



**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**

# 23 May 2011 #78 ICC Weekly Update



## 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.

## ICC Prosecutor: Gaddafi used his absolute authority to commit crimes in Libya



ICC Prosecutor Luis Moreno-Ocampo at the 16 May 2011 Press Conference regarding the situation in Libya © ICC-CPI

On 16 May 2011, International Criminal Court (ICC) Prosecutor Luis Moreno-Ocampo requested ICC judges to issue arrest warrants against Muammar Abu Minya Gaddafi, Saif Al Islam Gaddafi and the Head of the Intelligence, Abdullah Al Sanousi, for crimes against humanity committed in Libya since February 2011.

The Office gathered direct evidence about orders issued by Muammar Gaddafi himself, direct evidence of Saif Al Islam organizing the recruitment of mercenaries, and direct evidence of the participation of Al Sanousi in the attacks against demonstrators. Additionally the Office documented how the three held meetings to plan the operations.

The evidence shows that civilians were attacked in their homes; demonstrations were repressed using live ammunition, heavy artillery was used against participants in funeral processions, and snipers placed to kill those leaving the mosques after the prayers.

The evidence shows that persecution is still ongoing in the areas under Gaddafi control. Gaddafi's forces prepare lists with names of alleged dissidents. They are being arrested, put into prisons in Tripoli, tortured and made to disappear. *"These are not just crimes against Libyans, they are crimes against humanity as a whole,"* the Prosecutor said.

This is the first case in Libya. The Office will further investigate allegations of massive rapes, war crimes committed by different parties during the armed conflict that started at the end of February, and attacks against sub-Saharan Africans wrongly perceived to be mercenaries. *"There will be no impunity for such crimes in Libya,"* said the Prosecutor.

ICC judges will now decide to accept the Prosecutor's request, reject it or ask the Office of the Prosecutor for more evidence. The Prosecutor has not requested the intervention of international forces to implement the arrest warrants. Should the Court issue them and the three individuals remain in Libya, Libyan authorities have the primary responsibility to arrest them. When the time comes, implementing the arrest warrants will be the most effective way to protect civilians under attack in Libya and elsewhere.

The International Criminal Court is an independent, permanent court that investigates and prosecutes persons accused of the most serious crimes of international concern, namely genocide, crimes against humanity and war crimes.

### Statement ICC Prosecutor Press Conference on Libya 16 May 2011

#### Questions and Answers

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Source: Office of the Prosecutor

## 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.

## Lubanga Dyilo Case

### Trial of Thomas Lubanga Dyilo: The presentation of evidence stage is closed

On 20 May 2011, Trial Chamber I of the International Criminal Court (ICC), comprising Judge Adrian Fulford (Presiding Judge), Judge Elizabeth Odio Benito and Judge René Blattmann, ordered the closing of the presentation of evidence stage in the case *The Prosecutor v. Thomas Lubanga Dyilo*.

The Chamber has decided that the parties and participants to the trial will present their closing oral statements in public hearings on 25 and 26 August 2011. After the closing statements, the Trial Chamber will pronounce, within a reasonable period of time, its decision. The Chamber bases its decision only on the applicable law and on evidence submitted and discussed before it at the trial.

Lubanga Dyilo, alleged founder and leader of the *Union des patriotes congolais* (UPC), faces counts of war crimes consisting of enlisting and conscripting children under the age of 15 years and using them to participate actively in hostilities in the Democratic Republic of the Congo (DRC). He was surrendered and transferred to the Court on 17 March 2006, upon a warrant of arrest issued by Pre-Trial Chamber I.

The trial started on 26 January 2009. Over the course of 220 hearings, the Chamber heard 36 witnesses called by the Office of the Prosecutor, including 3 experts, 19 witnesses called by the Defense and 3 witnesses called by the legal representatives of the victims participating in the proceedings. The Chamber also called 4 other experts to testify. The Judges ensured the respect of the rights guaranteed by the Rome Statute to each of the parties, including the right to cross-examine the witnesses.

During the trial, a number of protective measures were granted to certain witnesses, including voice and facial distortion and the use of pseudonyms. Exceptionally, a support assistant or psychologist was allowed to sit in the courtroom to support and monitor the witness. Thomas Lubanga and his Defence team were able to see all witnesses during their testimony, even though some of them required further special measures in the courtroom to avoid direct eye contact with the accused.

A total of 118 victims, represented by three teams of legal counsel, were authorised to participate in the trial. They have expressed their position on matters heard before the Chamber and were authorised to examine witnesses on specific issues.

The Trial Chamber issued 307 oral decisions, and 624 written decisions. The parties and participants before the Chamber exchanged more than 3,560 filings amounting to 52,803 pages.

To publicize the trial, especially during outreach sessions for the affected communities in the DRC, but also to serve the needs of international media, the Court produced 200 programmes for television and radio. In addition, these programmes were translated into local languages and broadcast on a weekly basis on community radio stations throughout the DRC. Overall, through the media, an estimated audience of 25 million was regularly informed.

The situation in the DRC was referred to the Court by the Government of the DRC in April 2004. *The Prosecutor v. Thomas Lubanga Dyilo* is one of the cases that arose from the situation in the DRC; others are *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, *The Prosecutor v. Callixte Mbarushimana* and *The Prosecutor v. Bosco Ntaganda*. Bosco Ntaganda remains at large. Investigations are ongoing in the DRC.

For further information on this case, please click [here](#).

### Mbarushimana Case

#### Decisions taken between 16 - 20 May 2011

##### Decision extending the deadline for the review of potentially privileged material

Issued by Pre-Trial Chamber I on 13 May 2011

##### Order requesting observations on the report from the Netherlands Forensic Institute

Issued by Pre-Trial Chamber I on 17 May 2011

##### Third Decision on matters regarding the review of potentially privileged material

Issued by Pre-Trial Chamber I on 17 May 2011

##### Decision on the “Defence Request for Interim Release”

Issued by Pre-Trial Chamber I on 19 May 2011

##### Decision on the Prosecution’s applications for redactions pursuant to Rule 81(2) and Rule 81(4)

Issued by Pre-Trial Chamber I on 20 May 2011

### Situation in the Republic of 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 19 May 2011, in an official letter, the ICC Prosecutor informed the President of the Court of his intention to submit a request to the Pre-Trial Chamber for authorisation to open investigations into the situation in Côte d’Ivoire since 28 November 2010. On 20 May 2011, the ICC Presidency assigned the situation in the Republic of Côte d’Ivoire to Pre-Trial Chamber II.

### Situation in Côte d’Ivoire assigned to Pre-Trial Chamber II

On 20 May 2011, the Presidency of the International Criminal Court (ICC) assigned the situation in the Republic of Côte d’Ivoire to Pre-Trial Chamber II following the letter of 19 May 2011, by which the Prosecutor informed the President of the Court of his intention to submit a request to the Pre-Trial Chamber for authorisation to open investigations into the situation in Côte d’Ivoire since 28 November 2010.

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.

After a preliminary examination, the ICC Prosecutor concluded that there is a reasonable basis to believe that crimes within the jurisdiction of the Court have been committed in Côte d'Ivoire since 28 November 2010.

### Decisions taken between 16 - 20 May 2011

#### Decision Assigning the Situation in the Republic of Côte d'Ivoire to Pre-Trial Chamber II

Issued by the Presidency on 20 May 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

### The ICC Registry opens the Ninth Seminar of Counsel



The ICC Registrar gives the welcome address at the 2011 Seminar of Counsel. From left to right : ICC Counsel Support Section Chief Esteban Peralta Losilla, ICC Registrar Silvana Arbia, ICC First Vice-President Fatoumata Dembele Diarra, and ICC Deputy Registrar Didier Preira © ICC-CPI

On 16 May 2011, the Registrar of the International Criminal Court (ICC), in the presence of the ICC First Vice-President, the Honourable Judge Fatoumata Dembele Diarra, opened the ninth annual Seminar of Counsel in The Hague. The annual meeting constitutes the most important forum of interaction between the Court and all external lawyers authorised to practice before its chambers.

This year, over 250 registered participants discussed developments in representing victims as well as suspects and the accused before the Court, as well as the disciplinary regime of the Code of Professional Conduct for counsel (ICC-ASP/4/Res.1). Special attention was also placed on the ICC's engagement with the legal profession. Participants of the seminar included lawyers admitted to the ICC List of Counsel maintained by the Registrar, counsel currently engaged in proceedings before the Court as well as their team members, representatives of international legal associations, non-governmental organisations and international *ad hoc* tribunals.

In her welcoming remarks, the First Vice-President of the ICC, Judge Fatoumata Dembele Diarra, pointed out unique aspects of the ICC's systems in regard to the defence and legal representation of victims. Addressing the participants, she stressed "that an effective and efficient representation of suspects and accused persons in the proceedings before our Court is one of the fundamental dimensions of a fair trial".

Judge Diarra also applauded the enormous efforts of the Registrar in ensuring the diversity of legal practitioners before the Court, particularly through the successful Calling African Female Lawyers Campaign, which "will lead to a fair representation in the List of Counsel of the different legal systems and different legal cultures of the world", added the Judge.

In her opening statement, the Registrar of the Court, Ms Silvana Arbia, emphasized the significant contributions of counsel involved in proceeding before the ICC. "Counsel and organisations of the legal profession are independent actors, who play a crucial role in the activities of the Court and the conduct of its proceedings", she stated.

Ms Arbia thanked the participating counsel for their commitment to the Court and for their support for the Court's Calling African Female Lawyers Campaign, which aims to increase the number of African female lawyers admitted to the ICC's List of Counsel and List of Assistants to Counsel. These Lists were created by the Registrar to provide defendants and victims in proceedings before the Court with a pool of highly qualified counsel. The List of Counsel currently includes 402 lawyers from some 50 countries, of whom 93 are women and 31 are African female lawyers. Of the 103 lawyers on the List of Assistants to Counsel, 58 are female lawyers. The campaign started in 2010 and has continued with success, with recent events in Mali, the Democratic Republic of the Congo, Ghana, South Africa, Uganda, Kenya, and Botswana, and several more events are scheduled to take place in 2011.

The two-day seminar was followed by three additional days reserved for practical training sessions, conducted by renowned experts, on procedural and practical issues facing counsel representing defendants or victims before the Court. Over 140 lawyers from the List of Counsel registered for the 2011 training sessions.



Participants of the 2011 Training Programme for Counsel at the ICC, 20 May 2011 © ICC-CPI

## ICC President takes official trip to Latin America and Caribbean Region, signs enforcement of sentences agreement during his visit to Colombia

On 17 and 18 May, the President of the International Criminal Court (ICC), Judge Sang-Hyun Song, visited Bogotá, Republic of Colombia, at the invitation of the President of Colombia, H.E. Mr. Juan Manuel Santos Calderón. On the first day of the visit, President Song and President Santos signed an agreement on the enforcement of ICC sentences, Colombia being the first country from the Latin American and Caribbean region to do so.

The visit to Colombia is part of President Song's efforts to raise global awareness about the ICC. He travelled to the Colombian capital from Port of Spain, Trinidad and Tobago, where he addressed a seminar on the Rome Statute of the ICC for countries of the Caribbean Community.



ICC President Sang-Hyun Song and the President of Colombia, H.E. Mr. Juan Manuel Santos Calderón, signing an enforcement of sentences agreement in Bogotá, Colombia © ICC-CPI

In Bogotá, the ICC President met with a wide variety of interlocutors. In addition to President Santos and other high-ranking government officials, he met with civil society organisations, with the Presidents of the Supreme Court and Constitutional Court of Colombia, as well as with and representatives of international organisations and diplomatic missions. At the Universidad de los Andes, he gave a lecture entitled *International Criminal Justice – How to Move Forward*.

President Song took these opportunities to stress that the ICC is a court of last resort and that States, within their national jurisdiction, bear the primary responsibility to ensure accountability for serious crimes of concern to the international community as a whole. He also highlighted ways in which States can strengthen the effective functioning of the Rome Statute system, including full cooperation with the ICC, national capacity building through the adoption of implementing legislation and other means, and various forms of voluntary support to the ICC.

The Office of the Prosecutor, an independent organ of the ICC, is conducting a preliminary examination in Colombia, assessing whether genuine national proceedings are being carried out. The ICC President has no part in these activities.

### *Note on the agreement on the enforcement of sentences:*

The Rome Statute, founding treaty of the ICC, provides that sentences handed down by Judges “shall be served in a State designated by the Court from a list of States which have indicated to the Court their willingness to accept sentenced persons”. To date, the ICC has signed agreements on the enforcement of sentences with the governments of Austria, the United Kingdom, Belgium, Denmark, Finland and Serbia. These agreements provide the legal framework for the possible enforcement of an actual sentence in the future, but they do not entail any obligation on either party – the State or the ICC – for any person sentenced by the ICC to be transferred to the State in question.



At the CARICOM seminar on the Rome Statute of the ICC in Port of Spain, 16 May 2011 © ICC-CPI

In this photo:

Sitting:

- ICC President Sang-Hyun Song
- H.E. Arthur N.R. Robinson, former President and Prime Minister of Trinidad and Tobago

Standing, from left:

- Akbar Khan, Director, Legal and Constitutional Affairs Division, Commonwealth Secretariat
- H.E. Ambassador Christian Wenaweser, President of the Assembly of States Parties
- Dr. Surujrattan Rambachan, Foreign Minister of Trinidad and Tobago
- The Right Honourable Mr. Justice Michael de la Bastide, President of the Caribbean Court of Justice
- The Right Honourable Sir Dennis Byron, President of the International Criminal Tribunal for Rwanda

Special Address by President Sang-Hyun Song at CARICOM Seminar on the Rome Statute of the International Criminal Court, Port-of-Spain, Trinidad and Tobago



ICC President Sang-Hyun Song delivering lecture at *Universidad de los Andes*, 18 May 2011

“Delivering international criminal justice: how to move forward?” - Lecture by President Sang-Hyun Song at *Universidad de los Andes*, Bogotá, Colombia

### CARICOM seminar



Left: The Minister of Foreign Affairs of Trinidad and Tobago, the Honourable Surujrattan Rambachan;  
Center: ICC President Judge Sang-Hyun Song, and the Director of the Legal Affairs Division of the Commonwealth Secretariat, Mr Akbar Kahn;  
Right: The President of the Assembly of States Parties, Ambassador

#### Port of Spain, 18 May 2011

The Honourable Surujrattan Rambachan, Minister of Foreign Affairs of Trinidad and Tobago, delivered the feature address at the CARICOM regional seminar on the Rome Statute of the ICC, held on 16 and 17 May 2011 in Port of Spain. The seminar was organized by the Government of Trinidad and Tobago, as part of its Review Conference pledge to promote the universality of the Rome Statute, with the support of the Commonwealth Secretariat and the assistance of the Secretariat of the Assembly of States Parties to the Rome Statute ("Assembly").

The President of the Assembly, Ambassador Christian Wenaweser, and the President of the International Criminal Court ("ICC"), Judge Sang-Hyun Song, participated in the panels. In the context of the follow-up to the Review Conference, the seminar provided a forum for CARICOM Government representatives from States Parties, non-States Parties, international organizations and civil society to listen to and to provide their input on, inter alia, the importance of striving to attain universality of the Rome Statute; the outcome of the Review Conference, including amendments on the crime of aggression; consideration of other amendments to the Statute, in particular the proposal to expand the Court's jurisdiction by including the crime of international drug trafficking which has been of a particular concern to CARICOM States for a long time; the challenges faced in becoming a State Party to the Rome Statute and in implementing domestic legislation to ensure that States can investigate and prosecute the crimes themselves. CARICOM participants were also informed about the updated Commonwealth Model Law, which is scheduled for adoption at the Commonwealth Law Ministers meeting in early July.

During his visit, President Wenaweser held meetings with senior Government officials, including the Minister for Foreign Affairs, Mr. Surujrattan Rambachan and the Director of Public Prosecutions, Mr. Roger Gaspard.



President Wenaweser also met Mr. Arthur N.R. Robinson, former President of Trinidad and Tobago and former member of the ICC Board of the Directors of the Trust Fund for Victims, who through his 1989 statement in the United Nations General Assembly placed the establishment of a permanent international criminal court on the agenda of the world body.

Participants in the meeting welcomed the forthcoming ratification by Grenada, which would bring the number of CARICOM States Parties to 12, and agreed to strengthen their efforts so as to have the entire membership of CARICOM as parties to the Statute in the near future, as well as reaffirmed the region's support for the ensuring that impunity does not prevail for Rome Statute type crimes.

#### Related press articles

Guardian: [Call to take drug traffickers to ICC](#)  
Newsday Section: [Robbie, grandfather of ICC](#)

President N.R. Robinson: "The ICC is an important development in human civilization for there cannot be human civilization without law."

For further information on the Assembly of States Parties, please e-mail to [asp@icc-cpi.int](mailto:asp@icc-cpi.int).

Source: Assembly of States Parties

## Grenada becomes the 115th State to join the Rome Statute



In the presence of the President of the Assembly of States Parties © UN Photo/Paul Weissleder

On 19 May 2011, the government of Grenada deposited its instrument of accession of the Rome Statute of the International Criminal Court (ICC) to the UN. The Statute will enter into force for Grenada on 1 August 2011, bringing the total number of States Parties to the Rome Statute to 115. The ICC applauds Grenada's decision to join the international community's efforts to put an end to impunity for the perpetrators of the most serious crimes that threaten the peace, security and well-being of the world.

The President of the Assembly of States Parties, Ambassador Christian Wenaweser, welcomed the accession by Grenada, which takes place immediately after the seminar held by the Caribbean Community (CARICOM) on the ICC held in Port of Spain on 16 and 17 May, where he had participated and exchanged views with Government representatives

on how to enhance universality and the implementation of the Statute in the region.

The accession by Grenada, which brings to 12 the number of CARICOM members that are parties to the Rome Statute, constitutes a reaffirmation of the region's commitment to international criminal justice in general and the ICC in particular, as it was from the region that the initiative for the establishment of an international criminal court began in 1989. The Assembly looks forward to having the entire membership of CARICOM join the Rome Statute in the near future.

## Calendar

MAY 2011						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
23	24 Regional Diplomatic Conference on the ICC in Doha (Qatar)	25	26	27	28	29
30	31					
JUNE 2011						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
		1	2	3	4	5
6	7 Prosecutor to brief the UN Security Council on the situation in Darfur, New York	8	9	10	11	12
13	14	15	16	17	18	19

The calendar is subject to last minute changes.