



ANNOUNCEMENTS:

2 July - The four ICC staff members detained in Libya were released and returned to The Hague.

10 July - At 9:30 (The Hague local time), Trial Chamber I will deliver in open court its decisions on reparations and sentencing in the Thomas Lubanga Dyilo case.

OTP Briefing

Issue #126

20 June - 3 July
2012

- **Statement of the Prosecutor on Mali**
- **Prosecutor Bensouda visits Nigeria**
- **Prosecutor's visit to Senegal**

NEWS

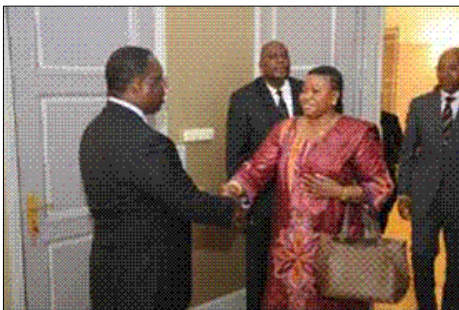
Prosecutor's statement on Mali

1 July - Prosecutor Bensouda made a statement about the ongoing conflict in Mali: *"My Office has seen media reports indicating that Islamist fighters from Ansar Din have directed attacks and deliberately damaged the shrines of Muslim saints in the city of Timbuktu in Mali. Media reports also quote Ansar Din's spokesman Sanda Ould Boumana as stating that all shrines would be destroyed without exception."*

These acts may constitute War Crimes under the Rome Statute. Article 8 of the Rome Statute is clear that deliberate attacks against undefended civilian buildings which are not military objectives is a War Crime. This includes attacks against historical monuments as well as

destruction of buildings dedicated to religion My Office is closely following events in Mali and will not hesitate to take appropriate action if information collected indicates the commission of crimes by anyone. Those who are destroying religious buildings in Timbuktu should do so in full knowledge that they will be held accountable and justice will prevail.

Mali is a state party to the Rome Statute and my Office thus has jurisdiction over crimes committed within the territory of Mali. A necessary first step for my Office will be to open a preliminary examination during which information collected will be analyzed to determine whether criminal investigations should be launched. My message to those involved in these criminal acts is clear: Stop the destruction of the religious buildings now: This is a War Crime which my Office has authority to fully investigate."



Prosecutor's visit to Senegal

2 July - To celebrate the 10th anniversary of the entry into force of the Rome Statute, Prosecutor Bensouda visited Senegal, the first country to ratify the Rome Statute. The Prosecutor met with the President of Senegal, Macky Sall, in the presence of the Prime

Minister Abdoul Mbaye, as well as with the Minister of Justice, Mrs. Amaniata Toure. President Sall congratulated the Prosecutor for her election, and assured the Prosecutor of the continuing support and cooperation of the government of Senegal towards the Court and the OTP.



The President expressed his support for the latest preventive statement of the Prosecutor regarding the ongoing situation in Mali.

In a following statement, the Prosecutor thanked Senegal and its government for its strong commitment to the fight against impunity and for international peace and security: *“For the last ten years, the OTP has been firmly committed to obtaining justice for the victims of the worst crimes that we all decry and strongly condemn. The ICC is also facing many challenges, the principal one being international cooperation. My key aims as Prosecutor are not only to build on past achievements, but also to improve information and communication in order to galvanise cooperation with States. In this regard, Senegal is giving the lead in many respects. I am reassured and confident following my discussions with His Excellency Macky Sall, the Prime Minister and the Minister for Justice. It has just been confirmed that cooperation with the Court and the OTP will be strengthened. And I am not surprised that it comes from Senegal and its government; I am utterly delighted and I would like to take this opportunity to again thank our first State Party and its people”*

Prosecutor Bensouda visits Nigeria



3-4 July - Prosecutor Bensouda made an official visit to Nigeria. The Prosecutor briefed President Goodluck Jonathan on the OTP's preliminary examination of the violence in the Middle-Belt states and Northern Nigeria.

The Prosecutor and her team, which included the Head of JCCD and the Situation Analysis Section, had extensive consultations with, inter alia, the Federal Justice Minister and Attorney General, the Inspector General of Police, officials from Plateau and Kaduna States as well as the various panels of investigations on sectarian violence in Nigeria. The discussions revolved around the nature of the alleged crimes committed and steps taken by the Nigerian authorities to bring the perpetrators to account.

With respect to attacks attributed to the Boko Haram group, the Prosecutor indicated that such attacks *"may be called terrorists attacks but they could also qualify as crimes against humanity."* Provided Nigeria takes action through its own judicial system, the ICC does not plan to open an investigation, she indicated. *"The Nigerian authorities have briefed us on the steps they have taken to control the situation, also in terms of investigations and prosecutions. It is important of course that the security forces, while performing their duties, exert the necessary restraint. President Jonathan, whom I met yesterday, assured me that it was the case".* The Office will keep in touch with and continue its consultations with the Nigerian authorities.

OTP Activities

OVERVIEW

7 situations under investigation
14 cases in relation to 23 persons
11 outstanding arrest warrants
7 preliminary examinations in 4 different continents

Phases

1 case before Pre-Trial Chambers
6 cases before Trial Chambers
1 verdict

I. Preliminary Examinations

Preliminary examinations refer to the analytical process by which the OTP assesses whether there is a reasonable basis to proceed with an investigation in a given situation.

In accordance with Article 15 of the Statute, the OTP proactively gathers and evaluates information from multiple sources, including “communications” from individuals and parties concerned ([phase 1 – initial review](#)). Following a sequential process, and irrespective of the mechanism by which the jurisdiction of the Court is triggered, the Office then applies the same legal criteria laid out in Article 53 of the Statute, namely **temporal/territorial/personal jurisdiction** ([phase 2a](#)), **subject-matter jurisdiction** ([phase 2b](#)), **admissibility**, including complementarity and gravity ([phase 3](#)) and the **interests of justice** ([phase 4](#)).

Currently, the OTP is conducting preliminary examinations into seven situations: [Afghanistan](#), [Honduras](#), [Korea](#) and [Nigeria](#) (phase 2b), [Colombia](#), [Georgia](#) and [Guinea](#) (Phase 3)

II. Investigations and Prosecutions

1. Situation in the [Democratic Republic of the Congo](#) (DRC) – Referred: April 2004 Investigation Opened: June 2004

Trials

The Prosecutor v [Thomas Lubanga Dyilo](#) – charged with war crimes of conscripting, enlisting and using children to actively participate in hostilities committed in the Ituri region 2002 – 2003

Status: Judgment delivered on 14 March 2012; hearing for submissions of sentencing took place on 13 June 2012

The Prosecutor v [Germain Katanga and Mathieu Ngudjolo Chui](#) – charged with war crimes and crimes against humanity committed during the attack of the village of Bogoro in the Ituri region on 24 February 2003

Status: Defence case presentation concluded, closing oral statements set from 15 to 23 May 2012

Warrant Pending

The Prosecutor v [Bosco Ntaganda](#) – charged with war crimes of conscripting, enlisting and using children to actively participate in hostilities committed in the Ituri region 2002-2003

Issued: 22 August 2006

2. Situation in [Uganda](#) – Referred: January 2004 Investigation opened: July 2004

Warrants Pending

The Prosecutor v [Joseph Kony et al.](#) – charged with war crimes and crimes against humanity committed during LRA's insurgency activities in Northern Uganda 2002 – 2004

Issued: 8 July 2005. On 11 July 2007, Pre-Trial Chamber I ordered to terminate the proceedings against [Raska Lukwiya](#). On 8 November 2007, the OTP submitted information to the PTC on the reported death of Vincent [Otti](#).

3. Situation in [Darfur, the Sudan](#) – Referred: March 2005 Investigation opened: June 2005

Trial

The Prosecutor v [Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus](#) – charged with war crimes committed during an attack against the Haskanita AU peacekeeping base in North Darfur on 29 September 2007

Status: Charges confirmed, trial date to be set

Prosecution to present additional evidence

The Prosecutor v [Bahar Idriss Abu Garda](#) – charged with war crimes committed during an attack against the Haskanita AU peacekeeping base in North Darfur on 29 September 2007

Warrants Pending

The Prosecutor v [Omar Al Bashir](#) – charged with war crimes, crimes against humanity and genocide committed as part of the counter-insurgency campaign in Darfur 2003 – 2008 (at least)

Issued: 4 March 2009 & 12 July 2010

The Prosecutor v [Ali Kushayb](#) and [Ahmad Harun](#) – charged with war crimes and crimes against humanity committed during the attacks against the civilian population in Darfur August 2003 – March 2004

Issued: 27 February 2007

The Prosecutor v [Abdel Raheem Muhammad Hussein](#) - charged with war crimes and crimes against humanity committed during attacks against the civilian population in Darfur August 2003 – March 2004

Issued: 1 March 2012

4. Situation in the [Central African Republic](#) (CAR) – Referred: January 2005 Investigation opened: May 2007

Trial

The Prosecutor v [Jean-Pierre Bemba Gombo](#) – charged with war crimes and crimes against humanity, including a massive rape campaign, committed in CAR between 26 October 2002 – 15 March 2003

Status: Prosecution completed the presentation of its case on 21 March 2012

5. Situation in [Kenya](#) – OTP request to start investigation: November 2009 Investigation opened: March 2010

Trials

The Prosecutor v [William Samoei Ruto and Joshua Arap Sang](#) – charged with crimes against humanity committed during the post-electoral violence in Kenya on or about 30 December 2007 – end January 2008

Status: Case sent to trial on 23 January 2012, date of trial to be set before 13 July (charges were not confirmed against Henri Kosgey, but the OTP will present additional evidence)

The Prosecutor v Francis Kirimi Muthaura and Uhuru Muigai Kenyatta – charged with crimes against humanity committed during the post-electoral violence in Kenya 24 – 28 January 2008

Status: Case sent to trial on 23 January 2012, date of trial to be set before 13 July (charges were not confirmed against Mohammed Ali, but the OTP will present additional evidence)

20 June - Trial Chamber V, in the case *Prosecutor v. Muthaura and Kenyatta*, [rejected](#) both Defence Teams' requests for an interim prohibition on the Prosecution contacting potential defence witnesses until the Chamber renders a decision on the protocol on contacting witnesses of the other party. The Chamber also rejected the Defence request to order the Prosecution to disclose a log of contacts with potential defence witnesses. The Chamber noted that "In order to rule on such interim measures, the Chamber needs to determine whether the absence of restrictions on the prosecution's contacts with potential defence witnesses in the present case will create an irreversible situation that could not be corrected, or otherwise cause irreparable prejudice to the defence and/or to the persons who may be contacted by the prosecution."

The Muthaura Defence claimed that their request for the interim order was compelled by emergency. However, the Chamber stated that the time lapse between the date the Defence requested an urgent injunction and the point in time when the Muthaura Defence became aware of what it believed to be a contact between an intermediary acting on behalf of the prosecution and an individual whose name appears on the defence list, cast doubt on the Defence assertion that interim measures are required pending the adoption of a generic protocol.

6. Situation in [Libya](#) – Referred: February 2011 Investigation opened: March 2011

Warrants Pending

The Prosecutor v Saif Al-Islam Gaddafi and *Abdullah Al Senussi* – charged with crimes against humanity committed during attacks on the civilian population by the Libyan Security Forces 15 February – at least 28 February 2011

Issued: 27 June 2011; the Chamber decided that Libya could postpone the execution of the request to surrender Saif Al-Islam Gaddafi on 1 June 2012, pending a final determination on the admissibility challenge.

12 June – The Appeals Chamber [rejected](#) the Defence request for disqualification of former Prosecutor Moreno-Ocampo from participating in the case against Mr. Saif Al-Islam Gaddafi based, *inter alia*, on his interview with Mr. Philippe Sands published in the Vanity Fair regarding the culpability of Mr. Gaddafi and Mr. Al-Senussi. It found that the Prosecutor did not exercise sufficient caution in his statements and that his behaviour was clearly inappropriate in light of the presumption of innocence. However, the Chamber considered that the statements do not amount to grounds for his disqualification given that a reasonable observer, properly informed, would have understood that the Prosecutor's statements were based on the evidence available to him and that the judges would ultimately take the relevant decisions on the evidence.

7. Situation in [Côte d'Ivoire](#) – OTP request to start investigation: June 2011 Investigation opened: October 2011

Warrant executed

The Prosecutor v Laurent Gbagbo – charged with war crimes and crimes against humanity committed after the November 2010 Ivorian elections.

Issued: 23 November 2011 (under seal)

Status: initial appearance on 5 December 2011; confirmation of charges hearing set for 13 August 2012

III. Arrests - Cooperation

10 PERSONS SOUGHT BY THE COURT



The Prosecutor v Bosco Ntaganda (more information [here](#))

Current location: **DRC, in and around Goma**

The Prosecutor v Joseph Kony et al (more information [here](#))

Current location: **variously, at different times, in the border area between DRC, CAR and South Sudan**

The Prosecutor v Ahmed Harun and Ali Kushayb (more information [here](#))

Current location: **South Kordofan, Sudan (A. Harun)
Sudan (A. Kushayb)**

The Prosecutor v Omar Hassan Ahmad Al Bashir (more information [here](#))

Current location: **Khartoum, Sudan**

18 June - Seventy leading Holocaust and genocide scholars have signed a [letter](#) urging the Obama administration to cut aid to countries that host visits by Sudanese President Omar Hassan Al Bashir. The US House Appropriations Committee recently adopted an amendment by Virginia Congressman Frank Wolf to suspend non-humanitarian US aid to countries that welcome Al Bashir. Some reports allege that the State Department is trying to block the bill before it becomes law. The 70 scholars directed their letter of protest to Obama adviser Dr. Samantha Power, who heads the recently-established Atrocities Prevention Board. *"It is important for the United States to send a clear message to the international community that Bashir, the world's most notorious perpetrator of genocide, deserves to be treated as a pariah,"* the scholars wrote.

20 June - Malawi's government [says](#) it has no regrets over its decision to cancel the AU summit it was expected to host in July. In accordance with the ICC warrant, Malawi has said that it would arrest Al Bashir if he entered their territories. This stance goes against that of the AU who claimed that Malawi had no mandate to dictate who should attend the July summit. The government's decision was supported by the opposition as well. Opposition leader, Friday Jumbe, said *"we cannot be forced to host a summit on the condition that al-Bashir, who everybody knows is hunted by the international community, should come to Malawi"*.

22 June - The [visiting](#) UN Deputy Human Rights High Commissioner Kyung-wha Kang commended Malawi for its stance on Sudanese President Omar al Bashir, saying Africa *"must borrow a leaf from Lilongwe"*. Speaking at a press briefing in Lilongwe, Kang, who recently visited the Darfur area of Sudan where the alleged atrocities took place, said the decision symbolises Malawi's commitment to human rights: *"Last month I visited Darfur and was a witness to the situation there... I believe the decision by President Banda is very commendable, as UN we welcome the decision."*

The Prosecutor v Abdel Raheem Muhammad Hussein (more information [here](#))

Current location: **Khartoum, Sudan**

The Prosecutor v Saif Al-Islam Gaddafi and Abdullah Al-Senussi (more information [here](#))

Current location: **Libya / Mauritania**

IV. Other Co-operation

25 June - UNSC member states [expressed](#) their commitment to fighting impunity in response to a statement made by the UN Secretary General Ban-ki Moon in the issue of protection of civilians in armed conflicts. The Secretary-General said *"In recent months, landmark verdicts against Charles Taylor and Thomas Lubanga marked important steps for international justice and accountability... When national authorities fail to take the steps necessary to protect civilians or bring the perpetrators of war crimes and gross human rights violations to justice, I urge the Security Council to exercise strong leadership in guiding the international response."*

In response, UNSC members made the following supportive statements: the UK noted that combating impunity was critical to the protection of civilians, and added that the recent convictions were examples of how the international community would continue to challenge impunity. France recalled that Bosco Ntaganda, who was the co-accused with Thomas Lubanga, must be arrested and transferred to the ICC. Togo called for Joseph Kony to be arrested and surrendered. Germany urged States concerned to fully cooperate with the Court in bringing other indicted people to justice who remained at large. The US stressed that the conviction of Charles Taylor by the Special Court for Sierra Leone, and the ICC's judgment against Thomas Lubanga represent milestones for international justice, and reminded that although there has also been steady progress in

bringing to justice those responsible for mass atrocities in the former Yugoslavia and in Rwanda, many perpetrators remain at large, including the key architects of genocide in Darfur.

Also delivering a statement on behalf of Navanethem Pillay, High Commissioner for Human Rights, Ivan Šimonović, Assistant Secretary-General for Human Rights, reiterated his call for the Council to refer the Syria case to the ICC: *“A prompt referral would serve to remind the actors in Syria that they will be held to account for their failure to abide by international human rights and humanitarian law and protect civilians. The international community must assume its responsibilities and act in unison to prevent further violations.”*

27 June - Prosecutor Bensouda delivered an inaugural speech entitled *“International Criminal Justice as a New Paradigm in International Relations: the Role of the ICC”* at Stanford University, in the context of the summer course on New Global Human Rights. The Prosecutor reiterated that *“the ICC can not,... succeed in its fight against impunity alone. The Rome Statute sets up a legal framework for states to adhere to. State cooperation and national legal systems are of vital importance in the ICC regime as the Court does not have an enforcement mechanism at its disposal.”* She further pointed out that *“application of one standard to all [ICC] member states is crucial in maintaining the credibility and the effectiveness of the Court. It has been the utmost priority of the OTP to be guided by evidence and evidence only, without being influenced by any political considerations while choosing situations to open an investigation.”*

28 June - The OTP participated in a training on international criminal justice organized by the European External Action Service in Brussels.

29 June - The UN Security Council strongly [condemned](#) continuing LRA attacks and called on all States to cooperate with the Ugandan authorities and the ICC in implementing the ICC arrest warrants for Joseph Kony and two other senior LRA leaders. The Council recalled its statement of June 2006, reaffirming the vital importance of promoting justice and the rule of law, including respect for human rights, as an indispensable element for lasting peace. Individual Council members in their national capacities, including South Africa, Portugal, France and Guatemala spoke additionally on the importance of implementing the ICC warrants, while Togo spoke of the importance of leaders answering for their actions before the law.

1 July - High Representative of the EU Foreign Affairs Catherine Ashton made a [statement](#) about the tenth anniversary of the ICC: *“The Rome Statute constitutes a promise to victims of the worst atrocities around the world: that they will be assured justice and that accountability will help communities emerge from violence towards peace, from lawlessness towards respect for the rule of law. Since its foundation, the ICC has established itself as the principal forum for international criminal justice.... The European Union is encouraging the widest possible participation in the Rome Statute as universal accession is essential to ensure the full effectiveness of the Court. Determined to put an end to the impunity of the perpetrators of the worst crimes, the European Union is dedicated to preserving the integrity of the Rome Statute, to supporting the independence of the Court and its effective and efficient functioning as well as to championing cooperation with the Court. The European Union is also committed to fully implementing the principle of complementarity enshrined in the Rome Statute by facilitating the effective and efficient interplay between national justice systems and the ICC in the fight against impunity”*

V. Upcoming Events

July						
8	9	10	11	12	13	14
			<i>The Prosecutor participates in the Seminar Dix ans d'existence de la Cour pénale internationale: bilan en perspectives pénale at the French Embassy, The Hague</i>			

15	16 <i>The Prosecutor receives the award of Doctor, an honorary degree, during a ceremony at the campus of Middlesex University Business School, Middlesex</i>	17	18	19	20	21
22 <i>The Prosecutor participates in a symposium on Post-Conflict Transitions & International Justice organized by International Peace & Security Institute, The Hague</i>	23 <i>The Prosecutor participates in a symposium on Post-Conflict Transitions & International Justice organized by International Peace & Security Institute, The Hague</i>	24	25	26	27	28
29	30	31				

VI. Other Information

* This document reflects the views of the Office of the Prosecutor of the ICC. For more information, contact Mrs. Olivia Swaak-Goldman, International Cooperation Adviser in the Office of the Prosecutor, at Olivia.Swaak-Goldman@icc-cpi.int