

**Cour
Pénale
Internationale**



**International
Criminal
Court**

**Statement by Mr. Luis Moreno-Ocampo,
Prosecutor of the International Criminal Court**

Eleventh Diplomatic Briefing of the International Criminal Court

The Hague, 10 October 2007

Excellencies, Ladies and Gentlemen,

The President has described the challenges that we, together with States parties, are confronted with.

The concept of the Rome treaty has become a reality. The Court has made this body of law operational, has transformed ideas and concepts into a working system. States parties which committed to the new law are now facing a more difficult challenge: enforcing the law, enforcing the Court's decisions.

Ensuring the enforcement of the Court's decisions, ensuring, in particular, the arrest and surrender of individuals sought by the Court, in all situations before the Court, requires your support.

Such support can take a variety of forms:

1. Political support. In any bilateral meeting, in any multilateral activity, in any development program, the States Parties should automatically mention the need to respect and implement the ICC judges' decisions.
2. Marginalization of the individuals sought by the Court to facilitate their arrest. No support, no supplies, no financial aid should reach indicted individuals. They have to be isolated within their own communities.
3. Tracing of whereabouts of the individuals sought by the court.
4. Planning and execution of arrest operations.

Let me describe how this can apply to each situation.

The Situation in the Democratic Republic of the Congo (DRC)

In the case against Thomas Lubanga Dyilo, we are preparing to go to trial.

The OTP is also completing its second investigation in the DRC related to crimes allegedly committed by another armed group in the district of Ituri. Any arrest warrants issued would have to be enforced. We hope to be able to make the results of this second investigation known before the end of the year.

Finally, we are in the process of selecting a third case to investigate. We are monitoring to this end the overall situation and collected information on alleged crimes committed by individuals and armed groups in different provinces and at different periods under our temporal jurisdiction. Among others, there are allegations of massive sexual violence, forced displacements of persons, killings or pillaging in most of the Eastern parts of the DRC, including the Kivus.

DRC is a situation where your political support is concretely needed. There are a lot of issues on the agenda of the international community in the DRC: demobilization and reintegration of militia into the national forces; security. Justice could easily be pushed off the agenda. Consistent support to international justice is being tested.

I have raised the subject of keeping cooperation with the Court on the DRC agenda with the Secretary General of the UN on the 28th of August, with Legal Advisor Nicholas Michel, Under Secretary General Jean-Marie Guehenno and with SRSG Swing in Kinshasa. The UN Secretary

General and his team have accepted to raise it at the highest level with the DRC authorities. I have also raised this matter with the EU Special Representative for the Great Lakes; he and several States committed to provide their support for my demarches; I am grateful to them.

Following such efforts, the reaction from the DRC authorities has been positive. We are very hopeful that this will lead to concrete steps being undertaken in the near future.

Given the importance of maintaining such diplomatic activities, we urge you to request from your authorities that any bilateral meeting with the DRC authorities, President Kabila in particular, be the occasion to explicitly mention cooperation with the ICC. As States parties, as members States of the UN which are actively supporting the demobilization process, it is important that you should also express your full support to the Court. In the same way, any multilateral meeting on the DRC in the UN context should be used to mention the ICC. Silence is undermining us ; but any expression of support is helping us.

The Situation in Northern Uganda

Warrants of arrest for Joseph Kony and senior leaders of the LRA for crimes against humanity and war crimes were issued on 8 July 2005. They are still outstanding.

As I have stated in the ASP last year, those warrants must be executed. There is no excuse. There is no tension between Peace and Justice in Uganda: arrest the sought criminals today, and you will have Peace and Justice tomorrow. Victims deserve both.

The 4 criminals have threatened to resume violence if the arrest warrants are not withdrawn; they are setting conditions; it is blackmail; the international community has to ensure protection for those exposed to those threats.

My Office has again devoted efforts to galvanize national and international efforts to arrest. A lot can be done by all of you to support these efforts.

- Joseph Kony and the three other indicted commanders have re-gained credibility in the past months. We ask all States Parties to contribute to their re-marginalization and to use all public occasions to recall that those 4 individuals are responsible for massive crimes; abduction of children; transforming them in killers or sexual slaves. The LRA is continuing to commit crimes as no children have been released, as no sexual slaves have been freed; UNICEF and the UN Special Representative of the Secretary General on children in armed conflicts stated that the LRA should release the abductees immediately;
- Joseph Kony and the three other indicted commanders have regained strength and financial means. We ask States Parties to monitor with utmost vigilance supply networks, possible diversion of aid and funds to the benefit of the sought individuals. We thank States parties which have renewed efforts to monitor assistance from Diaspora communities to the LRA ; it must be recalled that any assistance that can help the sought individuals abscond from the Court would be illegal ;
- Joseph Kony and the three other indicted commanders have become a regional power, threatening stability in the sub region. We ask all States parties to support collaborative efforts between the DRC and Uganda to address the issue of arrests; we hope that the support of MONUC will remain forthcoming.

As you can see, at a national level, or in multilateral fora, each of you can do a lot to contribute to arrests. The speech of the Belgian Prime Minister during the 25th of September UNSC summit is a good example. I would be extremely grateful if you could keep the Office updated of any step taken in furtherance of such requests for support.

The Situation in the Central African Republic (CAR)

On 22 May we announced the opening of an investigation in the Central African Republic.

The OTP's investigation will focus on the most serious crimes, which were mainly committed during a peak of violence in 2002-2003 and with a particularly high number of allegations of rapes and other acts of sexual violence, perpetrated against hundreds of reported victims.

As the CAR has not yet any implementing legislation, we have prepared a draft cooperation agreement specifying in particular channels of communications between the Office and CAR for the processing of our requests for judicial assistance¹. The text will be signed shortly. However, we have already started our investigative activities on an *ad hoc* basis.

Cooperation wise, we would again request all States parties to mention the need for cooperation with the ICC in all bilateral or multilateral meetings with the CAR. 6 States parties have an Embassy locally in Bangui. A good opportunity to address the issue is offered by the Donor Roundtable that will take place in Brussels on 26 October that a number of States parties will attend (Canada, France, Germany, Italy, Japan, Peru, Slovakia, South Africa, The Netherlands, UK) alongside Organizations such as the World Bank, the IMF, the African Union.

Finally, we hope to benefit from the full cooperation of the EU Force to be deployed in CAR. We are thankful for the support already given by the EU Delegation in Bangui.

The Situation in Darfur, the Sudan

On 7 June, I briefed the Security Council of the United Nations on the situation in Darfur. I emphasized that the territorial State, the Sudan, has the legal obligation and the ability to arrest Ahmad Harun, former Minister of State for the Interior and Ali Kushayb, a Militia/Janjaweed leader and surrender them to the Court.

I described how Ahmad Harun, responsible for the forced displacement of millions of people into camps, is now controlling his victims, in his new position as Minister for Humanitarian affairs. I urged key partners—the African Union, the League of Arab States, the United Nations and the European Union—to call on the Sudan to arrest and surrender the sought individuals to the ICC.

However, the issue of enforcement of the arrest warrants has been put off the agenda of relevant international meetings.

¹ See also The Registrar's comments on the Court-wide agreement

Justice was not formally on the agenda of the UNSC trip to Khartoum following my report. Justice was not mentioned in the UNSG subsequent reports on Darfur where the UN secretariat developed a three prong approach with a humanitarian, political and security components only. Not justice.

I have engaged in efforts to raise awareness of the need for execution of the arrest warrants. Efforts have included high-level meetings with senior UN officials, including the Secretary General Mr Ban Ki Moon prior to his visit to Khartoum and with the Arab League Secretary-General Amr Musa. I also addressed the issue in New York in September on the eve of the UNSC Summit on Africa, and of the 2nd meeting of the extended contact group on Darfur. I explained to my interlocutors that the Court needed first and foremost words expressing their political support. Their silence could be interpreted as a weakening resolve of the international community on the enforcement of the arrest warrants. Their silence could encourage the provocative gesture of promoting Harun instead of removing him from Office.

I am grateful for the efforts of Ambassadors and advisors who managed to secure references to the arrest warrants in high level speeches of Ministers and Heads of Government, among them the UK, Germany, the Netherlands, Portugal on behalf of the EU, Denmark, Australia, Trinidad and Tobago, New Zealand and Lichtenstein.

The issue will not go away. On 5th December 2007 I will inform officially the UN Security Council, that the Sudan is not cooperating with the Court. The Sudan is not complying with Security Council Resolution 1593.

Finally, let me mention also that we are continuing our investigative activities in neighbouring Chad and have requested the assistance of the future EU mission in Chad on issues of security.

Conclusion

As a Prosecutor, I have been approached by States and other stakeholders suggesting that the responsibility to secure arrests lies in large part with the Prosecution. They suggested more requests for arrest warrants targeting lower level perpetrators, easier to arrest than Ministers or powerful militia leaders. I wish to take the occasion of this briefing to state clearly that the Prosecutorial policy, in accordance with the Statute, will seek to investigate and prosecute those most responsible for the most serious crimes of concern to the international community, based on the criminal evidence we collect and subject only to the judicial review of the Chambers.

The Rome Treaty consolidates the “duty of every state to exercise its criminal jurisdiction over those responsible for international crimes” but also to support a permanent International Criminal Court whenever and wherever the Court decides to intervene. They have to “guarantee lasting respect for and the enforcement of international justice”. They have to seriously address the issue of arrest.

Thank you.