



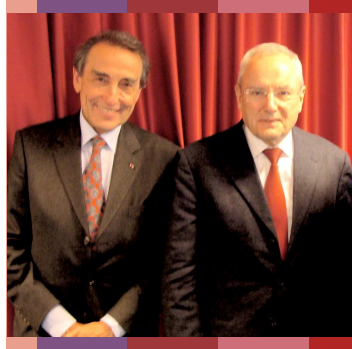
Cour  
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International  
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Court

ICC-PIDS-WU-14/09\_Eng

# ICC Weekly Update

## 14 December 2009 #14



### 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.

### Appeals Chamber of the International Criminal Court reverses the decision on the change of the legal characterisation of the facts in the Lubanga Dyilo case

On 8 December 2009, Judge Sang-Hyun Song, presiding judge of the Appeals Chamber of the International Criminal Court, delivered a summary of the judgment, reversing the decision of Trial Chamber I related to the modification of the legal characterisation of the facts in the case of *The Prosecutor v. Thomas Lubanga Dyilo*.

Upon a request by 27 victims, Trial Chamber I gave notice, on 14 July 2009, that it was considering modifying the legal characterisation of facts, pursuant to regulation 55 (2) of the Regulations of the Court, so as to include the crimes of sexual slavery and inhuman or cruel treatment. In the opinion of the Trial Chamber, it may use sub-regulations 2 and 3 of regulation 55 to change, in the course of the trial, the legal characterisation of facts without being limited to those described in the charges or any amendment thereto. The Appeals Chamber found that this interpretation of the provision was flawed.



Thomas Lubanga Dyilo © ICC-CPI

The Appeals Chamber found that the possibility for a Trial Chamber to modify the legal characterisation of the facts is not inherently incompatible with the Rome Statute or general principles of international law. Furthermore, it is not incompatible with the rights of the accused as long as he is given adequate opportunity to prepare an effective defence to the new legal characterisation in the charges against him.

However, the Appeals Chamber stressed that when using regulation 55, a Trial Chamber shall not exceed the facts and circumstances described in the charges and any amendments thereto. To do so would result in a breach of article 74 (2) of the Statute. The Appeals Chamber highlighted that it is the Prosecutor who is tasked with the investigation of crimes under the jurisdiction of the Court and to proffer charges against suspects.

Thomas Lubanga Dyilo is accused of having committed, as co-perpetrator, the war crimes of enlisting and conscripting of children under the age of 15 years into the *Forces patriotiques pour la libération du Congo*

[Patriotic Forces for the Liberation of Congo] (FPLC), and using them to participate actively in hostilities in Ituri, a district of the eastern province of the Democratic Republic of the Congo (DRC), between September, 2002 and August, 2003.

### The Lubanga trial will resume on 7 January, 2010

In an oral decision delivered on 9 December, 2009, during a status conference in the case *The Prosecutor v. Thomas Lubanga Dyilo*, Trial Chamber I decided for administrative reasons that the Defence case presentation will commence on 7 January, 2010, instead of 6 January, as previously scheduled.

### Decisions taken between 07 - 11 December 2009

#### Lubanga Dyilo case

**Judgment on the appeals of Mr Lubanga Dyilo and the Prosecutor against the Decision of Trial Chamber I of 14 July, 2009, entitled "Decision giving notice to the parties and participants that the legal characterisation of the facts may be subject to change in accordance with Regulation 55(2) of the Regulations of the Court"**

Issued by the Appeals Chamber on 8 December, 2009

#### **Redacted Decision on the application to disclose the identity of intermediary 143**

Issued by Trial Chamber I on 10 December, 2009

#### **Redacted Decision on the prosecution's application for non-disclosure of information filed on 17 July 2009**

Issued by Trial Chamber I on 10 December, 2009

#### Katanga and Ngudjolo Chui case

**Ordonnance relative aux mesures de protection de certains témoins cités à comparaître par le Procureur et par la Chambre (règles 87 et 88 du Règlement de procédure et de preuve)**

Issued by Trial Chamber II on 9 December, 2009

## 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 07 - 11 December 2009

**Order to the Victims Participation and Reparations Section Concerning Victims' Representations Pursuant to Article 15(3) of the Statute**

Issued by Pre-Trial Chamber II on 10 December, 2009

#### 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 **hearings schedule**.

**Video summaries** can be found at our **Youtube channel**.

## Events

### First visit of ICC President to the Democratic Republic of the Congo

The President of the International Criminal Court (ICC), Judge Sang-Hyun Song began on 10 December, 2009, a visit to the Democratic Republic of the Congo (DRC), where he will be meeting with senior government representatives, members of the local civil society and affected communities in Ituri, until 15 December, 2009. This first visit of the ICC President to the DRC will provide an opportunity to strengthen the country's co-operation and to enhance local awareness in order to fulfil the Court's mandate in the DRC.

In the country's capital, Kinshasa, President Song will meet with the Congolese Minister of Foreign Affairs, with the Special Representative of the Secretary-General and Head of the UN Mission in the DRC, and with members of the diplomatic community.

President Song will address the members of *Parliamentarians for Global Action* (PGA) during its conference on 'Justice and peace in the Great Lakes ' region and Central Africa'. The focus of the conference will be on the impact of justice in the Great Lakes and Central Africa, including the DRC and on security and post-conflict recovery, with particular attention on the protection of women and children. He will also participate in an Outreach event of the Court with Congolese academic and judicial communities.

The President will then travel to Bunia, the capital of the Ituri District, in eastern Congo, where he will meet the members of communities affected by the crimes currently under investigation before the ICC and with local authorities, members of local tribunals, local human rights organisations, and journalists.

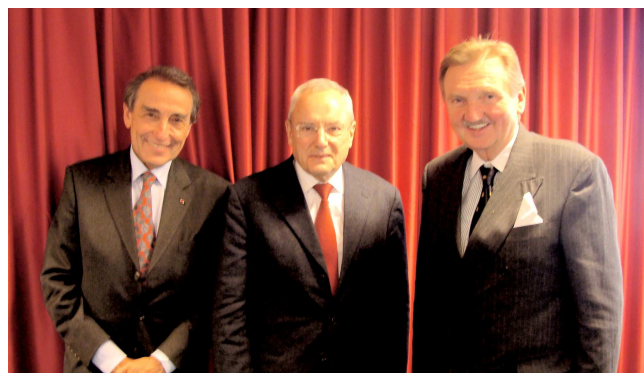
His journey will conclude in the town of Fataki, 85 km north of Bunia, one of the sites of conflict in 2003, for a town-hall style meeting with the general public, including local authorities, religious and traditional leaders, teachers, women's groups representatives and local media.

The situation in the Democratic Republic of the Congo was referred to the Court by the Government of the DRC on 3 March, 2004. The case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* is the second case in the situation in the Democratic Republic of the Congo after that of Thomas Lubanga Dyilo, whose trial commenced on 26 January, 2009, before Trial Chamber I. A fourth warrant of arrest was issued by Pre-Trial Chamber I on 22 August, 2006, against Bosco Ntaganda, who remains at large.

### ICC receives European Commission's vice-president

On 14 December 2009, the vice-president of the European Commission, Mr Jacques Barrot and Mr François Arbault, a member of his cabinet, paid a visit to the International Criminal Court headquarters where they met with the Second Vice-President of the Court, Judge Hans-Peter Kaul, and Judge Bruno Cotte. Since 2008, Commissioner Barrot has been responsible for the Directorate General for Justice, Freedom and Security, working for the promotion of co-operation between judicial authorities on criminal matters, law enforcement and the protection of fundamental rights in the European Union.

The judges exchanged views with the Commissioner on various aspects of co-operation between the Court and the European Union. Subjects discussed included the promotion of the universality of the Rome Statute by the European Union (EU), the status of implementing legislation within the EU and various aspects of the EU's technical assistance to the Court such as financial support for the Court's internship and visiting professionals programme.



Judge Bruno Cotte and Second Vice-President Judge Hans-Peter Kaul meet EC Vice-President Jacques Barrot (centre) at the seat of the Court © ICC-CPI

Since the Czech Republic's accession to the Rome Statute on 1 October, 2009, all Member States of the European Union are State Parties to the Rome Statute.

### Regional seminar on international justice in Dakar: Senegal reaffirms its full support for the Rome Statute

Senegal, the first country in the world to ratify the Rome Statute, today reiterated in Dakar that it was ready to "execute the warrants of this important Court, with the aim of eradicating impunity in the world."

The Senegalese Minister for Justice, Mr Moustapha Sourang, opened the first regional seminar on international criminal justice before representatives of the International Criminal Court (ICC) and eight countries from French-speaking West Africa - Benin, Burkina Faso, Côte d'Ivoire, Guinea, Mali, Niger, Senegal and Togo.

The seminar was organised by the ICC, in partnership with the *Centre de Formation Judiciaire du Sénégal* [Senegal Judicial Training Centre] and *l'Organisation Internationale de la Francophonie*, OIE, [International Organisation for the French-speaking world].



ICC Vice-President Dembele Diarra, Senegalese Minister for Justice Sourang and le Fraper du Hellen Senior Adviser to the Prosecutor © ICC-CPI

The First Vice-President of the Court Judge Fatoumata Dembele Diarra, representing the Presidency of the Court, invited States “still hesitant about joining the ICC [...] to join the group of States Parties before the review conference” in Kampala in 2010. Béatrice le Fraper du Hellen, Senior Adviser to the Prosecutor Luis Moreno-Ocampo, confirmed that the Prosecutor remains at the service of African victims. “This Court is your Court in Kenya, Darfur, Uganda, Palestine, Colombia and elsewhere. We will continue to apply the same standards”, she emphasised. The Registry was represented by Mr Didier Preira, Deputy Registrar of the ICC.

The seminar took place between 7 and 11 December, 2009.

## Calendar

DECEMBER 2009						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
14 Judicial recess	15	16	17	18	19	20
Visit of President Song to the DRC						
21 Judicial recess	22	23	24	25	26	27
28 Judicial recess	29	30	31			
JANUARY 2010						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
				01 Judicial recess	02	03
04	05	06	07 Lubanga trial resumes	08	09	10
11	12	13	14	15	16	17
<b>Future events:</b> 26 January 2010: Katanga and Ngudjolo Chui trial resumes 27 April 2010: Trial of Jean-Pierre Bemba Gombo case is scheduled to start 31 May – 11 June 2010: First Review Conference of the Rome Statute, Kampala, Uganda.						

The calendar is subject to last minute changes.