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Report of the International Criminal Court

Report of the International Criminal Court

Note by the Secretary-General

The annual report of the International Criminal Court on its activities in 2013/14 is submitted herewith to the General Assembly in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court and paragraph 26 of General Assembly resolution 67/295.

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Report of the International Criminal Court on its activities in 2013/14

Summary

During the reporting period, the caseload of the International Criminal Court continued to increase. The Court is currently dealing with 21 cases in 8 situations at different stages of proceedings. The Office of the Prosecutor is conducting investigations and judicial proceedings in 8 situations (Central African Republic, Côte d'Ivoire, Darfur (Sudan), Democratic Republic of the Congo, Kenya, Libya, Mali and Uganda), and is also continuing to proactively gather information and conduct preliminary examination activities in 10 situations (Afghanistan, Central African Republic, Colombia, Comoros ("Gaza Freedom Flotilla" incident), Georgia, Guinea, Honduras, Iraq, Nigeria and Ukraine).

In the context of its active situations, the Court has thus far issued 30 warrants of arrest against individuals, with nine suspects or accused persons currently in custody. In addition, nine summonses to appear have been issued since 2002. Of the cases before the Court, three trial verdicts have been delivered and appeals are pending in two of them. One verdict became final in June 2014. Six cases (concerning seven persons) are at the trial preparation or trial stage, and in two cases, confirmation of charges proceedings are expected to come to a close in 2014.

Arrest warrants issued by the Court remain outstanding against 12 individuals:

(a) Uganda: Joseph Kony, Vincent Otti, Okut Odhiambo and Dominic Ongwen, since 2005;

(b) Democratic Republic of the Congo: Sylvestre Mudacumura, since 2012;

(c) Darfur: Ahmad Harun and Ali Kushayb, since 2007; Omar Hassan Ahmad Al Bashir, two warrants, since 2009 and 2010; and Abdel Raheem Muhammad Hussein, since 2012;

(d) Libya: Saif Al-Islam Gaddafi since 2011;

(e) Côte d'Ivoire: Simone Gbagbo, since 2012;

(f) Kenya: Walter Osapiri Barasa, since 2013.

During the reporting period the Court received 3,106 applications from victims for participation and 2,524 for reparations. There are 19 defence teams working before the Court, 14 of which are funded by the legal aid scheme, and a further 24 teams of legal representatives of victims, of which 16 are funded by the legal aid scheme.

Eight States ratified amendments on the crime of aggression and nine States ratified amendments on certain crimes in non-international armed conflicts, bringing the total number of States to have accepted these amendments to 15 and 18, respectively. A total of 72 countries have also ratified the Agreement on the Privileges and Immunities of the Court, with no new ratifications or accessions during the reporting period.

The present reporting period marks the first, since the Court started reporting on its activities to the General Assembly in August 2005, in which no new State has ratified the Rome Statute. However, during the period, Ukraine, a non-State party, accepted the jurisdiction of the Court through a declaration lodged with the International Criminal Court Registrar, pursuant to article 12(3) of the Statute.

It is the Court's considered view that the General Assembly would benefit from additional information on the broader context of international criminal justice set up by the Rome Statute system, and in particular on the importance of complementarity as a crucial tool to enhance synergies and achieve the common goals of justice, accountability, peace and justice.

Contents

I. Introduction

1. The present report, covering the period from 1 August 2013 to 31 July 2014, is being submitted to the General Assembly in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court.[1]

II. Update on judicial and prosecutorial activities

A. Preliminary examinations

2. During the reporting period, the Office of the Prosecutor opened preliminary examinations in the Central African Republic, Iraq and Ukraine; continued preliminary examinations in Afghanistan, Colombia, Georgia, Guinea, Honduras, Nigeria and the "Gaza Freedom Flotilla" incident; and concluded its preliminary examination in the Republic of Korea. The Office published a report on its preliminary examination activities on 25 November 2013.

3. The Office of the Prosecutor continued to analyse information received from various sources alleging the commission of crimes potentially falling within the Court's jurisdiction. From 1 August 2013 to 30 June 2014, the Office received 495 communications relating to article 15 of the Rome Statute, of which 408 were manifestly outside the Court's jurisdiction; 30 were unrelated to current situations and warranted further analysis; 37 were linked to a situation already under analysis; and 20 were linked to an investigation or prosecution.

1. Afghanistan

4. The Office of the Prosecutor continued to gather and verify information on alleged crimes committed in the situation in Afghanistan, and to refine its legal analysis. The Office further engaged with relevant States and cooperation partners with a view to discussing and assessing alleged crimes and gathering more information. The Office also held a number of meetings with representatives of Afghan civil society and international non-governmental organizations in order to discuss possible solutions to challenges raised by the situation in Afghanistan such as security concerns, limited or reluctant cooperation and verification of information. The Office of Prosecutor conducted a mission to Afghanistan from 15 to 19 November 2013 to participate in an international seminar organized by non-governmental organizations on peace, reconciliation and transitional justice.

5. The Office found that there was a reasonable basis to believe that crimes within the jurisdiction of the Court, namely crimes against humanity and war crimes, had been committed in the situation in Afghanistan since 1 May 2003. On that basis, the Prosecutor decided that the preliminary examination should be expanded to include admissibility issues. In this respect, the Office is examining the existence and genuineness of relevant national proceedings, taking into consideration its policy of focusing on those most responsible for the most serious crimes.

[1] United Nations, *Treaty Series*, vol. 2283, No. 1272.

2. Colombia

6. During the reporting period, the Colombian authorities took steps to prioritize investigations and prosecutions of those most responsible for International Criminal Court crimes, under both the Justice and Peace Law and ordinary systems. Under the Justice and Peace Law, charges against such persons were broadened to include conduct amounting to sexual violence and forced displacement within the Court's jurisdiction, while investigations initiated by the Attorney General's Office against other alleged perpetrators appear to have been expanded to include such conduct.

7. The Office of the Prosecutor continued to analyse the relevance and genuineness of a large number of national proceedings in order to reach determinations on admissibility. It also continued to analyse the implementation of the Legal Framework for Peace and the Military Justice Reform in order to assess their impact on the conduct of national proceedings relating to crimes under the Court's jurisdiction. The Office continued to consult closely with the Colombian authorities, with a view to ensuring that genuine national proceedings are carried out against those most responsible for the most serious crimes. To further those objectives, the Office conducted a mission to Colombia from 11 to 16 November 2013, during which it met with the national authorities, international organizations and civil society, and participated in a conference entitled "Strengthening the Attorney General's Office on Transitional Justice".

3. Georgia

8. The Office of the Prosecutor continued to actively engage with relevant stakeholders and requested updated information on national proceedings in order to conduct a comprehensive and accurate assessment of the admissibility of potential cases identified at this stage of the analysis. The Office conducted a mission to Moscow from 22 to 24 January 2014 and a mission to Tbilisi from 29 April to 1 May 2014, in order to gather updated information on concrete investigative steps taken by the Russian Federation and Georgia, respectively.

4. Guinea

9. In accordance with its policy to encourage genuine national proceedings, the Office of the Prosecutor continued to actively follow up on the national proceedings for the 28 September 2009 events and to mobilize relevant stakeholders, including States parties and international organizations, to support the efforts of the Guinean authorities to ensure that justice is served. The Office conducted a mission to Conakry from 18 to 20 February 2014 and met in London with the panel of judges investigating the 28 September events on 11 June 2014, in order to obtain updated information on the status of the national proceedings.

5. Honduras

10. In relation to the events surrounding the June 2009 coup d'etat and the measures taken in its aftermath, the Office of the Prosecutor concluded that there was no reasonable basis to believe that the conduct attributable to the de facto regime authorities during that discrete time period constituted crimes against humanity. However, the Office continued its preliminary examination of the situation in the light of more recent allegations regarding conduct following the presidential election of 2010, to determine whether there was a reasonable basis to

believe that crimes against humanity had been or were being committed. The Office conducted a mission to Tegucigalpa from 23 to 28 March 2014 in order to verify the seriousness of the information received regarding these alleged crimes.

6. Registered vessels of the Comoros, Greece and Cambodia

11. The Office of the Prosecutor analysed the supporting documentation accompanying the referral from the Comoros, as well as the reports published by each of the four commissions that had previously examined the events of 31 May 2010 relating to the "Gaza Freedom Flotilla". The analysis revealed a number of significant discrepancies in the factual and legal characterization of the incidents which the Office sought to resolve by seeking additional information from relevant reliable sources. On the basis of all the information available, the Office expects to reach a determination in the near future as to whether the article 53 criteria for initiation of an investigation have been met.

7. Nigeria

12. On 5 August 2013, the Office of the Prosecutor published its article 5 report on the situation in Nigeria, presenting its findings with respect to issues of jurisdiction based on information gathered by the Office as at December 2012. Following the publication of the report, the Office continued to analyse whether the contextual elements for war crimes had been met. In its 2013 report on preliminary examination activities, the Office published its determination that, based on the level of intensity and organization of the parties, the elements for the existence of a non-international armed conflict had been met since at least May 2013. Therefore, allegations of crimes occurring in the context of the armed violence between Boko Haram and the Nigerian security forces are being examined within the scope of article 8(2)(c) and (e) of the Statute.

13. The Office of the Prosecutor received and analysed information submitted by the Nigerian authorities relevant to the admissibility assessment of alleged crimes committed by Boko Haram. It identified information gaps and requested additional information to substantiate its assessment as to whether the national authorities were conducting genuine proceedings in relation to those most responsible for such crimes, and the gravity of such crimes. A determination on admissibility remains pending. The Prosecutor conducted a mission to Abuja from 23 to 25 February 2014 to participate in an international seminar on the application of international humanitarian law in internal security operations. On 8 May 2014, the Prosecutor issued a statement expressing concern about the alleged abduction of more than 200 schoolgirls in Borno State.[2]

8. Central African Republic

14. On 7 February 2014, the Prosecutor announced her decision to open a new preliminary examination of the situation in the Central African Republic since September 2012. The Office of the Prosecutor concluded that the alleged crimes since September 2012 did not fall within the scope of the December 2004 referral

[2] Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, dated 8 May 2014, on the abduction of schoolgirls in Nigeria. Available from www.icccpi.int/en_menus/icc/structure%20of%20the%20court/office%20of%20the%20prosecutor/reports%20and%20statements/statement/Pages/otp-statement-08-05-2014.aspx.

from the Central African Republic authorities; it therefore constituted a new situation for which the Office would conduct a preliminary examination. Subsequently, on 12 June 2014, the Central African Republic authorities submitted a referral to the Prosecutor of the situation in that country since 1 August 2012, in accordance with article 14 of the Statute. The Office conducted a mission to Bangui from 6 to 13 May 2014. The Office is analysing whether the article 53 criteria for initiation of an investigation have been met on the basis of all information available and expects to reach a determination in the near future.

9. Iraq

15. On 13 May 2014, the Prosecutor announced her decision to reopen the preliminary examination of the situation in Iraq, which had been concluded in 2006, following the submission in January 2014 of further information in accordance with article 15 of the Statute. Although Iraq is a not a State party to the Rome Statute, the International Criminal Court has jurisdiction over alleged crimes committed in the territory of Iraq by nationals of States parties. On the basis of the new information received, the reopened preliminary examination will analyse, in particular, alleged crimes attributed to the armed forces of the United Kingdom of Great Britain and Northern Ireland deployed in Iraq between 2003 and 2008. The Office of the Prosecutor conducted a mission to the United Kingdom on 26 and 27 June 2014.

10. Ukraine

16. On 17 April 2014, the Government of Ukraine lodged a declaration under article 12(3) of the Rome Statute accepting the jurisdiction of the International Criminal Court over alleged crimes committed on its territory from 21 November 2013 to 22 February 2014. The Prosecutor opened a preliminary examination of the situation in Ukraine in order to establish whether the Rome Statute criteria for opening an investigation had been met. During the reporting period, the preliminary examination focused on gathering available information and seeking additional information from reliable sources in order to conduct an analysis of whether the situation falls within the Court's subject-matter jurisdiction.

11. Republic of Korea

17. On 23 June 2014, the Prosecutor announced the conclusion of the preliminary examination of the situation in the Republic of Korea. Following a thorough factual and legal analysis of the information available, the Prosecutor determined that the Rome Statute requirements to seek authorization to initiate an investigation had not been satisfied. The Office of the Prosecutor concluded that the alleged attack on the warship *Cheonan* had been directed at a lawful military target and would not otherwise meet the definition of the war crime of perfidy as defined in the Statute. With regard to the shelling of Yeonpyeong Island, the Office concluded that, although, regrettably, the shelling had resulted in civilian casualties, the information available did not provide a reasonable basis for believing that the attack had been intentionally directed against civilian objects or that the civilian impact had been expected to be clearly excessive in relation to the anticipated military advantage. A detailed report was published presenting the Office's findings with respect to these jurisdictional matters. Should any future acts be committed on the Korean peninsula that appear to fall under the Court's jurisdiction, the Prosecutor remains prepared to

initiate a preliminary examination into such acts, and to investigate and prosecute the perpetrators as appropriate.

B. Investigations and judicial proceedings

1. Situation in the Democratic Republic of the Congo

Investigations

18. The Office of the Prosecutor conducted one mission to collect information necessary in support of trials and to address the arguments raised by the defence in the case against Germain Katanga. In addition, the Office has made efforts to explain the discontinuance of its appeal and that of the defence, resulting in the first final conviction of the Court (i.e., that has not been appealed).

19. The Office also continued its investigation into the situation and conducted 83 missions to 8 countries for the purpose of, inter alia, collecting evidence, screening and interviewing witnesses and securing the continued cooperation of its partners, in relation to its continued investigation in the case against Bosco Ntaganda.

20. Furthermore, the Office conducted eight missions to four countries for its investigations related to crimes committed by the Forces Démocratiques pour la Liberation du Rwanda in the Kivu provinces, in particular in relation to its case against Sylvestre Mudacumura.

21. The investigation into alleged crimes committed in the Democratic Republic of the Congo, in particular the Kivu provinces, continues.

The Prosecutor v. Thomas Lubanga Dyilo

22. During the reporting period, the Appeals Chamber rendered numerous interlocutory decisions in the appeal against the conviction and sentencing of Thomas Lubanga Dyilo, including granting participatory status to an additional 32 victims and rejecting a request by Child Soldiers International to submit observations on the issues on appeal. On 14 January 2014, the Appeals Chamber granted Mr. Lubanga Dyilo's request to add an additional ground of appeal. On 19 and 20 May 2014, the Appeals Chamber held a hearing at which two defence witnesses testified in support of Mr. Lubanga Dyilo's application to present additional evidence in his appeals against conviction and sentence. The matter is pending before the Appeals Chamber.

The Prosecutor v. Germain Katanga

23. On 7 March 2014, Trial Chamber II found Germain Katanga guilty of five counts, including war crimes and a crime against humanity. He was acquitted of the charges of rape, sexual slavery and using children under the age of 15 years to participate actively in hostilities. On 23 May 2014, the Chamber sentenced Mr. Katanga to 12 years of imprisonment. On 25 June 2014, the defence and the Prosecutor withdrew their appeals against the judgement and indicated that they did not intend to appeal the decision on sentencing. The judgement issued by Trial Chamber II is thus final. On 16 April 2014, the Presidency issued a decision reconstituting Trial Chamber II for the remaining reparations proceeding and

replaced two judges who had completed their extended terms of office. On 22 July 2014, the Plenary of Judges rejected an application from the legal representative of victims in the case for the disqualification of Judge van den Wyngaert from the case.

The Prosecutor v. Mathieu Ngudjolo Chui

24. The Appeals Chamber issued several decisions related to the Prosecutor's appeal against the judgement of 18 December 2012 acquitting Mathieu Ngudjolo Chui of all charges. The Appeals Chamber also issued several orders and decisions relevant to three defence witnesses who had been held at the Court's Detention Centre from March 2011 until their transfer into Dutch custody on 4 June 2014.

The Prosecutor v. Bosco Ntaganda

25. On 2 December 2013, Pre-Trial Chamber II decided to appoint two common legal representatives of victims in the case, after taking into consideration the unprecedented number of victims who had applied to participate at the pre-trial stage and the conflicting interests between the different groups of victims. During the reporting period, the Pre-Trial Chamber admitted a total of 1,120 victims to participate in the case.

26. From 10 to 14 February 2014, the confirmation of charges hearing took place before the Pre-Trial Chamber. On 9 June 2014, the Pre-Trial Chamber confirmed 13 charges of war crimes and 5 charges of crimes against humanity against Mr. Ntaganda.

2. Situation in the Central African Republic

Investigations

27. On the basis of information collected in the course of the investigation by the Office of the Prosecutor in the Bemba Gombo case and ensuing applications by the Office, on 20 November 2013, Pre-Trial Chamber II issued five warrants of arrest against Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba (Mr. Bemba Gombo's counsel in the case at trial), Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido for offences against the administration of the Court under article 70 of the Rome Statute, including presenting evidence to the Court that the party knows to be false or forged and corruptly influencing witnesses to provide false testimony.

28. The Office conducted a total of 19 missions to 8 countries for the purposes of, inter alia, interviewing witnesses and collecting other evidence, as well as securing the cooperation of partners.

The Prosecutor v. Jean-Pierre Bemba Gombo

29. During the reporting period, Trial Chamber III closed the presentation of evidence in the case, set deadlines for closing briefs and decided that the closing oral arguments would be heard as of 13 October 2014. The Trial Chamber also decided that it would issue separate decisions as to the guilt or innocence of the accused and, in the case of conviction, on the sentence to be imposed.

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

30. The five suspects made their first appearances before the Pre-Trial Chamber between November 2013 and March 2014. On 3 March 2014, Mr. Kilolo Musamba requested that the Appeals Chamber disqualify the Prosecutor, the Deputy Prosecutor and the entire staff of the Office of the Prosecutor from the ongoing investigations against him for the alleged offences. On 12 March 2014, Mr. Mangenda Kabongo requested that the Appeals Chamber apply its ruling equally to the proceedings in relation to him and, on 19 March 2014, Mr. Babala Wandu filed observations, also requesting that the Appeals Chamber grant Mr. Kilolo Musamba's request for disqualification. The matter is pending before the Appeals Chamber.

31. On 17 March 2014, Pre-Trial Chamber II rejected a request presented by the defence for Mr. Mangenda Kabongo for the Court not to exercise its jurisdiction in the case. On 28 May 2014, the Pre-Trial Chamber rejected a request presented by the defence for Mr. Kilolo Musamba for the judicial functions of the Chamber to be exercised by the full Chamber instead of a single judge. On 20 June 2014, the Plenary of Judges declined a defence request to disqualify Judge Cuno Tarfusser from handling the pre-trial phase of the case, finding that none of the arguments put forward by the defence substantiated any allegations of bias, or the appearance thereof. On 30 June 2014, the Office of the Prosecutor submitted its document containing the charges and list of evidence. On 11 July 2014, the Appeals Chamber, by majority, confirmed the Pre-Trial Chamber's decisions against interim release in relation to Mr. Mangenda Kabongo, Mr. Babala Wandu and Mr. Kilolo Musamba and dismissed the respective appeals. On 24 July 2014, Pre-Trial Chamber II rejected Mr. Arido's request for interim release. On 9 July 2014, Mr. Babala Wandu filed an appeal against the first review of his detention pursuant to article 60 (3) of the Statute. The matter is pending before the Appeals Chamber.

3. Situation in Uganda

Investigations

32. The Office of the Prosecutor conducted five missions to Uganda in order to meet with the Government of Uganda and other partners in relation to the Lord's Resistance Army; investigate allegations that International Criminal Court indictee, Okot Odhiambo, was killed between October and December 2013; and interview members of the Lord's Resistance Army who had defected and returned to Uganda.

33. The Office continued to gather and analyse information related to alleged crimes committed by the Uganda People's Defence Forces and continues to encourage national proceedings in relation to both parties to the conflict.

4. Situation in Darfur

Investigations

34. The Office of the Prosecutor conducted 20 missions in relation to investigations into the situation in Darfur.

35. In accordance with Security Council resolution 1593 (2005), the Prosecutor presented her eighteenth and nineteenth reports on the situation in Darfur to the

Council. In her briefings on 11 December 2013 and 23 June 2014, the Prosecutor, inter alia, highlighted the lack of cooperation by the Government of the Sudan and the lack of national proceedings against those responsible for the crimes committed. The Office of the Prosecutor highlighted its concern about the fact that, despite the adoption of 55 Security Council resolutions on the Sudan since 2004, hardly any of them had been implemented. The persistent refusal of the Government of the Sudan to implement the Council's resolutions directly curtailed the Council's efforts to curb or prevent crimes in Darfur, which was an issue of concern relevant to the mandates of both the Council and the Court.

36. The Office of the Prosecutor continues to monitor the situation and to gather information regarding it. The information collected indicates that crimes against humanity, war crimes and genocide continue to be committed. The Office expressed concern about allegations, supported by documentation from the former spokesperson of the African Union-United Nations Hybrid Operation in Darfur (UNAMID), of manipulation of UNAMID reporting and of intentional cover-up of crimes committed against civilians and peacekeepers, in particular by the Government of the Sudan forces. The Office called upon the Secretary-General to undertake a thorough, independent and public inquiry into those allegations based on the cases documented by the former spokesperson.

The Prosecutor v. Omar Hassan Ahmad Al Bashir

37. During the reporting period, Pre-Trial Chamber II issued decisions inviting the competent authorities of the following countries, on the respective dates, to cooperate with the Court in the arrest and surrender of Mr. Al Bashir in the event that he entered their territories: United States of America (18 September 2013); Ethiopia, Saudi Arabia and Kuwait (10 October and 18 November 2013); Ethiopia (30 January and 17 February 2014); Democratic Republic of the Congo (26 February 2014); Chad (3 March 2014); Kuwait (24 March 2014); Ethiopia (29 April 2014); and Qatar (7 July 2014).

38. On 5 September 2013, the Pre-Trial Chamber issued a decision on the cooperation of Nigeria regarding Mr. Al Bashir's arrest and surrender to the Court, whereby it decided not to refer the matter to the Assembly of States Parties and/or the Security Council. On 3 March 2014, the Pre-Trial Chamber issued a decision inviting the competent authorities of the Democratic Republic of the Congo to submit observations with regard to their alleged failure to execute the requests for the arrest and surrender of Mr. Al Bashir during his visit in the territory of the that country on 26 and 27 February 2014. After receiving the observations, the Pre-Trial Chamber issued a decision on 9 April 2014 finding that the Democratic Republic of the Congo had failed to cooperate with the Court by deliberately refusing to arrest and surrender Mr. Al Bashir, and referred its decision to the President of the Court for transmission to the Security Council and the Assembly of States Parties.

The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus

39. On 4 October 2013, Trial Chamber IV terminated the proceedings against Mr. Jerbo Jamus, after receiving information that pointed to his death, without prejudice to resuming the proceedings should information become available that he is alive.

40. On 16 April 2014, the Chamber vacated the 5 May 2014 trial commencement date in the light of logistical difficulties encountered by the Registry. On 14 July 2014, the Chamber decided that the trial would commence on 18 November 2014 and issued a cooperation request to the Government of the Sudan to take all the necessary steps to facilitate Abdallah Banda Abakaer Nourain's presence for his trial.

The Prosecutor v. Abdel Raheem Muhammad Hussein

41. In September 2013, Pre-Trial Chamber II requested observations from Chad and the Central African Republic concerning their alleged failure to arrest Mr. Hussein when he was in their territory. On 13 November 2013 the Pre-Trial Chamber decided not to refer the matter to the Assembly of States Parties and/or the Security Council.

5. Situation in Kenya

Investigations

42. The Office of the Prosecutor undertook 73 missions to 14 countries in relation to investigations into the situation in Kenya.

43. The Office continued to gather information on the crimes against humanity of murder, deportation or forcible transfer and persecution which were allegedly committed in Turbo town, the greater Eldoret area, Kapsabet town and Nandi Hills, from on or about 30 December 2007 until the end of January 2008.

44. Similarly, the Office continued to gather information on the crimes against humanity of murder, deportation or forcible transfer, rape, other inhumane acts and persecution, allegedly committed between 24 and 28 January 2008 against the civilian residents of Nakuru and Naivasha perceived as supporters of the Orange Democratic Movement, in particular those belonging to the Luo, Luhya and Kalenjin ethnic groups.

45. The Office continues to investigate other alleged instances of offences against the administration of justice under article 70 of the Rome Statute in the trial against William Samoei Ruto and Joshua Arap Sang.

The Prosecutor v. William Samoei Ruto and Joshua Arap Sang

46. On 10 September 2013, the trial commenced with the opening statements of the parties and participants. On 13 December 2013, the Appeals Chamber rejected as inadmissible the Prosecutor's appeal against the decision of Pre-Trial Chamber II rejecting her request to amend the updated document containing the charges, finding that, once the trial had commenced, it was no longer possible to amend or to add to the charges, regardless of when the Prosecutor filed her request to amend the charges.

47. On 25 October 2013, the Appeals Chamber reversed the previous decision of Trial Chamber V (a) to grant Mr. Ruto conditional excusal from continuous presence at trial. The Appeals Chamber found that, while article 63 (1) of the Rome Statute did not operate as an absolute bar in all circumstances to the continuation of trial proceedings in the absence of the accused, Mr. Ruto's absence could only be in

exceptional circumstances and must not become the rule. However, on 15 January 2014, following the introduction of the new rule 134 quater to the Court's rules of procedure and evidence, adopted in November 2013 by the Assembly of States Parties, Trial Chamber V (a) decided in an oral ruling to conditionally excuse Mr. Ruto from presence at trial.

48. On 17 April 2014, Trial Chamber V (a) granted the Prosecution's application for summonses for eight witnesses (a ninth was served with a summons in June) required to appear before the Chamber, either via videolink or at a location in Kenya. Mr. Ruto and Mr. Sang have appealed the decision. The appeal, on which the Government of Kenya has been granted to file observations, is pending before the Appeals Chamber.

The Prosecutor v. Uhuru Muigai Kenyatta

49. On 31 October 2013, Trial Chamber V (b) vacated the trial commencement date of 12 November 2013 and provisionally set a new trial commencement date of 5 February 2014. On 19 December 2013, the Prosecution stated that it did not, at that time, have sufficient evidence to meet the standard required for a conviction at trial and sought a further adjournment of the trial date. On 31 March 2014, the Trial Chamber adjourned the provisional trial commencement date to 7 October 2014. On 29 July 2014, the Trial Chamber ordered the Government of Kenya to provide the Prosecution with financial and communication records relating to Mr. Kenyatta from 2007 to 2010.

The Prosecutor v. Walter Osapiri Barasa

50. On 2 August 2013, at the request of the Prosecutor, Pre-Trial Chamber II issued a warrant of arrest against Walter Osapiri Barasa for offences against the administration of justice under article 70 of the Statute for corruptly influencing or attempting to corruptly influence three International Criminal Court witnesses. Surrender proceedings are ongoing in Kenya.

6. Situation in Libya

Investigations

51. The Office of the Prosecutor conducted seven missions to four countries in relation to investigations into the situation in Libya.

52. The Prosecutor also presented her sixth and seventh reports to the Security Council on the situation in Libya, on 14 November 2013 and on 13 May 2014, respectively. The Office, inter alia, noted the conclusion of a burden-sharing memorandum of understanding on 29 January 2014, the purpose of which is to facilitate the collaborative efforts to ensure that individuals allegedly responsible for committing crimes in Libya as at 15 February 2011 are brought to justice either at the Court or in Libya itself.

53. The Office also indicated its awareness of and concerns regarding reports of alleged attacks carried out against the civilian population and civilian objects in Tripoli and Benghazi, and called for an immediate end thereto. It continued to monitor the situation on the ground and its investigative activities pursuant to Security Council resolution 1970 (2011).

The Prosecutor v. Saif Al-Islam Gaddafi and Abdullah Al-Senussi

Saif Al-Islam Gaddafi

54. On 21 May 2014, the Appeals Chamber confirmed the 31 May 2013 decision of Pre-Trial Chamber I to reject the challenge by Libya to the admissibility of the case, finding that the Pre-Trial Chamber did not err in either fact or law when it concluded that Libya had fallen short of substantiating, by means of evidence of a sufficient degree of specificity and probative value, that the investigation by Libya covered the same case that was before the Court. On 11 July 2014, the Pre-Trial Chamber issued a decision which reminded Libya of its duty to proceed immediately with the surrender of Mr. Gaddafi to the Court.

Abdullah Al-Senussi

55. On 24 July 2014, the Appeals Chamber confirmed the 11 October 2013 decision of Pre-Trial Chamber I, in which the case against Mr. Al-Senussi was declared inadmissible before the International Criminal Court as it was subject to ongoing domestic proceedings conducted by the competent Libyan authorities, and Libya was genuinely willing and able to carry out such proceedings.

7. Situation in Côte d'Ivoire

Investigations

56. The Office of the Prosecutor continued its investigation into the situation and conducted 43 missions to 5 countries for the purpose of, inter alia, collecting evidence, screening and interviewing witnesses, and securing the continued cooperation of its partners.

57. The Office has focused on allegations of crimes against humanity in violation of articles 7 (1) (a), 7 (1) (g), 7 (1) (h) and 7 (1) (k) of the Rome Statute that were committed in Côte d'Ivoire in the context of the post-election violence of 2010-2011 and continues its investigation in relation to alleged crimes committed in that country, covering both sides of the conflict, irrespective of political affiliation.

The Prosecutor v. Laurent Gbagbo

58. On 12 June 2014, Pre-Trial Chamber I confirmed four charges of crimes against humanity against Mr. Gbagbo and committed him for trial before a Trial Chamber. On 11 November 2013, 12 March and 11 July 2014, the Pre-Trial Chamber issued decisions on the review of Mr. Gbagbo's detention, pursuant to article 60 (3) of the Statute and, in each instance, decided that he should remain in detention. In its decisions, the Chamber also ordered the Registry and the Defence to submit reports on the progress of efforts to address the issue of Mr. Gbagbo's health, with a view to exploring the different options for conditional release.

The Prosecutor v. Simone Gbagbo

59. On 30 September 2013, Côte d'Ivoire lodged an admissibility challenge and requested the postponement of the request for the arrest and surrender of Ms. Gbagbo. The matter is pending before the Pre-Trial Chamber. On 28 February 2014, the Pre-Trial Chamber authorized Ms. Gbagbo's co-counsel, at his request, to withdraw from the case.

The Prosecutor v. Charles Blé Goudé

60. On 30 September 2013, Pre-Trial Chamber I decided to unseal the warrant of arrest which was issued under seal against Mr. Blé Goudé in December 2011. Mr. Blé Goudé was surrendered to the Court on 22 March 2014 and had his first appearance before the Pre-Trial Chamber on 27 March 2014. On 11 July 2014, at the request of the Prosecutor, the Pre-Trial Chamber decided to postpone the start of the confirmation of charges hearing to 22 September 2014.

8. Situation in Mali

Investigations

61. The Office of the Prosecutor has conducted 24 missions to 4 countries for the purpose of, inter alia, collecting evidence, screening and interviewing witnesses and securing the continued cooperation of its partners.

62. The Office continues to collect information and evidence about alleged crimes committed in the entire territory of Mali. However, based on the results of the preliminary examination, initial geographical emphasis has been given to the three northern regions.

63. Pursuant to article 8 (2) (e) (iv) of the Rome Statute, the Office of the Prosecutor is, inter alia, giving particular attention to allegations concerning the intentional directing of attacks against buildings dedicated to religion and historic monuments, including those that have received World Heritage status, and has accordingly cooperated with the United Nations Educational, Scientific and Cultural Organization. The Office has also sought cooperation from a number of other United Nations agencies present in Mali, including from the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA).

III. International cooperation

A. The Rome Statute system of international criminal justice: the importance of complementarity

64. The Rome Statute was never intended to replace national courts. Given the States' primary responsibility for the investigation and prosecution of crimes, it becomes incumbent on the international community to foster conditions necessary to enable genuine national proceedings in States affected by mass criminality.

65. The Court has been using various international forums to disseminate messages and forge close ties among key actors of the Rome Statute system. The aim has been to mainstream Rome Statute issues into conflict management, democratization, judicial and legal reform and development programmes, to catalyse discussions among the relevant actors and to assist in their efforts of reinforcing the ability of national authorities to prosecute Rome Statute crimes. Such actors may in fact benefit from the knowledge and expertise that the Court has when devising country-specific measures aimed at strengthening the rule of law.

66. While the role of the Court in fostering complementarity is limited, as it is not a development agency, the Court endeavours to encourage cooperation and assistance with a view to strengthening national proceedings where it can. The

President plays an important role in raising awareness and forging long-term relations among various actors involved in the areas of justice, development and rule of law, with a particular focus on the role of the United Nations. For the Office of the Prosecutor, complementarity has been a key principle underlying prosecutorial strategy from the first years of its operation. It includes the full range of activities conducted during the preliminary examination stage, notably the publicity of activities under article 15 to allow States to factor in the duty to conduct national proceedings and mobilization of external resource networks to support such activities, as well as cooperation with national jurisdictions conducting investigations on serious crimes, including by responding positively as far as possible, with requests received under article 93 (10) of the Rome Statute. In addition, the Registry contributes, as it has expertise in organizing fair trials for serious international crimes, in partnering and/or providing advice and transfer of knowledge in the areas of court management and services, including legal representation and witness protection.

67. States can thus benefit from increased synergies and coordinated efforts among State authorities, international and regional organizations, civil society and the Court. In addition, the strengthening of local capacity, for example, facilitates the execution of the requests for cooperation sent by the Court. In the long term, it also contributes to ensuring the sustainability of the Court's impact in the situation countries where it conducted investigations, as rule of law projects can build or reinforce the necessary national tools to investigate and prosecute crimes that would fall within the jurisdiction of the Court.

B. Cooperation with the United Nations

68. The New York Liaison Office continued to promote cooperation between the International Criminal Court and the United Nations, represent the Court in various meetings, follow developments of relevance for the Court and assist in organizing relevant events and visits of senior Court officials.

Relevant meetings and support

69. The Court is thankful for the meetings with senior United Nations officials in New York, as well as with permanent representatives to the United Nations, to discuss the relationship between the Court and the Organization and matters of cooperation. The President addressed the General Assembly on 31 October 2013 and the Prosecutor briefed the Security Council on four occasions regarding the situations in Darfur and Libya. In addition, the Court's principals received visits at the seat of the Court from the Special Adviser on the Prevention of Genocide, the Special Adviser on the Responsibility to Protect and the Special Representative for the Democratic Republic of the Congo.

70. The Court continued to engage with State representatives in New York in the context of ongoing discussions to increase and strengthen the relationship between the Court and the Security Council, including through informal meetings between the Prosecutor and Council members. The Court welcomes an increasing dialogue with the Council's sanctions committees and is thankful for the assistance provided to lift the travel ban against Charles Blé Goudé.

71. Following the adoption of the revised United Nations guidelines on non-essential contacts with persons subject to an arrest warrant issued by the International Criminal Court on 8 April 2013, the Court expressed its appreciation for the report of the Secretary-General on information relevant to the implementation of article 3 of the Relationship Agreement between the United Nations and the International Criminal Court (A/68/364), which emphasized that the United Nations had developed a practice of informing the Prosecutor and the President of the Assembly of States Parties beforehand of any meetings with persons who were the subject of arrest warrants issued by the Court that were considered necessary for the performance of United Nations-mandated tasks.

Technical assistance

72. The annual round table between the United Nations and the Court was held via videolink on 17 and 19 December 2013. The two institutions seized the opportunity to update each other on respective developments, at both the judicial and operational levels, as well as on the challenges they face. Discussions also focused on information-sharing, cooperation needs and challenges, including regarding the defence teams, as well as complementarity developments and the contribution of the work of the Office of the Prosecutor on preliminary examinations in that regard.

73. During the reporting period, the Court benefited from logistical assistance provided in situation countries by United Nations offices and missions, such as the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, the United Nations Office at Nairobi, the United Nations Operation in Côte d'Ivoire and the United Nations Integrated Peacebuilding Office in the Central African Republic. Assistance from these entities included the use of 952 United Nations flights.

74. Several staff loan arrangements (26 cases of staff members on loan to the International Criminal Court and 5 cases of International Criminal Court staff members on loan to other organizations) were facilitated or were ongoing between the Court and other tribunals and organizations. The Court also covers the salary of the focal point of the United Nations. The Office of Legal Affairs continues to be the Court's first interlocutor for the transmission of all requests for cooperation to the United Nations and the notification of decisions to the Security Council.

75. The Trust Fund for Victims also benefits from the support of the United Nations and continues to work closely with different United Nations agencies at the global and country levels, including capacity-building activities of agencies implementing Trust Fund projects, ensuring relevant linkage of the Trust Fund's assistance projects and domestic transitional justice and reparations initiatives, providing assistance to victims and fostering collaboration and partnership. During the reporting period the Trust Fund collaborated with the Department of Political Affairs and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) of the Secretariat, the United Nations Development Programme, the United Nations Children's Fund, the United Nations Population Fund, the International Monetary Fund and the World Bank.

Agreements

76. On 23 August 2013, the Office of the Prosecutor signed a memorandum of understanding with the United Nations Institute for Training and Research to foster collaboration and develop projects and activities and other forms of cooperation, with a focus on the activities carried out by the Operational Satellite Applications Programme.

77. On 24 June 2014, the Office signed a second memorandum of understanding with the Integrity Vice Presidency of the World Bank Group, in order to reaffirm their commitment to collaborate with one another on matters of mutual interest. The new memorandum enhances exchange of information and cooperation between the two offices, and builds upon a 2009 agreement.

78. With a view to formalizing cooperation related to the Court's activities in Mali, a standard memorandum of understanding between MINUSMA and the Court is being finalized.

C. Cooperation with and assistance from States, other international organizations and civil society

Technical support from States

79. The Court continues to request the assistance of States to fulfil its mandate. During the reporting period, the Registry transmitted 691 requests for visas and 223 requests for cooperation. The Office of the Prosecutor sent 358 requests for assistance to 56 different partners, including States parties, non-State parties, and international and regional organizations. Of those requests, 146 were notifications of missions of the Office and included bulk monthly notifications concerning multiple missions sent to situation countries in which the Office has a high volume of investigative activities.

80. On 27 May 2014, an exchange of letters was finalized with Libya with regard to arrangements for the entry and presence of International Criminal Court staff and counsel in the territory of Libya and ensuring the respect of the privileges and immunities necessary for them to be able to carry out their functions. The Registry hopes to finalize a similar memorandum of understanding with Mali in the near future.

81. During the reporting period, the Court increased its efforts to promote mutual understanding and cooperation between the Court and Governments, notably by co-organizing, together with Norway and the Netherlands, and with the financial support of the European Commission, two seminars on cooperation. The first one was held in Buenos Aires on 20 and 21 May 2014 and targeted South American States; the second was organized in Accra on 3 and 4 July 2014 and brought together senior representatives of Anglophone African States. A third seminar on cooperation is scheduled to be held towards the end of 2014 to target Francophone African States. As indicated in the Court's previous report, the Court also organized, together with Norway and the Netherlands, a second seminar on the protection of witnesses in Arusha on 29 and 30 October 2013, for English-speaking countries.

82. These seminars represent an important opportunity for Court representatives and States to understand the domestic and international mechanisms for judicial

cooperation, as well as to develop networks of contacts and highlight specific priority areas in the work of the Court, including arrests and witness protection.

83. The Registry concluded 2 new relocation agreements in Africa during the reporting period, bringing the total number of agreements to 14. The Registry also finalized an exchange of letters with Belgium on the provisional release of persons on 9 August 2014. Belgium became the first country to accept provisional receipt of detainees of the Court in its territory and under conditions established by the competent Chamber.

84. During the reporting period, the Court received contributions to its trust funds from eight States, two municipalities and two intergovernmental organizations. A total of 20 States contributed to the Trust Fund for Victims.

Diplomatic support from States

85. In order to increase understanding of the Court and increase support for its mandate and activities, the heads of organs of the Court held numerous high-level meetings with State representatives at the seat of the Court and paid official visits to numerous countries on various continents, where they met with a number of senior State figures.

86. Court officials and representatives enhanced their interaction with Latin American States in particular during the reporting period: the Prosecutor held high-level meetings with the President and other senior officials in Costa Rica, from 2 to 6 March 2014; the Registrar held meetings in Brasilia on 15 and 16 May 2014 and participated, together with a Court judge and a representative of the Office of the Prosecutor, in the seminar on cooperation for South American States held in Buenos Aires on 20 and 21 May 2014; a Court judge also participated in an expert session before El Salvador's Legislative Assembly on 23 June 2014 to provide expertise on the Rome Statute system in support of the Foreign Affairs Committee's current deliberations on International Criminal Court ratification and implementation bills; the President of the Court further addressed key issues on the ratification and implementation of the Rome Statute to El Salvador's Speaker of Parliament in a letter dated 10 July 2014; and the Office of the Prosecutor sent working-level missions to Brasilia from 24 to 27 March 2014 to discuss judicial and general cooperation matters.

87. In addition, the Presidency met with a number of senior State figures, including the Presidents of Nigeria, Trinidad and Tobago and Croatia. The Prosecutor made several visits to African countries, such as the Democratic Republic of the Congo, Mali, Nigeria, Senegal and the United Republic of Tanzania, as well as to a number of European countries, including Belgium, France, Germany, Ireland, Romania, Slovenia, Sweden, Switzerland and the United Kingdom, where she met with various senior Government officials. Those visits paved the way to strengthening the relationship between the Court and the respective States parties in areas of cooperation and assistance. The Prosecutor also visited non-State parties to the Rome Statute, such as the United States of America and Morocco. The Registrar held meetings in Kampala and Bunia, Democratic Republic of the Congo, in March 2014, in order to continue strengthening cooperation in situation countries.

88. The Office of the Prosecutor also organized a diplomatic meeting at the seat of the Court in order to update the diplomatic community in The Hague and in Brussels on its work, as well as to introduce its new strategic plan for 2012-2015.

Relationship with regional organizations

89. The third African Union-International Criminal Court joint seminar was held on 7 and 8 July 2014 at the African Union premises in Addis Ababa, with the aim of establishing greater cooperation and mutual understanding between the two institutions. Participants included representatives of the African Union Commission, the permanent missions of the African Union member States, and Court officials. The event was held with the support of the Organisation internationale de la Francophonie. A fourth joint seminar is being planned for 2015.

90. During the reporting period, the Court and the European Union organized for the first time a joint round table meeting at the seat of the Court on 11 July 2014. The round table brought together representatives of the Court and of the European External Action Service and the European Commission. The discussions focused on topics of mutual interest to both institutions, including cooperation, complementarity, diplomatic support and mainstreaming, as well as public information and outreach. The Prosecutor met with the High Representative of the Union for Foreign Affairs and Security Policy and the Vice-President of the European Commission, as well as senior officials of the European External Action Service in October 2013. In June 2014, the Prosecutor and the Registrar briefed the European Union Council Working Group on Public International Law and the Court and the Prosecutor briefed the Africa Working Party.

91. The Office of the Prosecutor has ensured continued interaction at the working level with the Office of the Secretary-General of the League of Arab States.

92. The Court has continued to interact on a regular basis with the Organization of American States (OAS); in support of the OAS expressed aim of bolstering cooperation with the Court, the President engaged closely with the organization leading up to his meeting with the OAS Inter-American Juridical Committee in Rio de Janeiro in August 2014. In addition, the Court facilitated the participation of a representative of the Inter-American Court of Human Rights in the seminar on cooperation organized in Buenos Aires.

Relationship with civil society

93. Three strategic-level meetings were held between the Court and non-governmental organizations in The Hague during the reporting period, in addition to regular contacts between the Court and representatives of civil society, who continued to provide essential support to the Court.

IV. Institutional developments

A. Elections and appointments

94. At the twelfth session of the Assembly of States Parties, Geoffrey A. Henderson (Trinidad and Tobago) was elected to the Court on 23 November 2013,

filling a seat vacated by the resignation of Judge Anthony T. Carmona. He was sworn in on 12 December 2013.

95. On 4 June 2014, Senator Miriam Defensor-Santiago (Philippines) submitted her resignation for personal reasons. She had been elected as an International Criminal Court judge for a nine-year term of office by the Assembly of States Parties in December 2011, but was not sworn in and did not take up her functions at the Court.

96. Judge Hans-Peter Kaul (Germany), who was among the first 18 judges elected to the International Criminal Court in 2003, resigned from the Court for health reasons with effect from 1 July 2014. He passed away on 21 July 2014 after a period of serious illness.

B. Amendments to the rules of procedure and evidence

97. At its twelfth session, the Assembly of States Parties adopted amendments to rule 68 (Prior recorded testimony) and rule 100 (Place of proceedings), and adopted the following new rules: rule 134 bis (Presence through the use of video technology), rule 134 ter (Excusal from presence at trial) and rule 134 quater (Excusal from presence at trial due to extraordinary public duties).

V. Conclusion

98. As described in the present tenth report to the General Assembly, the activities of the International Criminal Court continue to grow, with the first ever final judgement rendered and 8,040 victims represented in six cases at the trial preparation or trial stage of proceedings, which is more than ever before. This is, however, the first time that no new State has ratified the Rome Statute during a reporting period. The Court continues to look to the support and cooperation of States and intergovernmental organizations, including the United Nations, in establishing accountability for international crimes of atrocity and bringing justice to victims and affected communities.