

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Fourteenth Diplomatic Briefing of the International Criminal Court

The Hague, 8 October 2008

*Information Package
(As of 2 October 2008)*

*Summary of activities since the thirteenth Diplomatic Briefing
24 June 2008, Brussels*

Since the last diplomatic briefing in Brussels in June 2008, judicial proceedings, investigations and outreach continued in the four situations before the International Criminal Court (Democratic Republic of the Congo; Uganda; Darfur, Sudan; and the Central African Republic). Four persons are presently in the custody of the Court, with their cases at different stages of proceedings.

During the reporting period, Mr. Jean-Pierre Bemba Gombo was surrendered by the Belgian authorities on 3 July pursuant to a warrant of arrest issued by Pre-Trial Chamber III in relation to the situation in the Central African Republic. A hearing to confirm the charges against Mr. Bemba is scheduled to begin before Pre-Trial Chamber III on 4 November 2008.

The confirmation of charges hearing was held in the case of *the Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* and the Chamber's decision was issued on 26 September. The Chamber partially confirmed the charges brought by the Prosecutor for crimes against humanity and war crimes against each of the two individuals and committed them to trial.

In the case of *the Prosecutor v. Thomas Lubanga Dyilo*, proceedings have been indefinitely stayed since the 13 June decision of Trial Chamber I which imposed a stay following what it determined to be the Prosecution's improper use of article 54(3)(e) of the Rome Statute and its consequent inability to effect proper disclosure to the defence. Mr. Dyilo has remained in custody following a decision of the Appeals Chamber for suspensive effect of the Prosecutor's appeal against the decision to release the accused.

The Prosecutor continued his investigations into the four situations before the Court. As a result of the investigation into the situation in Darfur, Sudan, the Prosecutor applied for a warrant of arrest for H.E. Omar al-Bashir, President of Sudan. The Prosecutor alleges that Mr. al-Bashir is criminally responsible for genocide, crimes against humanity and war crimes. The Prosecutor's application is pending before Pre-Trial Chamber I.

The Court also celebrated the tenth anniversary of the adoption of the Rome Statute on 17 July 1998. The occasion was marked by a series of celebrations in various cities, including The Hague, New York, and Johannesburg. The tenth anniversary was an occasion to celebrate the achievements that the Court has marked thus far in its development and evolution. It was also an occasion to recognise the support of the ICC's many partners in cooperation, amongst which States Parties, for their essential contributions in making the Court a reality and in working toward the objectives set by States 10 years ago in Rome.

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

I. Situation in the Democratic Republic of the Congo

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

A. Judicial Developments

Participation of victims in the situation and protection of witnesses

Since the opening of the investigation, 625 victims have applied to participate in proceedings in relation to the situation as a whole (as distinct from particular cases). Of these, 168 have been authorised by the relevant chamber to participate in the situation. Seventeen of these victims have been declared indigent and granted legal aid by the Registrar. The Office of Public Counsel for Defence (OPCD) was appointed as ad hoc counsel and filed legal observations in relation to 28 victim applications to participate in the situation.

The Prosecutor v. Thomas Lubanga Dyilo

Background

A warrant of arrest for Mr. Thomas Lubanga Dyilo was issued, unsealed and executed in early 2006. On 29 January 2007, Pre-Trial Chamber I confirmed charges of war crimes against Mr. Lubanga, alleged leader of the *Union des Patriotes Congolais pour la Reconciliation et la Paix (UPC)* and Commander-in-Chief of its military wing, the *Forces Patriotiques pour la Libération du Congo (FPLC)*. Mr. Lubanga is accused of the war crimes of enlisting, conscripting and using children under the age of fifteen years to participate actively in hostilities. Although the trial of Mr. Lubanga was set to begin this summer, proceedings in the case against Mr. Lubanga have been indefinitely stayed following the 13 June decision of Trial Chamber I which imposed a stay following what it determined to be the improper use of article 54(3)(e) of the Rome Statute and the failure by the Prosecution to disclose potentially exculpatory materials which are covered by confidentiality agreements. The Prosecutor’s appeal of this decision is still pending before the Appeals Chamber.

Four victims are participating in proceedings through their legal representatives. One of these victims has been declared indigent and receives legal aid from the Court and the other three were declared indigent in June 2008.

Judicial developments during the reporting period

During the reporting period, proceedings in the case against Mr. Lubanga centred around two main issues: the Trial Chamber's decision on the release of Thomas Lubanga Dyilo and its decision on the request to lift the stay of proceedings. On 2 July 2008, the Trial Chamber ordered the release of Mr. Lubanga, which the Prosecutor appealed. On 7 July 2008, the Appeals Chamber granted the request of the Prosecutor for suspensive effect of the appeal against the Trial Chamber's decision on release. Mr. Lubanga therefore remains in custody pending a final ruling by the Appeals decision. On 2 July 2008, the Trial Chamber also granted the Prosecutor leave to appeal the Chamber's 13 June decision on the stay of proceedings. On 8 July 2008, the Victim's representatives requested leave to participate in the Prosecutor's appeal in the decision on the release of Mr. Lubanga in order to submit their views and concerns.

The Prosecutor applied to Trial Chamber I on 10 July 2008 to lift the stay of proceedings and to revoke the release of the accused. In the application, the Prosecutor submitted that it had effectively complied with the conditions set by the Trial Chamber to lift the stay of proceedings. On 30 July, 8 and 22 August, the Prosecutor submitted further information on agreements with information-providers to lift confidentiality restrictions. On 3 September 2008, the Trial Chamber rejected the Prosecutor's application to lift the stay, concluding that the proposals outlined in the application demonstrably failed to meet the prerequisites set out by the Chamber to enable it to lift the stay of proceedings, and that they infringe fundamental aspects of the accused's right to a fair trial. The Chamber noted that unless and until the guidance outlined by the Chamber on 24 June 2008 is sufficiently addressed, it will be necessary for the stay of proceedings to remain in place. On 9 September 2008, the Prosecution applied for leave to appeal against this decision. On 26 September 2008, the Trial Chamber denied the Prosecutor leave to appeal two issues arising out of this last decision as the issues were formulated by the Prosecutor, but granted the Prosecutor leave to appeal the issues as reformulated by the Trial Chamber.

Two important judgments were issued by the Appeals Chamber on 11 July 2008. In the "Judgment on the Appeals of the Prosecutor and the Defence against Trial Chamber I's Decision on Victims' Participation of 18 January 2008", the Appeals Chamber defined a victim as someone who has suffered a personal harm. The harm can be material, physical or psychological, confirming therefore the decision of Trial Chamber I that granted participatory rights to the victims. In the "Judgment on the appeal of Mr. Lubanga Dyilo against the Oral Decision of Trial Chamber I of 18 January 2008", the Appeals Chamber confirmed that an accused is fully entitled to rely upon the right to remain silent.

Support to Defence Counsel and Legal Representatives of Victims

Throughout the proceedings, the Court provided assistance to the defence teams of Mr. Lubanga and technical administrative and logistical support, assistance and information to legal representatives of victims for the preparation of the trial, including making available a fully equipped office for legal teams and providing training and daily technical support on software used within the Court . Where victims have been found indigent, legal representatives have been provided with the appropriate financial support to cover their fees, travel and other costs. The Office

of Public Counsel for Defence (OPCD) provided ongoing legal support and assistance to the defence team of Mr. Lubanga. The Office of Public Counsel for Victims (OPCV) provided substantial legal assistance to legal representatives of victims in the case.

The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui

Background

On 18 October 2007, Mr. Germain Katanga was surrendered to the Court. On 7 February 2008, Mr. Mathieu Ngudjolo Chui was surrendered to the Court. The warrants of arrest pursuant to which these two suspects were arrested and surrendered each include six counts of war crimes and three counts of crimes against humanity, allegedly committed during an attack on the village of Bogoro on 23 February 2003. Pre-Trial Chamber I joined the two cases on 10 March 2008. Since the opening of the investigation, 57 victims have been authorised to participate in the proceedings. Nineteen of these victims applied for legal aid, were declared indigent and granted legal aid by the Registrar.

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

During the reporting period, a hearing to confirm the charges began on 27 June 2008 and concluded in July. On 26 September 2008, Pre-Trial Chamber I issued its decision on the confirmation of the charges. The Chamber confirmed seven counts of war crimes (wilful killing, using children to participate actively in hostilities, sexual slavery, rape, attacking civilians, pillaging and destruction of property) and three charges of crimes against humanity (murder, sexual slavery and rape). The Chamber declined to confirm two counts of war crimes (cruel or inhuman treatment and outrages upon personal dignity) and one count of crimes against humanity (inhumane acts) alleged by the Prosecutor. The Chamber committed Mr. Katanga and Mr. Ngudjolo Chui to trial before a Trial Chamber.

Beyond the confirmation hearing, proceedings in the *Katanga and Ngudjolo Chui* case were primarily oriented around one main issue, the Pre-Trial detention of the two accused.

On 2 July 2008, the Prosecutor submitted his Observations on the Review of the Pre-Trial Detention of Mr. Mathieu Ngudjolo Chui. On 23 July 2008, the Pre-Trial Chamber I decided that Mr. Ngudjolo Chui must stay in detention. On 18 August 2008, the Pre-Trial Chamber I decided the same about Mr. Katanga.

The victims had the opportunity to express their views on the Pre-Trial Detention of Mr. Germain Katanga on 10, 16 and 24 July 2007.

Support to Defence Counsel and Legal Representatives of Victims

The Court provided assistance to the defence teams of Messrs. Katanga and Ngudjolo Chui and technical administrative and logistical support, assistance and information to four teams of legal representatives of victims for the confirmation of charges hearing, including making available a fully equipped office for legal teams and providing training and daily technical support on software used within the Court. Where victims have been found indigent, legal representatives have been provided

with the appropriate financial support to cover their fees, travel and other administrative costs. The Office of Public Counsel for Defence (OPCD) provided ongoing legal support and assistance to both defence teams.

The Prosecutor v. Bosco Ntaganda

On 28 April 2008, Pre-Trial Chamber I unsealed a warrant of arrest for Bosco Ntaganda which had originally been issued on 22 August 2006. The alleged crimes specified in the warrant comprise war crimes of enlisting and conscripting children under fifteen and using them to participate actively in hostilities.

In the decision on the arrest warrant, the Chamber found that there were reasonable grounds to believe that members of the *Forces patriotiques pour la libération du Congo* (FPLC) repeatedly carried out, from July 2002 to December 2003, acts of enlistment and conscription and used them to participate actively in hostilities. The Chamber found that there were reasonable grounds to believe that, during that period of time, Mr. Ntaganda, as then Deputy Chief of General Staff for Military Operations of the FPLC, had de jure and de facto authority over the FPLC training camp commanders and used his authority to actively implement the policy adopted at a higher level of the *Union des Patriotes Congolais* (UPC)/FPLC. To date no victims have been authorised to participate in the proceedings.

This arrest warrant has not been executed yet. While the competent authorities and several actors in a position to facilitate its execution have reiterated their support and commitment to implementing the request for arrest and surrender, the situation on the ground in the area where Bosco Ntaganda is currently operating as the Chief of Staff of the political-armed group CNDP did not allow for an arrest to take place. Renewed tension and fighting in the area and continuing allegations of crimes under the ICC jurisdiction were reported.

B. Investigations

With the preparations for the trial of Thomas Lubanga Dyilo ongoing, the preparation and conduct of the confirmation of charges hearing of Germain Katanga and Mathieu Ngudjolo and after the unsealing of the arrest warrant for Bosco Ntaganda, the Office of the Prosecutor announced the completion of a first phase of its investigations in the Democratic Republic of the Congo, focusing on the horrific crimes committed by leaders of armed groups active in Ituri since July 2002 and targeting two armed groups most responsible for the gravest crimes committed in the district.

While investigative activities continue in relation to these three cases, with several investigations missions having been sent to the field as part of the Lubanga and the Katanga/Ngudjolo cases, efforts by the Office of the Prosecutor have also been ongoing at fostering support for the arrest of Bosco Ntaganda.

In addition, the OTP has also started working on the preparation for its next investigation phase. The Office is now moving on to new cases in the Democratic Republic of the Congo with the intention of being in a position to send investigation teams out in the coming weeks. The selection process has been completed and the Office is now considering moving towards the Kivu provinces, where the

OTP has been following the numerous reports of crimes committed by various armed groups in both the North and South Kivu provinces, including reports of allegations of horrendous sexual crimes. Analysis of open source information available and collection of additional information is already ongoing. Any available additional information on allegations of crimes in the Kivus, as well as in Ituri and other parts of Eastern DRC, continues to be welcomed by the Office.

As part of this new phase of investigations, the Office is also working on strengthening and increasing its collaboration with local judicial authorities in the DRC and with international actors involved in support to the judicial system, with a view to providing assistance to national jurisdictions under article 93(10) and to involving them in our investigations directly, to the extent feasible.

In view of future investigations, the Office is also considering the role of all those who organised, backed or supported the armed groups active in the country after 1 July 2002.

C. Outreach

The focus of outreach activities during the reporting period related to the confirmation of charges hearing in the *Katanga and Ngudjolo Chui* case, the developments in the case of Thomas Lubanga Dyilo and the first appearance of the Congolese Jean-Pierre Bemba in connection with the situation in Central African Republic. Audio and video summaries of significant hearings were used to introduce meetings and to reach out the general public via national television and radio programmes. Outreach activities were conducted in towns where the most affected communities have been settled in Ituri. In addition, for the first time the ICC was able to target groups in North and South Kivu. Specific activities undertaken included:

- Production and broadcast of 6 audio and video summaries of the hearings in the cases in the DRC situation and the Bemba case in the CAR situation. The video summaries were broadcast 3 times each via national television channels and were also uploaded to You Tube,
- 16 mass outreach activities, open discussions sessions with the general public, including video screenings in villages of Ituri (Bunia, Mwangualu, Kasenyi, Bogoro, Tchomia, Aru, Komanda, Marabo and Nyakunde),
- 7 information meetings with NGO representatives, women's groups, youth, NGOs protecting children, university students, journalists in Bukavu, Goma and Beni, in Kivu,
- 5 press briefings with journalists in Bunia and 6 in Kinshasa,
- 8 ICC open days for information meetings followed by discussion sessions including video screening with law students in Kinshasa,
- 3 information meetings followed by discussion sessions including video screening with women's groups and youth in Kinshasa,
- 2 video screenings followed by discussions with representatives of civil society in Kinshasa,
- Participation in one training session for journalists on ethical questions surrounding the treatment of problems suffered by children in armed conflicts, organised by *Journalistes pour les droits humains*,
- Ongoing broadcasting through Radio Okapi (national coverage) of « *Connaître la Cour pénale internationale* », « *Chroniques* », « *Droits et devoirs* », and « *Institution, c'est facile à comprendre* »,
- Continued collaboration with 8 local radio stations broadcasting programs in French, Swahili and Lingala, reaching approximately 1,800,000 persons, and

- Evaluation of the impact of 18 listening clubs in the major villages of Ituri, which are maintained by the ICC.

II. Situation in Uganda

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

Participation of Victims in the Situation and Protection of Witnesses.

Since the opening of the investigation, 157 victims have applied to participate in proceedings. Following a decision of the Single Judge of Pre-Trial Chamber II on March 2008, seven victims were granted the right to participate in the situation, bringing the total number of victims authorised to participate in the situation as a whole to 9. The OPCV has been appointed to represent the interests of all of these victims.

A. Judicial Developments

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

Background

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

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

Judicial developments during the reporting period

During the reporting period, judicial developments continued to be limited due to the lack of arrest of any suspects. The four warrants of arrest are still outstanding and have not been executed.

On 24 June 2008, the Registry transmitted the Request for Further Information from the Republic of Uganda on the Status of Execution of the Warrants of Arrest issued by Pre-Trial Chamber II on 18 June 2008. On 9 July 2008, the Registry received the Response of the Solicitor General of the Republic of Uganda and transmitted it to the Court. In its response to the request for information, the Ugandan government reiterated its support and commitment to executing the warrants of arrest if the opportunity should arise, and stated that it is ready to be part of any coordinated efforts to achieve this goal. It also noted that any possible peace agreement to be concluded with the LRA

would not hinder the Ugandan authorities' cooperation provided to the Court. It also noted that for the past three years, the LRA has been based in Garamba National Park in the Democratic Republic of the Congo (DRC), beyond Uganda's territorial jurisdiction. The government of Uganda stated that it continues to attempt to secure the cooperation of the government of the DRC and the United Nations Mission in the DRC in this endeavour to execute the warrants in the DRC.

B. Investigations

In order to cut off the supply and support network of the suspects, the Office pursued several requests for cooperation with a number of States to take specific action against individuals suspected to be providing the LRA with material support. In July and August, the Office sent missions to these states to follow-up on the requests and to ensure that enforcement of these requests could be done in compliance with the national law of the requested state.

The Office also continued to collect and analyze a range of information on the new LRA crimes being committed in the Democratic Republic of Congo, Sudan and the Central African Republic. These crimes increased in the beginning of 2008 as Joseph Kony allegedly issued orders to abduct 1,000 new civilians to bolster LRA numbers and LRA forces were sent to commit attacks between the LRA base in Garamba National Park and the Central African Republic. These alleged crimes primarily included the abduction of civilians, including children, for the purpose of recruitment, forced labour, and sexual enslavement. Although the numbers fluctuate as abductees escape and more abductees are taken, information indicates that the LRA is currently retaining between 200-300 new "recruits" which they are attempting to integrate into the LRA force. According to recent information received by the Prosecutor's office, a quarter of the LRA are now non-Ugandan and this trend is likely to continue as the LRA attempts to transform itself into a regional force. The LRA is also reportedly amassing weapons primarily from weapons caches in Eastern Equatoria, Sudan but also by attacks on SPLA barracks.

The remaining outstanding warrants have yet to be executed and new LRA attacks increase the urgency of arresting the LRA leadership. These warrants have also been transmitted to the authorities in the Democratic Republic of the Congo and the Central African Republic. Representatives of the Office, in their contacts with relevant interlocutors, stressed the importance of increasing regional cooperation to execute the arrest warrants.

The Office views the current deployment of FARDC forces in August to Dungu, an area just south of the LRA area of operation, to be a positive development and would encourage MONUC and the states parties to continue to support this effort. While the Office currently understands that the deployment is mainly to protect civilians and contain the LRA, the Office encourages states to provide additional support for the arrest of the LRA leaders.

C. Outreach

In Uganda, the Court has continued engaging the general population in the north focusing on strengthening existing programmes and partnerships and creating new ones, especially reaching out to youth and women. Activities have been conducted in towns, villages, schools and Internally Displaced Persons' (IDP) camps that were not previously targeted. The strategy also focuses on

interactive radio talk shows in the local languages via four radio stations. Specific activities undertaken included:

- 10 outreach meetings with women's groups in northern and northeastern Uganda,
- 10 outreach meetings with youth groups in northern and northeastern Uganda,
- 2 school outreach programmes that reached around 1400 students in Adjumani, Gulu, Lira and Teso,
- 1 workshop training 50 teachers in Northern Uganda,
- 1 town hall meeting with local leaders and the general population in Gulu,
- 1 media dialogue with journalists from Northern Uganda in partnership with Internews,
- Participation as special guests in 3 radio talk shows to explain and clear misconceptions regarding ICC operations in connection with the situation in Darfur,
- Continued interactive radio talk shows broadcast via four different radio stations (local radio stations located in Acholi, Teso, Madi and Lango sub-regions) covering the majority of the northern Ugandan population.

III. Situation in Darfur, Sudan

The situation in Darfur, Sudan was referred to the Court by the United Nations Security Council by resolution 1593 of 31 March 2005. The Prosecutor decided to open an investigation into the situation on 6 June 2005. In light of the security situation in neighbouring Chad, the Court identified a new field office in Abeche, Chad in order to ensure support to the entire scope of the Court's field operations related to the situation in Darfur. Since the opening of the investigation, 11 victims have been authorised to participate in the proceedings. Ten of these victims have been declared indigent by the Registrar.

A. Judicial developments

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

However, on 14 July the Prosecutor presented evidence alleging that Sudanese President, Omar Hassan Ahmad AL BASHIR committed the crimes of genocide, crimes against humanity and war crimes in Darfur. The application described the mobilization of the state apparatus to plan, commit and cover up crimes against civilians, in particular the Fur, Massalit and Zaghawa. The crimes include targeting of civilians in villages, including recent aerial bombardments; looting and destruction of means of livelihood leading to displacement; protracted presence of Government of Sudan forces and Militia/Janjaweed in areas attacked, preventing returns; resettlements resulting in the usurpation of IDPs' land; organized insecurity and destitution within and around IDP camps; rapes; attacks against local leadership including detention, torture and killing; lack of Government assistance, hindering of humanitarian assistance and imposing harsh conditions of life within the camps; impunity of the perpetrators and official denial of crimes adding to the mental anguish of victims.

A redacted version of the application, available to the public, was subsequently filed with the Pre-Trial Chamber and made available on the ICC's website on 12 September.

The Pre-Trial Chamber I will now review the evidence. If the judges determine that there are reasonable grounds to believe that the named individual committed the alleged crimes, they will decide on the best manner to ensure his appearance in court. The Prosecution has requested an arrest warrant.

B. Investigations

During the reporting period, the Office of the Prosecutor conducted 5 missions to 3 countries.

Following on the Prosecutor's report to the Security Council regarding the Office's third investigation, the Office has proceeded with this investigation into allegations of rebel crimes, focusing on the Haskanita attack against AU peacekeepers.

The Office has continued to engage with key partners to seek their assistance in encouraging Sudan to cooperate. These efforts are described below in the section on cooperation activities of the Office of the Prosecutor.

C. Outreach

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

- One day workshop for lawyers and human rights activists
- One day workshop for representatives of women groups
- Broadcasting of radio programmes in the refugee camps in Eastern Chad.
- Continued dissemination of information through camp leaders in 4 refugee camps in Eastern Chad.

IV. Situation in the Central African Republic

The situation in the Central African Republic was referred to the Court by that State Party on 22 December 2004. The Prosecutor announced the opening of an investigation on 22 May 2007.

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

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

Mr. Bemba was arrested by Belgian authorities on 24 May 2008 pursuant to the request for provisional arrest. On 10 June, following the issuance of the new warrant of arrest, Pre-Trial Chamber III issued a request for arrest and surrender to the Kingdom of Belgium.

A. Judicial developments

The Prosecutor v. Jean-Pierre Bemba Gombo

Mr. Bemba was surrendered to the Court on 3 July 2008. On 4 July 2008 Jean-Pierre Bemba, President and Commander in Chief of the *Mouvement de libération du Congo* (MLC), appeared for the first time before the judges of Pre-Trial Chamber III, in the presence of the Prosecution.

During this hearing, Pre-Trial Chamber III verified the identity of Jean-Pierre Bemba and ensured that he was clearly informed of the charges brought against him and of his rights under the Rome Statute, including the right to apply for interim release pending trial. Pre-Trial Chamber III scheduled the confirmation hearing to begin on 4 November 2008.

On 31 July 2008, Pre-Trial Chamber III issued a Decision on the Evidence Disclosure System. The Chamber's ruling included the following: the disclosure process between the parties should be facilitated through the Registry and parties must submit a list and an analysis of the material at the same time as they are submitting the latter. On 6 August 2008, the Prosecutor applied for leave to appeal this decision on three issues. On 25 August 2008, his application was rejected.

On 22 August 2008, the Defense of Mr. Jean-Pierre Bemba submitted a notice of appeal against the Decision of the Pre-Trial Chamber III rejecting his demand for interim release.

On 25 August 2008, the Registrar, after an analysis of the financial state of the accused, refused to grant him the right to the legal aid.

On 12 September, the Pre-Trial Chamber III ordered the Registrar to help the Victims in order to ensure their legal representation.

B. Investigations

The Office of the Prosecutor considers that crimes against the civilian population, namely killing, rape, torture, outrages upon personal dignity and pillaging, were committed in the Central African Republic between the end of October 2002 and 15 March 2003. In particular, the Office considers that

hundreds of rapes were committed and that sexual crimes are a characteristic feature of the case against Mr. Bemba.

The policy of the Prosecutor is to focus on the most responsible individuals for the most serious crimes. The Office of the Prosecutor considers that Mr. Bemba's MLC committed the greatest part of the most serious crimes committed in the Central African Republic in 2002-2003, and that Mr. Bemba is individually criminally responsible.

The investigation of the Office in the Central African Republic continues.

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

C. Outreach

Special public information efforts were conducted to raise awareness of the first appearance of Jean Pierre Bemba. Interviews with the Registrar of the Court were published prior to the hearing. Journalists and local NGO representatives were invited to follow the hearing in the field office.

The recruitment status of the post of the Field Public Information and Outreach Assistant is under review, and pre-selected candidates to the post of Field Public Information and Outreach Coordinator are being interviewed.

V. Analysis of other potential situations

The Office continued the proactive examination of open sources. OTP analysed 3443 new communications received under article 15 relating to purported crimes during the reporting period¹, of which 3184 referred to Georgia, and 243 were dismissed as manifestly outside the jurisdiction of the Court.

The Office continued its analysis of various situations in the preliminary examination phase. As part of its ongoing analysis of the situation in Colombia, the Prosecutor led a mission to Colombia, from 25 to 27 August 2008.

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

The Office awaits a reply to a request sent to the Government of Afghanistan seeking further information in relation to alleged crimes committed on that territory.

¹ From 1 June to 31 August.

In relation to Côte d'Ivoire, despite the Office's outstanding request to carry out a mission to that territory and several discussions, no progress has been made in this regard. The Office calls upon the government of Côte d'Ivoire to facilitate a mission as a matter of urgency.

As confirmed by the Prosecutor on 20 August, the Office is analysing the situation in Georgia. The Office has formally received information regarding the situation from the Governments of Georgia and Russia and is currently analysing reports from Georgia and over 3,000 documents received with the assistance of the Russian Government as well as other sources. The Office will continue to gather more information in order to determine whether there is a reasonable basis to proceed with an investigation.

VI. Cooperation Activities of the Office of the Prosecutor

On 11 July, Deputy Prosecutor Fatou Bensouda briefed the AU Peace and Security Council in Addis Ababa, and met with AU Chairperson, Mr. Jean Ping.

On 9-10 August, Deputy ICC Prosecutor Fatou Bensouda was in Botswana where she met with President Festus Mogae and Attorney General Athalia Molokomme as well as the Ministers responsible for Justice, Defence and Security. Mrs. Bensouda was in Gabarone to participate in the SADC Lawyers' Association Annual Conference, to discuss how the ICC and SADC lawyers can work together on regional and international justice issues.

On 10-11 August, ICC Prosecutor Luis Moreno-Ocampo conducted an official visit to Dakar, Senegal, where he met Abdoulaye Wade, President of the Republic of Senegal, to update him on the activities of the Office in the four situations currently before the Court. While in Senegal, Prosecutor Moreno-Ocampo also met with other key national Senegalese officials.

On 3 September, Prosecutor Moreno-Ocampo met with the Secretary General of the International Criminal Police Organisation (Interpol), Ronald K. Noble in Lyon. The agenda included several cooperation-related issues, including the Court's outstanding arrest warrants. On 15 September, Deputy Prosecutor Fatou Bensouda addressed the Committee on Development of the European Parliament in Brussels.

The Prosecutor and Deputy Prosecutor have continued to consult with other key Arab and African leaders, including the Foreign Minister of Jordan, the Secretary-General of the Arab League, the President of Liberia, the Chair of the African Union and others.

The Prosecutor met with AU Chair Jean Ping on 22 September in New York.

The Prosecutor continues to urge the international community, the Security Council and all UN members to send a strong and unanimous message to the Government of Sudan on the execution of the warrants and on cooperation with the ICC generally.

VII. Other major developments not tied to specific situations

Judge resigns from the Appeals Division and is replaced

- On 29 July 2008, Judge Navanethem Pillay submitted her resignation, effective 31 August 2008, following approval by the United Nations General Assembly of her appointment by the United Nations Secretary-General to the position of High Commissioner for Human Rights. The Presidency replaced Judge Pillay in the Appeals Division with Judge Daniel Nsereko with effect from 1 September.

Deputy-Registrar elected for the first time by plenary of judges

- The judges elected Mr. Didier Preira as Deputy Registrar on 9 September 2008. Mr. Preira is currently Head of the Division of Victims and Counsel of the Registry. The Deputy Registrar will assist the Registrar in anticipating, planning, guiding and evaluating the work of the Registry, will represent her in meetings as required, and will help to ensure proper communication with the other organs of the Court and with relevant stakeholders. Mr. Didier Preira is the first Deputy Registrar of the International Criminal Court and he will take up his functions in the coming weeks following his swearing-in ceremony on 17 October.

States' Parties Contributions received as of 1st September 2008

- Contributions received (2008): 97.71 % of the total 2008 (€90,382,100)
- Contributions received (2007): 98.70 % of the total 2007 (€88,871,800)
- Outstanding contributions for 2005 and 2006 amount respectively to 0.03% and 1.47 %

Victim and Witness Protection

- During the reporting period local protection and response measures for witnesses under the ICC Protection Programme in Uganda, the Democratic Republic of the Congo, Darfur, and in the Central African Republic were maintained. Planning and preparation work for witness movements and support services in anticipation of the potential upcoming Lubanga trial are ongoing. To date a total of 299 individuals are receiving assistance under the ICC Protection Programme.
- Ten relocation of witness agreements have been concluded thus far with States Parties.

Human Resources

- A system of yearly performance appraisal review is being implemented, in parallel with the creation of training on performance management to be offered to managers on a regular basis. This is an important step in the implementation of one of the Court's human resources strategy focus of career development for well-performing staff.
- The Court continues to review its Staff Rules, primarily with the objective of clarifying areas of inconsistency and elaborating on others.

- As of 1 September 2008, the number of staff on established posts was 565 (female 48.14 %, male 51.86%)
- Staff subject to geographical representation were distributed as follows (in comparison to target figures):
 - 16.80% from the African Group of States (target: 13.08%)
 - 5.86% from the Asian Group of States (target: 19.48%)
 - 7.42 % from the Group of Eastern Europe (target: 7.31%)
 - 11.33 % from the Latin American and Caribbean Group of States (target: 12.95%)
 - 58.59% from the Western European and others Group of States (target: 47.18%)
- Applications received in 2007: 20.020; in 2008 as of 1st September: 10 310

The Court's premises

- The occupation of new interim premises (Haagse Veste 1) at Saturnusstraat, The Hague, shared with EUROJUST has been delayed until November/December 2008, due to construction related issues, independent from the Court.

Ratifications

Suriname and the Cook Islands deposited their instruments of accession to the Rome Statute on 15 and 18 July 2008, respectively. On 1 October, when the Statute enters into force for these two States, there will be 108 States Parties.

I. Bureau of the Assembly of States Parties

- On 7 July 2008, the Bureau was informed that on 5 June H.E. Mr. Ali'ioaiga Feturi Elisaia (Samoa) had resigned as Coordinator of the New York Working Group.
- The Bureau designated Ms. Michèle Dubrocard (France) as the facilitator for the assessment of the implementation of the Regulations of the Trust Fund for Victims.
- Furthermore, the Bureau requested The Hague Working Group to take up consideration of the issue of an independent oversight mechanism and to recommend a facilitator for appointment by the Bureau.
- The Bureau approved the provisional programme of work for the seventh session of the Assembly and requested the Secretariat to circulate it to States.

II. Working Groups

The Hague Working Group

The Working Group began its consideration of the following issues:

- The Strategic Plan of the Court, under the direction of the Coordinator, H.E. Ms. Kirsten Biering (Denmark)
- The Strategic Plan (outreach and victims), under the direction of H.E. Ms. Hlengiwe Buhle Mkhize (South Africa).
- Family visits, under the direction of Ms. Irina Nita (Romania).
- Legal aid, under the direction of Mr. Akbar Khan (United Kingdom).

The New York Working Group

- On 4 and 22 July 2008, the Working Group held informal consultations on the issue of the independent oversight mechanism. The report by the facilitator H.E. Mr. Andreas D. Mavroyiannis (Cyprus) was adopted by the Bureau at its tenth meeting, on 29 July.

- On the issue of arrears, the facilitator, Ms. Polly Ioannu (Cyprus), held informal consultations on 22 July, focusing on practical ways of assisting States in arrears, particularly those likely to be affected by the application of article 112, paragraph 8, of the Statute, to meet their financial obligations to the Court.
- The facilitator for the Plan of Action for achieving universality and full implementation of the Rome Statute of Court, Mr. Marcelo Böhlke (Brazil), convened informal consultations on 3 June. He indicated that the New York Working Group would focus on the aspects of cooperation related to ensuring the universality and full implementation of the Rome Statute, the Agreement on the Privileges and Immunities of the Court and the related implementing legislation. On 30 July, the facilitator briefed The Hague Working Group on the activities of the New York Working Group.
- Regarding the issue of geographical representation and gender balance, the facilitator, Mr. Eden Charles (Trinidad and Tobago), held informal consultations on 25 July and 19 September 2008.

III. Committee on Budget and Finance

- The Committee on Budget and Finance held its eleventh session from 4 to 12 September 2008 in The Hague.²

IV. Oversight Committee

- On 2 July, the Oversight Committee selected Mr. Hans Heemrood (Netherlands) as Project Director. Mr. Heemrood will assume his post on 1 October.

The Oversight Committee is preparing a draft resolution, which would be submitted to the Assembly at its seventh session. The draft resolution contains, inter alia, the following elements:

- a) A flexible financing scheme, whereby the Assembly would accept the host State loan for up to 200 million, thus guaranteeing the financing for the construction. Nonetheless, the loan would be drawn upon as the need arises without excluding alternative sources of financing, and
- b) The option for States to make a one-time payment, over two/three instalments, with the incentive of not having to pay interest for the respective part of the loan.

V. Election of judges and members of the Committee on Budget and Finance

- As at 23 September 2008, the Secretariat had received 11 nominations for the election of six judges and five nominations for the election of six members of the Committee on Budget and Finance.

² ICC-ASP/7/15.

The elections are scheduled for the first resumption of the seventh session, to be held in New York from 19 to 23 January 2009. The nomination period for the elections ends on 13 October 2008. All nominations are available on the website of the Court, under 'Assembly of States Parties/Elections'.

VI. Future sessions of the Assembly

Dates for the second resumption of the seventh session

- On 9 September 2008, the Bureau recommended that the second resumption of the seventh session of the Assembly be held from 9 to 13 February 2009.

VII. Tenth anniversary of the adoption of the Rome Statute

- Two events were held to mark the tenth anniversary of the adoption of the Rome Statute. In New York, on 17 July, the President of the Assembly, H.E. Mr. Bruno Stagno Ugarte (Costa Rica), paid tribute to all those who had contributed to the establishment of the Court. The United Nations Secretary-General, H.E. Mr. Ban Ki-moon, and senior officials of the Court also delivered statements.

On 3 July, a celebratory event was held in The Hague, at the Peace Palace, organized jointly by the Ministry of Foreign Affairs of the Netherlands, the Embassy of France and the Coalition for the International Criminal Court.