

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

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*Remarks to the 20<sup>th</sup> Diplomatic Briefing*

*The Hague  
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**Check against Delivery**

Excellencies,

Ladies and Gentlemen,

As the President stressed, the second UN Security Council referral demonstrates a growing trust on the role of the Court. There was no discussion or hesitation. The matter was referred as a normal activity. It was not just for the Libya situation: the UN Security Council Resolution 1975 (2011) of 30 March on Côte d'Ivoire also took note of the Court's activities.

I would like to brief you on activities of the Office in these two situations.

As the Prosecutor, my first responsibility was to conduct a preliminary examination regarding the situation in Libya. It is important to note that in accordance with Article 53 of the Rome Statute, when the Office receives a referral it shall initiate an investigation, unless there is no reasonable basis to do so. As opposed to the Sudan situation, there was no indication of national proceedings. We moved fast, and the Office opened the investigation on 3 March.

We immediately created a team of about ten investigators, most of them fluent in Arabic, reallocating resources from different investigative teams on a provisional basis. The Office is applying for the Contingency Fund for the Libya situation. We showed the Court was ready to immediately start a new investigation.

We are focusing the first investigation on a few specific incidents that occurred in the first ten days of the conflict. We have been able to collect strong evidence on two different aspects:

1. A specific Libyan regime policy to attack civilians; after the Tunisia and Egypt situations, they were planning how to control demonstrations in Libya;
2. Incidents where unarmed civilians were attacked by security forces.

The Office is now focusing on identifying those who bear the greatest criminal responsibility for the crimes committed. We are very advanced.

We are paying particular attention to the security conditions. The Office is avoiding contacting any person that could be attacked by Libya's security forces. We rely on evidence provided by persons that are not subject to any foreseeable risk for them or their family, in Tripoli or in other places. We are very selective of the persons we approach. We do not want to place persons under the Court's protection system. It is a matter of efficiency, and it is a matter of respect for the lives of the witnesses. This is my duty.

The Office of the Prosecutor is deeply concerned about the situation of civilians in Tripoli in particular, and other cities under the control of the regime. Internal Security Forces carried out a policy of arrests and forcible disappearances against those who they consider as not loyal, because they participated in the demonstrations, as well as regime critics and individuals who had communicated with foreign journalists and human rights organizations. This is also why we are avoiding contact with them.

The Office of the Prosecutor is progressing fast because it is receiving cooperation from many sources, including Interpol and many States Parties. We are also in contact with the Commission of Inquiry created by the UN Human Rights Council, which is planning operations.

I will brief the UN Security Council on Libya on 4 May; to increase predictability and respect its prerogatives, I will inform the Council of my next steps, including the time that my Office will present the evidence before the Judges and request an arrest warrant.

It is important that States start discussing how to implement an arrest warrant in the Libya context if the Judges issue such a warrant. States can decide whether implementing an arrest operation is a matter for the Libyans, or if the international community can help. I don't see a reason to wait to have an arrest warrant in order to start the discussions and plan.

Let me emphasize: I am confident that we will present a first request for an arrest warrant in a few weeks. The Judges will decide. If they agree, States should have a plan.

In subsequent investigations, we will look at other alleged crimes, including rapes, abductions, forced disappearances, forced displacement and torture.

Excellencies,

Ladies and Gentlemen,

Let me focus now on **Côte d'Ivoire**.

On 1<sup>st</sup> October 2003, the then Government of Côte d'Ivoire submitted a declaration under Article 12(3) of the Statute, accepting the jurisdiction of the Court for crimes committed on its territory as of 19 September 2002. Since then, my Office has been conducting a preliminary examination, monitoring the crimes in this situation.

Since December 2010, there have been consistent allegations of new crimes under the jurisdiction of the Court committed in the aftermath of the presidential runoff.

Recently, on 18 December 2010, we received a new Article 12(3) declaration, this time signed by President Ouattara, committing himself to cooperate with the Court.

In the meantime, the Office has reminded all parties to the conflict that any attack against civilians should be investigated and prosecuted. The Office is working in close collaboration with the UN, ECOWAS and different States concerned with the situation.

We have received information from Mr. Ouattara and Mr. Gbagbo, as well as from other sources. We will also liaise with the UN Commission of Inquiry to ensure effective coordination.

We are progressing in our preliminary examination activities, but let me clear: a declaration under Article 12(3) is not a referral. To start an investigation, I should request authorization from the Pre-Trial Chamber in accordance with Article 15. Therefore, a referral would expedite our activities. Some States Parties are analyzing whether to refer the situation to the Prosecutor.

Côte d'Ivoire could be an opportunity to assist national authorities to develop a comprehensive program of justice, reconciliation and development. Again, States' plans will be required; the Office will contribute to the prevention of future crimes by performing its judicial activities.

Excellencies,

Ladies and Gentlemen,

Let me conclude by asking your assistance to explain the **preventative dimension** of the Court. The Rome Statute is adding a crucial tool to the diplomatic arsenal. The work of the Court and States' efforts in the situations in Libya and Côte d'Ivoire could be useful to draw a permanent line: leaders cannot commit atrocities to gain or retain power. There will be no impunity for such behavior.

This line will help the understanding that this new tool could potentially save hundreds of thousands of lives and billions in money, avoiding new conflicts, and this should be factored in.

What is happening in **Guinea** is a clear example of this.

We are working with the national authorities and some States concerned to ensure justice for the crimes committed during the 28 September 2009 events. As a consequence, there were concerted efforts promoting national investigations, and there was a peaceful election.

Last week, the Office led its fourth mission to Guinea to follow-up on the on-going national investigations and link up with the newly established authorities. The delegation of the Office met with the President of Guinea, Mr. Alpha Condé, the Prime Minister, Mr. Mohamed Saïd Fofana, and the Minister of Justice, Mr. Christian Sow. All the top authorities of Guinea confirmed their commitment to justice and accountability, including in particular for the crimes committed on 28 September 2009.

I would appreciate if you could assist us explaining this new idea in your diplomatic activities. Even though it is in the Rome Statute, it is not yet fully perceived and understood. This is what the UN Secretary-General is calling the “shadow” of the Court, and its value should be better evaluated. This is the most efficient way the Court’s efforts can help stop new violence.

Let me finish.

To ensure this preventative impact, to guarantee the legitimacy of the Court in the years and decades to come, a clear external governance system is needed. The President expressed the importance of the work on external governance for the Court. The President has the full support of the Office of the Prosecutor: when he speaks, the Court speaks.

I will now pass the floor to Mme Registrar.