



31 January 2011 #63 ICC Weekly Update



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.

New suspect in the ICC's custody: Callixte Mbarushimana arrives at the ICC detention centre

Callixte Mbarushimana, a 47 year old alleged national of Rwanda, was surrendered and transferred on 25 January 2011 to the International Criminal Court (ICC) by the French authorities following a warrant of arrest issued by the ICC's Pre-Trial Chamber I on 28 September 2010 and his arrest on 11 October 2010. He arrived at the ICC detention centre located in The Hague (The Netherlands), at 15:15 (local time).

The ICC Registrar, Ms Silvana Arbia, expressed the Court's appreciation for the French authorities' full cooperation in the enforcement of the warrant of arrest. Ms Arbia also conveyed her gratitude to the Dutch authorities for their assistance in transporting the suspect to the ICC detention centre.

An initial appearance hearing will be soon held before Pre-Trial Chamber I. During this public hearing, the Chamber will verify that the suspect has been informed of the crimes which he is alleged to have committed and of his rights under the Rome Statute. The Chamber will also schedule the date for the confirmation of charges hearing.

Factual allegations

According to the warrant of arrest, Mr Mbarushimana is allegedly criminally responsible, under article 25(3)(d) of the Rome Statute of the ICC, for:

- five counts of crimes against humanity: murder, torture, rape, inhumane acts and persecution; and
- six counts of war crimes: attacks against the civilian population, destruction of property, murder, torture, rape and inhuman treatment.

These crimes were allegedly committed in the context of an armed conflict which waged, in the Kivu Provinces of the Democratic Republic of the Congo (DRC), from 20 January to 25 February 2009, between the Forces Démocratiques pour la Libération du Rwanda - Forces Combattantes Abacunguzi (FDLR-FCA, hereafter FDLR) and the Forces Armées de la République Démocratique du Congo (FARDC) together with the Rwandan Defence Forces (RDF), and from 2 March to 31 December 2009, between the

FDLR and the FARDC, at times in conjunction with the United Nations Mission in the Democratic Republic of the Congo (MONUC). A series of attacks, both widespread and systematic, were allegedly carried out on a large scale by FDLR troops in the period between January and September 2009, against the civilian population of North and South Kivu.

Mr Mbarushimana is alleged to have been, since July 2007, the Executive Secretary of the FDLR. Pre-Trial Chamber I found that there are reasonable grounds to believe that the FDLR leadership decided to launch an offensive targeting the civilian population of the Kivus in order to ultimately obtain political concessions, and that an international campaign to extort concessions of political power for the FDLR was put in place, as part of the implementation of the common plan. The Chamber also found that there are reasonable grounds to believe that Mr Mbarushimana, as Executive Secretary of the FDLR "Steering Committee" (Comité Directeur), personally and intentionally contributed to the common plan, organising and conducting the above-mentioned international campaign by regularly using international and local media channels.

The situation in the DRC was referred to the Court by the Government of the DRC in April 2004. The Prosecutor opened an investigation in June 2004. Besides the case against Callixte Mbarushimana, three other cases are currently ongoing in the context of this situation: *The Prosecutor v. Thomas Lubanga Dyilo*, *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* and *The Prosecutor v. Bosco Ntaganda*.

Statement by ICC Prosecutor on transfer of Callixte Mbarushimana to the Hague

ICC Prosecutor Luis Moreno-Ocampo issued the following statement after the *transfer of Callixte Mbarushimana to the Hague*.

Callixte Mbarushimana was a top leader of the Rwandan armed group FDLR, the last incarnation of the group of persons who committed the 1994 genocide in Rwanda, and whose activities in the DRC triggered the Congo wars.

He lived in Paris, France, contributing from afar to the group's criminal plan, while FDLR troops continued for years to spread terror in Eastern DRC, murdering, torturing and raping on a massive scale.

Now he faces prosecution for his role in those crimes.

Girls and women have borne the brunt of ruthless sexual violence in the Kivu provinces for almost a generation. For many, it is too late. But the prosecution of the FDLR's leadership will provide the opportunity to demobilise this armed group. It is a step towards justice for all victims, peace for the region, hope for the populations.

Last summer, from his home base in Paris, Callixte Mbarushimana continued to deny UN reports of FDLR involvement in brutal mass rapes, this time against hundreds of women in Walikale territory, publicly contradicting the UN Secretary-General. We will not deny justice to the hundreds of victims who suffered the horror of those attacks. We are investigating the Walikale mass rapes and are assessing whether to add them to the charges against him.

We are also investigating the leaders of the armed group who are running the operations on the ground.

Our work in the DRC continues. Bosco Ntaganda is still at large. His troops still roam the Kivus, killing, raping and terrorising civilians. His arrest should come next.

Understand this well: rape can no longer be used as a weapon of war. In the ICC era, the fate of leaders and commanders who plan or oversee campaigns of mass crimes against civilians is to face justice.

Source: Office of the Prosecutor

Confirmation of charges hearing in the case of *The Prosecutor v. Callixte Mbarushimana* scheduled to start on 4 July 2011

On 28 January 2011, Pre-Trial Chamber I of the International Criminal Court (ICC) set the date of the beginning of the confirmation of charges hearing in the case of *The Prosecutor v. Callixte Mbarushimana* for 4 July 2011.

This decision was announced at the initial appearance of Callixte Mbarushimana before the ICC. During this hearing, in the presence of



Callixte Mbarushimana © ICC-CPI/Reuters/Jerry Lampen

the Prosecution and the Defence, represented by Mr Nicholas Kaufman, Pre-Trial Chamber I verified the identity of Callixte Mbarushimana and ensured that he was clearly informed of the charges brought against him and of his rights under the Rome Statute of the ICC.

A confirmation of charges hearing is held to determine whether there is sufficient evidence to establish substantial grounds to believe that the person committed each of the crimes charged. If the charges are confirmed, the Pre-Trial Chamber commits the case for trial before a Trial Chamber, which will conduct the subsequent phase of the proceedings: the trial.

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

Decisions taken between 24 - 28 January 2011

Situation in the Democratic Republic of the Congo

Order on the Reclassification of Documents

Issued by the Appeals Chamber on 26 January 2011

Mbarushimana case

Decision on the Prosecution application for protective measures for four documents and on the subsequent unsealing and reclassification of certain documents in the record of the case

Issued by Pre-Trial Chamber I on 25 January 2011

Order scheduling the first appearance of Mr Callixte Mbarushimana

Issued by Pre-Trial Chamber I on 25 January 2011

Decision on the Defence Request for Disclosure

Issued by Pre-Trial Chamber I on 27 January 2011

Decision on the Defence Challenge to the Validity of the Arrest Warrant

Issued by Pre-Trial Chamber I on 28 January 2011

Situation in the Central African Republic

The situation was referred to the Court by the Government of the Central African Republic in December 2004. The Prosecutor opened an investigation in May 2007. 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. The trial started on 22 November 2010.

Decisions taken between 24 - 28 January 2011

Bemba case

Decision on the prosecution and defence applications for leave to appeal the “Decision on the admission into evidence of materials contained in the prosecution’s list of evidence”

Issued by Trial Chamber III on 26 January 2011

Public redacted decision on the lifting of redactions in witness statements

Issued by Trial Chamber III on 26 January 2011

Relevant Links

Courtroom proceedings can be followed on the ICC website: 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

President of the Assembly ends visit to Addis Abeba



H.E. Mr. Christian Wenaweser, President of the Assembly of States Parties and H.E. Mr. Jean Ping, Chairperson of the African Union Commission © ICC-CPI

On 26 January 2011, the President of the Assembly of States Parties to the Rome Statute of the International Criminal Court, H.E. Ambassador Christian Wenaweser, ended his three day visit to Addis Abeba. This visit was part of his efforts to enhance dialogue and facilitate exchange of views with the African Union Commission (AUC), with African and other States Parties to the Rome Statute, as well as the United Nations in Addis Abeba. During his visit, the President held fruitful bilateral and group meetings with a number of interlocutors including the African Union Commission Chairperson, H.E. Mr. Jean Ping, Assistant Secretary-General, the Head of the United Nations Office to the African Union; H.E. Zachary Muburi-Muita, and the Head of the European Delegation to the African Union, Ambassador Koen Vervaeke. He also met with several African and European States Parties representatives based in Addis Abeba.

Amongst others, President Wenaweser and his interlocutors reviewed the evolving situations in some African countries including Cote d'Ivoire and Kenya where the Court is seen as playing a crucial role in ending impunity and contributing to enhancing lasting peace.

The President expressed his belief that joint efforts by the international community to end impunity remain crucial for the advancement of peace, development and protection of human rights throughout the world and that the ICC and the cooperation of States Parties with it play a critical role in this respect.

Regarding other ICC related issues, the President briefed some of his interlocutors on the latest developments at the Court, including the beginning of the trial of Mr. Jean Pierre Bemba, as well as the continuation of the trial of Thomas Lubanga Dialo which is expected to finish during the first half of 2011. He also referred to the recent arrival in The Hague, of the Mr. Callixte Mbarushimana who is alleged to have committed crimes in the Democratic Republic of the Congo.

The President also briefed his interlocutors on the process for the election of the next Prosecutor, due to take office in June 2012, and informed them of the establishment of a search committee by the Bureau of the Assembly. This Committee will have the task of consulting widely on suitable candidates for the position in order to facilitate the decision by the Assembly during its tenth session in December 2011.

Source: Assembly of States Parties

President of the Assembly of States Parties visits Kenya

The President of the Assembly of States Parties to the Rome Statute of the International Criminal Court, H.E. Mr. Christian Wenaweser, visited Kenya from 27 to 28 January 2011 in order to hold consultations on ICC issues.

During his two-day visit, President Wenaweser met the President of Kenya, H.E. Mr. Mwai Kibaki, members of the Cabinet's Committee on the ICC, including the Attorney-General, Hon. Amos Wako, the Minister of Justice, Hon. Mutula Kilonzo and the Minister of Land, Mr. James Orengo, as well as other senior Government officials and members of Parliament. Ambassador Wenaweser also met with members of the diplomatic community and various civil society groups as well as the Kenya National Commission on Human Rights.

In his consultations, President Wenaweser recalled Kenya's strong role in the framework of the ICC, from the Rome Conference to the Kampala

Review Conference and that key positions such as the Vice-Presidency of the Assembly (until August 2010) and a judge position were held by Kenyan nationals. He also welcomed the cooperation that the Government of Kenya had extended to the Court in its activities in the country along with the continued cooperation extended by the Government, as expressed during a recent visit of a technical team of the ICC to Nairobi.



H.E. Mr. Christian Wenaweser, the President of the Assembly of States Parties, and H.E. Mr. Mwai Kibaki, the President of Kenya © ICC-CPI

With respect to the expressed intention of the Government to establish, on the basis of its new constitution, national proceedings to investigate and prosecute serious crimes allegedly committed, including in the context of post-election violence, President Wenaweser emphasized the principle of complementarity according to which States Parties had the primary responsibility and competence to ensure that there was no impunity for the most serious crimes under international law and that the ICC merely had a complementary role in cases where national proceedings were not effective.

He therefore encouraged the Government to present its plans to establish credible and effective national proceedings to the ICC's Pre-Trial Chamber, which has been established to deal with the situation in Kenya, as an expression of its continued cooperation with the Court.

With regard to reports of diplomatic initiatives aimed at seeking a suspension of the judicial proceedings of the Court via the United Nations Security Council, President Wenaweser expressed the concern that such a request would implicitly be interpreted as a statement that the situation in Kenya constituted a threat against international peace and security and put the issue before a political body instead of having it considered by the judges of the Court.

The Government of Kenya reiterated its commitment to the Rome Statute and its membership therein. As regards the principle of complementarity, the Government noted that it was moving as expeditiously as possible with the implementation of the police and judicial reforms mandated by the new Constitution, which would allow national proceedings to be undertaken by the Kenyan judiciary, within the framework of the Rome Statute.

Source: Assembly of States Parties

Calendar

JANUARY 2011						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
31						
FEBRUARY 2011						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
	1	2	3 Foreign Minister of Italy to visit the ICC	4	5	6
7	8	9	10	11 ICC to hold ceremony to welcome Moldova as a new State Party	12	13
14 President Song to lecture at UN Regional Course in International Law in Addis Ababa, Ethiopia	15	16	17	18	19	20

The calendar is subject to last minute changes.