



**THIRTY-SEVENTH REPORT OF THE PROSECUTOR OF THE INTERNATIONAL
CRIMINAL COURT TO THE UNITED NATIONS SECURITY COUNCIL PURSUANT TO
RESOLUTION 1593 (2005)**

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EXECUTIVE SUMMARY

This Report outlines the progress made and the activities pursued by the Office of the Prosecutor (the “OTP” or “Office”) in the Darfur situation since the previous report to the Security Council in January 2023.¹

The current security situation in Sudan and the escalation of violence during the current hostilities are matters of great concern to the Office.

The mandate of the Office pursuant to Security Council resolution 1593 (2005) is ongoing with respect to any alleged violations of international humanitarian law that fall within the jurisdiction of the International Criminal Court (the “Court” or “ICC”). Alleged war crimes and crimes against humanity committed as part of the current fighting may be subject to investigation and prosecution. In line with this mandate, the Office can confirm that it has commenced investigations in relation to incidents occurring in the context of the present hostilities.

This is a message the Office has communicated clearly to actors presently engaged in hostilities, underlining that all those involved are required under international humanitarian law to take steps to ensure the protection of civilians.

In support of this work, the Office has been engaging with relevant counterparts in order to allow it to closely monitor the developing situation and collect relevant information. A wide range of communications has been received regarding alleged commission of crimes since April this year. Allegations of sexual and gender-based violence including alleged campaigns of mass rape are of particularly profound concern and have served as a focus of the tracking and initial investigations being conducted by the Office in relation to current hostilities.

¹ [Thirty-sixth report of the Prosecutor of the International Criminal Court to the United Nations Security Council pursuant to resolution 1593 \(2005\) | International Criminal Court \(icc-cpi.int\)](#).



The concern of the Office as to the risk of significant violations of international humanitarian law is deepened by the clear and long-standing disregard demonstrated by relevant actors, including the Government of Sudan, for their obligations pursuant to Security Council resolution 1593 (2005). Prior to the increase in violence in Sudan, the Office had seen an even further deterioration in cooperation from Sudanese authorities.

The Office is clear in its view that the deepening of suffering and violence in Sudan is a product of this consistent ambivalence to the process of justice and the rule of law shown by those now engaged in hostilities. This disregard for international legal obligations, and the connected absence of any meaningful justice for the serious crimes committed in Darfur twenty years ago, have sown the seeds for this latest cycle of violence and suffering.

The Office is committed to ensuring that, this time, the impact of the law will be felt in real-time.

Amidst this challenging context and absence of cooperation, the Office has nevertheless also sought to retain focus on delivering on core elements of the renewed strategy for the situation in Darfur outlined in the previous reports of ICC Prosecutor Karim A. A. Khan KC (the “Prosecutor”) to the Council.

The completion of the Prosecution’s case in the trial of Mr Ali Muhammad Ali Abd-Al-Rahman (also known as Ali Kushayb) (“Mr Abd-Al-Rahman”), the first trial in the Darfur situation, represents a key milestone. Additionally, in June 2023, the legal representative of the 600 victims authorised to participate in the case presented her opening statement and the Chamber also heard from three representatives of the Darfuri community, who spoke powerfully about the profound impact of the alleged crimes on their lives.

The trial of Mr Abd-Al-Rahman must not be allowed to suffer unreasonable delay due to the current increased hostilities, and the Prosecution is committed to continuing to assist the Defence to ensure that this trial maintains its momentum and reaches a just and fair conclusion.

The Office has also continued its investigative activities in relation to the other individuals subject to arrest warrants in the Darfur situation. While progress has been made, the Office's investigative activities had been limited due to the lack of cooperation received from the Government of Sudan in the period prior to the escalating situation of hostilities in Khartoum and elsewhere in Sudan since 15 April 2023.

This non-cooperation negatively affected a number of the priorities set out in the Office's previous report to the Security Council and has now been significantly exacerbated by the present hostilities. In particular, it has not been possible for the Office's representatives to travel to Sudan to conduct investigative work, meet with the authorities in relation to previous outstanding requests for assistance, or to engage with civil society organisations and affected communities in Darfur. It was also not possible to get direct access to evidence and witnesses in Sudan relevant to the suspects for whom there are outstanding ICC arrest warrants.

Nevertheless, substantial progress has been achieved in other key areas, such as: access to information and leads relevant to the investigations with the support of third States and other organisations; support for a Darfur-related investigation by national authorities of a third State; and the launching of a dedicated online appeal for information regarding the situation in Darfur since 2003.

The present crisis in Sudan means that achieving existing and future benchmarks in relation to cooperation and investigation has become even more challenging. Nevertheless, the current situation reinforces the imperative of ensuring accountability for the victims and survivors of



Darfur. In this regard, the Office will continue its efforts to pursue accountability with a focus on the following steps:

- Deepening collection of information and evidence with respect to alleged ongoing crimes falling within the jurisdiction of the Court pursuant to the Office's mandate under UN Security Council Resolution 1593 (2005);
- Increasing the collection of evidence from third States and other partners;
- Securing key material and information in relation to crimes allegedly committed in Darfur with the launch of an online appeal;
- Ensuring that the trial of Mr Abd-Al Rahman maintains momentum; and
- Expanding partnerships with additional States that are not parties to the Rome Statute.

The ongoing situation in Sudan and its humanitarian and security consequences are a vivid reminder that accountability for past atrocities is one of the pre-requisites for peace and stability. The need for justice for victims in Darfur, pursuant to Resolution 1593, remains as urgent as ever and requires the renewed commitment of all, including with respect to crimes committed in the context of ongoing hostilities.



I. INTRODUCTION

1. Pursuant to UN Resolution 1593 (2005), on 31 March 2005, the Security Council referred the situation in Darfur, Sudan to the Prosecutor of the ICC, as of 1 July 2002.
2. This Report addresses the current hostilities in Sudan, including in Darfur, and provides an update on the progress and developments in relation to the key lines of inquiry and the strategic principles that were set out in the January 2023 report on the situation in Darfur, Sudan (the “Thirty-sixth Report”).

II. CURRENT SITUATION

3. The current deepening of violence and suffering across Sudan could be seen coming. It is borne from an unwillingness to give value to the lived experiences of the survivors of past atrocities in Sudan. It stems from the fundamental failure of leadership in Sudan to recognise that justice, and the process of justice, are fundamental pillars on which the foundations of peace can be built. It draws strength from the disregard of promises made to the people of Sudan through the Juba Peace Agreement of 3 October 2020 and the commitments made through the Memorandum of Understanding between the Office and the Government of Sudan on 12 August 2021.
4. As set out in his most recent report, the Prosecutor had underlined in his previous visit to Sudan that the Office expected cooperation across a range of key areas in line with these previous agreements. In his last briefing to the Council, the Prosecutor emphasised that it was now for the Government of Sudan to match its words with actions. It failed to do so.



5. Sudan had not taken any substantial and meaningful steps to facilitate cooperation with the Office and help progress its investigative activities. This lack of cooperation prior to the outbreak of violence in Khartoum included the establishment of new administrative hurdles and an unwillingness to facilitate access to the territory of Sudan in order to engage with witnesses, government authorities and affected communities. This non-cooperation has demonstrated the absence of commitment from Sudanese authorities to support efforts for accountability and advance the cause of justice. The consequences of such an approach are now evident.
6. This reporting period has been marked by a deeply concerning deterioration of the security situation in Sudan following the breakout of intense hostilities in Khartoum on 15 April 2023 between the Sudanese Armed Forces (“SAF”) and Rapid Support Forces (“RSF”).
7. Fighting has since erupted across other regions of Sudan, including Darfur, and in particular West Darfur. Despite the Jeddah Declaration signed on 11 May 2023,² and the multiple ceasefires signed by the SAF and RSF throughout May and June 2023, the situation in Darfur remains extremely volatile. Recent reports from United Nations agencies estimate at least one thousand civilian fatalities, while approximately 2.5 million civilians have been displaced either internally or have fled to neighbouring countries. It is estimated that half the population of Sudan, some 24.7 million people, is in need of urgent humanitarian assistance and protection in light of the current hostilities.
8. In this context, the Office notes that its mandate pursuant to UN Security Council resolution 1593 (2005) is ongoing. Alleged war crimes and crimes against humanity committed during the present hostilities falling within the jurisdiction of the Court

² [Jeddah Declaration of Commitment to Protect the Civilians of Sudan](#) (11 May 2023).



may be subject to investigation and prosecution. Consistent with this mandate, the Office is presently undertaking investigations with respect to incidents occurring within the current hostilities.

9. The need to comply with international humanitarian law at all times is a message the Office has clearly conveyed to all actors engaged in the current fighting. It also applies to all individuals who support the commission of alleged crimes from outside Darfur.
10. As part of its preliminary investigations, the Office is closely tracking reports of extrajudicial killings, burning of homes and markets, and looting, in Al Geneina, West Darfur, as well as the killing and displacement of civilians in North Darfur and other locations across Darfur. The Office is further focusing on the serious and deeply concerning allegations of sexual and gender-based crimes, including mass rapes and alleged reports of violence against and affecting children.
11. As is the case with UN agencies, the Office is presently unable to enter Sudan due to the security situation. While this position is expected to remain the case in the immediate term, the Office retains plans for an enhanced field presence in Sudan when feasible. Additional resources will be sought in the budget of the Office for this purpose and to meet the investigative needs of the Office in light of recent developments.
12. The Prosecutor also intends to visit Sudan when the security and operational context allows.

III. PROGRESS ON THE ROADMAP

13. In this profoundly challenging context, the Office has nevertheless also sought to retain focus on delivering core elements of the renewed strategy for the situation in Darfur.



14. This section provides an update on steps taken in each of the three key lines of inquiry outlined in recent reports of the Prosecutor, and highlights the progress made since January 2023 in line with the three strategic principles that underpin the renewed strategic approach of the Office of the Prosecutor in relation to the situation in Darfur.

(i) Progress in key lines of inquiry

a. Trial of Mr Ali Muhammad Ali Abd-Al-Rahman, also known as Ali Kushayb

15. As forecast in the Office's Thirty-sixth Report, the Prosecution called its remaining witnesses in the case against Mr Abd-Al-Rahman in early 2023, before formally concluding its evidence presentation on 28 February 2023, having opened its case on 5 April 2022.

16. Mr Abd-Al-Rahman is charged with 31 counts of war crimes and crimes against humanity. He is allegedly responsible, as a senior leader of the Janjaweed militia, for crimes including murder, rape, pillaging and forcible displacement in relation to an attack on Kodoom and Bindisi in August 2003, and for crimes including torture and murder in relation to the extra-judicial executions of men and boys in Mukjar, Deleig and surrounding areas in February/March 2004.

17. During the trial, the most efficient in the Court's history, the Prosecution presented the evidence of 81 witnesses. The Prosecution introduced the live testimony of 56 witnesses in approximately 93 hours, with the written statements of an additional 25 witnesses submitted into the case record without the need for further in-court testimony. In total, the Court heard approximately 285 hours of witness testimony, including cross-examination by the Defence and questioning by the Judges and the legal representative for the victims. To date, the Court has recognised the formal submission of more than 1,200 items of Prosecution evidence. The proceedings



continue to benefit from effective management practices by the judges of the Trial Chamber.

18. With the exception of three experts, all witnesses in the trial to date have testified with measures to protect their identities, including voice and image distortion. Some witnesses were also granted special measures, such as the presence of a support person, to facilitate their testimony before the Court. Multiple witnesses testified by way of audio-video link technology.
19. In April 2023, following the closing of the Prosecution's case, the Court heard a Defence motion for a judgment of acquittal in relation to 4 of the 31 counts alleged against Mr Abd-Al-Rahman. The Court declined to hear, as part of this procedure, a Defence jurisdictional challenge to all counts.
20. After hearing arguments from the parties in a hearing over two days, the Court also rejected a Defence challenge specifically in relation to Counts 6 to 9, which relate to the alleged crimes of other inhumane acts, outrages upon personal dignity and rape in Bindisi and surrounding areas in August 2003. In doing so, the Court determined that the Prosecution had presented sufficient evidence for the trial to continue on all 31 counts.
21. On 28 June 2023, the Appeals Chamber also announced its judgment, by majority, to reject the Defence appeal of the Trial Chamber's decision to allow the submission into evidence of a video in which Mr Abd-Al-Rahman identifies himself by his full name with the nickname "Kushayb" in the context of his surrender to the Court.
22. There are now 600 victims authorised to participate in Mr Abd-Al-Rahman's case. From 5 to 7 June 2023, their legal representative presented her opening statement to the Court and called one witness to give evidence and two participating victims to



express their views and concerns. The Judges were also played audio recordings of several other participating victims who did not travel to the Court.

23. With enormous courage and dignity, these representatives of the Darfuri community spoke eloquently about the impact of the alleged crimes on their lives. The Court heard accounts of trauma and loss—of family, homeland and a way of life—but also of remarkable resilience. Victims spoke about their daily struggles in displaced persons camps, where many Darfuris have now lived for close to 20 years, due to a lack of proper food, shelter, health care, education, employment and security.

24. The Court also heard evidence about the consequences, including shame and stigma, suffered by women who were raped during the conflict in Darfur, as well as the children born out of rape. In the words of one witness:

“[A victim] of rape sees herself as separate from the society. If she walks in the street, she thinks that everybody looks at her as the victim of rape; this is the raped woman. She feels she doesn't belong to the society. She thinks that. On a daily basis she remembers and she has memories of the repeated rape. Why? Because she has the pain, and the pain occurs to her, that's why she remembers. Because of the intensity of rape, now her body suffers.”³

25. The Court also heard about the importance of truth, justice and accountability to the victims of Darfur. One participating Darfuri victim spoke about his hopes as follows:

“I would like to say that we like justice and we want justice. We want that all those who turned our lives into humiliation and suffering and exhaustion to be held accountable. We want those who destroyed us to be held accountable. These people destroyed our future and the future of our generations. And in this moment I am presenting to you my voice and the voice of all Darfurian refugees present

³ ICC-02/05-01/20-T-120-CONF-ENG ET, 26:2-7 (open session).



everywhere around the world, and I would like to tell you that we want peace. We want to return to our homeland. It's enough now.”⁴

26. The legal representative also intends to bring another two participating victims to express their views and concerns to the Court.
27. The trial of Mr Abd-Al-Rahman is set to continue notwithstanding the current armed hostilities in Sudan. But the Darfur investigation has always faced significant challenges. Since the referral of the Darfur situation in 2005, the Prosecution has had to progress its investigations with limited or without cooperation from the Government of Sudan and with limited access to its territory.
28. The current armed hostilities in Sudan cannot be permitted to jeopardise, or unreasonably delay, the trial of Mr Abd-Al-Rahman—a historic and long-awaited chance at justice for the victims of Darfur. The Prosecution is committed to taking all reasonable measures within its capacity, including continuing to assist the Defence, to ensure that the trial of Mr Abd-Al-Rahman reaches a just and fair conclusion.
29. The Defence’s opening statement, and the testimony of its first witness, is currently scheduled for 28 August 2023. On 28 June 2023, the Defence filed its second request for postponement of the submission of the pre-trial brief, the opening statement, testimony of witnesses and related deadlines from the Trial Chamber by a period of approximately two months.

b. Cases of Omar Al Bashir, Abdel Raheem Hussein, and Ahmad Harun

30. Former State Minister for the Ministry of the Interior, Mr Ahmad Muhammad Harun (“Mr Harun”) and former Minister of the Interior, Mr Abdel Raheem Muhammed Hussein (“Mr Hussein”) are each charged with war crimes and crimes against

⁴ ICC-02/05-01/20-T-121-CONF-ENG ET, 17:18-24 (open session).



humanity allegedly committed in the Wadi Salih and Mukjar localities in Darfur between 2003 and 2004. Former President Mr Omar Hassan Ahmad Al Bashir (“Mr Al Bashir”) is charged with war crimes and crimes against humanity, and with the crime of genocide, allegedly committed between 2003 and 2008 in Darfur.

31. Until the outbreak of fighting in Khartoum on 15 April 2023, Messrs Al Bashir, Hussein and Harun were in custody in Sudan and had not been tried for the criminal conduct alleged by the ICC. The Office understands that these suspects have now been released from Kober prison in Khartoum. The Office has recently sent a formal request to the Government of Sudan to seek confirmation of the current location of these suspects.
32. The escalating situation of violent hostilities, including alleged crimes, and the current state of the Sudanese institutions, further highlight the inability of the Government of Sudan to tangibly and genuinely give priority to justice and accountability. Under the present circumstances, it is not feasible to engage in discussions with the Government of Sudan regarding complementarity. The Office is however engaging with relevant partners in relation to the outstanding arrest warrants against Messrs Al Bashir, Hussein and Harun, in particular in light of recent developments. This action also includes continuing investigative activities to strengthen the evidence-base with respect to these suspects.
33. Due to the overall lack of cooperation received, the Office continues to have no access to government archives despite the commitments made by the leadership of the Government of Sudan in August 2022. While the Office has benefited from its closer relationship with third States, and international and regional organisations, significant steps are still required to drive forward the investigations in these cases.



c. The case of Abdallah Banda Abakaer Nourain

34. Former Commander of the Justice and Equality Movement, Mr Abdallah Banda Abakaer Nourain (“Mr Banda”), is charged with three counts of war crimes, allegedly committed during an attack carried out against the African Union Peacekeeping Mission at the Haskanita Military Group Site in Darfur on 29 September 2007. Mr Banda remains a fugitive from justice.

35. As previous reports have made clear, upon assuming office, the Prosecutor immediately and voluntarily recused himself from the case of Mr Banda, pursuant to article 42(6) of the Rome Statute. Accordingly, Deputy Prosecutor Nazhat Shameem Khan oversees investigative activities in this case, which have continued during the reporting period.

(ii) Progress across the key principles for renewed action in the Darfur situation

36. The last report set out the OTP’s key thematic priorities that guide the Office’s investigative and cooperation efforts in relation to the situation in Darfur. Despite the lack of cooperation from the Government of Sudan, progress has been achieved, as set out below.

a. Empowering victims, witnesses and affected communities

37. Throughout the reporting period, the Office has continued its efforts to increase engagement with civil society organisations (“CSOs”), victims, witnesses and affected communities both inside and outside Sudan.

38. The Office’s engagement with CSOs and affected community representatives outside of Sudan has continued. In this reporting period, the Office was able to engage extensively online with CSOs at a bilateral level. In furtherance of its activities, the Office also held meetings with CSOs operating in Darfur at the seat of the Court during



the ICC-CSO annual roundtable, discussing the ongoing trial of Mr Abd-Al-Rahman as well as the consequences of the current fighting on civilian populations in Darfur.

39. The Office also invited CSOs from the Darfur region to participate in the thematic roundtable held on the topic of Gender Persecution, held at the Court in May 2023, while further CSO participants will be invited to participate in the additional thematic OTP-CSO roundtable to be held in November this year on the topic of ensuring a trauma-informed approach to investigations.
40. In a significant step, and as foreshadowed in the previous report, the Office recently launched a public appeal aimed at persons with information relating to crimes allegedly committed in Darfur during the 2003 to 2008 period and beyond. This appeal comprises an online platform through which individuals can provide information in relation to alleged crimes they have witnessed in Darfur. The appeal can be accessed, via “Provide Information” at <https://www.icc-cpi.int/darfur>.
41. The Office encourages all those with relevant information to respond to this appeal, particularly those with knowledge and/or documentation about the planning, financing and implementation of policies leading to the commission of crimes in Darfur that are within the jurisdiction of the Court.
42. In contrast to the positive developments in its engagement with CSOs outside of Sudan, since the Thirty-sixth Report, attempts to engage *in situ* with affected communities and CSOs in Darfur have been seriously hampered by administrative hurdles and a lack of cooperation by Sudanese authorities. In particular, two planned outreach missions to Darfur in February and March 2023 did not take place due to the Government of Sudan’s failure to issue visas.



43. The Office's efforts to engage directly with affected communities in Sudan in the recent period have also been negatively impacted by the ongoing situation of violent hostilities in Sudan, including in Darfur.

44. In the face of these limitations, the ICC Registry organised an online outreach activity targeting CSOs working with the affected communities in Darfur, academia and media. This event was planned to take place following the conclusion of the Ramadan fasting period but had to be cancelled following the outbreak of armed hostilities in Khartoum. In the present circumstances, contact with affected communities in Darfur continues to be challenging due to the sporadic availability of internet and telephone networks.

b. Cooperation with Sudanese national authorities

45. In his Thirty-sixth Report, the Prosecutor noted the limited cooperation received from the Government of Sudan and requested the Sudanese authorities to take the following key steps in order to facilitate the Office's efforts in Sudan:

- Provide unimpeded access to documentation relevant to the Office's investigations;
- Ensure prompt responses to all requests for assistance submitted by the Office to the Government of Sudan;
- Take prompt action to facilitate an enhanced field presence of the Office in Khartoum; and
- Provide unimpeded access to government or former government witnesses and other material witnesses.



46. Even prior to the current hostilities, no progress was made on these key steps since the previous report. The Office considers that the possibility of cooperation in the present circumstances is minimal, though efforts remain to engage and seek to obtain information where possible.

47. Despite repeated efforts by the Office to engage with the Sudanese authorities, a total of 36 requests for assistance remain outstanding, including 2 new requests submitted during the reporting period. The outstanding requests, the first of which was submitted in June 2020, include requests for documentation and for authorisation to access government/military officials.

c. Increasing avenues for accountability: Cooperation with third States, international and regional organisations

48. The Office has continued to engage with third States, and international and regional organisations, to support its investigative and prosecutorial activities in relation to the trial of Mr Abd-Al-Rahman and in pursuit of its efforts to strengthen the existing evidence in the cases of Messrs Al Bashir, Hussein and Harun. This engagement has produced positive results.

49. In particular, following the comprehensive mapping exercise undertaken to identify relevant information held by third States and other organisations, the Office has continued to engage with these entities during the reporting period. This process has yielded important new information.

50. The assistance received by the Office from third States, and international and regional organisations, includes information to corroborate existing evidence, new leads that are being pursued, the interview of witnesses, and vital logistical and operational support to progress the Office's mandate.



51. While the Office remains grateful for the assistance provided by third States, it requests that increased urgency is given to responses to requests for assistance, in order to further advance its investigations and its pursuit of the long-awaited justice for the victims in the Darfur situation.

IV. LOOKING FORWARD

52. Despite the complete lack of cooperation from the Government of Sudan, and the challenges presently presented by the security position in Darfur, the Office remains determined to pursue the effective implementation of its mandate, including with respect to crimes committed in the context of the present hostilities.

53. The Office has successfully concluded the presentation of its evidence in the case against Mr Abd-Al-Rahman and victims have had the opportunity to make their voices heard. Other avenues of investigation are yielding results. As Darfur faces another cycle of violence, the need for justice in the Darfur situation, pursuant to Resolution 1593, is vital and demands the renewed commitment and focus of all.

(i) Assessment of situation benchmarks

54. Below the Office provides an overview of progress made in relation to the Prosecutor's updated benchmarks in the Darfur situation, as set out in the last report. Regrettably, some of these benchmarks have not been met, while others have been partially or fully met.

55. The below benchmarks were met during the reporting period:

- **Completion of the Prosecution's case in the trial of Mr Abd-Al-Rahman in February:** this benchmark has been met. The Prosecution completed its case in February 2023 and is providing relevant assistance with respect to preparations for presentation of the Defence case on 28 August 2023.



- **Further increase in the range of evidence received from third States, international and regional organisations, and other partners in support of ongoing investigative activities within the Situation:** this benchmark has been met. The Office has completed its initial enquiries regarding evidence held by these entities which have led to additional avenues to pursue evidence relevant to the suspects subject of the outstanding arrest warrants. The timely execution of subsequent requests by third States in particular, is critical to moving the Darfur cases forward.
- **The Office to serve as a hub for support to investigations by national authorities of third States, and to provide evidence relevant to ongoing national investigations or proceedings in at least one case:** this benchmark has been met. The Office has assisted a national investigation through the provision of relevant information, evidence and leads. In addition, between April and May 2023, the Office carried out a consultation with the Prosecutor’s Special Advisors on a renewed partnership for accountability through complementarity and cooperation that will build on a two-way interaction with national authorities and other accountability actors, to foster fuller and more sustainable approaches to ending impunity for core international crimes. The Office intends in the near future to conduct an external consultation on a new draft policy paper on complementarity and cooperation.
- **Launch a public campaign for information relevant to crimes falling within the jurisdiction of the Court in the Darfur situation:** this benchmark has been met. As indicated earlier this appeal was launched in July 2023. It is hoped that in the context of the current situation, Sudanese people will seize this opportunity to share information and evidence with the Office on alleged atrocity crimes committed in Darfur since 2003.



56. The below benchmark was partially met, but also negatively impacted by the lack of cooperation from the Government of Sudan between January and April this year, as well as fighting in Sudan:

- **Increase the number of interactions with Sudanese civil society organisations engaged in the work of the Office, through activities both in Sudan, at the seat of the Court in The Hague and elsewhere:** this benchmark was partially met through virtual engagement and meetings at the seat of the Court in The Hague and elsewhere during the reporting period.

57. The following objectives have not been met due to the non-cooperation by the Government of Sudan, as well as the fighting in Khartoum and elsewhere in Sudan since 15 April 2023:

- **Obtain the fulfilment of the commitments made by the Sudanese leadership with respect to a field presence in Khartoum, access to information, and responses to requests for assistance.**
- **Increase the number of field missions to Sudan in order to conduct investigative actions and carry out outreach activities that will enable affected communities to be fully appraised of the work conducted by the Office, in particular with regard to the trial of Mr Abd-Al-Rahman.**
- **Maintain engagement and dialogue with the Government of Sudan to encourage cooperation and potentially create the conditions for discussions on avenues of complementarity, and continuation of engagement with the African Union to explore how it may play a central role in this process.**

(ii) Updated objectives



58. Based on an overall assessment incorporating the continued lack of cooperation by the Government of Sudan, the escalating situation of hostilities, and the progress made on some of the benchmarks set out in the Thirty-sixth Report, the following areas will be prioritised by the Office in the next six months:

- Enhance tracking and collection of information and evidence with respect to alleged ongoing crimes that may fall within the jurisdiction of the Court pursuant to UN Security Council Resolution 1593 (2005);
- Further increase collection of evidence from third States, international and regional organisations, and other partners in support of ongoing investigative activities within the Situation.
- Secure key material and information through the public online campaign launched in July 2023 for information relevant to alleged crimes in Darfur within the jurisdiction of the ICC.
- Take all reasonable measures to ensure the trial of Mr Abd-Al-Rahman maintains momentum, including continuing relevant assistance connected to presentation of the case of the Defence.
- Expand partnerships with additional States that may help advance the Office's investigations in the Darfur situation.

V. CONCLUSION

59. This reporting period has been marked by a significant rupture in the security and political situation in Darfur and Sudan more broadly.

60. In this context, the Office has remained focused on ensuring investigations and prosecutions continue unabated, while also closely tracking ongoing developments through its cooperation with key partners. The current hostilities represent a new and



priority focus for the work of the Office in relation to the situation, with activities undertaken consistent with the terms of its mandate pursuant to Security Council resolution 1593 (2005).

61. In interactions with actors presently engaged in hostilities in Sudan, the Office has been clear that it is able to investigate and prosecute individuals who commit Rome Statute crimes within the jurisdiction afforded by Security Council resolution 1593 (2005). The Office has further emphasised the urgent need to comply with international humanitarian law at all times. While the Office is not able to deploy to Sudan at present, plans are being put in place for an enhanced field presence when this can be responsibly deployed.
62. This continued focus has supported the fulfilment of a number of the objectives set in the Thirty-sixth Report. Given the lack of support from the Government of Sudan and the current situation on the ground, this progress depended in large part on the assistance of third States and international organisations. Moving forward, the Office intends to reinforce and expand its partnership with other States and to maintain its engagement with the CSOs and affected communities, despite the challenges faced over the past months. Such engagement is vital to maintain the current understanding of the Office with respect to the situation prevailing in Sudan, the continuation of the Office's investigative priorities, and future strategic decision making by the Office.
63. Accountability and justice are the foundations of UN Security Council resolution 1593 (2005). Under the present circumstances, given the refusal or inability of the Government of Sudan to fulfil its obligations to cooperate with the Court, the Office's mandate will rely significantly on efficient and effective cooperation from other partners.



64. The Office remains determined, despite the current challenges, to strengthen its case in the Darfur situation and deliver on the promise of the international community to deliver justice to the people of Darfur. This work must be conducted at the speed of relevance, demonstrating that, this time, the law can provide protection to those who need it most.