



Cour  
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International  
Criminal  
Court

ICC-PIDS-FS-03-003/13\_Eng

# Office of the Prosecutor



The Prosecutor, Fatou Bensouda  
Photo: ICC-CPI/Wim van Cappellen

The Deputy Prosecutor, James Stewart  
Photo: ICC-CPI/Max Koot

**T**he Office of the Prosecutor is one of the four organs of the International Criminal Court (ICC). It is headed by the Prosecutor, Fatou Bensouda, who was elected by the Assembly of States Parties by consensus. The Prosecutor has full authority over the management and administration of the Office, including its staff, facilities and other resources. The Prosecutor took office on 15 June 2012 and succeeds Mr Luis Moreno-Ocampo, who was the Court's first Prosecutor.

The mandate of the Office is to receive and analyse referrals and communications in order to determine whether there is a reasonable basis to investigate; to conduct investigations into genocide, crimes against humanity and war crimes; and to conduct prosecutions before the Court of persons responsible for such crimes.

By conducting preliminary examinations, investigations and prosecutions, the Office contributes to the overall objective of the Court – to help end impunity for the perpetrators of the most serious crimes of concern to the international community as a whole, and thus to contribute to the prevention of such crimes.

As a consequence of its mandate, the Office of the Prosecutor comprises three divisions:

- **The Investigation Division** is responsible for the conduct of investigations (such as collecting and examining evidence, questioning persons being investigated as well as victims and witnesses). In this respect, the Statute requires the Office to extend the investigation to cover both incriminating and exonerating facts in order to establish the truth.

- **The Prosecution Division** has a role in the investigative process, and will have principal responsibility for the litigation of proceedings before the various Chambers of the Court.
- **The Jurisdiction, Complementarity and Cooperation Division** analyses referrals and communications, with support from the Investigation Division, assess admissibility, helps secure the cooperation needed for the activities of the Office and is responsible for all external relations aspects of the Office.

**T**he Prosecutor may independently start an investigation upon referral of a situation by a State Party, or the Security Council acting to address a threat to international peace and security. In addition, the Prosecutor, under her *proprio motu* powers, may start an investigation on the territory or against nationals of a State Party, subject to confirmation by a Pre-Trial Chamber of the Court.

It is the policy of the Office of the Prosecutor that investigations focus on those individuals who bear the greatest criminal responsibility for crimes committed in a situation under investigation. The Preamble of the Rome Statute recognises that the Court itself is but a last resort for bringing justice to the victims of genocide, war crimes, and crimes against humanity. Thus, the Rome Statute assigns the Court and the Office of the Prosecutor a role that is complementary to national systems.

The Rome Statute also provides that the Office of the Prosecutor shall act independently. Consequently, a member of the Office of the Prosecutor must not seek or act on instructions from any external source, such as States, international organisations, NGOs or individuals.



**Fatou Bensouda, Prosecutor:** On 12 December 2011, Ms Bensouda of The Gambia was elected Prosecutor by the Assembly of States Parties by consensus. She took office on 15 June 2012. Before this, Ms Bensouda served as the Court’s Deputy Prosecutor for eight years, having been elected to that position on 8 September 2004. As Deputy Prosecutor, she was in charge of the Prosecutions Division of the Office of the Prosecutor. Prior to this, Ms Bensouda worked as Legal Adviser and Trial Attorney at the International Criminal Tribunal for Rwanda (ICTR) in Arusha, Tanzania, rising to the position of Senior Legal Adviser and Head of the Legal Advisory Unit. Before joining the ICTR, she was the General Manager of a leading commercial bank in The Gambia. Between 1987 and 2000, she was successively Senior State Counsel, Principal State Counsel, Deputy Director of Public Prosecutions, Solicitor General and Legal Secretary of the Republic, she then became Attorney General and Minister of Justice, in which capacity she served as Chief Legal Adviser to the President and Cabinet of The Republic of The Gambia. Ms Bensouda also took part in negotiations on the treaty of the Economic Community of West African States (ECOWAS), the West African Parliament and the ECOWAS Tribunal. She has been a delegate at United Nations conferences on crime prevention, the Organisation of African Unity’s ministerial meetings on human rights, and the delegate of The Gambia to the meetings of the Preparatory Commission for the International Criminal Court. Ms Bensouda holds a masters degree in international maritime law and the law of the sea and as such is the first international maritime law expert of The Gambia.



**James Stewart, Deputy Prosecutor:** On 16 November 2012, Mr James Kirkpatrick Stewart of Canada was elected Deputy Prosecutor of the ICC by the Assembly of States Parties. Prior to joining the Office of the Prosecutor (OTP) of the ICC, Mr Stewart worked as General Counsel in the Crown Law Office within the Ministry of the Attorney General, in Toronto. Before this, he served as Senior Trial Attorney in the OTP at the ICTR; as Chief of Prosecutions in the OTP at the International Criminal Tribunal for the former Yugoslavia (ICTY); and as Senior Appeals Counsel and then Chief of the Appeals and Legal Advisory Division in the OTP at the ICTR. Mr Stewart also served with the Office of the Ombudsman as a legal officer for two years. He joined the Downtown Toronto Crown Attorney’s Office as an Assistant Crown Attorney in 1979, handling criminal trials at all levels of court. Since 1985, Stewart has served in the Crown Law Office – Criminal, where his practice expanded to include appeals before the Court of Appeal for Ontario and the Supreme Court of Canada. On leaves of absence from his office, he worked at the UN international criminal tribunals. Mr Stewart is bilingual in English and French. Educated at Bishop’s College School in Lennoxville, Québec, he attended Queen’s University, in Kingston, Ontario (B.A., 1967), and Université Laval, in Sainte-Foy, Québec (M. ès A., 1971). In 1975, he graduated from the Faculty of Law at the University of Toronto, articulated for prominent criminal defence lawyer, Robert J. Carter, Q.C., in 1975-6, and was called to the Ontario Bar in 1977.

