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[عربي](#)

Prosecutor of the International Criminal Court, Fatou Bensouda, re-opens the preliminary examination of the situation in Iraq

Today, 13 May 2014, the Prosecutor of the International Criminal Court ("ICC"), Mrs Fatou Bensouda, announced that she has decided to re-open the preliminary examination of the situation in Iraq, previously concluded in 2006, following submission of further information to the Office of the Prosecutor in January 2014 in accordance with article 15 of the Rome Statute. The new information received by the Office alleges the responsibility of officials of the United Kingdom for war crimes involving systematic detainee abuse in Iraq from 2003 until 2008. Iraq is not a State Party to the Rome Statute, however, the ICC has jurisdiction over alleged crimes committed on the territory of Iraq by nationals of States Parties. The re-opened preliminary examination will analyse, in particular, alleged crimes attributed to the armed forces of the United Kingdom deployed in Iraq between 2003 and 2008.

During the preliminary examination, the Prosecutor shall consider issues of jurisdiction, admissibility and the interests of justice, in order to decide whether or not the criteria to open an investigation under article 53(1) of the Rome Statute have been met. No decision on the opening of an investigation will be taken until a thorough analysis of all the relevant information is completed by the Office.

Background

On 9 February 2006, Mr Luis Moreno-Ocampo, the then Prosecutor of the ICC [announced](#) his decision not to

seek authorisation to initiate an investigation of the situation in Iraq because based on the information available to the Prosecutor at the time, the required gravity threshold of the Rome Statute was not met. In that decision, the Prosecutor indicated that this conclusion could be reconsidered in the light of new facts or evidence, in accordance with article 15(6) of the Rome Statute.

On 10 January 2014, the Office of the Prosecutor received a new communication from the European Center for Constitutional and Human Rights ("ECCHR") together with the Public Interest Lawyers ("PIL"), alleging the responsibility of officials of the United Kingdom for war crimes involving systematic detainee abuse in Iraq from 2003 until 2008. The United Kingdom deposited its instrument of ratification of the Rome Statute on 4 October 2001. The ICC has therefore jurisdiction over war crimes, crimes against humanity and genocide committed on the territory of the United Kingdom, or by UK nationals as of 1 July 2002, representing the date of the entry into force of the Rome Statute.

Based on an initial assessment of the information received, the 10 January 2014 communication provides further information that was not available to the Office in 2006. In particular, the communication alleges a higher number of cases of ill-treatment of detainees and provides further details on the factual circumstances and the geographical and temporal scope of the alleged crimes. The Prosecutor will therefore conduct a preliminary examination in order to analyse the seriousness of the information received, in accordance with the requirements of article 15(2) of the Rome Statute, and ultimately determine whether there is a reasonable basis to proceed with an investigation.

For further information, see the [OTP Policy Paper on Preliminary Examinations](#) (2013).

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Source: Office of the Prosecutor