



## ***QUESTIONS & ANSWERS ON THE ICC CENTRAL AFRICAN REPUBLIC INVESTIGATION***

### ***How did the CAR situation come before the ICC?***

By referral from the Central African Republic (CAR), an ICC State Party. On December 21, 2004, the ICC Prosecutor, Luis Moreno Ocampo, received a letter from the Government of the CAR, referring to the Court crimes within its jurisdiction committed on the country's territory since July 1, 2002. On May 22, 2007, the Prosecutor accepted the CAR's request to investigate the situation.

### ***What is the status of the Prosecutor's investigation of the CAR?***

The Prosecutor announced his decision to open a formal investigation on May 22, 2007, having determined that the situation meets the jurisdictional, admissibility, and interests of justice criteria of the ICC's Rome Statute. The allegations refer to large scale acts of sexual violence such as massive rapes of hundreds of victims. In accordance with the Rome Statute, the Prosecutor's investigations focus on the individuals bearing the greatest responsibility for the gravest crimes. Prior to his decision to investigate, the Prosecutor conducted a thorough analysis of information provided by the Central African authorities and non-governmental and international organizations with regard to the alleged crimes. In November 2005, the Prosecutor sent a team to Bangui to collect additional information and speak with the victims. On May 24, 2008, Belgian authorities arrested ICC suspect Jean-Pierre Bemba on charges of war crimes and crimes against humanity, including torture and rape.

### ***What events led to the ICC investigation?***

A war between former President Patassé and rebel groups, opposing his government. In March 2003, the former President of the CAR, Angé-Felix Patassé, was overthrown by a military coup. While Patassé traveled out of the country, General Bozizé successfully seized power. Patassé obtained the support and protection of outside military forces, including Jean-Pierre Bemba's *Mouvement du Libération du Congo* from the Democratic Republic of Congo (DRC), Abdoulaye Miskine's *Unité de la Sécurité Présidentielle* from Chad, and Libyan troops. In the course of the intense fighting between Patassé and Bozizé, both sides allegedly committed atrocities such as rape, killing, and looting, against the civilian population.

### ***Why did the Prosecutor delay opening of the investigation?***

The decision to open investigations in the CAR came almost two and a half years after the country's self-referral to the ICC. (By comparison, the preliminary investigations in the DRC and Uganda were completed within two to six months.) In April 2006, the Prosecutor announced that he would wait for CAR's highest criminal court, the *Cour de Cassation*, to finish consideration of whether domestic courts could try the alleged crimes. Later that month, the *Cour de Cassation* announced that it was unable to carry out the necessary criminal proceedings and stated that the ICC was better suited to find and punish the perpetrators of the gravest crimes, thus satisfying the Rome Statute's requirements for complementarity. The Prosecutor also stated that access and verification of information, important to assess the gravity of the situation, has been difficult due to limited resources of some of the parties involved and because of the deteriorating security situation in the northern areas of the CAR. Further, by opening a fourth simultaneous investigation, the Prosecutor will likely require more staff and resources to work effectively on all cases.





### ***What distinguishes the CAR from the other situations referred to the Court?***

According to the Prosecutor, sexual violence is the principal focus of the investigation because the sexual crimes far outnumber the killings. A distinctive feature of the conflict is the high reported number of victims of rape – at least 600 in a period of five months. The crimes involved aggravating circumstances such as rapes by multiple perpetrators, in front of third parties, or with the forced participation of relatives. The scale and gravity of the conduct are sufficient to warrant investigation under international criminal law. The individuals who ordered and authorized these acts could face charges of war crimes and crimes against humanity.

### ***What are the Prosecutor's next steps?***

The Prosecutor will investigate the most serious crimes committed after July 1, 2002, focusing on the peak of violence between the government and the rebel forces during the period of 2002-2003. The investigation will not be limited to past crimes and will monitor ongoing violence in the north of the country. Although the CAR's referral to the ICC identified Patassé and Bemba, the Prosecutor cannot limit an investigation to specific parties. Once the Prosecutor collects sufficient information showing that there are reasonable grounds to believe a crime under the Court's jurisdiction has been committed, he may submit an application for an arrest warrant to Pre-Trial Chamber III, as he did on May 23, 2008, with respect to Jean-Pierre Bemba. Under Article 68, the Chamber may authorize victims to present their views during the proceedings when appropriate and compatible with the rights of the accused and the requirements of a fair and impartial trial.

### ***Who will oversee the Prosecutor's investigations?***

Pre-Trial Chamber III and the Assembly of States Parties. The Office of the Prosecutor is an independent organ within the ICC and the Prosecutor is expected to make independent and impartial decisions. However, his powers are limited by the Rome Statute. With regard to the CAR, the actions of the Prosecutor will be overseen by Pre-Trial Chamber III which will review periodically the status of his investigations. During the investigations, the Prosecutor will need to obtain authorization from the Chamber before initiating certain steps, such as collecting evidence or taking testimony from witnesses who may become subsequently unavailable for the purposes of trial. In addition, his actions are subject to review by the Assembly of States Parties, which has the power to dismiss him for misconduct or inability to exercise his functions.

### ***How will the current security situation in the CAR affect the ICC investigation?***

The precarious security situation in the country's northern regions, where fighting continues between rebel organizations and the government, will likely pose special difficulties to the ICC's investigation. The Prosecutor stated that he would monitor the current outbreaks of violence, but expressed concerns that it has been difficult to confirm allegations of new crimes being committed due to the limited access to the area. In addition, the displacement of over 280,000 people between September 2006 and March 2007 will likely impede the Prosecutor's ability to gather comprehensive information regarding past crimes. The Prosecutor's investigations may be facilitated by the recent peace accord between President Bozizé and two of the rebel leaders, signed by the parties in February 2007 in Libya.

*Researched and drafted by Gergana Halpern  
Original Q&A by Kyra Hild  
Updated May 28, 2008*

