



14 March 2011 #69 ICC Weekly Update



Situation in the Libyan Arab Jamahiriya

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.

Situation in the Libyan Arab Jamahiriya assigned to Pre-trial Chamber I

07.03.2011

On 4 March 2011, the Presidency of the International Criminal Court (ICC), noting the unanimous decision of the United Nations Security Council to refer the situation in Libya since 15 February 2011 to the ICC Prosecutor and noting the Prosecutor's letter informing the ICC President of this referral, decided to assign **the situation in the Libyan Arab Jamahiriya** to Pre-Trial Chamber I.

Pre-Trial Chamber I is composed of Judge Cuno Tarfusser (Italy), Judge Sylvia Steiner (Brazil) and Judge Sanji Mmasenono Monageng (Botswana).

The judges are persons of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices. The judges are elected by the Assembly of States Parties on the basis of their established competence in criminal law and procedure and in relevant areas of international law such as international humanitarian law and the law of human rights. The election of the judges takes into account the need for the representation of the principal legal systems of the world, a fair representation of men and women, and equitable geographical distribution.

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.

Pre-Trial Chamber I commits Abdallah Banda and Saleh Jerbo to trial

08.03.2011

On 7 March 2011, Pre-Trial Chamber I of the International Criminal Court (ICC) unanimously decided to confirm the charges of war crimes brought by the ICC's Prosecutor against Abdallah Banda Abakaer Nourain (Abdallah Banda) and Saleh Mohammed Jerbo Jamus (Saleh Jerbo), and committed them to trial.

In accordance with article 61 of the Rome Statute, Pre-Trial Chamber I found substantial grounds to believe that Abdallah Banda and Saleh Jerbo are criminally responsible as co-perpetrators within the meaning of article 25(3)(a) of the Statute, 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.

Pre-Trial Chamber I therefore committed the accused to trial before a Trial Chamber, whose bench will be announced shortly by the Presidency of the Court.

Decisions taken between 7 - 11 March 2011

Banda and Jerbo case

Corrigendum of the “Decision on the Confirmation of Charges”

Issued by Pre-Trial Chamber I on 8 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 of 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.

Pre-Trial Chamber II delivers six summonses to appear in the Situation in the Republic of Kenya

09.03.2011

On 8 March 2011, Judge Ekaterina Trendafilova and Judge Cuno Tarfusser of Pre-Trial Chamber II, by Majority, issued the decisions on the applications submitted by the Prosecutor to summon William Samoei Ruto (Ruto), Henry Kiprono Kosgey (Kosgey), Joshua Arap Sang (Sang), Francis Kirimi Muthaura (Muthaura), Uhuru Muigai Kenyatta (Kenyatta) and Mohammed Hussein Ali (Ali) to appear before the Court on 7 April 2011.

With respect to the case involving Ruto, Kosgey and Sang, the Chamber found reasonable grounds to believe that Ruto and Kosgey are criminally responsible as indirect co-perpetrators (i.e., committing crimes through another person(s)) in accordance with article 25(3)(a) of the Rome Statute for the crimes against humanity of murder, forcible transfer and persecution committed in some locations in the Republic of Kenya and during the time-frame specified in the Prosecutor’s application. The Chamber, however, found that there are not reasonable grounds to believe that Sang is an indirect co-perpetrator, because his contribution to the commission of the crimes was not essential. Instead, the Chamber was satisfied that there were reasonable grounds to believe that Sang otherwise contributed to the commission of the crimes in accordance with article 25(3)(d) of the Rome Statute. As to the count of torture, the Chamber has not found reasonable grounds to believe that acts of torture were committed.

Regarding the case involving Muthaura, Kenyatta and Ali, the Chamber found reasonable grounds to believe that Muthaura and Kenyatta are criminally responsible as indirect co-perpetrators in accordance with article 25(3)(a) of the Rome Statute for the crimes against humanity of murder, forcible transfer, rape, persecution and other inhumane acts. The Chamber, however, found that there are not reasonable grounds to believe that Ali is an indirect co-perpetrator, because his contribution to the commission of the crimes was not essential. Instead, the Chamber was satisfied that there were reasonable grounds to believe that Ali otherwise contributed to the commission of the crimes in accordance with article 25(3)(d) of the Rome Statute. Finally, the Chamber found no reasonable grounds to believe that, in relation to Kisumu and Kibera, the alleged perpetrators committed the said crimes.

Based on the foregoing findings, the Chamber issued the summonses to appear for the six suspects subject to the following four conditions:

- (i) to have no contact directly or indirectly with any person who is or is believed to be a victim or a witness of the crimes for which the suspects have been summoned;
- (ii) to refrain from corruptly influencing a witness, obstructing or interfering with the attendance or testimony of a witness, or tampering with or interfering with the Prosecution's collection of evidence;
- (iii) to refrain from committing crime(s) set forth in the Statute;
- (iv) to attend all required hearings at the International Criminal Court;

Judge Hans-Peter Kaul disagrees with the Majority in both cases on the question of whether the crimes alleged amount to crimes against humanity under the jurisdictional ambit of the Court. He holds that the Prosecutor has failed in both cases to establish reasonable grounds to believe that the crimes were committed pursuant to or in furtherance of the policy of an organization within the meaning of article 7(2)(a) of the Rome Statute. Thus, he believes that the Court lacks subject-matter jurisdiction in the situation in the Republic of Kenya, including both cases. The dissenting opinions will be issued in due course.

ICC launches Kenyan-wide TV series *Ask the Court*

10.03.2011

On 10 March 2011, the Outreach Unit of the International Criminal Court (ICC) launched the Kenyan TV series *Ask the Court*. *Ask the Court* answers the most frequently asked questions raised by the Kenyan population on the Court's mandate and its work. The TV series has been designed to foster interaction between the Court and the national population, in particular with those most affected by the post-election violence. It explains judicial developments as they unfold, clarifies the next steps in the Court's procedures, and enhances transparency and understanding of ICC proceedings.

This episode is the first in a series of programmes that will follow the developments of the Court's judicial procedures in the Kenya situation. It explains Pre-Trial Chamber II's recent decision to issue summonses to appear for six suspects and provides further explanations on the judicial steps following this decision.

The programme will be broadcasted on Kenyan television stations including KTN, Citizen TV, KBC, NTV, K24 and Sayare.

The programme will be further translated into four local languages and broadcast on 13 local radio stations. Each episode will also be available on the ICC's YouTube channel.

Other TV and local radio stations are also encouraged to broadcast the programmes; no further permission is required.

Links

The first episode is also available at the following links.

For viewing:

YouTube: <http://www.youtube.com/watch?v=M04D5M-q1EA>

For downloading:

Audio: http://www.fileserver.icc-cpi.info/audio/Ask_the_Court_KENYA.mp3

Video: http://www.fileserver.icc-cpi.info/video/Ask_the_Court_KENYA.mp4

Background

The ICC's Outreach Unit conducts activities to reach communities affected by alleged crimes in situations and cases brought before the Court.

The Outreach Unit's programmes aim to cultivate a level of awareness and understanding of the ICC's mandate and procedures, promote access to and understanding of judicial proceedings, and foster realistic expectations about the Court's work. This in turn will engender greater local community participation in Court proceedings by addressing the concerns of those in affected communities and by countering misperceptions.

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 7 - 11 March 2011

Ruto, Kosgey and Sang case

Decision on the Prosecutor's Application for Summons to Appear for William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang

Issued by Pre-Trial Chamber II on 8 March 2011

Muthaada, Kenyatta and Ali case

Decision on the Prosecutor's Application for Summonses to Appear for Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali

Issued by Pre-Trial Chamber II on 8 March 2011

Decisions taken between 7 - 11 March 2011

Lubanga case

Redacted Decision on the "Defence Application Seeking a Permanent Stay of the Proceedings"

Issued by Trial Chamber I on 7 March 2011

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

Issued by Trial Chamber I on 7 March 2011

Order on the transmission of 7 new victims' applications and the submission of observations

Issued by Trial Chamber I on 8 March 2011

Corrigendum to Redacted Decision on the defence request for the admission of 422 documents

Issued by Trial Chamber I on 8 March 2011

Corrigendum to Decision on the legal representative's application for leave to tender into evidence material from the "bar table" and on the Prosecution's Application for Admission of three documents from the Bar Table Pursuant to Article 64 (9)

Issued by Trial Chamber I on 9 March 2011

Katanga and Ngudjolo Chui case

Version publique expurgée de la Décision relative à la requête du Bureau du Procureur aux fins de communiquer avec le témoin P-250 (ICC-01/04-01/07-2711-Conf, 18 février 2011)

Issued by Trial Chamber II on 10 March 2011

Version publique expurgée de l'Ordonnance aux fins de consultation de l'Unité d'aide aux victimes et aux témoins concernant la situation des témoins 219,267 et 353 (ICC-01/04-01/07-1037-Conf-Exp, 7 avril 2009)

Issued by Trial Chamber II on 10 March 2011

Public Redacted Version of « Decision on the Prosecutor's request to prepone the testimony of P-219 » (ICC-01/04-01/07-2057-Conf, 29 April 2010)

Issued by Trial Chamber II on 10 March 2011

Mbarushimana case

Order on the time limit for the Prosecutor's response to the "Defence Request for Suspensive Effect of Decision ICC-01/04-01/10-67"

Issued by Pre-Trial Chamber I on 8 March 2011

Decision on the "Defence Request for Suspensive Effect of Decision ICC-01/04-01/10-67"

Issued by Pre-Trial Chamber I on 11 March 2011

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

President of the Assembly visit to the Organization of American States



From left: President Christian Wenaweser and H.E. Mr. José Miguel Insulza, OAS Secretary-General © Patricia Leiva/OEA

11.03.2011, Washington DC

The President of the Assembly of States Parties ("the Assembly"), Ambassador Christian Wenaweser, paid a visit to the Organization of American States (OAS) on 10 March 2011 in Washington D.C. During his visit, the President held a meeting with H.E. Mr. José Miguel Insulza, Secretary-General of the OAS, who shared the conviction of the need to promote the universality of the Court, as a means to combat impunity for the most serious crimes of concern to the international community. They both highlighted the importance of the adoption by consensus of United Nations Security Council resolution 1970 (2011) whereby the situation in Libya since 15 February 2011 was referred to the ICC, as it constituted a reaffirmation of the central role played by the Rome Statute system.

President Wenaweser also welcomed the Organization's support for the Court, as well as the forthcoming exchange of letters between the OAS Secretariat and the Court which would facilitate the cooperation between the two institutions.

Furthermore, President Wenaweser took part in a working meeting on the ICC of the Committee on Juridical and Political Affairs of the OAS Permanent Council, which included a high-level dialogue among the permanent representatives of the Member States, wherein he made a presentation on the Review Conference and the Crime of Aggression.

The President noted that 26 of the 35 OAS Members are parties to the Rome Statute and encouraged the remaining nine to consider becoming parties to the Statute; he appealed to all States to ratify the amendments adopted at the Review Conference, in particular the one on the crime of aggression. Furthermore, he noted the need for States to put measures in place at the national level to enable them to investigate and prosecute the crimes within the jurisdiction of the Court.

He also referred to a seminar for CARICOM States, tentatively scheduled to take place in May 2011 in Trinidad and Tobago, which will focus on, inter alia, the amendments of the Review Conference on the crime of aggression and article 8; discussion of the Trinidad and Tobago and Belize proposal for amending the Statute; and the challenges to becoming a State Party to the Rome Statute.

Source: Assembly of States Parties

Interacting with communities

Central African Republic: Celebration of “Women’s Week” in Bangui



Audiovisual summaries of the opening weeks of the trial of Jean-Pierre Bemba Gombo were shown to women from OFCA (*Organisation des Femmes Centrafricaines*) [Central African Women’s Organisation] © ICC-CPI

08.03.2011

On 3 March 2011, the International Criminal Court (ICC) Outreach Unit was invited by OFCA (*Organisation des Femmes Centrafricaines*) [Central African Women’s Organisation] to participate in an event to celebrate “Women’s Week”. To mark the week, OFCA organized various activities and gatherings, and a variety of issues of particular interest to women of the Central African Republic, including justice, were discussed during the festivities.

More than 170 women attended the talk given by the International Criminal Court, which took place at the OFCA premises in Bangui. The presentation, given in Sango, focussed on the trial of Jean-Pierre Bemba Gombo and the opportunity afforded to victims to participate in the proceedings. Mr Nzala, a member of the legal team responsible for the common legal representation of victims for Bangui and its surrounding areas, also attended and was able to respond to more specific questions put to him by some of the women present.

Audiovisual summaries from the opening months of the trial of Jean-Pierre Bemba Gombo were shown during the presentation. The women paid close attention to the accounts given in the summaries: most of the women present had come from rural areas in the Central African Republic, and were seeing pictures from the trial for the very first time. They demonstrated a keen interest in the legal proceedings under way in The Hague and expressed a desire to follow the trial closely. Ms Kofio, President of OFCA, brought the presentation to a close by inviting the Outreach Unit of the International Criminal Court to continue its efforts to provide women’s groups in Bangui and elsewhere in the country with access to information about the trial of Jean-Pierre Bemba Gombo. As Ms Kofio stated, “First and foremost, this trial is for the women of the Central African Republic”.

Northern Ugandan women join ICC staff in International Women’s Day celebrations



10.03.2011

Hundreds of grassroots women from the war-affected community of Paicho sub-county, Gulu district, in Northern Uganda attended a gender outreach session on 8 March 2011 to mark the annual celebration of International Women’s Day. The women participating in this outreach session also included residents of the nearby villages of Kalali and Kalumu, as well as leaders of women’s groups, local counsellors, market women and small-scale farmers.

The ICC Outreach team gave a general presentation on the

International Women Day celebrations in Northern Uganda © ICC-CPI

mandate and operations of the Court, including the crimes the Court investigates and prosecutes. The meeting further discussed in detail sexual and gender-related crimes under the Rome Statute committed against women and girls, such as rape, sexual slavery, and forced marriage, used as a weapon of war, which may constitute war crimes and crimes against humanity.

During the interaction that followed, the women voluntarily shared their experiences and the consequences of sexual and gender-related abuses they went through during the conflict in northern Uganda. They expressed strong feelings that the perpetrators of such atrocious crimes should not go unpunished, as the wounds of the anguish they suffered were still fresh in their minds.

Concluding the meeting, the leader of Paicho sub-county, Mrs. Christine Okot, stated that she appreciated the Outreach Unit's efforts to make the voices of the women in her community heard on women's day. "This day is an opportunity for women to speak in one voice and condemn the various forms of abuses women face during conflicts and in times of peace", she noted.

Calendar

MARCH 2011						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
14	15 Deputy Prosecutor to participate in the international colloquium "Women's rights, Migrant women's rights and international humanitarian law", Dakar (Senegal)	16	17	18	19	20
21	22 Trust Fund for Victims to hold board meeting at the ICC	23 ICC and ICTJ host seminar on victims and reparations	24	25	26	27
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						
			Initial appearance scheduled for six Kenyan citizens			

The calendar is subject to last minute changes.