

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Thirteenth Diplomatic Briefing of the International Criminal Court

Brussels, 24 June 2008

*Information Package
(As of 13 June 2008)*

*Summary of activities since the twelfth Diplomatic Briefing
18 March 2008, The Hague*

Since the last diplomatic briefing in The Hague (on 18 March 2008), judicial proceedings, investigations and outreach continued in the four situations before the International Criminal Court (Democratic Republic of the Congo; Uganda; Darfur, Sudan and the Central African Republic). Between the four situations, twelve arrest warrants have been issued by the Court.

During the reporting period, one new arrest warrant was issued and an existing warrant was unsealed. In the situation in the Central African Republic, the Court issued a warrant of arrest for Mr. Jean-Pierre Bemba Gombo on 23 May 2008. He was subsequently arrested by Belgian authorities and is expected to be surrendered to the Court in due course. In the situation in the Democratic Republic of the Congo, a warrant of arrest for Mr. Bosco Ntaganda was unsealed on 29 April 2008. Mr. Ntaganda remains at large.

Pre-trial proceedings in preparation of a confirmation of charges hearing continued in the case of *the Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*. On 13 June, Trial Chamber I imposed a stay in proceedings in the case of *the Prosecutor v. Thomas Lubanga Dyilo* following what it determined to be the Prosecution's improper use of article 54(3)(e) of the Rome Statute and the Prosecution's consequent inability to effect proper disclosure to the defence. The Chamber scheduled a hearing to consider the release of the accused for 24 June 2008.

In the different judicial proceedings, the Court provided assistance and support to counsel for defence and to legal representatives of victims, as well as facilitating the participation of victims. In connection with these proceedings and with investigations, the Court also undertook to protect the safety of victims, witnesses and others through a number of means.

A total of seven warrants of arrest have yet to be executed (one warrant being rendered without effect due to the death of the suspect). In the situation in Uganda, four warrants of arrest issued for Joseph Kony and other alleged leaders of the Lord's Resistance Army in 2005 continued to be outstanding. In the situation in Darfur, Sudan, two warrants of arrest issued in 2007 continued to be outstanding. Responsibility to execute these warrants belongs to States.

During the reporting period there were a number of important developments in the situations in the Democratic Republic of the Congo; Uganda; Darfur, Sudan and the Central African Republic. For each situation, the main developments in judicial proceedings, investigations and outreach activities are described below.

I. Situation in the Democratic Republic of the Congo

The situation in the Democratic Republic of the Congo (“DRC”) was referred to the Court by that State Party in March 2004. The Prosecutor opened an investigation into the situation on 23 June 2004. So far, four arrest warrants have been issued and unsealed as a result of the investigation into this situation. Three of these warrants have been executed and the respective individuals surrendered to the Court. The fourth warrant is outstanding.

A. Judicial Developments

Participation of victims in the situation and protection of witnesses

Since the opening of the investigation, 425 victims have applied to participate in proceedings in relation to the situation as a whole (as distinct from particular cases). Of these, 87 have been authorised by one of the relevant chambers to participate in the situation. 17 of these victims have been declared indigent and granted legal aid by the Registrar. The Office of Public Counsel for Defence (OPCD) was appointed as ad hoc counsel and filed legal observations in relation to 28 victim applications to participate in the situation.

In relation to the situation, to date 133 persons benefit from the ICC Witness Protection Programme.

The Prosecutor v. Thomas Lubanga Dyilo

Background

A warrant of arrest for Mr. Thomas Lubanga Dyilo was issued, unsealed and executed in early 2006. On 29 January 2007, Pre-Trial Chamber I confirmed charges of war crimes against Mr. Lubanga, alleged leader of the *Union des Patriotes Congolais pour la Reconciliation et la Paix (UPC)* and Commander-in-Chief of its military wing, the *Forces Patriotiques pour la Libération du Congo (FPLC)*. Mr. Lubanga is accused of the war crimes of enlisting, conscripting and using children under the age of fifteen years to participate actively in hostilities. Four victims are participating in proceedings through their legal representatives. One of these victims has been declared indigent and receives legal aid from the Court.

Judicial developments during the reporting period

During the reporting period, proceedings in the case against Mr. Lubanga pertained primarily to the final preparations for the planned trial. Issues before the Trial Chamber included: the practices to be used to prepare witnesses, the procedure to be followed for opening and closing statements, and the consolidated E-Court protocol, an electronic system designed to support the daily judicial proceedings. On 20 March, the Chamber issued a decision requiring the Defence to inform the Chamber of any intent to raise an alibi, and to disclose the general lines of its Defence, any substantive factual or legal issues it intends to raise and the details of any challenges to admissibility or relevance of evidence three weeks prior to trial.

On 13 June, the Chamber imposed a stay on the proceedings in the case. The Chamber found that the Prosecution had incorrectly used Article 54 (3) (e) of the Rome Statute which allows the Prosecutor to agree not to disclose information obtained on the condition of confidentiality and solely for the purpose of generating new evidence, unless the provider of said information consents. The Chamber concluded:

- i) The disclosure of exculpatory evidence in the possession of the prosecution is a fundamental aspect of the accused's right to a fair trial;
- ii) The prosecution has incorrectly used article 54(3)(e) when entering into agreements with information-providers, with the consequence that a significant body of exculpatory evidence which would otherwise have been disclosed to the accused is to be withheld from him, thereby improperly inhibiting the opportunities for the accused to prepare his defence; and
- iii) The Chamber has been prevented from exercising its jurisdiction under article 64(2), article 64(3)(c) and article 67(2), in that it is unable to determine whether or not the non-disclosure of this potentially exculpatory material constitutes a breach of the accused's right to a fair trial.

The Chamber further concluded that the consequence of these three factors has been that the trial process has been ruptured to such a degree that it is now impossible to piece together the constituent elements of a fair trial. In these circumstances, the Chamber issued a stay of proceedings and scheduled a hearing on Tuesday 24 June 2008 in order to consider the release of the accused.

During the reporting period, two appeals were pending before the Appeals Chamber in the case of the *Prosecutor v. Thomas Lubanga Dyilo*, one relating to the modalities of victim participation and the other relating to disclosure of information to the Defence.

Three additional applications for leave to appeal were filed during the reporting period. The first application, filed by the Defence, challenged the decision of 20 March on the Defence's disclosure obligations. The Trial Chamber rejected this application on 8 May. The second and third applications were lodged by the Prosecution on 2 May and by the Defence on 14 May and challenged a decision on disclosure issues, protective measures and other procedural matters. These latter applications are currently pending before the Trial Chamber.

Throughout proceedings, the Court provided assistance to the defence teams of Mr. Lubanga and technical administrative and logistical support, assistance and information to legal representatives of victims for the preparation of the trial. The Office of Public Counsel for Defence (OPCD) provided ongoing legal support and assistance to the defence team of Mr. Lubanga. The Office of Public Counsel for Victims (OPCV) provided substantial legal assistance to legal representatives of victims in the case.

The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui

Background

On 18 October 2007, Mr. Germain Katanga was surrendered to the Court. On 7 February 2008, Mr. Mathieu Ngudjolo Chui was surrendered to the Court. The warrants of arrest pursuant to which these two suspects were arrested and surrendered each include six counts of war crimes and three counts of crimes against humanity, allegedly committed during an attack on the village of Bogoro on 23 February 2003. Pre-Trial Chamber I joined the two cases on 10 March 2008. A hearing to confirm the charges is set to begin before Pre-Trial Chamber I on 27 June 2008. 5 victims are participating in the case.

Judicial developments before Pre-Trial Chamber I during the reporting period

On 18 April, the Chamber issued a decision on the evidentiary scope of the confirmation hearing, preventive relocation and disclosure under article 67(2) and rule 77, in which it held as unlawful the Prosecution's practice of preventatively relocating witnesses, whether done prior to a decision by the Registrar on the inclusion of the relevant witness in the Court's Witness Protection Programme or done after a decision by the Registrar rejecting such inclusion. The Chamber further found that, at the confirmation hearing, the Prosecution could not rely on the testimony of witnesses the Chamber considered to have been unlawfully relocated by the Prosecution. Following this decision, the Prosecution notified the Chamber and both Defence teams that it would not allege the count of sexual slavery due to its inability to introduce the testimony of these witnesses and would seek leave to appeal the exclusion of evidence in support of the charge and the Chamber's interpretation of the system of witness protection, in particular the authority of the Office of the Prosecutor to assess and determine needs for witness protection and to provide alternative measures. On 28 April, the Prosecution sought leave to appeal the decision. The Chamber granted leave to appeal on 20 May. This appeal is pending. In the meantime, following information from the Registry that the witnesses at issue had since been accepted into the Court's Witness Protection Programme, the Pre-Trial Chamber noted that the security concerns that led it to exclude the evidence of witnesses as a result of their unlawful preventive relocation by the Prosecution no longer existed and that the Prosecution, if it wished to do so, could file an Amended Charging Document by 12 June 2008. Accordingly on 12 June the Prosecution reintroduced the charge of sexual slavery and added charges of rape and outrages upon personal dignity. On 3 June 2008, the Defence for Mr Katanga filed an application for leave to appeal the decision of the Pre-Trial Chamber.

In preparing for the confirmation of charges hearing, the Chamber also addressed a variety of other matters. On 13 May, the Chamber issued a decision outlining the set of procedural rights attached to the procedural status of different categories of victims at the pre-trial stage of the case. The Chamber also rejected an application for interim release from Mr. Ngudjolo Chui. Two further applications for leave to appeal decisions of the Pre-Trial Chamber were granted during the reporting period. One challenged the Chamber's decision on joinder, while the other pertained to one of the Chamber's decisions on redactions.

Judicial developments before the Appeals Chamber during the reporting period

During the reporting period, the Appeals Chamber rendered several decisions in the *Katanga and Ngudjolo Chui* case. The first two appeals were interrelated. In these appeals, the Appeals Chamber held: (i) that the protections of Rule 81(4), which allows the Prosecutor to request redactions to protect the safety of witnesses, victims, and members of their families prior to trial also extend to "persons at

risk on account of the activities of the Court”; (ii) that the Single Judge improperly refused a request by the Prosecution to redact the location of interviews of witnesses, as well as the identifying information of Court staff members; and (iii) that the redaction of potential prosecution witnesses may be authorised under Rule 81(2), which allows the Prosecutor to request redactions so as not to prejudice further or ongoing investigations, so long as such authorisation is accompanied by a careful case-by-case analysis. In the third decision, the Appeals Chamber held that the redaction of the identities of alleged victims of sexual offences that were nevertheless unconnected to the charges could be still be authorised under the rubric of Rule 81(4), as such persons could be classified as “persons at risk on account of the activities of the Court.”

The Appeals Chamber also considered the issue of the Single Judge’s evaluation of Mr. Katanga’s competency in French in light of articles 67(1)(a) and (f) of the Statute. The Chamber determined that the phrase “fully understands and speaks” used in the Statute imparts a higher standard than that applied by the Single Judge initially and remitted the matter to the Pre-Trial Chamber for subsequent analysis.

Other issues pending before the Appeals Chamber in the *Katanga and Ngudjolo Chui* case included an appeal of the Pre-Trial Chamber’s decision to continue to detain Mr. Ngudjolo Chui as well as the appeals for which leave was granted during the reporting period.

Support to Defence Counsel and Legal Representatives of Victims

The Court provided assistance to the defence teams of Messrs. Katanga and Ngudjolo Chui and technical administrative and logistical support, assistance and information to legal representatives of victims for the preparation of the confirmation of charges hearing. The Office of Public Counsel for Defence (OPCD) provided ongoing legal support and assistance to both defence teams.

The Prosecutor v. Bosco Ntaganda

On 29 April 2008, Pre-Trial Chamber I unsealed a warrant of arrest for Bosco Ntaganda which had originally been issued on 22 August 2006. The alleged crimes specified in the warrant comprise war crimes of enlisting and conscripting children under fifteen and using them to participate actively in hostilities.

In the decision on the arrest warrant, the Chamber found that there were reasonable grounds to believe that members of the *Forces patriotiques pour la libération du Congo* (FPLC) repeatedly carried out, from July 2002 to December 2003, acts of enlistment and conscription and used them to participate actively in hostilities. The Chamber found that there were reasonable grounds to believe that, during that period of time, Mr. Ntaganda, as then Deputy Chief of General Staff for Military Operations of the FPLC, had de jure and de facto authority over the FPLC training camp commanders and used his authority to actively implement the policy adopted at a higher level of the *Union des Patriotes Congolais* (UPC)/FPLC.

B. Investigations

With the anticipated beginning of the trial of Thomas Lubanga, the expected confirmation of charges hearing of Germain Katanga and Mathieu Ngudjolo and the unsealing of the arrest warrant for Bosco Ntaganda, the Office of the Prosecutor completed a first phase of the investigations in the Democratic Republic of the Congo, focusing on the horrific crimes committed by leaders of armed groups active in Ituri since July 2002.

The Office is now moving on to new cases in the Democratic Republic of the Congo. In the selection process for its next cases, the Office is paying particular attention to the numerous reports of crimes committed by armed groups in the North and South Kivu provinces, including reports on horrendous sexual crimes, taking into consideration views and concerns of victims and associations in this regard. Additional information on allegations of crimes in the Kivus continues to be welcomed by the Office.

As part of this selection process, the Office is also considering the role of all those who organised, backed or supported the armed groups active in all the eastern provinces of the country after 1 July 2002.

C. Outreach

In preparation of the planned *Lubanga* trial as well as the confirmation of charges hearing in the *Katanga and Ngudjolo Chui* case, outreach activities were conducted mainly in Ituri at the grass roots level. Specific activities undertaken included:

- 8 mass outreach activities in villages of Ituri (Bogoro, Aru, Mambassa, Marabo and Nyakunde) with the general public,
- 7 information meetings targeting the religious communities in Ituri,
- 4 workshops with the legal community and with non-governmental organizations,
- A two-day information session in Bunia for 300 police officers,
- Continuous broadcasting through Radio Okapi (national coverage) of « *Connaître la Cour pénale internationale* », « *Chroniques* », « *Droits et devoirs* », and « *Institution, c'est facile à comprendre* »,
- Continued collaboration with 8 local radio stations broadcasting programs in French, Swahili and Lingala, reaching approximately 1.800.000 persons, and
- Maintaining of 18 listening clubs in the major villages of Ituri.

II. Situation in Uganda

The Situation in Uganda was referred to the Court by Uganda in December 2003. The Prosecutor opened the investigation on 29 July 2004.

Participation of Victims in the Situation and Protection of Witnesses.

Since the opening of the investigation, 157 victims have applied to participate in proceedings. On 14 March 2008, the Single Judge of Pre-Trial Chamber II issued a decision on victims' applications to participate in the proceedings which had, to that point, been deferred since February 2007 due to a lack of proper identification. In this decision, seven victims were granted the right to participate in the situation, bringing the total number of victims authorised to participate in the situation as a whole to 9.

In relation to the situation, to date two persons benefit from the ICC Witness Protection Programme.

A. Judicial Developments

The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen

Background

On 13 October 2005, Pre-Trial Chamber II unsealed redacted warrants of arrest originally issued on 8 July 2005 for five senior leaders of the Lord's Resistance Army (LRA) for crimes against humanity and war crimes committed in Uganda since July 2002. The Chamber concluded that there were reasonable grounds to believe that Joseph Kony, Vincent Otti, Okot Odhiambo, Dominic Ongwen and Raska Lukwiya ordered the commission of these crimes. On 11 July 2007, following confirmation by the Government of Uganda and receipt of a death certificate, Pre-Trial Chamber II terminated the proceedings against Mr. Raska Lukwiya, thereby rendering the warrant of arrest without effect.

The remaining four warrants are still outstanding and have not been executed.

Judicial developments during the reporting period

During the reporting period, judicial developments continued to be limited due to the lack of arrest of any suspects. On 14 March 2008, the Single Judge of Pre-Trial Chamber II issued a decision on victims' applications to participate in the proceedings which had, to that point, been deferred since February 2007 due to a lack of proper identification. In this decision, seven victims were granted the right to participate in the situation, while eight victims were granted the right to participate in the case. A total of 14 victims have now been authorized to participate in the case. On 2 June, the Single Judge denied a request from ad hoc counsel for the defence for leave to appeal this decision. The Office of Public Counsel for Defence (OPCD) provided legal support and assistance to the ad hoc counsel for the defence in this request for leave to appeal.

In May and June, the Office of the Prosecutor sent two investigation missions to collect evidence on the reported death of Vincent Otti and will be preparing a filing to the Pre-Trial Chamber of its findings. Mr. Otti, then Deputy Chairman of the LRA, was reportedly executed by orders of Joseph Kony on 2 October 2007. Due to the reported location of the body near the LRA's main base in Garamba, forensic examination of the body is not possible at this time. However, the Office has collected a range of other types of information that should be able to prove the death of Mr. Otti for the purpose of withdrawing the arrest warrant.

B. Investigations

The Office of the Prosecutor is conducting important investigative activities and continued to receive reports of more defections and attempted defections within the LRA. The Office continues to stress the

importance of enhancing regional cooperation to increase the ability of LRA members to defect safely as this will further isolate the top leadership of the LRA.

In order to cut off the supply and support network of the suspects, the Office sent out requests for information to a number of States to request information on those providing the LRA with supplies and encouraged States to take action to deter this support from continuing. In May and June, the Office sent an investigation mission to Uganda to collect additional evidence of supply and support with the purpose of identifying the ringleaders of this network.

The Office has also collected a range of information on the new LRA crimes being committed in the Democratic Republic of Congo, Sudan and the Central African Republic. These crimes increased in the beginning of 2008 as the LRA made its way from its base in Garamba National Park to the Central African Republic. These crimes primarily include abduction of civilians, including children, for the purpose of recruitment, forced labour, and sexual enslavement. Information indicates that the LRA is currently attempting to expand its forces by several hundred new "recruits" and so far has brought 200-300 new abductees back to its base in Garamba National Park. The LRA is also reportedly amassing weapons primarily from weapons caches in Eastern Equatoria, Sudan but also by attacks on SPLA barracks.

The remaining outstanding warrants have yet to be executed and the Office considers that the spate of new LRA attacks increases the urgency of arresting the LRA leadership. These warrants have also been transmitted to the authorities in the Democratic Republic of the Congo and the Central African Republic. Representatives of the Office, in their contacts with relevant interlocutors, stressed the importance of increasing regional cooperation to execute the arrest warrants. The Office views the current meetings between force commanders from the affected territorial states and MONUC, including the meeting on 3 June in Kampala, where regional governments are agreeing to joint operations against the LRA as encouraging. The Office would encourage states to support this process and to provide additional support for the arrest of the LRA leaders.

C. Outreach

In Uganda, the Court focused on strengthening existing programmes and partnerships and creating new ones, especially reaching out to youth. Intensified activities targeted the grass roots populations most directly affected by the conflict and Internally Displaced Persons' (IDP) camps. Specific activities undertaken included:

- 6 mass outreach meetings and drama performances at IDP camps in northern and northeastern Uganda,
- 8 school outreach programmes that reached around 10.000 students in Adjumani, Gulu, Lira and Teso,
- 2 workshops in universities in Central Uganda,
- 1 town hall meeting with local leaders and the general population in Adjumani,
- 1 workshop for media representatives working in eastern Uganda, and
- Continued interactive radio talk shows broadcast via four different radio stations (local radio stations located in Acholi, Teso, Madi and Lango sub-regions) covering the majority of the northern Ugandan population.

III. Situation in Darfur, Sudan

The situation in Darfur, Sudan was referred to the Court by the United Nations Security Council by resolution 1593 of 31 March 2005. The Prosecutor decided to open an investigation into the situation on 6 June 2005. In light of the security situation in neighbouring Chad, the Court identified a new field office in Abeche, Chad in order to ensure support to the entire scope of the Court's field operations related to the situation in Darfur. In relation to the situation, to date 148 persons benefit from the ICC Witness Protection Programme.

A. Judicial developments

Due to the lack of arrest and surrender of suspects, there were no new developments during the reporting period in the case of *The Prosecutor v. Ahmad Muhammad Harun and Ali Muhammad Ali Abd-Al-Rahman*.

B. Investigations

During the reporting period, the Office of the Prosecutor conducted three missions to three countries. In accordance with United Nations ("UN") Security Council Resolution 1593 (2005), the Prosecutor presented his seventh report to the Security Council on 5 June 2008 on the status of the investigation into the situation in Darfur. The Prosecutor reported to the Security Council that the Government of Sudan continues not to comply with its legal obligations under Resolution 1593.

The Office has continued to engage with key partners to seek their assistance in encouraging Sudan to cooperate. On 26 January 2008, Deputy Prosecutor Fatou Bensouda met with AU Chairperson Alpha Oumar Konare on the margins of the African Union ("AU") Summit to discuss Darfur. The Prosecutor has regular contacts with the Office of UN Secretary-General Ban Ki-Moon and is grateful for the insight and support provided. The Secretary General's words at the Assembly of the States Parties in December 2007 stating that "justice is a condition of peace" and "peace and justice are indivisible" fuelled the strong support of the Assembly for the execution of the arrest warrants by Sudan. The Prosecutor met with UN officials seeking a comprehensive solution for Darfur: the Office of Legal Affairs, the Departments of Peacekeeping Operations and of Political Affairs, the Office for the Coordination of Humanitarian Affairs as well as the UN Special Envoy on Sudan. In Geneva on 11-12 March, the Prosecutor met the UN High Commissioner for Human Rights Louise Arbour, as well as the UN Special Rapporteur on the situation of human rights in Sudan, Sima Samar.

In his 5 June briefing to the UN Security Council, the Prosecutor urged the international community, the Council and all UN members to send a strong and unanimous message to the Government of Sudan on the execution of the warrants and highlighted the June 2008 trip of the Security Council to Sudan, in this light, as a crucial opportunity.

The Prosecutor informed the Security Council that the Office is now proceeding with its second and third Darfur investigations. The mobilization of the state apparatus to plan, commit and cover up crimes against civilians, in particular the Fur, Massalit and Zaghawa, is the focus of the Office's second investigation. He reported that the failure to punish Ahmad Harun, a Minister who commits crimes under guise of humanitarian affairs, is one telling indicia of the involvement of high officials. The

official denial of such crimes – denying the existence of crimes, their extent, shifting responsibility, failing to punish the perpetrators – is a characteristic feature of the case under investigation.

The Prosecutor specified that present crimes include : targeting of civilians in villages, including recent aerial bombardments; looting and destruction of means of livelihood leading to displacement; protracted presence of Government of Sudan forces and Militia/Janjaweed in areas attacked, preventing returns; resettlements resulting in the usurpation of IDPs' land; organized insecurity and destitution within and around IDP camps; rapes; attacks against local leadership including detention, torture and killing; lack of Government assistance, hindering of humanitarian assistance and imposing harsh conditions of life within the camps; impunity of the perpetrators and official denial of crimes adding to the mental anguish of victims. All this leads to the actual destruction of entire groups.

The Office anticipates that it will be able to present a new application under Article 58 of the Statute to the judges by July 2008.

The Prosecutor reported that the Office's third investigation will be into allegations of rebel crimes, focusing among others on the Haskanita attack against peacekeepers, continues. Preliminary contacts have been made with, and requests for information and assistance have been sent to, the AU, the UN, and to 5 individual countries and other organizations. Preliminary interviews have been conducted. The Office received information that requires corroboration on the possible responsibility of members of two rebel factions. Credible sources suggest that one goal of the alleged criminals could have been to attain international recognition and inclusion in the peace talks. This allegation also requires further corroboration.

C. Outreach

The Court continued efforts to target key representatives of the legal community, civil society and journalists from Sudan in other countries. In furtherance of the ICC's outreach strategy, Court documents have been translated into Arabic and disseminated, and the ICC has conducted or participated in workshops designed to raise awareness among Sudanese in Africa, including in Egypt; Ethiopia; Uganda; and at the seat of the Court. Specific activities undertaken included

- Broadcasting of radio programmes in the refugee camps in Eastern Chad.
- Outreach activities targeting camp leaders in 4 refugee camps in Eastern Chad to assess the feasibility of further programs.

Drama theatre projects in the refugee camps in four languages (Fur, Zagawa, Masaleet and simple Darfuri Arabic) will be launched as soon as the security situation improves. Future planned activities include the broadcasting of radio programmes in the IDP camps in Darfur.

The Court and the Office of the Prosecutor continued also to dedicate specific efforts to inform the Arab-speaking public through international and regional Arabic and Sudanese media.

The Office of the Prosecutor has developed relations with the AU, the UN, the League of Arab States, with local groups, NGOs and others, to seek views of affected communities and to inform victims on the Office's work. The Prosecutor travelled extensively in the Arab region to meet with high officials and civil society and explain the Office's work on Darfur.

Darfurians and other Sudanese voiced support for the arrest of Ahmad Harun and Ali Kushayb. Of continuing concern are reports that Sudanese participants in such activities are threatened upon returning to Sudan.

IV. Situation in the Central African Republic

The situation in the Central African Republic was referred to the Court by that State Party on 22 December 2004. The Prosecutor opened an investigation on 22 May 2007. During the reporting period, the Court's field office in Bangui, Central African Republic became fully operational.

A. Judicial developments

The Prosecutor v. Jean-Pierre Bemba Gombo

On 9 May 2008, the Office of the Prosecutor submitted under seal an application for a warrant of arrest under article 58 of the Rome Statute for Mr. Jean-Pierre Bemba Gombo to Pre-Trial Chamber III. On 23 May 2008, Pre-Trial Chamber III issued a warrant of arrest for Mr. Bemba and requested Belgian authorities to provisionally arrest Mr. Bemba. The warrant contains two counts of crimes against humanity (including rape and torture) and four counts of war crimes (including rape, torture, outrages upon personal dignity, and pillaging). On 10 June, the Chamber issued a new warrant of arrest, supplementing the initial counts with two counts of murder as a crime against humanity or war crime.

In issuing the warrants, the Chamber concluded that there were reasonable grounds to believe that, in the context of a protracted armed conflict in the Central African Republic from about 25 October 2002 to 15 March 2003, *Mouvement de libération du Congo* (MLC) forces led by Jean-Pierre Bemba Gombo carried out a widespread or systematic attack against a civilian population which involved rape, torture, outrages upon personal dignity and pillaging. The Chamber further concluded that there were reasonable grounds to believe that Mr. Bemba was responsible for these crimes by virtue of being vested with de facto and de jure authority by the members of the MLC to take all political and military decisions.

Mr. Bemba was arrested by Belgian authorities on 24 May 2008 pursuant to the request for provisional arrest. On 10 June, following the issuance of the new warrant of arrest, Pre-Trial Chamber III issued a request for arrest and surrender to the Kingdom of Belgium. The surrender of Mr. Bemba to the ICC is expected to take place in due course in accordance with the Rome Statute.

B. Investigations

The Office of the Prosecutor considers that crimes against the civilian population, namely rape, torture, outrages upon personal dignity and pillaging, were committed in the Central African Republic between the end of October 2002 and 15 March 2003. In particular, the Office considers that hundreds of rapes were committed and that sexual crimes will be a characteristic feature of the case against Mr. Bemba.

The policy of the Prosecutor is to focus on the most responsible individuals for the most serious crimes. The Office of the Prosecutor considers that Mr. Bemba's MLC committed the greatest part of the most

serious crimes committed in the Central African Republic in 2002-2003, and that Mr. Bemba is individually criminally responsible.

The investigation of the Office in the Central African Republic will not stop with the arrest of Mr. Bemba. The Office will continue to gather evidence and establish responsibilities for the crimes committed in 2002-2003.

In parallel, the Office continues to closely monitor allegations of crimes committed since the end of 2005 and whether any investigation and prosecution has been or is being conducted with respect to crimes potentially falling under the ICC's jurisdiction. A letter has been sent to President Bozize for the purpose of receiving information concerning possible relevant national proceedings.

C. Outreach

Special public information efforts were done to raise awareness of the arrest of Jean Pierre Bemba (i.e. 30 interviews with different media).

V. Analysis of other potential situations

The Office of the Prosecutor received and analysed 91 new article 15 communications relating to purported crimes during the reporting period¹, among which 62 were dismissed as manifestly outside the jurisdiction of the Court. In parallel, the Office continued the proactive examination of open sources.

The Office continued its analysis of various situations in the preliminary examination phase. As part of its ongoing analysis of the situation in Colombia, the Office wrote to the Government of Colombia seeking further information on the decision to extradite senior leaders of so-called paramilitary groups to the United States of America in order to evaluate the degree to which they will face criminal justice for the commission of alleged crimes against humanity.

The Office also wrote to various parties in Kenya seeking further information in relation to alleged crimes committed on that territory, including to the two parties which now constitute the Government. The Office has received a reply from the Kenyan National Commission on Human Rights but still awaits a reply from either of the two political parties concerned.

The Office also wrote very recently to the Government of Afghanistan seeking further information in relation to alleged crimes committed on that territory.

In relation to Côte d'Ivoire, the Prosecutor met with the Ambassador after the last diplomatic briefing and the Office's outstanding request to carry out a mission to that territory was discussed. Despite further discussions no progress has been made in this regard. The Office calls upon the government of Côte d'Ivoire to facilitate this mission as a matter of urgency.

VI. Cooperation Activities of the Office of the Prosecutor

¹ From 18 March to 6 June 2008.

On 10 June 2008 the Prosecutor met with the Director-General of the International Development Law Organization (“IDLO”), William Loris, at the IDLO’s Headquarters in Rome. The two signed a Memorandum of Understanding addressing continued cooperation between their respective institutions.

The Prosecutor met with the Organization of American States (“OAS”) Secretary-General, José Miguel Insulza, in Washington DC on 9 April 2008. The Prosecutor briefed the OAS Secretary-General on the Office’s current monitoring activities regarding the situation in Colombia, Ecuador and Venezuela, and further discussed on the modalities to enhance cooperation between the OAS and the Court.

The Prosecutor continued his constructive exchanges with Arab League Secretary-General, Amr Musa, as well as with its Member States, in order to promote international criminal justice and secure cooperation. Their support to the independence and impartiality of the Office is steadfast. In particular, the Prosecutor was in Cairo on 9 February and 10 May to meet with Egyptian Foreign Minister Aboul Gheit and local civil society organizations; in Qatar on 29 January to meet Prime and Foreign Minister Sheikh Hamad Bin Jassim Bin Jabr Al-Thani ; in Jordan on 8 March to meet with Foreign Minister H.E. Mr. Salaheddin Al-Bashir; and in Saudi Arabia on 13 May to meet Foreign Minister His Royal Highness Prince Saud Al-Faisal. The Prosecutor travelled to Indonesia on April 30 to meet with Foreign Minister Dr. N. Hassan Wirajuda, with Defence Minister Prof. Dr. Juwono Sudarsono and with civil society.

VII. Other major developments not tied to specific situations

New Registrar takes office

- The newly-elected Registrar, Ms. Silvana Arbia, was sworn in and took office on 17 April 2008.

Additional Support to Defence Counsel and Legal Representatives of Victims

- The list of counsel now comprises 236 counsel, including 25 from the Democratic Republic of the Congo, 2 from Uganda, 2 from the Central African Republic and 1 from Sudan.
- The annual seminar for counsel took place during 12-16 May. Participants benefited from a three-day training on general ICC law and practice, victims’ representation before the Court, and advocacy training: cross-examination in international criminal jurisdictions.
- The Office of Public Counsel for Defence (OPCD) finalised and distributed to counsel the Practice Manual for new Counsel appearing before the ICC.

States’ Parties Contributions received as of 27 May 2008

- Contributions received (2008): 73.42% of the total 2008 (€90,382,100)
- Contributions received (2007): 98.67% of the total 2007 (€88,871,800)
- Outstanding contributions for 2004, 2005 and 2006 amount respectively to 0.01%, 0.05% and 1.60%

Human Resources

- A proposal for a comprehensive Human Resources Strategy was presented to the Committee on Budget and Finance in April 2008. The Strategy provides a framework for implementation of the human resources aspects of the ICC Strategic Plan and focuses on identifying career development opportunities for well performing staff, staff well-being and recruitment strategies.
- Emphasis continued to be placed on the accelerated filling of vacant established posts through the streamlining of recruitment and selection processes. Good progress is being achieved in this respect.
- As of 1 June 2008, the number of staff on established posts was 559 (female 48.83 %, male 51.17%)
- Staff subject to geographical representation were distributed as follows (in comparison to target figures):
 - 17.60% from the African Group of States (target: 12.77%)
 - 6.80% from the Asian Group of States (target: 19.53%)
 - 6.40 % from the Group of Eastern Europe (target: 7.37%)
 - 11.20 % from the Latin American and Caribbean Group of States (target: 13.05%)
 - 58% from the Western European and others Group of States (target: 47.28%)
- Applications received in 2007: 20.020; in 2008 as of 1 June: 7.428

Secretariat, Assembly of States Parties

I. Resumed sixth session of the Assembly of States Parties²

- The resumed sixth session of the Assembly of States Parties was held at United Nations Headquarters from 2-6 June 2008. The President of the Assembly, H.E. Mr. Bruno Stagno Ugarte, Minister for Foreign Affairs of Costa Rica, opened the session.
- On the Review Conference, the Assembly requested the Bureau to continue the preparations for the Review Conference and to further refine the practical and organizational issues related to the venue of the Conference, prior to the seventh session in November 2008, where a final decision on the venue would be taken.
- The Assembly approved, in accordance with the Financial Regulations and Rules of the Court, the transfer of approximately €236,700 from major programme IV to major programme I to provide for the funding of a disability pension of a former judge of the Court.
- As regards the discussions on the crime of aggression, the Assembly focused on the following matters: the procedure for entry into force of amendments on aggression; the suggested deletion of article 5, paragraph 2, of the Statute; the application of article 28 of the Statute to the crime of aggression; the suggested inclusion of the text of United Nations General Assembly resolution 3314 (XXIX) as an annex to the Rome Statute; and the elements of crime.

II. Committee on Budget and Finance

² The Official Records of the sixth session of the Assembly will be available on the website of the Court (www.icc-cpi.int) under section "Assembly of States Parties/Official Records".

- The Committee on Budget and Finance held its tenth session from 21 to 25 April 2008 in The Hague, and considered, *inter alia*, the programme performance of the 2007 budget, the programme performance of the 2008 budget (first quarter), human resources, legal aid and the premises of the Court.
- The Committee agreed to hold its eleventh session from 8 to 16 September 2008 in The Hague.

III. Bureau of the Assembly of States Parties

- At its 3rd meeting, on 1 April 2008, the Bureau designated Ambassador Hlengiwe Buhle Mkhize (South Africa) as the facilitator for the Strategic Plan of the International Criminal Court, with a special focus on the issues of outreach and victims. The Coordinator of The Hague Working Group, Ambassador Kirsten Biering (Denmark), would address all other aspects of the Strategic Plan.
- As regards the issue of the proposed programme budget for 2009, the Bureau designated Mr. Masud Husain (Canada) as the facilitator.
- At its 4th meeting, on 29 April 2008, the Bureau appointed Mr. Eden Charles (Trinidad and Tobago) as the facilitator for the issue of geographical representation and gender balance in the recruitment of staff.
- At the same meeting, the Bureau appointed Mr. Marcelo Böhlke (Brazil) as facilitator for the plan of action for achieving universality and full implementation of the Rome Statute.

IV. Working Groups

- The President-elect of the Assembly, H.E. Mr. Christian Wenaweser (Liechtenstein), participated in the third meeting of The Hague Working Group, held on 18 March 2008. The Coordinator, Ambassador Kirsten Biering (Denmark), introduced a concept paper, prepared in consultation with the proposed facilitators, outlining the work to be undertaken by the Working Group, and setting out the priorities and objectives for 2008.
- At its 4th meeting, in relation to the Strategic Plan of the Court on outreach and victims, the facilitator for this issue, Ambassador Hlengiwe Buhle Mkhize (South Africa), informed the Working Group that she had held a first meeting with the Court on outreach to victims, and that Court was in the process of consolidating its approach to victims' issues. In light of the Assembly's request to the Court to continue its outreach activities, she proposed to follow up with the Court on its progress in implementing this mandate. She noted that the Committee on Budget and Finance would consider the programme budget implications of the Strategic Plan on outreach activities.
- At its 5th meeting, a representative of the host State informed the Working Group of the event scheduled for 3 July 2008, organised jointly by the Embassy of France, the Ministry of Foreign Affairs of the host State and the Coalition for the International Criminal Court, to mark the 10th anniversary of the adoption of the Rome Statute.

V. Oversight Committee

- The Oversight Committee of States Parties for the permanent premises of the Court has held ten meetings.
- As regards the recruitment of the Project Director, the Oversight Committee agreed to contract a recruitment agency to conduct the process. On 13 June, the recruitment agency submitted to the Oversight Committee a short-list of six candidates. The selection panel, consisting of three experts (from the Court, the host State and a State Party) and five members of the Oversight Committee, shall hold interviews on 30 June and 1 July 2008.
- As regards the financing of the project, the Oversight Committee is continuing its consideration of the issue, taking into account the advice provided by the Committee on Budget and Finance in the Report on the work of its tenth session.
- As regards the architectural design competition, the host State had received, at the closing date, i.e. 1 April 2008, 170 applications from 33 States, representing the five regional groups. The pre-selection meeting of the jury took place on 15-16 May 2008 and resulted in the selection of 20 applicants, who will be invited to submit detailed designs.

VI. Future sessions of the Assembly

- The Assembly shall hold its seventh session from 14 to 22 November 2008 in The Hague. A first resumption of the seventh session, devoted to elections, is scheduled to take place in New York from 19 to 23 January 2009 in New York. A second resumption, devoted to the Special Working Group on the Crime of Aggression, is foreseen to take place towards mid-2009.