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Court

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ICC Weekly Update

24 November 2009 #11



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.

Opening of the trial in the case of Germain Katanga and Mathieu Ngudjolo Chui on 24 November, 2009

The trial in the case *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, which opens on Today, 24 November, 2009, before Trial-Chamber II of the International Criminal Court (ICC), is the second trial in the context of the situation in the Democratic Republic of Congo (DRC), referred to the Court by the Government of the DRC on 3 March, 2004. The hearings will be held from 9:30 to 16:00, until 11 December, 2009, and will resume on 26 January, 2010.



Germain Katanga and Mathieu Ngudjolo Chui © ICC-CPI/Kooren

Germain Katanga, alleged commander of the *Force de résistance patriotique en Ituri* (Patriotic Resistance Force in Ituri, FRPI), and Mathieu Ngudjolo Chui, alleged former leader of the *Front des nationalistes et intégrationnistes*, (National Integrationist Front, FNI), are accused of three crimes against humanity (murder, sexual slavery and rape) and seven war crimes (using children under the age of 15 to take an active part in hostilities; deliberately directing an attack on a civilian population as such or against individual civilians or against individual civilians not taking direct part in hostilities; willful killing; destruction of property; pillaging; sexual slavery and rape).

Today's hearing starts with the reading, by a Court official, of the charges against Germain Katanga and Mathieu Ngudjolo Chui (duration, 30 minutes). Presiding Judge, Bruno Cotte will then satisfy himself, through the Defence Counsel, that the accused have understood the nature of the charges. He will further recall to the Defence that each of the accused has the opportunity to say at this stage whether he will plead guilty or not guilty, pursuant to 64 (8)(a) of the Rome Statute (duration, one hour). The Court's Prosecutor, Luis Moreno-Ocampo, will then take the floor for the opening statement (duration, one hour). He will be followed by the Legal Representatives of the Victims Fidel Nsita Luvengika and Jean-Louis Gilissen (duration, 40 minutes). Finally, the Defence Counsel for each of the accused will also proceed with opening statements (duration, 1 hour and 15 minutes).

The trial is expected to take several months. During the first part the Office of the Prosecutor (OTP), represented by Deputy Prosecutor Fatou Bensouda and Senior Trial Attorney Eric Macdonald will be

presenting evidence at the OTP's disposal, submitting to the attention of the judges a large number of documents which it has compiled in the case, as well as video tapes. It will also summon 26 witnesses, amongst whom will be one expert witness. The Chamber will also summons the chief of investigations of the Office of the Prosecutor in this case to testify on 25 November, 2009, on the conditions under which the investigation took place. The Defence Counsel will then have the opportunity to cross-examine the witnesses. It should be noted that a large number of these witnesses (19 in total) are subject to protective measures and that they will be able to testify with respect for their anonymity (their image and voice might thus be distorted).

As soon as the Prosecution has finished its presentations, which will take a few months, the two Defence teams, led respectively by David Hooper and Jean-Pierre Kilenda Kakengi Basila, will present exculpatory evidence in its possession. In support of its theses, the Defence will call a number of witnesses. These will be examined by the Defence and cross-examined by the Prosecution.

The judges have recognised 345 persons as victims for the purpose of participating in the case of Germain Katanga and Mathieu Ngudjolo Chui. The interests of these persons will be defended by two legal representatives (lawyers who will present the observations and the arguments of the victims).

At the end of the hearings, the judges of Trial Chamber II will give their decision within a "reasonable period of time". This decision will be pronounced in public: it will either acquit or condemn each of the accused.

The various parties to the trial will, if need be, be able to appeal the decision before the Appeal Chamber of the Court.

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. Investigations continue in the DRC, in the regions of Ituri and the Kivus, which may lead the Office of the Prosecutor to apply for the issuance of other warrants of arrest.

Press conference on the opening of the second trial before the International Criminal Court

During a press conference held on 23 November, 2009, at the ICC headquarters in the presence of the different parties and the legal representatives of the victims, Silvana Arbia, the Court's Registrar, affirmed that, "the Court is to become a model of fairness of procedures, of respect for the rights of the Defence, and for victims' participation". The Registrar also gave assurances that the Registry co-operates with all parties and victim participants, in order to allow each of them to fully play their role, thus ensuring the fairness of the trial, conducted under the authority of impartial judges.

The Prosecutor of the ICC, Luis Moreno-Ocampo, will have to present evidence to the Chamber that establishes the guilt of each of the accused beyond any reasonable doubt. During the press conference, he affirmed that "the Office of the Prosecutor has revised 16, 544 documents related to the case. Six-hundred-and-seventy inculpatory documents and 272 exculpatory documents have been disclosed to the Defence, as well as 2, 423 documents considered as material for the Defence". He also indicated his intention to call 26 witnesses, including one expert witness on gender issues and on the military aspects of the crimes.

During the press conference, Andreas O'Shea, co-counsel for the Defence for Germain Katanga, declared confidence in the impartiality of the ICC judges and hope for a fair trial. Jean-Pierre Kilenda Kakengi Basila, lead counsel for the Defence for Mathieu Ngudjolo Chui, expressed the respect held by his client towards all the victims, among which he considers himself. He also expressed his hope that "the ICC will clarify responsibility in this case without hate, fear, complexes or barriers".

The judges have recognised 345 persons, including 10 child-soldiers, as victims for the purpose of participating in the present case. Their two legal representatives, Fidel Nsita Luvengika and Jean-Louis Gilissen, participated in the press conference held today. Mr Luvengika explained that "persons who have not demanded to participate can still be constituted as victims at the reparations stage". He highlighted that "by establishing the truth, the victims hope to have the support to finally mourn". "The victims are waiting for explanations. What they also expect is to have a future", declared Mr Gilissen, legal representative of the group of child-soldiers.

Links to information on the trial in the case *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*:

- **Case-related information** on the suspects, counts, alleged crimes, and key judicial developments
- **Hearing Schedule**
- **Courtroom layout**
- **Questions and Answers** related to the case
- **Statement of the Registrar** (Déclaration du Greffier) during the Press Conference on 23 November, 2009
- **Video summary of the press conference**
- **Audio summary of the press conference**
- **Video introduction to the case**
- **Audio introduction to the case**

Links to general information about the Court:

- **The Court Today** (Current situation and cases before the Court)
- **Understanding the International Criminal Court – Democratic Republic of the Congo**

Decisions taken between 16 - 20 November 2009

Katanga and Ngudjolo Chui case

Deuxième décision relative à la divulgation de l'identité des victimes aux parties

Issued by the Trial Chamber II on the 18th November 2009

Fifth Review of the Pre-Trial Chamber's Decision Concerning the Pre-Trial Detention of Germain Katanga pursuant to rule 118(2) of the Rules of Procedure and Evidence

Issued by the Trial Chamber II on the 19 th November 2009

Directions for the conduct of the proceedings and testimony in accordance with rule 140

Issued by the Trial Chamber II on the 20th November 2009

Ntaganda case

Decision on the "Prosecution's Application to Lift the Seal on Proceedings before the Pre-Trial Chamber"

Issued by the Pre-Trial Chamber I on the 16th November 2009

Situation in the Central African Republic

In the only case in this situation, *The Prosecutor v. Jean-Pierre Bemba Gombo*, Pre-Trial Chamber II confirmed, on 15 June 2009, two charges of crimes against humanity and three charges of war crimes, and committed the accused to trial before a Trial Chamber.

Decisions taken between 16 - 20 November 2009

Decision on the Submission of the Trust Fund for Victims dated 30 October 2009

Issued by the Pre-Trial Chamber II on the 16th November 2009

Bemba case

Decision on the defence application to lift Order iii) of the "Decision on legal assistance for the accused" dated 20 October 2009

Issued by the Trial Chamber III on the 19th November 2009

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. Bahr 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.

Decisions taken between 16 - 20 November 2009

Abu Garda case

Decision on the Defence's request for an extension of time

Issued by the Pre-Trial Chamber I on the 20th November 2009

Decision on the Legal Representative of Victims' Request

Issued by the Pre-Trial Chamber I on the 20th November 2009

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**.

Eighth session of the Assembly of States Parties to the Rome Statute begins its general debate



Eighth session of the Assembly of the State Parties © ICC-CPI.

On the first day of the general debate, 38 States Parties to the Rome Statute of the International Criminal Court addressed the Assembly on different issues including, in particular, issues to be dealt with at the Review Conference, such as the inclusion of the crime of aggression in the Rome Statute, the stocktaking exercise on international criminal justice, and other proposed amendments to the Rome Statute.

Delegations stressed the importance of the cooperation of States and regional organizations to the continued work of the Court, as well as the need for enhancing domestic judicial systems so as to ensure such cooperation. Reference was made to advancing towards universality of the Statute and supporting the participation of victims in the proceedings and the work carried out by the Trust Fund for Victims.

Other issues included discussions of the proposed budget for 2010 and the institutional framework of the Court, including the establishment of an independent oversight mechanism pursuant to article 112, paragraph 4, of the Rome Statute.

The Deputy Attorney General and Minister of Justice and Constitutional Affairs of Uganda, Hon. Frederick Ruhindi, as the host country of the Review Conference, scheduled to begin on 31 May 2010, informed the Assembly that Uganda was actively working to ensure that civil society would fully participate in the Conference which would include a 'Peoples' Space' at the venue in order to provide a forum for interaction between civil society and other stakeholders.

The Minister of Justice of the Netherlands, Dr. E.M.H Hirsch Ballin, as the host State of the Court, pointed out that the Netherlands, was determined to facilitate its smooth and efficient functioning. In this connection, he also stressed the continued support provided by the Netherlands to the Court.

Delegations from non-States Parties and representatives from international organizations and non-governmental organizations also addressed the meeting.

For the first time, a delegation of the United States participated in the Assembly as an Observer. In his statement to the Assembly, Ambassador at Large for War Crimes Issues, Mr. Stephen J. Rapp, highlighted the Obama Administration's commitment to the rule of law and the principle of accountability in line with the United States' tradition of support for international criminal justice.

Statements of States can be found [shortly here](#)

ICC Outreach Report 2009

The International Criminal Court (ICC) presented its **Outreach Report 2009** to representatives of States and Non-Governmental Organisations, meeting in The Hague in the occasion of the Eighth Session of the Assembly of the States Parties to the Rome Statute.

In her welcoming remarks, the Registrar Silvana Arbia informed those present that during the period covered by the report, from 1 October 2008 to 1 October 2009, more than 39,665 individuals participated in 365 Outreach activities. The use of local radio and television stations was dramatically increased in order to expand the number of people receiving the message of the Court in a most effective way and to support



ICC Outreach Report 2009 © ICC-CPI.

daily Outreach activities. It is estimated that nearly 34 million people were regularly informed through the media during the yearly timeframe.

Ms Arbia recalled that the Outreach Programme was established to cultivate a level of awareness and understanding of the Court's mandate and activities amongst the most affected communities of situation and cases before the Court. Currently the Outreach Programme is active in Uganda, the Democratic Republic of the Congo, the Central African Republic and Darfur (Sudan). The Programme promotes access to and understanding of judicial proceedings and fosters realistic expectations about the Court's work. This in turn has engendered greater local community participation by addressing their concerns and countering misperceptions.

Building on the experience of the last three years, in the upcoming period the Outreach Unit will continue to apply participatory and interactive methodologies in all activities, and will prioritise themes agreed upon with beneficiaries of the Outreach Programme. To facilitate this evolving process, the following four categories have been defined, under which activities and key target populations are grouped, and relevant thematic approaches are identified: the Community Outreach Programme engaging affected communities and civil society organisations; the Legal Outreach Programme engaging legal practitioners; the Academic Outreach Programme engaging schools and universities; and the Media Outreach Programme engaging journalists.

The Registrar concluded that "in all situations, to fulfill the mandate to communicate with affected communities support from States, including national authorities and local civil society organisations remains crucial. Putting public radio stations and television channels at the Court's service would ensure public access to the Court's proceedings which is a fundamental element of a fair trial."

Lastly, a video documenting key findings of the Outreach Report in each of the situation related countries was shown. Questions asked by State's delegates attending the meeting, as well as Civil Society representatives, were answered by ICC staff, including the Outreach Co-ordinators who are based in the field, in the situation countries.

Official handover of a gift from the Republic of Cameroon

During a recent official visit to the Republic of Cameroon, the International Criminal Court's First Vice-President, Judge Fatoumata Dembele Diarra, was presented with a gift for the Court by the Cameroonian government. To officially mark the occasion, a ceremony was organised at the seat of the Court in The Hague on Friday 20th November, 2009.

Vice-President Diarra officially visited Cameroon, which signed but has not yet ratified the Rome Statute, in October.

"At all levels, the adherence of Cameroon to the ideals that governed the achievement of the Court, namely the fight against impunity and the promotion of world peace, has been affirmed. The ICC consideration, respect and friendship were also noted at all the levels with the handover of the gift as a consequence," said Vice-President Diarra during a ceremony held in the presence of the ICC Judges. Also attending the event were the Prosecutor, Luis Moreno-Ocampo, and the Deputy Registrar, Didier Preira.

The government of Cameroon presented Vice-President Diarra with some legal publications and a painting done on obom tree bark, realised by Etolo Eyah, a very well known Cameroonian artist. While expressing his gratitude for the publications and the painting, the ICC President, Judge Sang-Hyun Song, reminded Cameroon of their commitment to ending impunity for the worst crimes.

"Cameroon participated in the Rome Conference that created the Court, and in July 1998, Cameroon was one of the very first countries to sign the Rome Statute. Two years later His Excellency President Paul Biya, also signed another document that expresses a clear commitment to the fight against impunity: the Constitutive Act of the African Union," said President Song. "Deciding whether to join the Rome Statute is Cameroon's sovereign decision. But as the President of the Court, please allow me to express my encouragement for a favourable outcome of your government's internal deliberations."

Ambassador Melono, Ambassador of Cameroon to the Netherlands, also highlighted the importance of the visit of Vice President Diarra to Cameroon. "The creation of the International Criminal Court was welcomed by the entire international community as the advent of a permanent institution with a global mission for the suppression of the most serious crimes. However, the Court's focus on the crimes under its jurisdiction perpetrated only in the African continent has raised questions, worse, critiques, that the constructive dialogue established by the recent visit of the First Vice-President in Yaoundé can contribute to disperse," she said.

Ambassador Melono statement



President Song, Vice President Diarra and Ambassador Melono © ICC-CPI.

Calendar

NOVEMBER 2009						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
23	24	25	26	27	28	29
18-26 Nov: Eighth Session of the Assembly of the State Parties (ASP), in The Hague						
	Trial of Germain Katanga and Mathieu Ngudjolo Chui case is scheduled to start/ ASP					
30						
DECEMBER 2009						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
	01	02	03	04	05	06
07	08	09	10	11	12	13
					Judicial recess	
14	15	16	17	18	19	20
Judicial recess						
21	22	23	24	25	26	27
Judicial recess						
Future events:						
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.