



# 21 March 2011 #70 ICC Weekly Update



## Situation in Darfur, Sudan

There are four cases in the situation in Darfur, Sudan: *The Prosecutor v. Ahmad Muhammad Harun* ("Ahmad Harun") and *Ali Muhammad Ali Abd-Al-Rahman* ("Ali Kushayb"); *The Prosecutor v. Omar Hassan Ahmad Al Bashir*; *The Prosecutor v. Bahar Idriss Abu Garda*; and *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*. Four warrants of arrest have been issued by Pre-Trial Chamber I for Messrs Harun, Kushayb and Al Bashir. The three suspects remain at large. A summons to appear was issued for Mr Abu Garda who appeared voluntarily before the Chamber on 18 May 2009. Mr Abu Garda is not in the custody of the ICC. After the hearing of confirmation of charges, on 8 February 2010, Pre-Trial Chamber I declined to confirm the charges. Two other summonses to appear were issued against Mr Banda and Mr Jerbo who appeared voluntarily on 17 June 2010; the confirmation of charges hearing took place on 8 December 2010. On 7 March 2011, the Pre-Trial Chamber I unanimously decided to confirm the charges of war crimes brought by the ICC's Prosecutor against Mr Banda and Mr Jerbo, and committed them to trial. On 16 March 2011, the ICC Presidency constituted Trial Chamber IV and referred the case to it.

## Banda and Jerbo case

### Constitution of Trial Chamber IV in the case *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*

On 16 March 2011, the Presidency of the International Criminal Court (ICC) constituted Trial Chamber IV composed of Judges Fatoumata Dembele Diarra, Joyce Aluoch and Silvia Fernandez de Gurmendi. The Presidency also referred the case of *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus* to the new Trial Chamber and transmitted to it the full record of the proceedings before Pre-Trial Chamber I including the decision confirming the charges.

### Background

On 7 March 2011, Pre-Trial Chamber I unanimously decided to confirm the charges of war crimes brought by the ICC's Prosecutor against Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus. Pre-Trial Chamber I found substantial grounds to believe that Abdallah Banda and Saleh Jerbo are criminally responsible as co-perpetrators for three war crimes:

- violence to life and attempted violence to life;
- intentionally directing attacks against personnel, installations, material, units and vehicles involved in a peacekeeping mission; and
- pillaging.

These crimes were allegedly committed during an attack led by Abdallah Banda and Saleh Jerbo and other commanders and directed against the compound of the African Union Mission in Sudan at Haskanita on the evening of 29 September 2007. The Chamber found substantial grounds to believe that the attack was directed to personnel, installations, material, units and vehicles involved in a peacekeeping mission in accordance with the Charter of the United Nations which were entitled to the protection afforded to civilians and civilian objects.

The situation in Darfur was referred to the ICC by United Nations Security Council resolution 1593 on 31 March 2005, under article 13(b) of the Rome Statute.

### Decisions taken between 14 - 18 March 2011

#### Order to the Registrar to transmit the Decision on confirmation of charges and the record of the proceedings to the Presidency

Issued by Pre-Trial Chamber I on 15 March 2011

#### Decision constituting Trial Chamber IV and referring to it the case of *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*

Issued by the Presidency on 16 March 2011

#### Decision notifying the election of the Presiding Judge

Issued by Trial Chamber IV on 18 March 2011

### Situation in the Republic of Kenya

The Republic of Kenya ratified the Rome Statute on 15 March 2005, becoming a State Party. On 6 November 2009, upon receiving a letter from the Prosecutor indicating his intention to submit a request for the authorisation of an investigation *proprio motu*, the ICC's Presidency issued a decision assigning the situation in the Republic of Kenya to Pre-Trial Chamber II. On 26 November 2009, the Prosecutor submitted a request to Pre-Trial Chamber II for the authorisation to open an investigation into that situation in relation to the post-election violence of 2007-2008. On 31 March 2010, Pre-Trial Chamber II granted the Prosecutor's request. On 8 March 2011, Pre-Trial Chamber II issued, by majority, summonses to appear before the Court for six Kenyan citizens. Initial appearance hearings are scheduled on 7 and 8 April 2011.

### Muthaura, Kenyatta and Ali case

#### Pre-Trial Chamber II sets a new date for the initial appearance of Muthaura, Kenyatta and Ali

On 18 March 2011, Pre-Trial Chamber II of the International Criminal Court (ICC) decided to convene the hearing for the initial appearance of Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali on Friday, 8 April 2011, at 2:30 p.m. (The Hague local time, GMT+1), instead of the date of 7 April as previously ordered. In its decision the Chamber indicated that this change of date is due to the fact that, during the afternoon of 7 April, the Courts' rooms are occupied with the ongoing hearings related to the Trial Chambers.

The date of the initial appearance of Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang remains scheduled for Thursday, 7 April, at 9:30 a.m. (The Hague local time, GMT+1).

### Decisions taken between 14 - 18 March 2011

#### Dissenting Opinion by Judge Hans-Peter Kaul to Pre-Trial Chamber II's "Decision on the Prosecutor's Application for Summonses to Appear for Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali"

Issued by Judge Hans-Peter Kaul on 15 March 2011

#### Decision Setting a New Date for the Initial Appearance

Issued by Pre-Trial Chamber II on 18 March 2011

### Ruto, Kosgey and Sang case

#### Dissenting Opinion by Judge Hans-Peter Kaul to Pre-Trial Chamber II's "Decision on the Prosecutor's Application for Summons to Appear for William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang"

Issued by Judge Hans-Peter Kaul on 15 March 2011

## Situation in the Democratic Republic of the Congo

In this situation, four cases have been brought before the relevant Chambers: *The Prosecutor v. Thomas Lubanga Dyilo*; *The Prosecutor v. Bosco Ntaganda*; *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*; and *The Prosecutor v. Callixte Mbarushimana*. The accused Thomas Lubanga Dyilo, Germain Katanga, Mathieu Ngudjolo Chui and Callixte Mbarushimana are currently in the custody of the ICC. The suspect Bosco Ntaganda remains at large. The trial in the case *The Prosecutor v. Thomas Lubanga Dyilo* started on 26 January 2009. The trial in the case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* started on 24 November 2009. The confirmation of charges hearing in the case *The Prosecutor v. Callixte Mbarushimana* is scheduled to start on 4 July 2011.

### Decisions taken between 14 - 18 March 2011

#### Lubanga case

#### Public Redacted Version - Decision on the Prosecution's Request for the Non-Disclosure of Information, a Request to Lift a Rule 81(4) Redaction and the Application of Protective Measures pursuant to Regulation 42

Issued by Trial Chamber I on 14 March 2011

#### Redacted Decision on the "Troisième requête de la Défense aux fins de dépôt de documents"

Issued by Trial Chamber I on 16 March 2011

#### Katanga and Ngudjolo Chui case

#### Ordonnance déterminant les modalités et l'ordre d'audition des témoins présentés par les équipes de la Défense (normes 43 et 54 du Règlement de la Cour)

Issued by Trial Chamber II on 15 March 2011

#### Mbarushimana case

#### Order setting a deadline for the transmission of applications for victims' participation

Issued by Pre-Trial Chamber I on 15 March 2011

#### Decision on the Registry's request for extension of time and on other matters regarding the review of potentially privileged material

Issued by Pre-Trial Chamber I on 16 March 2011

### Relevant Links

**Courtroom proceedings** can be followed on the ICC website: [www.icc-cpi.int](http://www.icc-cpi.int)

You can also consult the **hearing schedule**

**Video summaries** can be found on our **YouTube channel**

The ICC's activities can also be followed through **Twitter**

## Events

### ICC President builds support for the International Criminal Court during visit to Southeast Asia

The President of the International Criminal Court (ICC), Judge Sang-Hyun Song of South Korea, concluded an eight-day official trip



ICC President Song delivers keynote address at the Asia-Pacific Parliamentary Consultation on The Universality of the Rome Statute of the International Criminal Court © PGA

to Southeast Asia on Sunday 13 March 2011. President Song urged states in the region to consider joining the ICC, the first permanent international court set up to prosecute individuals for genocide, crimes against humanity, war crimes and the crime of aggression.

"I was greatly encouraged by the enthusiasm and support for the ICC expressed by a wide variety of stakeholders in Southeast Asia", President Song said upon his return to The Hague. "There was a real consensus by officials and the

civil society that it is time for Asia, which is already a global force in many areas such as economy and technology, to assume a stronger role in the international community's joint efforts to end impunity for the gravest crimes known to humanity, as an integral element of international peace and security. In particular, I was delighted to learn about prospects of the Philippines, Malaysia and the Maldives moving to join the Rome Statute in the near future".

The purpose of President Song's trip was to raise awareness about the ICC and to facilitate informed consultations in countries that may be considering ratification of the Rome Statute. Asia is the least represented region at the ICC, and of the 114 States Parties only two – Cambodia and Timor-Leste – are in Southeast Asia.

### The Philippines

The first leg of President Song's trip was Manila, the Philippines. In their meeting on 7 March, the Philippine President Benigno C. Aquino III announced to President Song that he had signed the instrument of ratification, which would be sent to the Philippine Senate for concurrence. President Song also briefed the Committee on Foreign Relations of the Philippine Senate. The Committee Chair Senator Loren Legarda expressed her strong support of the ICC saying, "the ratification of and concurrence to the ICC by the Philippine government is a step in the right direction considering that the Philippines is a thriving and robust democracy. This will strengthen our stand in protecting human rights, including the right to human life and dignity, and will bring a strong message that we will never tolerate impunity."

During his stay in Manila, President Song addressed a civil society reception and held a lecture on ICC and Asia at the College of Law of the University of the Philippines. He gave several interviews to television and newspapers and participated in a press conference organised by the Philippine Coalition for the International Criminal Court.

### Malaysia

President Song next visited Kuala Lumpur, Malaysia, where he held official meetings with Prime Minister Mr. Najib Razak, Minister of Law Mr. Mohamed Nazri, Deputy Minister of Foreign Affairs Mr. Richard Riot Jaem and Attorney-General Mr. Ghani Patail. On 9 March, President Song gave a keynote address at the Asia-Pacific Parliamentary Consultation on the Universality of the Rome Statute of the ICC, organised by the Malaysian Parliament and Parliamentarians for Global Action (PGA), an international network of national parliamentarians working to advance peace, democracy, human rights and the rule of law.

Minister Nazri, who is also Chair of the PGA Malaysia Organising Committee, announced in his welcoming speech to the Parliamentary Consultation that accession to the Rome Statute would be discussed in the Malaysian Cabinet very soon. "The world events these past two months are evidence of the urgent need for more countries to be part of the ICC ... International justice is one of the most important expenditures a Government can invest in, not only for prevention, but also to help reconcile conflict situations in the world", he said.

The event gathered PGA members and other stakeholders from nine national legislatures and governments in the Asia-Pacific region including Bangladesh, Indonesia, Kiribati, the Maldives, Malaysia, Nepal, New Zealand, the Philippines and Vanuatu. Delegates from the Maldives informed the meeting that they would work to de-block the ICC ratification bill from parliamentary stagnation.

During his stay in Kuala Lumpur, President Song gave several media interviews and participated in a press conference in connection with the PGA event. He also used the opportunity to meet with the civil society at a forum hosted by the Malaysian Bar Council, and to give a lecture at the Law Faculty of the University of Malaya.

### Brunei Darussalam

President Song's last destination was Banda Seri Begawan, Brunei Darussalam, where he met on 12 March with the Minister of Foreign Affairs and Trade, His Royal Highness Prince Mohamed Bolkiah, who expressed strong interest in the ICC's mandate and activities. President Song also held detailed talks with the Attorney-General Datin Paduka Hajah Hayati Poksdp Haji Salleh and the Chief Justice Hon. Dato Seri Paduka Haji Kifrawi Dato Paduka Haji Kifli.

President Song gave a briefing about the ICC to senior officials of the Attorney-General's Chambers and the Ministry of Foreign Affairs and Trade, as well as to members of the Law Society of Brunei Darussalam. His visit was widely reported in the local media.

Promoting the universality and full implementation of the Rome Statute will remain a key priority for the remainder of President Song's term in office, with a particular focus on Asia as the most underrepresented region in the ICC. President Song has previously visited Bangladesh, Indonesia, Laos, Nepal and Thailand for this purpose, with Bangladesh ratifying the Rome Statute soon afterwards, in March 2010.

## Background

The ICC is an independent, permanent court that prosecutes persons accused of the most serious crimes of international concern: genocide, crimes against humanity and war crimes. It was established by an international treaty, the Rome Statute, which currently has 114 States Parties.

To date, three States Parties to the Rome Statute – Uganda, the Democratic Republic of the Congo and the Central African Republic – have self-referred situations occurring in their countries to the Court. The Security Council has referred the situation in Darfur, Sudan, and the Prosecutor was granted authorisation by the Pre-Trial Chamber to open an investigation on his own initiative into the situation in Kenya.

On 26 February 2011, the United Nations Security Council for the first time unanimously decided to refer a situation – that of Libya – to the ICC Prosecutor. On 3 March, the ICC Prosecutor announced that he had opened an investigation into the situation in Libya and on 4 March, the ICC Presidency assigned the situation in Libya to the ICC Pre-trial Chamber.

## Biography of President Song

### Press Conference, Annual Meeting of the Board of Directors of the Trust Fund for Victims (TFV) and Announcement from the Government of United Kingdom of contribution to the TFV, Monday, 21 March

At the occasion of the Annual Meeting of the Trust Fund for Victim's Board of Directors, the British Ambassador will announce a contribution of unprecedented value to the Trust Fund for Victims.

This contribution comes at a crucial time in the development of the Trust Fund, which today is three years into the full operation of its general assistance mandate and is also prepared for the implementation of potential Court orders for reparations in the foreseeable future.

The press conference is scheduled on Monday, 21 March 2011 at 10:15 a.m. in Room Red I & II at the Hilton Hotel (Zeestraat 35, 2518 AA) in The Hague.

Pieter de Baan, Executive Director of the TFV, will open the press conference, introducing a short video on the Trust Fund's assistance to victims of systemic sexual violence in eastern Congo.

Ms Elisabeth Rehn, Chair of the TFV Board of Directors, and H.E. Mr Paul Arkwright, British Ambassador to the Netherlands, will make short statements, after which there will be an opportunity for journalists to ask questions.

The ICC President, Judge Sang-Hyun Song, the ICC Deputy Prosecutor, Ms Fatou Bensouda, and the ICC Registrar, Ms Silvana Arbia, will also attend the press conference.

Journalists attending the Press Conference are requested to arrive no later than 10:00 a.m. Journalists must present a valid press identification card. They are kindly requested to confirm their attendance by sending an email to [PublicAffairs.Unit@icc-cpi.int](mailto:PublicAffairs.Unit@icc-cpi.int)

## Background information on the Trust Fund for Victims



The Trust Fund for Victims is the first of its kind in the global movement to end impunity and promote justice. At the end of one of the bloodiest centuries in human history, the international community made a commitment to end impunity, help prevent the gravest crimes known to humanity and bring justice to victims with the adoption of the Rome Statute.

This treaty – voted for by 120 nations in 1998 – created the International Criminal Court to prosecute those responsible for genocide, crimes against humanity and war crimes. For the people who suffer most from these crimes, and who too often are forgotten, the Rome Statute also set forth the mandates of the Trust Fund for Victims. In 2002, the Rome Statute came into force and the Assembly of States Parties established the TFV.

The TFV works in partnership with national and international implementing partners to fulfill a global promise of justice, assisting victims and their families in rebuilding their lives and communities.



With the unique roles of implementing both Court-ordered reparations and providing general assistance to victims of crimes under the ICC's jurisdiction, the Trust Fund for Victims offers key advantages for promoting lasting peace, reconciliation, and wellbeing in war-torn societies.

The TFW fulfils two mandates for victims of crimes under jurisdiction of the ICC:

- **Reparations:** implementing Court-ordered reparations awards against a convicted person; in case the convicted person is declared indigent, the TFW Board of Directors may decide to provide additional resources
- **General Assistance:** using voluntary contributions from donors to provide victims and their families in situations where the Court is active with *physical rehabilitation, material support, and/or psychological rehabilitation*.

In relation to its first role, the Court may order money and other property collected through fines or forfeiture from a convicted person to be transferred to the TFW for the implementation of reparations awards. Moreover, the TFW may complement such resources from voluntary contributions received from donors, including private institutions and individual persons.

The TFW general assistance is supported solely by voluntary contributions. This mandate is implemented before the conclusion of the trial and is not limited to the victims participating in proceedings before the Court, but may instead reach out to all victims within a certain situation before the ICC. General assistance can be implemented once the Board has notified the Court of the necessity to provide assistance to victims, where this does not affect the fairness of the trial (as stipulated in Regulation 50 of the Regulations of the TFW). The general assistance mandate thus serves as a very direct response to the urgent needs of victims and their communities who have suffered from the worst crimes in international law.

For more information, please refer to the Trust Fund for Victims [website](#) and [latest report](#).

Source: Trust Fund for Victims

### ICC President discusses strengthening of national jurisdictions with UN Development Chief



Ms Helen Clark, Administrator of the United Nations Development Programme (UNDP), and Judge Sang-Hyun Song, ICC President, and at the seat of the Court in The Hague © ICC-CPI

Helen Clark, Administrator of the United Nations Development Programme (UNDP), paid an official visit on Thursday 17 March 2011 to the International Criminal Court (ICC), where she was received by the President of the Court, Judge Sang-Hyun Song. Following up on a meeting they held in New York last April, President Song and Ms Clark discussed the synergies between the United Nations and the ICC in supporting the domestic capacity of states to prosecute serious crimes of international concern.

President Song acknowledged the important work that the UNDP does in providing rule of law development assistance around the world and thanked the UNDP for sharing its experiences at the Review Conference of the Rome Statute held last year in Kampala, Uganda. He recalled that national jurisdictions, in accordance with the principle of complementarity enshrined in the Rome Statute, have the primary responsibility to prosecute genocide, crimes against humanity and war crimes, and that the strengthening of domestic capacity to that purpose was one of the key objectives identified at the Review Conference.

Helen Clark informed President Song that her office has been closely following discussions on complementarity in various forums and that the UNDP will pay due attention to Rome Statute issues within its programming where appropriate. She and President Song agreed to continue communication between the ICC and the UNDP to explore potential for cooperation in areas of mutual interest.

### Background

The ICC is an independent, permanent court that prosecutes persons accused of the most serious crimes of international concern: genocide, crimes against humanity and war crimes. It was established by an international treaty, the Rome Statute, which currently has 114 States Parties. The ICC is not part of the United Nations system, but the two organisations cooperate closely in accordance with the Negotiated Relationship Agreement between the International Criminal Court and the United Nations.

### President of the Norwegian Storting visits ICC

On Friday, 18 March 2011, a high-level delegation from the Norwegian Storting, headed by H.E. Mr Dag Terje Andersen, President of the Storting, visited the ICC. The delegation comprised several members of the Storting and was accompanied by H.E. Ms Eva Bugge, Ambassador of His Majesty the King of Norway to the Netherlands.

The visitors met with the Second Vice-President of the Court, Judge Hans-Peter Kaul, and with the ICC Prosecutor, Luis Moreno-Ocampo. The delegation also observed court proceedings from the public gallery.



H.E. Mr Dag Terje Andersen, President of the Norwegian Storting, ICC Second Vice-President, Judge Hans-Peter Kaul and H.E. Ms Eva Bugge, Ambassador of His Majesty the King of Norway, at the seat of the Court in The Hague © ICC-CPI

## Interacting with communities

### Central African Republic: Legal representation of victims in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* headlines “Justice for All” programme on Radio Ndeke Luka



Left to right: Fabienne Chassagneux (ICC Outreach Coordinator), John Noubarassem (journalist/producer at Radio Ndeke Luka), Mr Nzala and Mr Morouba (lawyers and members of the legal teams in charge of the common legal representation of victims) © ICC-CPI

On Tuesday 8 March 2011, Radio Ndeke Luka invited to its recording studio staff from the Outreach Unit of the International Criminal Court (ICC) and two Central African lawyers, Mr Célestin Nzala and Mr Mathias Morouba, members of the legal teams in charge of the common legal representation of victims in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*.

The aim of the meeting was to record the “Justice for All” programme, putting the International Criminal Court, and more particularly the legal representation of victims in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*, at the heart of the debate. A programme was produced in French and will be broadcast from Wednesday 9 March. Another programme, produced entirely in Sango, will be broadcast from Wednesday 16 March.

The programmes gave the various contributors an opportunity to answer questions relating to the participation of victims before the International Criminal Court: what is meant by a “victim” before the Court? What do you have to do to be recognised as a victim before the Court? What is the difference between a “victim” and a “witness”? Why is the number of victims authorised to participate in the proceedings in the Bemba case rising?

The programmes also gave Mr Célestin Nzala and Mr Mathias Morouba an opportunity to explain their role in relation to the 1312 applications for participation already approved in the Bemba case. These 1312 victims participate in the trial through their legal representatives. The common legal representation of victims for Bangui and the surrounding area is headed by Mr Assingambi Zarambaud. He is assisted in the Central African Republic by Mr Célestin Nzala. The common legal representation of victims for other areas (Damara, Sibut, Boali, Bossembélé, Bossangoa, Bozoum, Mongoumba, etc.) is headed by Ms Marie-Edith Douzima-Lawson. She is assisted in the Central African Republic by Mr Mathias Morouba. Mr Nzala and Mr Morouba explained to Radio Ndeke Luka about their work and how they made contact with their clients. The journalist from Radio Ndeke Luka ended the programmes by highlighting the team structure now in place at the ICC, provided by four Central African lawyers, working to ensure that victims receive effective legal representation.

These programmes are part of an extensive Outreach Unit programme, which has been running via the media for over two years now, to familiarise the Central African population with how the International Criminal Court operates and with the ongoing legal proceedings in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*.

## Calendar

MARCH 2011						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
21	22	23	24	25	26	27
Trust Fund for Victims to hold board meeting at the ICC		ICC and ICTJ host seminar on victims and reparations				
Prosecutor to deliver keynote speech at Facing History and Ourselves event, London (United Kingdom)						
Judge Akua Kuenyehia to deliver annual lecture on Human Rights and Global Justice at the Center for International Law and Justice at Florida A&M University (USA).						
28	29	30	31			
APRIL 2011						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
				1	2	3
4	5	6	7	8	9	10
ICC hosts fifteenth strategic NGO roundtable meeting				ICC gives 20 <sup>th</sup> briefing to the members of the diplomatic community		
			Initial appearance scheduled for William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang	Initial appearance scheduled for Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali		
11	12	13	14	15	16	17
				Final round of the ICC Trial Competition (English version) at the seat of the ICC		
18	19	20	21	22	23	24

The calendar is subject to last minute changes.