

## AN INSIDE VIEW OF THE PROSECUTION'S WORK AT THE INTERNATIONAL CRIMINAL COURT

I have been asked to provide you with an inside view of the Prosecution's work at the ICC - an outline of the Court's achievements in its task to bring to justice those responsible for the most serious crimes of concern to the international community. With this mind, I will now give you a brief tour of the investigations and litigation that the Court is engaged in at the moment.

### Situation in the Democratic Republic of Congo

- DRC has been in a state of civil war for the past 5-6 years and to give you a brief statistics of the gravity of the situation there:
  - 3 million citizens are known to have died, mostly from starvation and disease.
  - Former rebels have now joined a power-sharing government plagued by sporadic coup attempts and unrest.
  - DRC's eastern regions continue to suffer militia violence.
- Crimes allegedly committed include, but are not limited to:
  - Massive killings, torture
  - Sexual violence
  - Recruitment of child soldiers
- 2002 – 2003: Main period of the ethnic conflict in Ituri and highest level of crime. Near 20 large massacres and up to 8,000 unlawful killings. At least 600,000 displaced from their homes.
- On 16 July 2003, the Prosecutor declared that the Office regarded the situation in **Ituri** as one of its priorities.
- In September 2003, he declared before the Assembly of States Parties that he was willing to use his *proprio motu* powers to start an investigation in Ituri but that he would prefer DRC to refer the situation to him under article 13(a) RS.
- On 19 April 2004, the Prosecutor announced that he had received a **referral** from President Kabila of the Democratic Republic of Congo, a state party about the situation of crimes within the jurisdiction of the Court allegedly committed *anywhere in the territory* of that State since the entry into force of the Rome Statute.
- After a preliminary analysis of the situation in DRC to verify that there is a "reasonable basis to proceed with an investigation" (art. 53(1) RS) [(a) the

alleged crimes fall within the jurisdiction of the Court, (b) that the case would be admissible and (c) that it is in the interest of justice to start an investigation], In June 2004 the Prosecutor announced his decision to **open the first investigation** of the ICC on the crimes allegedly committed in the territory of DRC after 1 July 2002.

### c) Recent Developments

- Thomas Lubanga Dyilo, the alleged founder and President of the Union des Patriotes Congolais (UPC) and alleged former Commander-in-Chief of the Forces Patriotiques pour la Libération du Congo (FPLC), was arrested in Kinshasa and transferred to The Hague on 17 March, 2006. Mr Lubanga Dyilo made his initial appearance before the Court on 20 March 2006.
- On 28 August 2006, the judges of the Pre-Trial Chamber I received documents containing the charges and list of evidence against the suspect by the Office of the Prosecutor. He is charged of the war crime of conscripting and enlisting children under the age of fifteen years into armed forces or groups and using them to participate actively in hostilities, under Article 8(2)(e)(vii) Rome Statute.
- The confirmation of charges hearing took place from 9 to 28 November 2006.
- The importance of the case against Thomas Lubanga Dyilo was elaborated upon by the Senior Trial Attorney, Mr Ekkehard Withopf, at the confirmation hearing. Allow me to briefly quote him:

“The case against Thomas Lubanga Dyilo is a case about children. It is a case about young children. The Prosecution evidence will show that children as young as seven, eight and nine years old were also victims of these type of crimes.

Many of the children were abducted. Abducted on the road, together with other children, in significant numbers. Abducted from schools. Abducted from their parents’ houses. In the presence of their families.

The families did not resist. They did not resist because they were threatened with death. They feared being killed.

Other children joined the FPLC troops voluntarily. They did so for a variety of reasons, such as the desire for revenge of orphans whose families were killed by the militias opposing the FPLC. Such as the wish to gain social status. Such as the need for

protection and shelter, and basic survival. Such as having access to food.

The children were instructed to kill the enemies regardless of whether they were combatants or civilians. The commanders forced children, boys and girls, to fight at the frontlines. Forced by threats of execution.

Many child soldiers were killed. Others were seriously wounded.”

- The Prosecution presented to the Court details of the individual cases of six children who were victims of these crimes. As the Prosecution showed, their experiences reflect those of hundreds of other children.
- The first day of the Confirmation Hearing, the 9<sup>th</sup> of November 2006, was a landmark for international justice in many ways. For the first time in an international criminal tribunal, the views and concerns of the victims could be heard as conveyed by their legal representatives. The OTP believes their participation adds substance and meaning to the hearings.
- Pre-Trial Chamber I of the International Criminal Court has confirmed the three charges brought by the Prosecutor against Thomas Lubanga Dyilo for the period from September 2002, when the *Forces Patriotiques pour la Libération du Congo* (FPLC) was founded, to 13 August 2003. Pre-Trial Chamber I therefore referred the case for trial before a Trial Chamber.
- The President of the Court has since constituted the Trial Chamber I and is composed of Judge Elizabeth Odio Benito, Judge René Blattmann, and Judge Adrian Fulford.
- Preliminary trial proceedings in *Lubanga* commenced a few days ago on the 4<sup>th</sup> of September 2007.
- While the Lubanga team goes to trial, a second investigation team is pursuing crimes allegedly committed by another Ituri armed group. We are selecting a third case to investigate in the DRC. In addition to the situation in Ituri the Office continues to assess the situation in the DRC's other provinces. We continue to assess views and interests of victims, in particular to ensure that the main modes of victimization as assessed by those who suffered are adequately covered in our investigative activities.

### **The Northern Uganda situation**

- Three months before DRC's referral, on the 29<sup>th</sup> of January 2004, the Prosecutor announced that he had received a **referral** from President Museveni of Uganda about alleged crimes committed by a militant organisation called the *Lord's Resistance Army*. Uganda became a State party to the Rome Statute on 14<sup>th</sup> of June 2002. This was therefore a referral by a state party. (but investigation is to entire situation)
- On the 21<sup>st</sup> of February, there was reported a horrific massacre of civilians in a camp in Northern Uganda. Within just a couple of days, the Prosecutor announced these crimes would be investigated. An investigation into the situation concerning Northern Uganda was formally launched on 29 July 2004.
- Crimes allegedly committed include, but are not limited to:
  - Massive killings
  - Recruitment of child soldiers
  - Sexual enslavement
  - Forced displacement

## Developments

- 8 July 2005 – Warrants of arrest were issued against 5 LRA leaders – Joseph KONY, Vincent OTTI, Raska Lukwiya, Okot Odhiambo, Dominic Ongwen <sup>[1]</sup>
- 13 October 2005 – Warrants of Arrest unsealed (available on the website of the court)
- 1 June 2006 – Red Notices issued by Interpol
- Counts include crimes against humanity (murder, sexual enslavement, rape etc) and war crimes (enlisting of children, attacks on civilians, pillaging etc)

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[1] On 6 July 2006, Pre-Trial Chamber II of the ICC unsealed the results of DNA tests conducted on the corpse reported to be that of Lord's Resistance Army commander Dominic Ongwen. The DNA results are negative, meaning that the body is not that of Dominic Ongwen.

Media reports indicated that on 30 September 2005 Dominic Ongwen was killed in Soroti District, North-Eastern Uganda. The Ugandan Government requested the assistance of the Office of the Prosecutor to conduct DNA tests to confirm the identity of the body as the original identification was complicated by the poor condition of the body.

LRA commander Dominic Ongwen is charged by the ICC with seven counts of War Crimes and Crimes against Humanity. Interpol issued a Red Notice for the arrest of Ongwen on 1 June 2006.

The Office of the Prosecutor considers Ongwen to be at large.

- As I mentioned, five arrest warrants have been issued against LRA commanders. They are charged with crimes against humanity and war crimes, such as rape, inducing rape, murder, enslavement, sexual enslavement, forced enlisting of children, attacking civilian populations, cruel treatment, pillaging and inhumane acts.
- We are carefully maintaining the connection with our witnesses and are in a continuous dialogue with the different communities affected by LRA crimes. We are also looking at allegations of serious crimes committed by other actors in Northern Uganda.
- One of the militia commanders – Raska Lukwiya – was killed in a confrontation with the Ugandan army. At the request of the Government of Uganda, forensic experts from my Office helped to identify his body. While the four remaining LRA commanders are still at large, the Court has made a significant impact on the ground. This case shows how arrest warrants issued by the Court can contribute to the prevention of atrocious crimes.
- As a consequence, crimes allegedly committed by the LRA in Northern Uganda have drastically decreased. People are leaving the camps for displaced persons and the night commuter shelters which protected tens of thousands of children are now in the process of closing. The loss of their safe haven led the LRA commanders to engage in negotiations, resulting in a cessation of hostilities agreement in August 2006.
- We do not know yet the outcome of these negotiations, but any solution can and must be compatible with the Rome Statute. In October 2006 the Government of Uganda wrote to the Registry to provide an update on steps taken to execute the warrants. They noted the challenges that they have faced in tackling the LRA and the importance of international support. They also reiterated their understanding of their obligations under the Rome Statute, and their objective to find a “permanent end to the violence that serves the need for peace and justice, compatible with [their obligations to the Court].”
- Securing the arrest of the four remaining LRA commanders would prevent recurrent violence and provide justice to the victims. This is a core challenge facing the Court and the international community in general. The international community must ensure that the principles of justice and deterrence underlying the Statute are upheld. The victims have a right to peace, security AND justice.
- The amnesty offered to those leaving the LRA and coming out of the bush, is a Ugandan initiative, not an initiative of the Court. Many members of the LRA have taken advantage of this offer to leave the group. In this context, it must be noted that the ICC is not limited legally in anyway by an amnesty given by a municipal jurisdiction. However, it must also be kept in mind that the Office of the

Prosecutor has adopted a policy of prosecuting only those most responsible for the relevant crimes.

### **The Darfur situation**

- Situation Background
  - UN: Darfur is “the world’s worst humanitarian crisis”
  - Militia’s known as Janjaweed have allegedly targeted civilians from the African Fur, Masalit and Zaghawa ethnic groups.
- 31 March 2005 - Situation referred to the ICC by the UN SC acting under Chapter VII of the UN charter.
- 5 April 2005 – Materials received from the International Commission of Inquiry into Darfur. As well as the conclusions of the commission. The Commission reported that there were mass killings of innocent civilians, systematic rape of girls and women, and the burning of family homes. The Commission provided a list of 51 names. These names remain confidential and represent only the conclusions of that Commission. It is not binding on the Prosecutor and is not a basis for the identification of those persons to be prosecuted by the Court.
- 01 June 2005 - investigation launched
- The Prosecutor has since the 29 June 2005, and on bi-annual periods been reporting to the Security Council on matters such as the progress of the investigation, the functioning of domestic courts in Darfur etc etc. These reports are available on the ICC website and I urge you to read them.
- As the prosecutor pointed out to the Security Council recently, the continuing insecurity in Darfur is prohibitive of effective investigations inside Darfur, particularly in light of the absence of a functioning and sustainable system for the protection of victims and witnesses. The investigative activities of the Office are therefore continuing outside Darfur.
- The complexity of the conflict in Darfur makes our work very difficult: the conflict involves multiple parties, which are not easily distinguished by uniform or insignia, and whose involvement varies over time throughout the different states and localities.
- In addition, because of the security situation, we had to investigate crimes committed in Darfur without going to Darfur. The Office reached this decision

after a careful consideration of the duties to protect victims and witnesses established under article 68(1) of the Statute.

- In spite of these challenges, The OTP has succeeded in collecting the evidence required to impartially investigate the crimes committed in Darfur, investigating exonerating and incriminating circumstances equally.
- We have gathered a wide range of evidence, including statements from victims as well as statements from members of the Sudanese Government; materials provided by the Sudanese Government upon request of the Office; thousands of documents collected by the International Commission of Inquiry and information provided by the National Commission of Inquiry on Darfur. Our evidence includes documents generated by states and international organisations, including the United Nations Security Council and the Secretary General of the United Nations.
- Reaching the victims was a priority for the OTP. We conducted 70 missions in 17 countries, screening hundreds of potential witnesses and conducting more than 100 formal witness interviews, many of which were with victims. We collected thousands of documents from various sources.
- Concerning information provided by the Government of the Sudan, let me recall that the National Commission on Inquiry was established by the President of the Sudan in May 2004 to investigate human rights violations by armed groups in Darfur.
- This Commission reported to the President of the Sudan in January 2005 and its report was made available to our Office by the Sudanese Government. The National Commission found, *inter alia*, that from 2003 to 2004 grave human rights breaches were committed by all parties to the conflict and that in Darfur murder and crimes against humanity had been committed by all parties to the conflict. The National Commission also established that many allegations concerning incidents of murder have been attributed to Arab militias generically called "Janjaweed," either acting alone or together with elements of the Sudanese security forces.
- In addition, in May 2006 the Government of the Sudan provided a written report responding to questions submitted by the OTP. This report provides information on the various phases of the conflict from the Government's perspective, on matters relating to the military and security structures operating in Darfur, the activities of other parties to the conflict and the legal system governing the conduct of military operations. The written report was supplemented by a meeting between representatives of our Office and military officers in Khartoum in June 2006.
- In August 2006 the Government of the Sudan facilitated an investigative mission to Khartoum. A senior trial attorney and a group of investigators from the OTP interviewed high-ranking civilian and military Sudanese officials.

- Based on a careful and thorough source evaluation of all the evidence collected, we were able to identify the gravest incidents and some of those who could be considered to be the most criminally responsible. We reached the level of reasonable grounds required by the Statute to prove different types of crimes against humanity (persecution, murder, wilful killing, rape or sexual violence, inhumane acts, beating, deprivation of liberty, torture, imprisonment or severe deprivation of liberty, destruction of property and forcible transfer of civilians) and war crimes (wilful killings, extra-judicial killings, rapes, intentionally attacking civilians, inhumane acts, cruel treatment, outrages upon personal dignity and pillaging).
- Before submitting our evidence to the judges, the OTP assessed the admissibility of the case. The admissibility assessment is case specific and not a judgment on the Sudanese justice system as a whole. The OTP had to assess whether the Government of the Sudan is conducting or has conducted genuine national proceedings on the same incidents and the same persons. The OTP requested information from the Government of the Sudan and other sources in order to assess admissibility of the case before proceeding further in accordance with our duties under the Statute.
- On the 27<sup>th</sup> of February this year the Prosecutor Luis Moreno-Ocampo presented evidence showing that Ahmad Muhammad Harun, former Minister of State for the Interior of the Government of the Sudan, and Ali Kushayb, a leader of the Militia/Janjaweed, jointly committed crimes against the civilian population in Darfur.
- Based on evidence collected during the 20 months prior to the Application, the Prosecution concluded there were reasonable grounds to believe that Ahmad Harun and Ali Kushayb, (also known as Ali Muhammad Ali Abd-Al-Rahman) bear criminal responsibility in relation to 51 counts of alleged crimes against humanity and war crimes. The evidence shows they acted together, and with others, with the common purpose of carrying out attacks against the civilian populations.
- The crimes were allegedly committed during attacks on the villages and towns of Kodoom, Bindisi, Mukjar, and Arawala in West Darfur between August 2003 and March 2004. The Prosecution has focused on some of the most serious incidents and the individuals who, according to the evidence, bear the greatest responsibility for those incidents.
- In early 2003, Ahmad Harun was appointed as head of the “Darfur Security desk”. The most prominent of his coordination tasks was his management of, and personal participation in, the recruitment, funding and arming of Militia/Janjaweed – forces that would ultimately number in the tens of thousands. During a public meeting, Ahmad Harun said that as the head of the “Darfur

Security desk”, he had been given “all the power and authority to kill or forgive whoever in Darfur for the sake of peace and security.”

- The conflict involved rebel attacks on Sudanese Government installations in Darfur and a counterinsurgency campaign by the Sudanese Government against the rebels. The attacks carried out on towns and villages in Darfur did not target any rebel presence. Rather, they targeted civilian residents based on the rationale that they were supporters of the rebel forces.
- The Prosecution has devoted considerable resources to assessing the admissibility of this case. Although investigations in the Sudan do involve Ali Kushayb, they are not in respect of the same incidents or conduct that are the subject of the case now before the Court. Therefore, the case is admissible.
- The Pre-Trial Chamber I reviewed the evidence and determined that there are reasonable grounds to believe that the named individuals committed the alleged crimes. On 2 May 2007, Pre-Trial Chamber I issued warrants of arrest for crimes against humanity and war crimes for Ahmad Muhammad Harun, former Minister of State for the Interior of the Government of Sudan and currently Minister of State for Humanitarian Affairs, and Ali Muhammad Ali Abd-Al-Rahman ("Ali Kushayb"), a leader of the Militia/Janjaweed.
- Having examined the request and evidence submitted by the Prosecutor, the Chamber concluded that “there are reasonable grounds to believe that Ahmad Harun, by virtue of his position, had knowledge of the crimes committed against the civilian population and of the methods used by the Militia/Janjaweed; and that in his public speeches Ahmad Harun not only demonstrated that he knew that the Militia/Janjaweed were attacking civilians and pillaging towns and villages, but also personally encouraging the commission of such illegal acts.”
- The Chamber also concluded that there are reasonable grounds to believe that Ali Kushayb, leader of the Militia/Janjaweed in the Wadi Salih enlisted fighters, armed, funded and provided supplies to the Militia /Janjaweed under his command thereby intentionally contributing to the commissions of the crimes. He personally participated in some of the attacks against civilians.
- The Chamber considers that there are reasonable grounds to believe that these persons will not voluntarily present themselves before the Court. Therefore, in order to meet the requirements of the Rome Statute the Chamber has decided to issue warrants of arrest.
- The Chamber ordered the Registrar to prepare two requests for co-operation seeking the arrest and surrender of Ahmad Harun and Ali Kushayb and containing the relevant information and documents; and to transmit such requests to the competent Sudanese authorities in accordance with rule 176(2) of the Rules

of Procedure and Evidence. All States Parties to the Rome Statute have received the information as well as all United Nations Security Council members that are not States Parties to the Rome Statute; and to Egypt, Eritrea, Ethiopia and Libya.

- The Warrants are pending execution against both individuals.

### **The CAR Situation**

- On 22 May 2007 ICC Prosecutor Luis Moreno-Ocampo announced the decision to open an investigation in the Central African Republic. The Office has carefully reviewed information from a range of sources. We believe that grave crimes falling within the jurisdiction of the Court were committed in the Central African Republic. We will conduct our own independent investigation, gather evidence, and prosecute the individuals who are most responsible.
- Based on a preliminary analysis of alleged crimes, the peak of violence and criminality occurred in 2002 and 2003. Civilians were killed and raped; and homes and stores were looted. The alleged crimes occurred in the context of an armed conflict between the government and rebel forces.
- This is the first time the Prosecutor is opening an investigation in which allegations of sexual crimes far outnumber alleged killings. The information we have now suggests that the rape of civilians was committed in numbers that cannot be ignored under international law.”
- Hundreds of rape victims have come forward to tell their stories, recounting crimes acted out with particular cruelty. Reports detailing their accounts were ultimately provided to the Prosecutor’s Office. Victims described being raped in public; being attacked by multiple perpetrators; being raped in the presence of family members; and being abused in other ways if they resisted their attackers. Many of the victims were subsequently shunned by their families and communities.
- The government of the Central African Republic referred the situation to the Prosecutor. The Cour de Cassation, the country’s highest judicial body, subsequently confirmed that the national justice system was unable to carry out the complex proceedings necessary to investigate and prosecute the alleged crimes. The ruling was an important factor because under the Rome Statute, the ICC is a Court of last resort and intervenes in situations only when national judicial authorities are unable or unwilling to conduct genuine proceedings.
- To reach the decision to open an investigation, the Office of the Prosecutor reviewed information provided by the government in its referral, NGOs, international organisations, and other highly knowledgeable sources. Investigators working for the Office of the Prosecutor will now begin collecting criminal

evidence, with a focus on the peak periods of violence. The investigation is not targeting any particular suspect at this stage and will be guided solely by the evidence that emerges.

- While investigating crimes allegedly committed in 2002 and 2003, the Office continues to monitor the current situation in the Central African Republic. There are worrying reports of violence and crimes being committed in the northern areas of the country bordering Chad and Sudan.
- The launch of this criminal investigation occurs in the context of insecurity and deteriorating humanitarian conditions in the country, in particular for displaced persons and children. The Office of the Prosecutor supports efforts by the United Nations and others to achieve a comprehensive solution where lasting security can be established, humanitarian assistance delivered, and development and education promoted.
- Ladies and Gentlemen, I have just given you an overview of our ongoing investigations in DRC, Uganda and Darfur. As you also know, the Office of the Prosecutor is continuing to assess the opening of an investigation into a fourth situation.

### Analysis

- Let me briefly mention our work in the analysis of possible situations to be selected. We are developing clear selection criteria in accordance with the Rome Statute. After extensive consultations, in June of this year, we issued a document describing the standards to select situations and cases. We further discussed our criteria with the prosecutors of ICTY, ICTR, Special Court of Sierra Leone and the Extraordinary Chambers for the Courts of Cambodia during the 3<sup>rd</sup> Colloquium of international prosecutors, held from 6-7 October in The Hague.
- In February 2006 the OTP Office dismissed the communications related to crimes allegedly committed in Venezuela and crimes allegedly committed by nationals of 25 States Parties in Iraq. With regard to Venezuela, we concluded that there was not a reasonable basis to believe that the alleged crimes fell within the jurisdiction of the Court. With regard to Iraq we concluded that the alleged crimes did not reach the threshold required by the Rome Statute. In addition, national proceedings had been initiated by relevant states.
- The situation in Côte d'Ivoire remains under analysis. The Office has endeavoured to carry out a mission in Cote d'Ivoire during 2006 for the purpose of preliminary examination. The Côte d'Ivoire government has agreed in principle that a visit can take place but postponed a planned mission earlier this year. We continue to believe that such a mission would be of considerable importance. We will contact the Government of Côte d'Ivoire and renew our request.

- In addition to the two situations I just mentioned, analysis work is continuing concerning three additional situations but this work remains confidential at this stage.
- That brings to an end the brief tour of the courts investigations and litigation.
- A few observations before I conclude:
- The Lubanga hearings, the impact of the warrants in Northern Uganda, and the Darfur Application illustrate the development of a permanent system of international criminal justice. The Office of the Prosecutor will focus on the proper selection of situations and cases, on an impartial and independent investigation taking into account the interests of victims and on a high quality prosecution.

Ladies and Gentlemen,

- In four years, the Office of the Prosecutor has analysed a number of situations. We receive around 800 communications under article 15 of the Statute every year. In each case, we have to assess jurisdictional admissibility and gravity issues. In 4 situations, we have opened investigations.
- The judges of the ICC have issued 8 arrest warrants. Thomas Lubanga Dyilo is in the custody of the Court. His trial will start very soon.
- For most lawyers the work starts when the prisoner arrives to court – and this is what most observers of international courts and tribunals focus on. But for us it is almost the end of our work and in some ways the easy part. Before the arrival of Lubanga to the ICC the Office of the Prosecutor had to assess the situation and select the worst crimes committed; collect enough evidence allowing us to establish who are the most responsible; travel to the region; protect our witnesses and investigators in the midst of a war zone; translate from three local languages; engage with the affected communities; manage cooperation from DRC authorities; request the UN Security Council to lift the travel ban the Sanctions Committee had imposed on Lubanga; arrange with one State party, France, for a military plane to physically transfer Lubanga from the DRC to The Netherlands; and continue protecting our witnesses in an area which remains turbulent to this day. All this had to happen before the start of trial.
- After four years, the Rome system is in motion.
- The investigative activities I described would not have been possible without the cooperation of States and international organizations. Visas for our

witnesses, use of facilities for our interviews, exchange of information, evacuation of threatened staff in deteriorating security situations, assistance in the transfer of Thomas Lubanga: their daily support is a key component of our work.

- But we are faced now with a new and even more complex challenge: the enforcement of the law and in particular the enforcement of arrest warrants, whether in the DRC, in Uganda, or in the Sudan. This will be at the heart of our debates during these two days, especially with two very important panels: the first on the need to increase and steady political support for the International Criminal Court; the other on the need to strengthen cooperation with the Court.
- For now, let me use the example of the Darfur case to expose the magnitude of the challenge regarding the enforcement of the law for the International Criminal Court.
- UN Security Council resolution 1593 referring the Darfur situation to the Office of the Prosecutor was a landmark in the implementation of the Rome system. The Security Council referral was a strong signal that peace and security were to be integrated with the justice system established by the Rome treaty.
- On 1 June 2005, the Prosecutor decided to open the investigation on crimes committed in Darfur and the Judges of the ICC decided on 27 April that the evidence presented offered reasonable grounds to believe that Ahmad Muhammad Harun and Ali Kushayb joined together to persecute and attack civilians in Darfur. The judges issued arrest warrants for 51 counts of crimes against humanity and war crimes. We continue to stress that the Government of the Sudan, as the territorial State, has the legal obligation and the ability to arrest and surrender the 2 indicted criminals to the International Criminal Court.
- Now, as I mentioned earlier, our common challenge is enforcement.
- The ongoing situation in Darfur remains alarming. There are 4 million people in need of humanitarian assistance in the region, constituting *two thirds* of the population of Darfur. There are 2.5 million internally displaced people, immensely vulnerable. There are continuing attacks against them and against international workers, as well as frequent impediments by the authorities to the delivery of assistance. Presiding over this situation is the same individual sought by the Court, Ahmad Harun, now Minister of State for Humanitarian Affairs.

- It is of particular concern to the Office of the Prosecutor that Ahmad Harun, who coordinated the crimes against the civilian population, crimes which forced their displacement, is still today the Minister of State for Humanitarian Affairs with the responsibility to monitor and affect these vulnerable people, and the international personnel helping them. The Prosecutor asked the UN Security Council to address this unacceptable situation. In a further tragic irony, two weeks ago, the Government of the Sudan appointed a Committee to investigate human rights abuses in Sudan. Who is the head of the Committee? Ahmad Harun.
- Arresting Harun, a current Minister of Humanitarian Affairs in the Sudan is an immense challenge for political leaders. In this new legal system, global standards have been established without a global police or enforcement apparatus.
- Dealing with the new legal reality is not easy. However, States have to uphold the decision they took in Rome in 1998 and their commitment to implement it.
- We are a permanent court. We can wait for those individuals to be arrested. But the victims cannot wait. As long as the sought-after individuals remain at large, the victims are exposed. Because they have told their stories and assisted us in unveiling the truth, they face the risk of reprisals by the alleged perpetrators. This is why enforcing the arrest warrants is such an important and urgent responsibility.
- The law cannot be ignored. When the UN Security Council referred the Darfur case to the Office of the Prosecutor, it recognized and decided that lasting peace requires justice. Now is the time for the UN and international actors to follow through on their decision and to call upon the Government of the Sudan to enforce the arrest warrant.
- The international community has to maintain a consistent approach and include justice in any comprehensive solution in Darfur. Experience has taught us that respect for the law is the only guarantee of lasting peace; this is a lesson learned during the last decades of massive violence and atrocities. In the Darfur case, the link between the indicted individual, Ahmad Harun and the present crisis, is striking.
- There are voices proposing to follow a different path; voices proposing to concentrate first on the delivery of assistance and security through political negotiations; voices proposing to postpone enforcing the arrest warrant. Justice, they suggest, can come later, if at all. They are ignoring the law. They are ignoring the facts unveiled by the ICC. They are ignoring the facts that the

suffering of Darfur today is the result of a cold and deliberate system devised by Ahmad Harun.

- Let me tell you more about what is happening in Darfur now. Let me explain why there can be no humanitarian, security, or political solution in Darfur if Harun is not arrested and his system dismantled.
- The humanitarian situation in the camps is worsening; While Khartoum is booming thanks to oil proceeds and foreign investments, the camps are kept in squalid conditions; bureaucratic impediments to the delivery of international aid are systematic; those who dare mention it publicly are expelled; malnutrition rates in the camps are higher than ever; there are attacks against international aid workers ; there are raids against the camps and threats to those identified as local leaders.
- The Sudanese Ministry of Humanitarian Affairs is supposed to protect the camps and facilitate the delivery of aid. It does not. It will not.
- Because since 2005, the Minister of State for Humanitarian Affairs is Ahmad Harun. The same man who as Minister of State for the Interior, attacked civilians and forced people out of their homes and into the camps is today in charge of the camps and controlling the fate of his victims. Harun is deciding how much food reaches the camp, who can go there and who cannot.
- Harun has to be removed from office, arrested and surrendered to the International Criminal Court in The Hague. It is our shared responsibility. States Parties and the UN must include his arrest in any political discussions concerning Darfur.
- The international community, the UN Security Council, United Nations Officials, regional organizations, and individual states must be consistent and call upon the Sudan to enforce the arrest warrants. They cannot remain silent. They can not ignore justice.
- More generally, the Court is becoming a more complex and multifaceted organisation in which judges issue rulings, victims participate in proceedings and, in due course may receive compensation, and States Parties' support is needed in all areas, notably in securing persons against whom arrest warrants have been issued.
- In Rome the drafters created a new system of international criminal justice. Now we are moving to its implementation in practice. This is our common challenge.

Thank you.

