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ICC Weekly Update

8 February 2010 #20



Situation in the Democratic Republic of the Congo

In this situation, three cases are being heard before the relevant Chambers: *The Prosecutor v. Thomas Lubanga Dyilo*; *The Prosecutor v. Bosco Ntaganda*; and *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*. The accused 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.

Decisions taken between 1 - 5 February 2010

Lubanga case

Decision on the prosecution's "Request on the Manner of Questioning of Witness DRC-OPT-WWWW-0015" and contact by the prosecution with Court witnesses

Issued by the Trial Chamber I on the 1st February 2010

Katanga and Ngudjolo Chui case

Order in relation to the disclosure of the identity of P-143

Issued by the Trial Chamber II on the 1st February 2010

Situation in Darfur, Sudan

In the situation in Darfur, Sudan, three cases are being heard: *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*; and *The Prosecutor v. Bahar Idriss Abu Garda*. Three warrants of arrest have been issued by Pre-Trial Chamber I for Harun, Kushayb and Al Bashir for crimes against humanity and war crimes. The three suspects remain at large. A summons to appear was issued for Abu Garda who appeared voluntarily before the Chamber on 18 May 2009. Abu Garda is not in the custody of the ICC. The hearing of confirmation of charges took place from 19 to 30 October 2009.

Al Bashir Case

The Appeals Chamber directs Pre-Trial Chamber I to decide anew on the genocide charge

On 3 February, 2010, the Appeals Chamber rendered its **judgment on the Prosecutor's appeal**, reversing, by unanimous decision, Pre-Trial Chamber I's decision of 4 March, 2009, to the extent that Pre-Trial Chamber I decided not to issue a warrant of arrest in respect of the charge of genocide. The Appeals Chamber directed the Pre-Trial Chamber to decide anew whether or not the arrest warrant should be extended to cover the charge of genocide.

Judge Kourula, presiding judge on this appeal, delivered a summary of the judgment. The Appeals Chamber explained that it was not concerned with the question of whether Mr Omar Al Bashir is, or is not, responsible for the crime of genocide. Rather, the Appeals Chamber addressed a question of

procedural law, namely whether the Pre-Trial Chamber applied the correct standard of proof when disposing of the Prosecutor's application for an arrest warrant.

In its 4 March, 2009, decision, Pre-Trial Chamber I rejected the Prosecutor's application in respect of genocide stating that it would issue an arrest warrant for genocide only if the only reasonable conclusion to be drawn from the Prosecutor's evidence, based on "proof by inference", was that there were reasonable grounds to believe in the existence of genocidal intent. The Appeals Chamber found that demanding that the existence of genocidal intent must be the only reasonable conclusion amounts to requiring the Prosecutor to disprove any other reasonable conclusions and to eliminate any reasonable doubt. The Appeals Chamber found this standard of proof to be too demanding at the arrest warrant stage, which is governed by article 58 of the Rome Statute. This amounted to an error of law.

Although the Appeals Chamber reversed the Pre-Trial Chamber's decision, the Appeals Chamber rejected the Prosecutor's request to make a finding that there were reasonable grounds to believe that Omar Al Bashir acted with genocidal intent, as this is a matter to be determined in a new decision by the Pre-Trial Chamber, using the correct standard of proof.

Background information

Pre-Trial Chamber I issued, on 4 March, 2009, the "[Decision on the Prosecution's Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir](#)". In its decision, the Pre-Trial Chamber issued a warrant of arrest against Omar Hassan Ahmad Al Bashir for crimes against humanity and war crimes, but rejected the Prosecutor's application in respect of the crime of genocide.

On 6 July, 2009, the Prosecutor filed an appeal against this decision. The Appeals Chamber granted the Sudan Workers Trade Unions Federation and the Sudan International Defence Group leave to make submissions as *amicus curiae*. Eight victims were also authorised to present submissions to the Appeals Chamber.

The situation in Darfur was referred to the International Criminal Court by the United Nations Security Council's resolution 1593, on 31 March, 2005. In this situation, three cases are being heard: *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*; and *The Prosecutor v. Bahar Idriss Abu Garda*.

Decisions taken between 1 - 5 February 2010

Judgment on the appeal of the Prosecutor against the "[Decision on the Prosecution's Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir](#)"

Issued by the Appeals Chamber on the 3rd February 2010

Abu Garda Case

Decisions taken between 1 - 5 February 2010

Decision Setting a Time Limit for the Parties' Replies to 20 Applications for Victims' Participation in the Proceedings

Issued by the Pre-Trial Chamber I on the 29th January 2010

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 International Criminal Court'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. Pre-Trial Chamber II is now considering the Prosecutor's request.

Decisions taken between 1 - 5 February 2010

Decision on Application to Appear as Amicus Curiae and Related Requests

Issued by the Pre-Trial Chamber II on the 3rd February 2010

Relevant Links

Courtroom proceedings can be followed on the ICC website: www.icc-cpi.int

You can also consult the **hearings schedule**.

Video summaries can be found at our [Youtube channel](#).

Events

The President of the Assembly visits Uganda, the Democratic Republic of the Congo and Addis Ababa

The President of the Assembly of States Parties to the Rome Statute of the International Criminal Court, H.E. Mr. Christian Wenaweser (Liechtenstein), visited Uganda from 24 to 27 January 2010 in order to discuss the preparations for the Review Conference, scheduled to take place from 31 May to 11 June in Kampala.

During his visit, President Wenaweser met H.E. Mr. Yoweri Kaguta Museveni, the President of Uganda, as well as H.E. Mr. Frederick Ruhindi, Deputy Attorney-General/Minister, and the H.E. H. Okello Oryem, the Minister of State for Foreign Affairs, as well as other senior officials of the Ministry of Justice and Constitutional Affairs and the Ministry of Foreign Affairs. President Wenaweser also held a briefing with the diplomatic community, delivered a lecture to the Uganda Law Society and met with staff of the ICC field office in Kampala.



In addition, the President took part in a programme, organized by the NGO No Peace Without Justice and Human Rights Network of Uganda (HURINET-U), intended to give delegates who will attend the Review Conference an opportunity to meet with victims in



Northern Uganda and to assess the impact that the Court has had in that region. In addition to meeting with local officials, he also met landmine survivors at the Gulu Regional Referral Hospital and Disability Rehabilitation Center, as well as victims, traditional, religious and civil society leaders at Acholi Inn, followed by a meeting with victims and the local community in Pabo sub-county.

On 27 January President Wenaweser travelled to Bunia, in the Democratic Republic of the Congo, where he held meetings with NGOs, local religious leaders and



students. He also visited the ICC field office as well as a project which ensures the safe reintegration of girls who were abducted or otherwise associated with a fighting force.

President Wenaweser then continued his Africa trip in Addis Ababa, Ethiopia, from 28 to 30 January, where he met with, inter alia, the Executive Secretary of the United Nations Economic Commission for Africa, Mr. Abdoulaye Jannet, and the Legal Counsel of the Secretariat of the African Union, Mr. Ben Kioko, to discuss the forthcoming establishment of the ICC liaison office in Addis Ababa and Review Conference issues. The President also met with delegates attending the African Union Summit, Ambassadors posted in Ethiopia and with senior United Nations officials.

Interacting with communities

Outreach Team trains journalists in Goma, North Kivu

During week two of its second joint mission with the Canadian NGO *Journalists for Human Rights*, the Outreach Team based in the DRC held a training session for journalists in Goma, North Kivu. Following the model implemented in Bukavu, South Kivu the week



before, the presentation on the ICC was followed by an expose by the representative of the NGO. At the end of the first day the participants were asked to prepare a feature story, which was examined on day two.

The Outreach Team also visited the villages of Kavumu and Kalehe (40 km and 60 km outside Bukavu, respectively), home to communities that were directly affected by the conflict in the Kivus. The presentation given was translated into Mashi, the local language spoken by many communities in

Outreach Team trains journalists in Goma, North Kivu ©ICC-CPI

North and South Kivu. The information session was followed by a very lively question and answer session in which the people most affected by the proceedings before the Court were able to ask questions in their own language.

Calendar

Calendar

FEBRUARY 2010						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
08	09	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
MARCH 2010						
01	02	03	04	05	06	07
Future events: 27 April: Trial of Jean-Pierre Bemba Gombo is scheduled to start 31 May – 11 June: First Review Conference of the Rome Statute, Kampala, Uganda.						

The calendar is subject to last minute changes.