



**Cour
Pénale
Internationale**

**International
Criminal
Court**

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19 March 2012 #120 ICC Weekly Update



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*. Thomas Lubanga Dyilo, Germain Katanga and Mathieu Ngudjolo Chui 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. On 16 December 2011, Pre-Trial Chamber I declined to confirm the charges against Mr Mbarushimana. He was released on 23 December 2011.

ICC First verdict: Thomas Lubanga guilty of conscripting and enlisting children under the age of 15 and using them to participate in hostilities

On 14 March 2012, Trial Chamber I of the International Criminal Court (ICC) decided unanimously that Thomas Lubanga Dyilo is guilty, as a co-perpetrator, of the war crimes of conscripting and enlisting children under the age of 15 and using them to participate actively in hostilities from 1 September 2002 to 13 August 2003. It is the first verdict issued by an ICC Trial Chamber. At present, 14 other cases are before the Court, three of which are at the stage of trial.



Thomas Lubanga Dyilo © ICC-CPI/ Evert-Jan Daniel/ANP

The present war crimes of enlisting and conscripting children under the age of 15 and using them to participate actively in hostilities were committed in the context of an internal armed conflict that took place in the Ituri (the Democratic Republic of the Congo) and involved the *Force patriotique pour la libération du Congo* (Patriotic Force for the Liberation of the Congo) (FPLC), led by Thomas Lubanga Dyilo, against the *Armée Populaire Congolaise* and other militias, including the Force de résistance patriotique en Ituri. A common plan was agreed by Mr Lubanga Dyilo and his co-perpetrators to build an army for the purpose of establishing and maintaining political and military control over Ituri. This resulted in boys and girls under the age of 15 being conscripted and enlisted, and used to participate actively in hostilities.

Mr Lubanga Dyilo was the President of the *Union des patriotes congolais* (Union of Congolese Patriots) (UPC), the Commander-in-Chief of its military wing, the FPLC, and its political leader. He exercised an overall coordinating role regarding the activities of the UPC/FPLC and he actively supported recruitment initiatives, for instance by giving speeches to the local population and the recruits. Furthermore, he personally used children below the age of 15 amongst his bodyguards and he regularly saw guards of other UPC/FPLC staff members who were below the age of 15. The Chamber, comprising Judge Adrian Fulford (presiding judge), Judge Elizabeth Odio Benito and Judge René Blattmann, found that the evidence presented by the Prosecutor establishes beyond reasonable doubt that Mr Lubanga Dyilo's contribution was essential to the common plan.

At the request of Mr Lubanga Dyilo, and in accordance with article 76(2) of the Rome Statute, the Chamber will hold a separate sentencing hearing. The Chamber will, furthermore, establish the principles that are to be applied to reparations for victims. The defence is entitled to appeal the conviction within 30 days of receiving the French translation of the Judgment.

Background information

Thomas Lubanga Dyilo, a national of the Democratic Republic of the Congo, was transferred to The Hague on 17 March 2006, pursuant to a warrant of arrest issued by Pre-Trial Chamber I. His trial, the first at the ICC, started on 26 January 2009 and the closing statements were presented by the parties and participants on 25 and 26 August 2011.

Over the course of 204 days of hearings, the Trial Chamber has delivered 275 written decisions and orders and 347 oral decisions. The Chamber heard 36 witnesses, including 3 experts, called by the Office of the Prosecutor, 24 witnesses called by the defence and 3 witnesses called by the legal representatives of the victims participating in the proceedings. The Chamber also called 4 experts. A total of 129 victims, represented by two teams of legal representatives and the Office of Public Counsel for Victims, were granted the right to participate in the trial. They have been authorised to present submissions and to examine witnesses on specific issues. The Prosecution submitted 368 items of evidence, the Defence 992, and the legal representatives of victims 13.

The ICC is the first permanent, treaty-based, international criminal court established to help end impunity for the perpetrators of the most serious crimes of concern to the international community, namely war crimes, crimes against humanity, genocide and the crime of aggression. At present, 15 cases have been brought before the Court in the context of 7 situations that are currently under investigation: Uganda, the Democratic Republic of the Congo, the Central African Republic, Darfur (Sudan), Kenya, Libya and Côte d'Ivoire. The ICC Judges have issued 20 warrants of arrest (2 withdrawn following the death of the suspects) and 9 summonses to appear. Currently, five individuals are in the ICC custody and 11 suspects remain at large.

Judgment pursuant to Article 74 of the Statute

[English](#)

Summary of the "Judgment pursuant to Article 74 of the Statute"

[English](#) | [Français](#)

Scheduling order concerning timetable for sentencing and reparations

[English](#)

[Photo gallery](#) and [video](#)

Case Information Sheet

[English](#) | [Français](#)

The Court Today

[English](#) | [Français](#)

President of the Assembly: The verdict in the Lubanga Case

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The President of the Assembly of States Parties to the Rome Statute, Ambassador Tiina Intelmann (Estonia) welcomed the rendering of the verdict of Trial Chamber I of the International Criminal Court in the case of *The Prosecutor v. Thomas Lubanga Dyilo* on 14 March 2012. Her thoughts are with the victims of the crimes at the heart of the trial. The crime of enlisting and conscripting child soldiers is among the most heinous crimes of our times and one that, sadly, plays a role in many contemporary armed conflicts.

Speaking in New York, Ambassador Intelmann stated that "this verdict, which completes the trial phase of the first-ever case before the International Criminal Court, demonstrates that the ICC works: the system set up by the Rome Statute to bring an end to impunity for the worst crimes under international law is an operational reality. We have left the age of impunity behind us and entered the age of accountability".

Noting the complexity of this case, in which the International Criminal Court carried out for the first time the role envisaged by its founders, she lauded the work of all organs of the Court – the Presidency, the Chambers, the Office of the Prosecutor and the Registry – as well as of the defence team.

Ambassador Intelmann also pointed out that this trial had proven that a system based entirely on State cooperation does indeed work. She thanked all States that had cooperated with the Court during this case, in particular the Democratic Republic of the Congo, which had cooperated extensively before, during and after the transfer of Mr Lubanga to the Court in 2006.

The decision of the Trial Chamber is subject to appeal.

Press release OTP: Angelina Jolie attends ICC hearing to witness Lubanga decision

On 14 March 2012, Angelina Jolie attended the reading of the first verdict rendered by the International Criminal Court (ICC), witnessing this decision and supporting the considerable advancements in international justice that the ICC represents. "The delivery of the ICC's first verdict is an important moment for the Court, for the Democratic Republic of Congo, and for the rule of law. Perhaps today's verdict of guilty provides some measure of comfort for the victims of Mr Lubanga's actions. Most of all it sends a strong message against the use of child soldiers", said Jolie.



The verdict marks a historic milestone for the ICC. *The Prosecutor v. Thomas Lubanga Dyilo* was the first trial to be brought before the ICC, and Mr Lubanga was the first suspect to be arrested under an ICC warrant. Thomas Lubanga Dyilo has been convicted of enlisting, conscripting and using persons under the age of 15 to participate actively in hostilities.

The United Nations estimates that there are tens of thousands of child soldiers engaged in combat in Africa, Asia and Latin America.

Her presence at the hearing is Ms Jolie's fourth visit to the ICC and third appearance at the Lubanga trial proceedings. In addition to attending the testimony of a victim, a child soldier, and attending closing arguments in the case, Ms Jolie funded the Lubanga Chronicles. The Lubanga Chronicles brought news of the trial to the general public in the international community and local communities in the Democratic Republic of the Congo, through the distribution of written chronicles, short audio clips via local radio stations in the Democratic Republic of the Congo and short video clips via Internet and other outlets.

Source: Office of the Prosecutor

Situation in the Democratic Republic of the Congo

Decisions taken between 12 - 16 March 2012

Decision on the constitution of Pre-Trial Chambers and on the assignment of the Democratic Republic of the Congo, Darfur, Sudan and Côte d'Ivoire situations

Issued by the Presidency on 15 March 2012

Lubanga Case

Judgment pursuant to Article 74 of the Statute

Issued by Trial Chamber I on 14 March 2012

Summary of the "Judgment pursuant to Article 74 of the Statute"

Issued by Trial Chamber I on 14 March 2012

Scheduling order concerning timetable for sentencing and reparations

Issued by Trial Chamber I on 14 March 2012

Ntaganda Case

Decision on the constitution of Pre-Trial Chambers and on the assignment of the Democratic Republic of the Congo, Darfur, Sudan and Côte d'Ivoire situations

Issued by the Presidency on 15 March 2012

Mbarushimana Case

Decision replacing a judge in the Appeals Chamber

Issued by the Presidency on 15 March 2012

Decision on the constitution of Pre-Trial Chambers and on the assignment of the Democratic Republic of the Congo, Darfur, Sudan and Côte d'Ivoire situations

Issued by the Presidency on 15 March 2012

Situation in the Central African Republic

The situation was referred to the Court by the Government of the Central African Republic in December 2004. The Prosecutor opened an investigation in May 2007. In the only case in this situation, *The Prosecutor v. Jean-Pierre Bemba Gombo*, Pre-Trial Chamber II confirmed, on 15 June 2009, two charges of crimes against humanity and three charges of war crimes, and committed the accused to trial before Trial Chamber III. The trial started on 22 November 2010.

Decisions taken between 9 - 16 March 2012

Bemba Case

Order reclassifying documents related to the "Decision concerning the Applications for judicial review of Mr Jean-Pierre Bemba Gombo of 10 and 11 November 2008"

Issued by the Presidency on 9 March 2012

Decision on 471 applications by victims to participate in the proceedings

Issued by Trial Chamber III on 9 March 2012

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*; *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*; and *The Prosecutor v. Abdel Raheem Muhammad Hussein*. Five warrants of arrest have been issued by Pre-Trial Chamber I for Messrs Harun, Kushayb, Al Bashir and Hussein. The four suspects remain at large. A summons to appear was issued for Mr Abu Garda who appeared voluntarily before the Chamber on 18 May 2009. After the hearing of confirmation of charges, on February 2010, Pre-Trial Chamber I declined to confirm the charges. Mr Abu Garda is not in the custody of the ICC. 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, 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.

Decisions taken between 9 - 16 March 2012

Decision on the constitution of Pre-Trial Chambers and on the assignment of the Democratic Republic of the Congo, Darfur, Sudan and Côte d'Ivoire situations

Issued by the Presidency on 15 March 2012

Harun and Kushayb Case

Decision on the constitution of Pre-Trial Chambers and on the assignment of the Democratic Republic of the Congo, Darfur, Sudan and Côte d'Ivoire situations

Issued by the Presidency on 15 March 2012

Al Bashir Case

Decision on the constitution of Pre-Trial Chambers and on the assignment of the Democratic Republic of the Congo, Darfur, Sudan and Côte d'Ivoire situations

Issued by the Presidency on 15 March 2012

Banda and Jerbo Case

Decision on the "Defence Application to File Supplementary Material"

Issued by Trial Chamber IV on 9 March 2012

Decision replacing a judge in Trial Chamber IV

Issued by the Presidency on 16 March 2012

Hussein Case

Decision on the constitution of Pre-Trial Chambers and on the assignment of the Democratic Republic of the Congo, Darfur, Sudan and Côte d'Ivoire situations

Issued by the Presidency on 15 March 2012

Situation in Libya

On 26 February 2011, the United Nations Security Council decided unanimously to refer the situation in the Libyan Arab Jamahiriya since 15 February 2011 to the ICC Prosecutor. On 3 March 2011, the ICC Prosecutor announced his decision to open an investigation in the situation in Libya, which was assigned by the Presidency to Pre-Trial Chamber I. On 27 June 2011, Pre-Trial Chamber I issued three warrants of arrest respectively for **Muammar Mohammed Abu Minyar Gaddafi, Saif Al-Islam Gaddafi and Abdullah Al-Senussi** for crimes against humanity (murder and persecution) allegedly committed across Libya from 15 until at least 28 February 2011, through the State apparatus and Security Forces. On 22 November 2011, Pre-Trial Chamber I formally terminated the case against Muammar Gaddafi due to his death.

Decisions taken between 12 - 16 March 2012

Decision on the constitution of Pre-Trial Chambers and on the assignment of the Democratic Republic of the Congo, Darfur, Sudan and Côte d'Ivoire situations

Issued by the Presidency on 15 March 2012

Decision notifying the election of the Presiding Judge

Issued by the Pre-Trial Chamber I on 16 March 2012

Gaddafi and Al-Senussi Case

Decision on the constitution of Pre-Trial Chambers and on the assignment of the Democratic Republic of the Congo, Darfur, Sudan and Côte d'Ivoire situations

Issued by the Presidency on 15 March 2012

Decision notifying the election of the Presiding Judge

Issued by the Pre-Trial Chamber I on 16 March 2012

Situation in Côte d'Ivoire

Côte d'Ivoire, which is not party to the Rome Statute, **had accepted the jurisdiction** of the ICC on 18 April 2003; more recently, and on both 14 December 2010 and 3 May 2011, the Presidency of Côte d'Ivoire **reconfirmed the country's acceptance** of this jurisdiction. On 3 October 2011, the Pre-Trial Chamber authorised the Prosecutor to open an investigation into the situation in Côte d'Ivoire since 28 November 2010. The hearing on the confirmation of charges in the case *The Prosecutor v. Laurent Gbagbo*, the only case currently heard before the Court in this situation, is scheduled to start on 18 June 2012.

Decisions taken between 12 - 16 March 2012

Decision on the constitution of Pre-Trial Chambers and on the assignment of the Democratic Republic of the Congo, Darfur, Sudan and Côte d'Ivoire situations

Issued by the Presidency on 15 March 2012

Décision portant désignation d'un juge unique

Issued by Pre-Trial Chamber I on 16 March 2012

Decision notifying the election of the Presiding Judge

Issued by Pre-Trial Chamber I on 16 March 2012

Gbagbo Case

Decision on the OPCV's "Second Request to appear before the Chamber pursuant to Regulation 81(4)(b) of the Regulations of the Court on issues related to the victims' application process"

Issued by Pre-Trial Chamber III on 13 March 2012

Decision on the constitution of Pre-Trial Chambers and on the assignment of the Democratic Republic of the Congo, Darfur, Sudan and Côte d'Ivoire situations

Issued by the Presidency on 15 March 2012

Relevant Links

Courtroom proceedings can be followed on the ICC website: 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

New composition of the ICC's Pre-Trial Chambers

On 15 March 2012, the Presidency of the International Criminal Court (ICC) issued decisions on the constitution of Pre-Trial Chambers and on the assignment of the seven situations currently before the Court to these Chambers.

Situations in Libya and Côte d'Ivoire are now assigned to Pre-Trial Chamber I, composed of Judges Hans-Peter Kaul, Christine van den Wyngaert and Silvia Fernández de Gurmendi.

Situations in Uganda, the Democratic Republic of the Congo, Darfur (Sudan), the Central African Republic and Kenya are assigned to Pre-Trial Chamber II, composed of Judges Cuno Tarfusser, Hans-Peter Kaul and Ekaterina Trendafilova.

At present, 15 cases, 9 of which are at the pre-trial stage, have been brought before the Court, in the context of the seven situations that are currently under investigation. The ICC judges have issued 20 warrants of arrest (2 withdrawn following the death of the suspects) and 9 summonses to appear. Currently, five individuals are in the ICC's custody and 11 suspects remain at large.

ICC Presidency assigns judges to judicial divisions

On 13 March 2012, following the [solemn undertaking of the newly elected judges](#) of the International Criminal Court (ICC) on 9 March and the [Presidency's election](#) on 11 March, the Presidency of the Court assigned the judges to the judicial divisions, in accordance with article 39(1) of the Rome Statute, the founding treaty of the ICC, and rule 4bis of the Rules of Procedure and Evidence.

The Appeals Division is constituted of Judges [Sang-Hyun Song](#), [Sanji Mmasenono Monageng](#), [Akua Kuenyehia](#), [Erkki Kourula](#) and [Anita Ušacka](#).

The Trial Division is constituted of Judges [Joyce Aluoch](#), [Kuniko Ozaki](#), [Howard Morrison](#), [Anthony T. Carmona](#), [Robert Fremr](#) and [Chile Eboe-Osuji](#).

The Pre-Trial Division is constituted of Judges [Cuno Tarfusser](#), [Hans-Peter Kaul](#), [Ekaterina Trendafilova](#), [Christine van den Wyngaert](#), [Silvia Fernández de Gurmendi](#) and [Olga Herrera Carbuccia](#).

According to article 39(1) of the Rome Statute, the assignment of judges to divisions is based on the nature of the functions to be performed by each division and the qualifications and experience of the judges elected to the Court, in such a way that each division shall contain an appropriate combination of expertise in criminal law and procedure as well as in international law.

Calendar

MARCH 2012						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
19	20	21	22	23	24	25
26	27	28	29	30	31	
			ICC President Song to participate in a panel discussion at the 106th Annual Meeting of the American Society of International Law, together with the ICJ and ICTY presidents and PCA Acting Secretary-General, Washington, DC (USA)*			
APRIL 2012						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
						1
2	3	4	5	6	7	8
Judge Kourula to participate in the 2012 LI Haopei Lecture and Seminar "Sovereignty and Individual Criminal Responsibility for Core International Crimes", Beijing (China)**				Judicial Recess***		
9	10	11	12	13	14	15
Judicial Recess***						
16	17	18	19	20	21	22
23	24	25	26	27	28	29
				Court to host ICC Trial Competition (English)		
- From 15 May 2012: Closing Statements in the case against Germain Katanga and Mathieu Ngudjolo Chui - 29 May – 1 June: ICC to host NGO Roundtable - From 18 June 2012: Confirmation of charges hearing in the case against Laurent Gbagbo						

* The ICC is grateful to the Hague Municipality and the Dutch Ministry of Foreign Affairs for covering the costs of the Court's participation in the panel discussion, entitled "Confronting Complexity in The Hague".

** The ICC is grateful to the organizers, the Forum for International Criminal and Humanitarian Law and China University of Political Science and Law, for covering the costs of the Court's participation.

*** Please note that there will be no hearings during the ICC's Judicial Recess from Thursday, 5 April 2012 (17:30) until Monday, 16 April 2012 (09:00)

The calendar is subject to last minute changes.