



**Cour
Pénale
Internationale**
**International
Criminal
Court**

Le Bureau du Procureur
The Office of the Prosecutor



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Diplomatic Briefing in The Hague

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Venue: ICC, Conference Room 1+2 | *Time:* 14h50 – 15h10

[Introduction]

Excellencies,
Ladies and Gentlemen,
Dear Colleagues,

I wish to start by warmly welcoming you, on my Office's behalf, to the seat of the Court. I very much appreciate you taking time from your busy schedules to be here today.

While I try to engage as much as my schedule allows with States Parties – bilaterally, in regional settings and in multilateral fora – it is always beneficial to have such occasions to convene at the Court's premises, and use this platform of the diplomatic briefing to take stock, provide an update and engage in an exchange.

Open and frank exchanges with interested stakeholders are crucially important, and I personally attach great importance to maintaining such a crucial dialogue. It is not only a question of transparency for me, but an important medium for two way communication.

Allow me to start by elaborating on some recent activities of my Office, followed by remarks on some specific topics of common interest.

[Court's activities]

My Office, indeed, the Court as a whole, has been extremely busy this year in delivering on our mandate of advancing a culture of accountability for the most serious crimes of concern to the international community as a whole.

Ten situations are currently under investigation by my Office, six of them actively: Libya, Darfur, Côte d'Ivoire, the Central African Republic (CAR II; two investigations) and Georgia.

Furthermore, investigative activities in support of ongoing trials are also taking place.

For next year, we foresee most of these active investigations will continue, with the addition of Mali, where we will be looking into the broader scope of criminality and victimisation beyond our successful prosecution of Mr Al Mahdi in connection with the deliberate destruction of historic monuments and buildings dedicated to religion in Timbuktu.

Despite the pressure on available resources and other challenges, including security, we hope to significantly advance these investigations and produce concrete results as soon as possible.

Additionally, my Office continues its preliminary examination work in ten different situations, across four continents.

We value transparency while fully respecting our confidentiality obligations and the sensitivities inherent in our work.

As has been the case in recent years, I will publish a detailed report on my Office's Preliminary Examination Activities towards the end of November, prior to the ASP, which is held in New York this year. My Office is also looking into holding a side-event in the margins of the Assembly to present this report.

While we have been busy conducting our careful analysis of the various situations under preliminary examination, we have benefited from numerous interactions and official meetings, with the relevant actors, including where required through the deployment of missions for the purpose of obtaining additional information, seeking the necessary clarifications and explaining the requirements of the Rome Statute and our work to stakeholders.

Most recently, I have personally travelled to Nigeria and Colombia. In both instances, I held very good conversations with the Government representatives at the highest level, as well as representatives of the civil society, and explained the information that my Office requires to make progress in its analyses.

In Colombia, the purpose of the visit was to obtain clarifications on certain aspects of the future Special Jurisdiction for Peace ("SJP"), as well as information about the status of relevant national proceedings relating to extrajudicial killings of civilians known as "false positives", sexual and gender-based crimes and forced displacement. I would like to express my gratitude to the Government of Colombia for providing its support to this visit and facilitating the meetings.

In Nigeria, too, I highlighted the importance of ensuring accountability for Rome Statute crimes.

As I have repeatedly stated, "during war and conflict, the law must not remain silent. Justice must be done and seen to be done to ensure accountability and to prevent future crimes."

In relation to Afghanistan, as elaborated in last year's report and explained during the last session of the Assembly, my decision on whether to open an investigation was imminent following a detailed analysis of the information available to the Office and the applicable legal criteria.

Following a helpful engagement with the relevant stakeholders, in particular the Government of Afghanistan, and having met our due diligence obligations, I'm confident that I will arrive at a final determination with respect to this situation shortly. In any event, this is a matter which will be settled this year given our advanced assessment of the situation.

I might also reach before the end of the year final determinations on some of the situations under preliminary examination, and also decide on the opening of new ones.

In general, allow me to say that I am very proud of my staff who work tirelessly, literally day and night, in the face of enormous pressure, in the discharge of the Office's important mandate under the Rome Statute.

As I have mentioned repeatedly, in all situations, we do our work by the book and in complete independence and impartiality, without fear or favour. If the necessary conditions are met in any of these preliminary examinations, I will not hesitate to proceed to an investigation.

Excellencies,
Ladies and Gentlemen,

[Cooperation]

The activities of my Office rely upon the support and cooperation of both States Parties and States not party to the Rome Statute.

The Court has enjoyed the generous support of many countries, politically and operationally, whether on the ground for our investigations, in multilateral settings such as the Assembly of

States Parties, or during visits to the seat of the Court, for example.

I wish to take this opportunity to thank all States for their support in getting us where we are today, 15 years since the operations of the Court started.

In the end, any success, any conviction, is the culmination of joint efforts, starting with the cooperation extended by your and other States' Governments to my Office's investigative and prosecutorial activities.

However, more can and should be done to advance cooperation with the Court.

There are various areas of operational importance to the Court as a whole where more efforts are required. Conducting more efficient financial investigations, on which topic a seminar will be held in Paris next week, is one of them.

Perhaps most challenging remains the area of arrest and surrender of ICC suspects. You may have seen the issuance of the most recent warrant of arrest, on 15 August 2017, for Mr Mahmoud al-Werfalli, a Major in the Al-Saiqa forces, on charges of murder as a war crime for his direct participation in seven separate rounds of executions in the Benghazi area of Libya. This brings the total number of individuals sought by the Court to fifteen.

The assistance provided by States is *critical* to the Court's success – without such support, the execution of arrest warrants and the surrender of suspects remains challenging, and no trials can be held.

More generally, diplomatic and public support in national, bilateral, regional and international settings remains important, including raising awareness and enhancing understanding of the Court. This comprises the inclusion of ICC-related issues into thematic discussions in the United Nations context, such as on peacekeeping missions or combatting of sexual & gender-based violence.

Recently, I participated in the 72nd session of the United Nations General Assembly (UNGA) in New York.

With over 190 Heads of State and Ministerial led delegations present, my participation presented a unique, efficient and cost-effective opportunity to mainly engage and advance the work of the Office, strengthen support and cooperation, but also to further mainstream the mandate of the ICC at this annual UN platform.

Notably, I met with nine heads of State or Government of our crucial partners, as well as several Ministers and engaged in side events highlighting the important mandate of the ICC, recognising that atrocity crimes "threaten the peace, security and well-being in the world" and that these

serious crimes of concern to the international community must not go unpunished.

States also play a key role in increasing awareness of the Court and addressing any misperceptions, and I am hoping to be able to count on your unwavering support in this context.

Why is this so important?

Consider this: just a year ago, the Court was faced with the prospect of three States Parties withdrawing from the Rome Statute legal framework.

I still recall the determination of States Parties last year, including other supporters of international criminal justice, to undertake initiatives, and engage in extensive dialogue.

Our activities, while strictly in the framework of the law and the Rome Statute that States themselves created and signed up to, are not always welcome, or can cause discomfort. After all, this is to be expected given the mandate of the Court of trying those most responsible for the world's most heinous crimes.

It is through determination and action of the States Parties to support the Court and its unique, independent legal mandate, which will help the ICC succeed in this challenging environment.

The Court's mandate is too important to humanity's progress towards a more just world. It must be supported and strengthened.

This brings me to an issue that has preoccupied me very much for the past week – namely the articles that have emerged in certain media making allegations largely against the former Prosecutor of the ICC, Mr Luis Moreno Ocampo. The media reporting also contains specific allegations implicating current and former staff members of my Office.

As I mentioned in a public statement I issued last Thursday, as Prosecutor, I view such allegations with great concern and take them very seriously. I have reported the allegations implicating members of my staff implicated to the Independent Oversight Mechanism (“IOM”) available to the Court within its legal framework.

The IOM determined last week that the matter will proceed to a full investigation. As per IOM standards and procedures, the allegations will be assessed objectively and impartially with full respect for due process and fair treatment of the staff members concerned.

As this matter unfolds and the allegations are fairly and properly scrutinised, speculation should not be entertained.

Rather, the procedures and processes in place aimed at establishing the facts must be respected, with full cooperation with the investigation, as required.

I would also like to underline here that my Office has not sought advice or collaborated with the former ICC Prosecutor, Mr Ocampo, in relation to any of the situations or cases being handled by the Office or the Court since I assumed office as Prosecutor.

I have, in the past, personally made my position on this clear to Mr Ocampo and have asked him, in unequivocal terms, to refrain from any public pronouncement or activity that may, by virtue of his prior role as ICC Prosecutor, be perceived to interfere with the activities of the Office or harm its reputation.

Since I assumed my functions in 2012, my Office has been doing its utmost, as was illustrated in the very first strategic plan I introduced, to ensure that our operations are of the highest quality to stand the scrutiny of the strictest outside observers – one of them being our key constituency and supporters, the States Parties.

I also personally attach the greatest of importance to ethical professional standards and expect the highest of my Office and my staff. In 2013, as you may be aware, we produced and published our own Code of Conduct. This Code was adopted

at my instructions in order to reinforce these ethical standards and expectations above and beyond the existent regulatory framework concerning such matters at the Court.

We have also instituted a number of additional measures to reinforce these first principles I and my Office represent, including the setting of Core Values for the Office and related trainings, as part of our genuine efforts to reinforce an Office culture that cherishes these principles and live by them, day in and day out.

I am committed to ensure that the Office forges ahead on this path, which has already produced concrete positive results, and continues to perform optimally. The unfortunate allegations will not distract us from meeting our mandate in accordance with the Rome Statute.

I will do all within my power, independently, impartially and objectively, to continue to seek the justice we all yearn for, with dedication and integrity.

[Budget & strategic considerations]

Allow me to dedicate my remaining remarks to the issue of the budget, on the heels of the CBF just having concluded its meeting last week, and the Chair's statement we have all heard and read since then.

I continue to submit that the Court's proposed budget increase for 2018 of €6.2 million euros, or 4.4 per cent, over the approved budget for 2017, is a modest one, considering all the activities and connected obligations, by virtue of its mandate, that the Court needs to address.

While the demand for my Office's involvement continues to grow from all corners of the globe where we have jurisdiction, we presented a constrained budget with just below €2.2 million euros increase, or 4.9 per cent, over the approved budget of 2017.

Notwithstanding our elaborate justifications, many in line with prior guidance from the CBF, the ultimate recommendation from the CBF involves a substantial cut to this proposal, namely by reducing it by half.

This is coupled with the even higher reduction in the budget of the Registry, which provides us with a large scope of support services, in particular in the field. If approved, and as presented in the alternative budget scenario, inevitable further delays in planned activities will follow, and capacity built in past years will be lost.

I submit that the ICC is not like any other international organisation, for two main reasons: we are still young and need to grow to reach our full potential – strictly in line with our mandate as set out by the States Parties themselves. As a Court,

we can't always choose our activities based on what resources are made available to us – we have a duty to investigate, to act.

Investment in international criminal justice is a relatively small and worthwhile investment in the future, taking into account the positive impact the Court may have, on a global scale, in deterring mass civilian killings in conflict situations, shortening civil conflict, catalysing domestic prosecutions, and facilitating demobilisation of armed resource-based militias.

In the end, the victims bear the brunt of my Office's involuntary inactivity on some of the files that cry out for action, while perpetrators continue to be emboldened in their belief that they are beyond reach.

To prevent this undesired outcome, we need your sustained political, diplomatic and financial support. States can and must fully assume their critical role in the advancement of international criminal justice, impartially and consistently applied.

[Conclusion]

Excellencies,
Ladies and Gentlemen,
Dear Colleagues,

Let me conclude by reiterating that the Court needs your continued support, in both turbulent and calmer times.

We must stay principled, consistent and unwavering in our commitment to international criminal justice.

This work is not for the light-hearted and no one said it was going to be easy. But it is also that very same mandate, the noble aims of the Rome Statute and its potential for humanity that each and every day gives me strength, and motivation, to continue with this crucial work so that the victims of these heinous crimes may thus have justice.

I repeat: backing the ICC is to support humanity's progress towards a more just world. That laudable goal is ours only if we, together in our respective roles, give law – in this case the Rome Statute – the strongest of foundation in the international system.

Thank you for so patiently listening to me. I look forward to your questions and comments. | OTP