion in Zintan, Libya which allegedly continues to have custody of Mr. Gaddafi.

62. In its 10th and 11th reports to the Security Council the OTP also reiterated that relative progress has been made in respect of the ongoing investigation. The current level of crime within Libya being committed by a variety of organizations and having an impact beyond the borders of Libya due to the transnational, organized, financial and terrorist nature of such crimes is also assessed to be high. Avenues of enquiry are still being pursued, potential evidence identified and obtained, and where possible, interviews are being conducted. The OTP is working with its partners at the national and international level to have a coordinated approach to maximize the impact of work within each individual mandate. In this regard, the OTP will continue its consultations with relevant international and regional partners and agencies for the purpose of exploring the possibility of cooperation, coordination and information sharing, where appropriate.

## 2. Judicial developments

### a) *The Prosecutor v. Saif Al-Islam Gaddafi*

63. In light of recent information indicating that Mr. Gaddafi is being held in the custody of the Zintan militia, Pre-Trial Chamber I ordered on 2 June 2016 that the Registrar liaise with Libyan authorities to determine whether the request for the arrest and surrender of Mr. Gaddafi could be addressed to the militia in Zintan.

## H. Situation in Mali

### 1. Investigations

64. The OTP conducted 46 missions to nine countries for the purpose of collecting evidence, screening and interviewing witnesses, and securing the continued cooperation of its partners, including States in the Sahel region.

65. The OTP investigations' initial geographical focus has been at the three northern regions. In addition to giving attention to allegations concerning attacks against buildings dedicated to religion and historic monuments, including those with World Heritage status, the OTP continued to gather evidence on allegations pertinent to sexual and gender-based crimes and other possible war crimes and crimes against humanity committed. The OTP has sought and obtained extensive cooperation from the UN agencies present in Mali, particularly from the Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) and as regards the attacks against monuments, in particular from the UN Educational, Scientific and Cultural Organization (UNESCO).

### 2. Judicial developments

#### a) *The Prosecutor v. Amad Al Faqi Al Mahdi:*

66. On 18 September 2015, a warrant of arrest against Mr. Al Mahdi was issued by Pre-Trial Chamber I for war crimes of intentionally directing attacks against historic monuments and buildings dedicated to religion. Following this, Mr. Al Mahdi first appeared before the Court on 30 September 2015. The charges brought against Mr. Al Mahdi were confirmed on 24 March 2016 by Pre-Trial Chamber I.

67. The trial was held before Trial Chamber VIII from 22 to 24 August 2016. On this occasion, Mr. Al Mahdi entered a plea of guilty. The trial judgement was delivered on 27 September 2016.

### 3. Field Activities

68. The Field Office played a key role in ensuring the requisite cooperation from the Malian Government in relation to the proceedings in the Al Mahdi case. Due to security constraints and in the absence of outreach staff in the field, activities to make the judicial developments accessible to the Malian population were conducted from The Hague. Television and radio programmes on the confirmation of charges and the trial proceedings were produced and broadcast through the local media, and were made available to local

NGOs for further distribution. Furthermore, representatives of Malian TV and radio were invited to attend key hearings in The Hague.

69. Due to the security situation, no Registry staff from VPRS were present in the field. The support of local organizations working with victims was key in ensuring the provision of information to the affected communities. Consequently, a limited number of applications were received by the Court.

## **I. Situation in Uganda**

### **1. Investigations**

70. In the context of its investigations on the Lord's Resistance Army (LRA), and case against Dominic Ongwen, the OTP conducted 70 missions in 3 countries. In particular, the OTP further investigated alleged crimes of sexual and gender-based violence, crimes resulting from attacks on four separate internally displaced persons' camps, persecution, and the conscription and use of child soldiers.

The OTP also conducted numerous meetings with representatives of the Government of Uganda, the Ugandan armed forces and other institutions in Uganda with relation to the investigations on the LRA, seeking to obtain further evidence and identify additional witnesses to support the charges against Mr. Ongwen.

71. While the current focus is on the case against Mr. Ongwen, the OTP continues to be receptive to evidence of crimes committed by persons apart from those against whom warrants have been issued. In accordance with article 54 of the Rome Statute, the OTP is investigating both incriminating and exonerating circumstances equally. With proceedings against Raska Lukwiya (2007) and Okot Odhiambo (2015) terminated, just two of the arrest warrants issued against members of the LRA leadership, Joseph Kony and Vincent Otti, remain pending execution. The OTP is in the process of verifying reports and information indicating that Vincent Otti may be dead.

### **2. Judicial developments**

#### *a) The Prosecutor v. Dominic Ongwen*

72. On 23 March 2016, the charges of war crimes and crimes against humanity brought against Mr. Ongwen were confirmed by Pre-Trial Chamber II. The case has been assigned to Trial Chamber IX, which has scheduled 6 December 2016 as the opening date for the trial. It is expected that the presentation of evidence by the Prosecution will commence in January 2017.

#### *b) The Prosecutor v. Joseph Kony and Vincent Otti.*

73. There were no major judicial developments to report. The request for the arrest and surrender of Messrs. Kony and Otti remains outstanding.

### **3. Field Activities**

74. The Uganda Field Office has been at the forefront of implementing the new organizational structure of the Registry. A multidisciplinary team consisting of field outreach and victims experts together with representatives of the Office of the Prosecutor and Trust Fund for Victims engaged in a wide array of outreach activities targeting the affected communities, thus fostering their sense of trust and ownership of the ICC judicial process.

75. The Office played an important role in facilitating the activities of the Court in the region, while the outreach activities conducted in Northern Uganda increased and deepened the understanding of the affected communities about the Court's activities in preparation for the upcoming Ongwen trial.

## J. Outstanding requests for arrest and surrender

76. Requests for arrest and surrender issued by the Court remain outstanding against 13 individuals:

- (a) DRC: Sylvestre Mudacumura, since 2012;
- (b) Uganda: Joseph Kony and Vincent Otti, since 2005;
- (c) Darfur: Ahmad Harun and Ali Kushayb, since 2007; Omar Al Bashir, since 2009; Abdel Raheem Muhammad Hussein, since 2012; Abdallah Banda, since 2014;
- (d) Kenya: Walter Barasa, since 2013; Paul Gicheru and Philip Kipkoech Bett, since 2015;
- (e) Libya: Saif Al-Islam Gaddafi, since 2011; and
- (f) Côte d'Ivoire: Simone Gbagbo, since 2012.

## IV. Administration, management, and judicial support activities

77. The following paragraphs will highlight the Court's main achievements in the fields of administration, management and judicial support.

78. The judges continued work on expediting the criminal process through the identification of best practices and by contributing their own experiences and expertise. Significant progress was made on the harmonization of practices in relation to victim applications to participate in the judicial proceedings. This new, simplified application system is expected to result in efficiency gains. Furthermore, the judges adopted an amendment to Rule 165 of the Rules of Procedure and Evidence with a view to enhancing the overall efficiency of proceedings with regard to offences against the administration of justice. Judges also worked on amendments to the Regulations of the Court with a view to streamlining the conduct of court proceedings. During the reporting period, the previously adopted Pre-Trial Practice Manual was expanded to include trial and appeals related issues, and was accordingly renamed Chambers Practice Manual.

79. On the initiative regarding performance indicators, the Court continued its efforts to develop meaningful Court-wide indicators on the basis of its November 2015 report to the Assembly. In the course of 2016, a series of workshops and meetings took place with internal and external stakeholders, including a retreat of the Court leadership and some external stakeholders in Glion, Switzerland, organized by the Swiss Government. Furthermore, in the context of strengthening its governance framework, the Court has commenced review of its Anti-Fraud and Whistleblower Protection policies.

80. The Court prepared its financial statements in accordance with International Public Sector Accounting Standards (IPSAS) for the year ended 31 December 2015. The External Auditor issued a qualified audit opinion as it contains limitation of scope with regards to the value of the Court's permanent premises in the absence of a signed final agreement with the contractor. Except for the above matter, the audit opinion states that the financial statements give a fair view of the financial position of the Court as of 31 December 2015.

81. The Court moved successfully to its new premises beginning on 8 December 2015. The Interim Premises were returned to their owners with no redelivery costs on the part of the Court. Proceedings at the permanent premises commenced on 12 January 2016. During the course of 2016, the Court, with the support of the Project Director's Office (permanent premises) has been finalizing the installations and configuration of systems at the permanent premises. The guarantee period runs until 31 October 2016 when the final handover of the permanent premises to the Court will take place.

82. On 16 November 2015, the OTP released the final version of its Strategic Plan for 2016-2018. This Plan builds upon the prosecutorial policy outlined in the 2012-2015 Strategic Plan; continuing to make quality a central feature of the functioning and performance of the Office in all spheres of its work. The 2016-2018 Strategic Plan aims to further develop the Office's high performance and adapt it to existing challenges, and its implementation

has already showed positive results. Viewed together, the combination of the new Strategic Plan, the OTP's Basic Size document, the performance indicators and the risk management initiatives undertaken by the Office, offers States Parties and other stakeholders, a comprehensive and integrated picture of the way forward for the Office in the years to come.

83. The OTP also released two draft Policy Papers for a process of extensive consultations, as per the OTP's policy. A draft Policy Paper on Case Selection and Prioritisation was first circulated on 29 February 2016, and the OTP held consultations with civil society partners at the seat of the Court, in collaboration with REDRESS, on 9 March 2016. The final version of this Policy was published in September 2016. This Policy provides guidance on how the OTP exercises its discretion in the selection and prioritization of cases.

84. The OTP also released a draft Policy Paper on children on 22 June 2016 for external comments and input. The goal of the policy, once finalized, is to help guide the OTP in its efforts to address international crimes under the Rome Statute against or affecting children, as well as the Office's interaction with children during the course of its work. Thanks to financial support from the European Commission, the OTP organized a one-day consultation with experts on the draft policy at the seat of the Court, on 11 July 2016. The final version of the policy is expected to be issued in October, and will be officially launched on the first day of the 15th session of the ASP, during an official event organized by the OTP, thanks to the support from a wide range of States and international and non-governmental organizations.

85. Finally, the OTP has continued the implementation of its Policy Paper on Sexual and Gender-Based Crimes, and has engaged in a series of activities, stressing *inter alia* the importance of the effective investigation and prosecution of sexual and gender-based crimes by the Court and by national courts, in order to end impunity for perpetrators of sexual violence crimes.

## V. Conclusion

86. As anticipated in last year's report, the reporting period (16 September 2015 to 15 September 2016) proved to be the busiest year so far for the Court, with unprecedented judicial activity. Trial hearings were held in a total of five cases, and another trial is scheduled to commence before end of the year. The Court issued its first conviction for sexual violence and command responsibility (the case is on appeal) and commenced as well as finished its first trials for the destruction of cultural property and for offences against the administration of justice, the former also involving the first ever admission of guilt before the Court. The verdicts in these two cases were scheduled for 27 September 2016 and 19 October 2016, respectively. Reparations proceedings are ongoing in three cases. For the first time, persons convicted by the Court were sent to a State of enforcement. The Prosecutor opened a new investigation as well as one new preliminary examination during the reporting period.

87. To manage the increasing workload, the Court has continued concerted efforts to increase the effectiveness and efficiency of its operations. At the same time, the Court continues to face significant external challenges, and the strong support of States and relevant international actors remains of utmost importance.

88. In terms of the Court's cooperation needs, key areas highlighted in last year's report remain valid, including the execution of arrest warrants, freezing of assets, facilitation of access to witnesses and evidence, and the protection of witnesses. The Court is grateful for the support and cooperation received so far and calls upon its State Parties to step up efforts in these areas with a view to ensuring the effective functioning of the Rome Statute system. The Court looks forward to continuing its dialogue with the States Parties in this regard.

## Annex

## ICC's years in numbers

<i>Where</i>	<i>What</i>	<i>Details and remarks</i>
	19 cases and 10 situations	DRC – 1) <i>Lubanga</i> , 2) <i>Ntaganda</i> , 3) <i>Katanga</i> , 4) <i>Mudacumura</i> ; CAR – 5) <i>Bemba Gombo</i> , 6) <i>Bemba et al.</i> ; CAR II – no case; UGANDA – 7) <i>Dominic Ongwen</i> ; 8) <i>Joseph Kony and Vincent Otti</i> ; DARFUR (SUDAN) – 9) <i>Al Bashir</i> , 10) <i>Ahmad Harun and Ali Kushayb</i> , 11) <i>Banda</i> , 12) <i>Hussein</i> ; KENYA – 13) <i>Ruto and Sang</i> , 14) <i>Barasa</i> , 15) <i>Paul Gicheru and Philip Kipkoech Bett</i> ; LIBYA – 16) <i>Gaddafi</i> ; COTE D'IVOIRE – 17) <i>Laurent Gbagbo and Blé Goudé</i> ; 18) <i>Simone Gbagbo</i> ; MALI – 19) <i>Al Mahdi</i> ; GEORGIA – no case.
In the courtroom	247 hearings with 85 witnesses testifying	Witnesses physically appeared before the Court in The Hague (75 individuals) or by means of video-link (10 individuals).
	11,274 participating victims	More than 5,000 victims represented in the <i>Bemba</i> case, more than 2,000 in the <i>Bosco Ntaganda</i> case, more than 700 in the <i>Gbagbo- Blé Goudé</i> case, more than 2,000 in the <i>Ongwen</i> case and 8 in the <i>Al Mahdi</i> case. The victims participating in the <i>Ruto and Sang</i> case are not included in this indicator as these cases are no longer active. Victims are represented by external counsel or, in the <i>Gbagbo-Blé Goudé</i> and <i>Bosco Ntaganda</i> cases, by the Office of Public Counsel for Victims (OPCV). In the <i>Ongwen</i> case, victims are divided in 2 groups, 1 group is represented by an external Counsel and the other group by the OPCV. Unlike during last year's report, the <i>Ruto-Sang</i> and <i>Kenyatta</i> cases are not accounted for as these cases are no longer judicially active.
	707 decisions and 160 orders issued	Decisions: excluding annexes (usually separate/dissenting opinions) – 630; excluding redacted versions (including the annexes) – 567; excluding corrigenda (including the annexes) – 686; Orders: excluding annexes – 150; excluding redacted versions (including the annexes) – 150; excluding corrigenda (including the annexes) – 155.
	1 final judgment and 7 judgments on interlocutory appeals	Final judgment: <i>The Prosecutor v. Jean-Pierre Bemba Gombo</i> , (ICC-01/05-01/08), ICC-01/05-01/08-3343, Judgment pursuant to Article 74 of the Statute (21 March 2016) and public annexes A, B, C, D, E and F (21 March 2016); includes only originals and excludes translations and redacted versions, dissenting/ separate opinions.
	13,867 filings made	Includes originals, translations and annexes.
	46 defence and victims' teams assisted	Assistance includes legal research and advice, assistance for hearings, receiving and/or uploading disclosure, assisting in filing, and conducting specialised training (Office of the Public Counsel for the Defence/Office of Public Counsel for Victims), as well as logistical and administrative support (Counsel Support Section). 21 defence teams: <i>Lubanga</i> , <i>Katanga</i> , <i>Ngudjolo</i> , <i>Ntaganda</i> , <i>Bemba</i> , <i>Bemba (Art. 70)</i> , <i>Banda</i> , <i>Arido</i> , <i>Mangenda</i> , <i>Babala</i> , <i>Kilolo</i> , <i>Blé Goudé</i> , <i>Gaddafi</i> , <i>Gbagbo</i> , <i>L.</i> , <i>Gbagbo</i> , <i>S.</i> , <i>Kenyatta</i> , <i>Ruto</i> , <i>Sang</i> , <i>Ongwen</i> , <i>Al Mahdi</i> . 25 victims' teams: out of which, 1 victims' team was newly appointed.
Behind the courtroom	8 persons in custody	Total number (8) of persons in custody during the reporting period; varied between 6 and 8 at any one point; Mr <i>Lubanga</i> , Mr <i>Katanga</i> (both transferred to serve sentence on 18-Dec-15), Mr <i>Ntaganda</i> , Mr <i>Bemba</i> , Mr <i>Gbagbo</i> , Mr <i>Blé Goudé</i> , Mr <i>Ongwen</i> and Mr <i>Al Mahdi</i> (arrived 26-Sep-15).
	3,748 victims applications for participation, 2,292 victims were granted participating status	The vast majority represent applications related to the <i>Ongwen</i> case; others are related to the Situation in Côte d'Ivoire.
	4,280 victims applications for reparation	The vast majority represent applications related to the <i>Ongwen</i> case; others are related to the Situation in Côte d'Ivoire and to the <i>Katanga</i> case.
	101 lawyers added to the list of counsel with a total of 687 persons	In addition, 64 persons added to the List of Assistants to Counsel, making a total of 277 persons.
	444 Article 15 communications received	Between 1 September 2015 and 31 July 2016, the OTP registered 444 communications relating to article 15 of the Rome Statute, of which 329 were manifestly outside the Court's jurisdiction; 15 were linked to an investigation, 35 warranted further analysis and 65 were linked to a preliminary examination.

<i>Where</i>	<i>What</i>	<i>Details and remarks</i>
	2,245 interpreter days	Covers the period from 1 September 2015 to 1 September 2016. Court and conference interpretation: hearings, seminars/ roundtables, visits from delegations, NGO/diplomatic briefings and others – 1,829 interpreter days; Field interpretation, excluding OTP – 416 days.
	34,581 transcribed pages	Includes French and English transcripts.
	24,792 translated pages	Judicial translations for all situations and cases – 20,212 pages; non-judicial translations (in working, official and situational languages of the Court) – 4,580 pages.
	12,138 visitors received, out of which 9,849 attended hearings	VIP visits (ministerial level and above) – 53, or around 365 individuals; stakeholder visits (diplomats, NGOs, lawyers, prosecutors and journalists) – 107 visits, or 1,918 individuals; general information visits by university students and public at large – 486 visits, or 8,579 individuals.
	36,043 job applications processed, with 280 recruitments, and 736 staff members on established posts	During the period covered: 8,795 applications for short-term positions, 27,248 applications for fixed-term positions, with 169 recruitments for fixed-term and 111 for short-term positions. In addition, 198 staff members were on positions funded by General Temporary Assistance and 77 on short-term appointments.  During the reporting period, the vacancy rate has been high and recruitment for new posts has been a priority. The new short-term contract modality has allowed the Court to respond to operational needs in a flexible manner while remaining within the approved budget for 2016 and the maximum number of approved posts. During the reporting period, the Court initiated a centralized approach to training to optimize resources.
	182 interns and 26 visiting professionals recruited	These are unpaid positions between 3 and 6 months in duration.
	1 Presidential Directive, 3 Administrative Instructions and 12 Information Circulars promulgated	Presidential Directives set up procedures for implementation of regulations, resolutions and decisions adopted by the ASP, including regulations and rules on finance, staff, programme planning, budget, etc. A Presidential Directive was promulgated on the Policy governing the access and use of the Court's Building by Visitors and Accredited Members of the Press.  Administrative Instructions involve procedures, policies and regulatory matters of general concern. Administrative Instructions on Financial Disclosure Programme of the Court and IPSAS-Related Party Disclosures, Short-Term Appointments, and Consultants and Contractors were published.  Information Circulars are announcements of one time or temporary interest regarding, <i>inter alia</i> , changes in salary scales, entitlements and composition of Committees and Boards.
	87 witnesses and 512 dependants protected	The number of witnesses and dependants slightly differ than the previous report, since the Victims and Witnesses Section (VWS) has managed to reintegrate some of them in the society and took new ones under its care during the reporting period.
	52 witnesses and 320 dependants relocated	
	1,006 missions undertaken	OTP's missions (259) for the purpose of, <i>inter alia</i> , collecting evidence, screening and interviewing witnesses, and securing the continued cooperation of its partners: CAR – 48 missions; Côte d'Ivoire – 36 missions; Darfur, Chad – 7 missions; DRC – 43 missions; Kenya – 3 missions; Libya – 1 mission; Mali – 23 missions; Uganda – 92 missions; Georgia - 6.  Non-Situation missions (162): Registry – 473; TFV – 31; Defence, OPCV, OPCD, CSS - 81.
In the field	630 meetings with and workshops for affected communities, reaching out to around 33,696 individuals	Outreach meetings and workshops in the DRC, Kenya and Uganda – 237; these meetings reached out to 33,696 individuals. The Victims Participation and Reparation Section (VPRS) organised 393 meetings with and workshops for affected communities in the countries where the Registry has field offices. NOTE: this figure takes into account the number of meetings/seminars/workshop up until 31 May 2016 and does not include field activities which have taken place after that date.
	6 field offices, 1 field presence, 1 liaison office	Kinshasa and Bunia (DRC); Kampala (Uganda); Bangui (CAR); Nairobi (Kenya); Abidjan (Côte d'Ivoire), and Bamako (Mali) (field presence).  Liaison Office to the United Nations in New York promotes cooperation between the ICC and the UN, represents the Court in various meetings, and assists in organising relevant events as well as visits of senior Court officials.
	Requests for arrest and surrender outstanding against 13 individuals	Against: Mr Joseph Kony, Mr Vincent Otti, Mr Sylvestre Mudacumura, Mr Ahmad Muhammad Harun, Mr Ali Muhammad Ali Abd-Al-Rahman, Mr Omar Hassan Ahmad Al Bashir, Mr Abdel Raheem Muhammad Hussein, Mr Abdallah Banda Abakaer Nourain, Mr Saif Al-Islam Gaddafi, Ms Simone Gbagbo, Mr Walter Osapiri Barasa, and Mr Paul Gicheru and Mr Philip Kipkoech Bett.



<i>Where</i>	<i>What</i>	<i>Details and remarks</i>
States-related	124 States Parties	El Salvador since 3 March 2015.
	526 cooperation requests sent	146 primary judicial cooperation requests from the Registry (excludes follow-up or secondary requests or VWS requests), and 380 requests from OTP.
	5 Agreements	2 <i>ad hoc</i> Agreements on the enforcement of sentences, with the Democratic Republic of the Congo, in November 2015 1 framework Agreement on the enforcement of sentences with Norway, in July 2016. 1 Memorandum of Understanding with the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) in May 2016. 1 Memorandum of Understanding with the Inter-American Court of Human Rights in February 2016.
	53 high-level visits from States welcomed at the Seat of the Court	Refers to visits to the seat of the Court which included the Head of State of Palestine, the Heads of Government of Norway and Tunisia and Ministers from Georgia, Liechtenstein, Mexico, Korea, Burundi, Slovenia, Czech Republic, Mali, Morocco, France, Latvia, Colombia, Denmark, Canada and Palestine as well as several UNSG special representatives and a delegation of Judges from the East-African Court.
	68 reports produced for the ASP and 68 documents for the CBF (3,385 pages in total).	For the twenty-fourth session of the CBF, the Court submitted 34 reports, which amounted to 855 (English page count). For the twenty-fifth session of the CBF, the reports submitted, amounted to 34 reports, 461 pages (English page count). The 68 reports of the Court to the Assembly of States Parties (ASP) amounted to 2,069 pages (English page count) during the reporting period.