

# 16 July 2012 #136 ICC Weekly Update



## Situation in the Democratic Republic of the Congo

The Democratic Republic of the Congo (DRC) ratified the Rome Statute, the founding instrument of the ICC, on 11 April 2002. On 3 March 2004, the Government of the DRC referred to the Court the situation (the events falling under the Court's jurisdiction) in its territory since the entry into force of the Rome Statute on 1 July 2002. After a preliminary analysis, the Prosecutor initiated an investigation on 21 June 2004. 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*; and *The Prosecutor v. Sylvestre Mudacumura*. Thomas Lubanga Dyilo, Germain Katanga and Mathieu Ngudjolo Chui are currently in the custody of the ICC. The suspect Bosco Ntaganda and Sylvestre Mudacumura remain at large. The trial in the case *The Prosecutor v. Thomas Lubanga Dyilo* started on 26 January 2009. Trial Chamber I convicted Mr Lubanga Dyilo on 14 March 2012. On 10 July 2012, he was sentenced to a total period of 14 years of imprisonment. The time he spent in the ICC's custody will be deducted from this total sentence. The trial in the case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* started on 24 November 2009. Closing statements in the case were heard from 15 to 23 May 2012. On 16 December 2011, Pre-Trial Chamber I declined to confirm the charges in the case *The Prosecutor v. Callixte Mbarushimana*. Mr Mbarushimana was released on 23 December 2011.

## Lubanga Case



Mr Thomas Lubanga Dyilo in ICC Courtroom I for his sentencing hearing on 10 July 2012 © ICC-CPI/Jerry Lampen/ANP

## Thomas Lubanga Dyilo sentenced to 14 years of imprisonment

On 10 July 2012, Trial Chamber I of the International Criminal Court (ICC) sentenced Thomas Lubanga Dyilo to a total period of 14 years of imprisonment. The Chamber, composed of Judge Adrian Fulford, Judge Elizabeth Odio Benito and Judge René Blattmann, also ordered that the time from Mr Lubanga's surrender to the ICC on 16 March 2006 until today should be deducted from this sentence. Mr Lubanga Dyilo was found guilty, on 14 March 2012, of conscripting and enlisting children under the age of 15 and using them to participate in hostilities in the Ituri region in the Democratic Republic of the Congo, from 1 September 2002 to 13 August 2003.

The Presiding Judge, Adrian Fulford, delivered a summary of the Trial Chamber's decision during an open hearing held today. He explained that the Chamber considered the gravity of the crimes in the circumstances of this case, with regard, inter alia, to the extent of the damage caused, and in particular "the harm caused to the victims and their families, the nature of the unlawful behaviour and the means employed to execute the crime; the degree of participation of the convicted person; the degree of intent; the circumstances of manner, time and location; and the age, education, social and economic condition of the convicted person".

He highlighted that the crimes for which Mr Lubanga has been convicted, comprising the crimes of conscripting and enlisting children under the age of 15 and using them to participate actively in hostilities, are undoubtedly very serious crimes that affect the international community as a whole. The Presiding Judge added that the "vulnerability of children mean that they need to be afforded particular protection that does not apply to the general population, as recognised in various international treaties".

Judge Fulford indicated that the Chamber has, however, reflected certain other factors involving Mr Lubanga, namely his notable cooperation with the Court and his respectful attitude throughout the proceedings.

Judge Elizabeth Odio Benito has written a separate and dissenting opinion on a particular issue. She disagrees with the Majority's decision to the extent that, in her view, it disregards the damage caused to the victims and their families, particularly as a result of the harsh punishments and sexual violence suffered by the victims of these crimes.

### Photographs

### Video and audio

[YouTube \(for viewing\)](#)

[Audio \(mpeg3\) for download](#)

[Video \(mpeg4\) for download](#)

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## Statement: Office of the Prosecutor on Lubanga sentence

10 July 2012

By sentencing Thomas Lubanga Dyilo to 14 years in prison for the crimes of enlisting, conscripting and using children under the age of 15 to participate actively in hostilities, International Criminal Court judges have sent a clear message to perpetrators of crimes: you will not go unpunished. The Prosecution had requested a longer sentence in line with the gravity of the crimes and the aggravating circumstances. The Prosecution is now studying the Judgment in detail and will consider whether or not to appeal. The Prosecution is also expecting to hear the judges' decision on reparations in order to ensure the victims of Lubanga's crimes see the full scale of justice.

The ICC's Prosecution continues to conduct investigations in the situation in Eastern Democratic Republic of the Congo (DRC) where violence is still ongoing and escalating. The local populations including children continue to be exposed to the dramatic consequences of war at the hands of armed groups supported by regional actors. Civilians are used as a bargaining tool in the search for power and economic gain. In the context of this situation, an arrest warrant was issued in 2006 by the Court for Bosco Ntaganda who is among those responsible for this situation. The Prosecution has recently asked for new charges of crimes against humanity and war crimes to be brought against him, including for murder, persecution, intentional attacks against civilians, rape and sexual slavery and pillaging. Recent information has surfaced that a new group called M23 associated with him has reverted to violence and armed confrontation against the DRC army. As a consequence civilians pay the highest price. This is unacceptable and must end. Those responsible for these crimes should be isolated, arrested and brought to justice. This is the only way to put an end to this vicious cycle of violence, reprisals and attacks against the civilian population in Eastern DRC.

*Source: Office of the Prosecutor*

### Decisions taken between 9 - 13 July 2012

#### Decision on Sentence pursuant to Article 76 of the Statute

Issued by Trial Chamber I on 10 July 2012

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## Ntaganda Case

### DRC situation: ICC issues a second arrest warrant for Bosco Ntaganda

On 13 July 2012, Pre-Trial Chamber II of the International Criminal Court (ICC) issued a new warrant of arrest for Bosco Ntaganda, following the request submitted on 14 May 2012 by the ICC Prosecutor.

Mr Ntaganda, approximately 41 years old, is suspected of committing war crimes and/or crimes against humanity, from 1 September 2002 to the end of September 2003, in the context of the conflict in Ituri, in the Democratic Republic of the Congo (DRC). Basing its decision on the evidence presented by the Prosecutor, Pre-Trial Chamber II considered that there are reasonable grounds to believe that Bosco Ntaganda is responsible for three counts of crimes against humanity, consisting in murder, rape and sexual slavery, and persecution. In accordance with the warrant of arrest, Bosco Ntaganda allegedly bears individual criminal responsibility for four counts of war crimes consisting of murder, attacks against the civilian population, rape and sexual slavery, and pillaging.

The Chamber considered that the arrest of Bosco Ntaganda is necessary to ensure that he will appear before the judges and that he will not obstruct the investigation, as well as to prevent him from continuing with the commission of a crime within the ICC's jurisdiction.

On 22 August 2006, a first arrest warrant was issued for Bosco Ntaganda, for three counts of war crimes allegedly committed in Ituri (the DRC): enlistment of children under the age of 15; conscription of children under the age of 15; and using children under the age of 15 to participate actively in hostilities.

### Decisions taken between 9 - 13 July 2012

#### Public redacted version - Decision on the Prosecutor's Application under Article 58

Issued by Pre-Trial Chamber II on 13 July 2012

## Mudacumura Case

### DRC situation: ICC issues an arrest warrant for Sylvestre Mudacumura

On 13 July 2012, Pre-Trial Chamber II of the International Criminal Court (ICC) issued a warrant of arrest for Sylvestre Mudacumura, following the request of the ICC Prosecutor.

Mr Mudacumura, born in Rwanda and 58 years old, is suspected of committing war crimes, from 20 January 2009 to the end of September 2010, in the context of the conflict in the Kivus, in the Democratic Republic of Congo (DRC). Basing its decision on the evidence presented by the Prosecutor, Pre-Trial Chamber II considered that there are reasonable grounds to believe that Mr Mudacumura is responsible for nine counts of war crimes, consisting of attacking civilians, murder, mutilation, cruel treatment, rape, torture, destruction of property, pillaging and outrages against personal dignity. In accordance with the warrant of arrest, Mr Mudacumura has allegedly engaged his individual criminal responsibility under article 25(3)(b) of the Rome Statute for ordering these nine counts of war crimes.

The Chamber considered that the arrest of Mr Mudacumura is necessary to ensure that he will appear before the Judges and that he will not obstruct the court proceedings, as well as to prevent him from continuing with the commission of a crime within the ICC's jurisdiction.

### Decisions taken between 9 - 13 July 2012

#### Decision on the Prosecutor's Application under Article 58

Issued by Pre-Trial Chamber II on 13 July 2012

## Situation in Kenya

On 31 March 2010, Pre-Trial Chamber II granted the Prosecutor's request to open an investigation *proprio motu* in the situation in Kenya, State Party since 2005. Following summonses to appear issued on 8 March 2011 in two separate cases, six Kenyan citizens voluntarily appeared before Pre-Trial Chamber II on 7 and 8 April 2011. The confirmation of charges hearings in the two cases took place from 1 to 9 September 2011, and 21 September to 5 October 2011, respectively. On 23 January 2012, the judges declined to confirm the charges against Henry Kiprono Kosgey and Mohammed Hussein Ali. Pre-Trial Chamber II confirmed the charges against William Samoei Ruto, Joshua Arap Sang, Francis Kirimi Muthaura and Uhuru Muigai Kenyatta and committed them to trial. On 29 March 2012, the ICC Presidency constituted Trial Chamber V and referred to it the two cases: *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang* and *The Prosecutor v. Francis Kirimi Muthaura and Uhuru Muigai Kenyatta*. The trials are scheduled to start, respectively, on 10 and 11 April 2013.

### Kenyan situation: Trials to start on 10 and 11 April 2013

On 9 July 2012, Trial Chamber V of the International Criminal Court (ICC) issued scheduling orders setting the dates for the commencement of the trials in the two Kenyan cases, *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang* and *The Prosecutor v. Francis Kirimi Muthaura and Uhuru Muigai Kenyatta*, respectively on 10 and 11 April 2013, establishing a time table for the various procedural steps required to be undertaken before the opening of the trials to guarantee the fairness of the procedures.

### Decisions taken between 9 - 13 July 2012

#### Decision on the Second Request for Assistance Submitted on Behalf of the Government of the Republic of Kenya Pursuant to Article 93(10) of the Statute and Rule 194 of the Rules of Procedure and Evidence

Issued by Pre-Trial Chamber II on 12 July 2012

## Ruto and Sang case

### Decision on the schedule leading up to trial

Issued by Trial Chamber V on 9 July 2012

### Muthaura and Kenyatta case

#### Decision on the schedule leading up to trial

Issued by Trial Chamber V on 9 July 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, in 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 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 - 13 July 2012

### Banda and Jerbo Case

#### Decision on the application for leave to appeal the "Decision on common legal representation"

Issued by Trial Chamber IV on 13 July 2012

#### Decision on the "Prosecution's Application for Variation of Protective Measures Pursuant to Regulation 42 of the Regulations of the Court by Lifting Certain Redactions Authorised Pursuant to Rule 81(4) of the Rules of Procedure and Evidence"

Issued by Trial Chamber IV on 13 July 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. On 22 February 2012, Pre-Trial Chamber III decided to expand its authorisation for the investigation in Côte d'Ivoire to include crimes within the jurisdiction of the Court allegedly committed between 19 September 2002 and 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 13 August 2012.

Decisions taken between 9 - 13 July 2012

### Gbagbo Case

#### Decision on the "Prosecution's request to redact the name of an investigator from the metadata of documents to be added to its amended List of Evidence", the "Prosecution's request pursuant to Regulation 35 for extension of time for disclosure and for variation of time limit to submit a request for redactions" and related issues

Issued by Pre-Trial Chamber I on 10 July 2012

#### Decision on the "Requête de la Défense du Président Gbagbo relative à la prorogation du délai accordé par la Chambre pour demander des mesures de protection"

Issued by Pre-Trial Chamber I on 12 July 2012

#### Decision on the "Requête de la Défense du Président Gbagbo relative à la prorogation du délai accordé par la Chambre pour demander des mesures de expurgations"

Issued by Pre-Trial Chamber I on 13 July 2012

### 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 hosts welcome ceremony honouring Guatemala as a new State Party

[Español](#)



ICC President Sang-Hyun Song, in the presence of Mr Philippe Brandt, representing the Assembly of States Parties, presents Ambassador of Guatemala, H.E. Mr Julio Roberto Palomo Silva, with a special edition of the Rome Statute © ICC-CPI

The International Criminal Court (ICC) held a ceremony on 13 July 2012 at the seat of the Court in The Hague to welcome the Republic of Guatemala as the 121<sup>st</sup> State Party to the Rome Statute, the ICC's founding treaty.

During the ceremony, the ICC President, Judge Sang-Hyun Song, presented the Ambassador of Guatemala, H.E. Mr Julio Roberto Palomo Silva, with a special edition of the Rome Statute, as a symbol of their joint commitment to the rule of law.

President Song noted that the Republic of Guatemala has been supportive of the ICC for many years and stated that he was "impressed by the speed with which Guatemala has acceded to the Rome Statute since the Presidential elections of November last year". The ICC President added that: "Guatemala's accession has great regional importance since it brings Central American participation in the Rome Statute system to an almost complete representation, with only two states not yet party to the Rome Statute; El Salvador and Nicaragua. I sincerely hope that Guatemala's accession will send an encouraging signal to these states to also join us".

Minister-Counsellor Philippe Brandt of the Swiss Embassy, representing the Vice-President of the Assembly of States Parties, stated that the accessions of countries that have overcome the challenges posed by past conflicts are "particularly encouraging". "Joining the Rome Statute system constitutes a tangible demonstration of the commitment by the Government and the people of Guatemala to ensure that impunity for the commission of the most serious crimes will not prevail in the future", he noted. "The rule of law is strengthened by this historic step, which would hopefully be emulated in the region and around the globe", Mr Brandt added.

Ambassador Julio Roberto Palomo Silva expressed Guatemala's "pride and joy for finally being able to become a full member state", in order to join the Court in its "work to fight these crimes and contribute to the expansion and universalisation of justice".

The ceremony was held in the presence of the First Vice-President of the Court, Judge Sanji Mmasenono Monageng, Judge Silvia Fernández de Gurmendi, the Prosecutor Ms Fatou Bensouda, the Registrar Ms Silvana Arbia, and the Deputy Registrar Mr Didier Preira.

[Speech of the President of the ICC, Judge Sang-Hyun Song](#)

[Speech of Mr Philippe Brandt, representing the Assembly of States Parties](#) - [English](#), [Español](#)

[Speech of the Ambassador of Guatemala, H.E. Mr Julio Roberto Palomo Silva](#)

[Photos of the event](#)

[Video summary](#)

### United Kingdom donates a second £500,000 to ICC Trust Fund for Victims

The Hague (10 July 2012) - In a major speech marking the 10th Anniversary of the International Criminal Court, delivered in The Hague on 9 July, Foreign Secretary William Hague of the United Kingdom of Great Britain and Northern Ireland announced a donation of half a million British Pounds to the ICC Trust Fund for Victims. It is the second year in a row that the UK is making such a significant donation.

"We will be a robust supporter of the International Criminal Court in its investigations. We will encourage States Parties to provide the necessary political, strategic, practical and financial support the Court needs. This includes urging voluntary contributions to the ICC's groundbreaking mechanism to help victims rebuild their lives, the Trust Fund for Victims. We donated £500,000 to the Trust Fund for Victims last year and I am pleased to announce that we will match that donation this year. We will also urge states outside the Rome Statute to consider acceding to the Treaty," said State Secretary Hague.

Elisabeth Rehn, Chair of the Board of Directors of the Trust Fund for Victims, hails the donation as a strong signal of sustained British support for the Trust Fund. "The UK contribution should be of crucial importance to continue our work in DRC and Uganda, providing medical and psychosocial services to individual victims, as well as supporting reconciliation processes in and amongst victimized communities," Ms Rehn said. "It will also be helpful in considering the expansion of the Fund's scope of action to other ICC situations, such as Kenya and Cote d'Ivoire, as well to implement Court-ordered reparations awards."

Ms Rehn welcomed the stated intent of Foreign Secretary Hague to use the United Kingdom's Presidency of the G8, starting in January 2013, to strongly advocate for the need of concerted international action and more resources in the fight against sexual violence in conflict. She noted that "victims of gender crimes are in particular considered by the Trust Fund for Victims, as these crimes are amongst the most intrusive at the individual level and aim to destroy the fabric of families and communities."

Foreign Secretary Hague announced the set up of a multidisciplinary task force to support international and national jurisdictions in investigating and preventing sexual violence in armed conflict.

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#### Background: The Trust Fund for Victims (TFV)

The Trust Fund for Victims (TFV) 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. In 2002, the Rome Statute came into effect and the Assembly of States Parties established the TFV under article 79 of the Rome Statute, to benefit victims of crimes and their families within the jurisdiction of the International Criminal Court (ICC). These crimes are genocide, crimes against humanity, war crimes – and in the future, crimes of aggression.

The TFV addresses and responds to the physical, psychological, or material needs of the most vulnerable victims. It raises public awareness and mobilizes people, ideas and resources. It funds innovative projects through intermediaries to relieve the suffering of the often forgotten survivors. The TFV works closely with NGOs, community groups, women's grassroots organisations, governments, and UN agencies at local, national, and international levels. By focusing on local ownership and leadership, the TFV empowers victims as main stakeholders in the process of rebuilding their lives.

With the unique roles of implementing both Court-ordered and 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 TFV fulfils two mandates for victims of crimes under jurisdiction of the ICC:

1. **Reparations:** implementing Court-ordered reparations awards against a convicted person when directed by the Court to do so.
2. **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.

Currently, the TFV is providing a broad range of support under its second mandate in northern Uganda and the Democratic Republic of Congo – including access to reproductive health services, vocational training, trauma-based counselling, reconciliation workshops, reconstructive surgery and more – to an estimated 80,000 victims of crimes under the ICC's jurisdiction. Most of our projects have incorporated both gender-specific and child-specific interventions to support the special vulnerability of women, girls, and boys.

There are currently seven situations before the ICC, in Northern Uganda, Democratic Republic of Congo (DRC), Darfur, Central African Republic (CAR), Kenya, Libya and Cote d'Ivoire, which means that, with your help, the TFV can assist thousands of victims who come under the jurisdiction of the Court.

A short video on the activities of the Trust Fund for Victims can be viewed at: [http://www.youtube.com/watch?v=ho\\_fEiZ3ark](http://www.youtube.com/watch?v=ho_fEiZ3ark)  
For more information visit: <http://www.trustfundforvictims.org/homepage>.

#### TFV Board of Directors

Ms Elisabeth Rehn (chair) (Finland, representing Western European and Other States),  
His Excellency, Bulgaa Altangerel (Mongolia, representing the Asian States),  
Ms Betty Kaari Murungi (Kenya, representing African States),  
Mr Eduardo Pizarro Leongómez (until May 2012) (Colombia, representing the Americas and Caribbean State),  
Her Excellency Vaira Vike-Freiberga (Latvia, representing Eastern European States)

Source: *Trust Fund for Victims*

## Calendar

JULY 2012						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
16	17 International Criminal Justice Day	18	19	20	21	22
Judicial Recess*						
23	24	25	26	27	28	29
Judicial Recess*						
30	31					
Judicial Recess*						
AUGUST 2012						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
		1	2	3	4	5
6	7	8	9	10	11	12
13 Confirmation of charges hearing to start in the case against Laurent Gbagbo	14	15	16	17	18	19

The calendar is subject to last-minute changes.

\* Please note that there will be no hearings during the ICC's Judicial Recess from Friday, 13 July 2012 (17:30) until Monday, 6 August 2012 (09:00)