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# ICC Weekly Update

5 October 2009 #4



## 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 commencement of the trial in the case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* is scheduled for 24 November, 2009.

### Lubanga Dyilo case

#### Recommencement of trial in the case of *The Prosecutor v. Thomas Lubanga Dyilo* postponed

On 2 October, 2009, Trial Chamber I of the International Criminal Court issued a **decision** adjourning the presentation of the evidence of the Defence in the trial of Thomas Lubanga Dyilo to await a decision of the Appeals Chamber on the legal characterisation of the facts. The Defence was scheduled to start presenting its evidence in October, 2009.

The Chamber found that "Mr Thomas Lubanga Dyilo should know whether or not the legal characterisation of the facts may be subject to change, so as to include the elements of sexual slavery, inhuman treatment and cruel treatment."



Thomas Lubanga Dyilo at the hearing ©ICC-CPI/Michael Kooren

On 14 July, 2009, Trial Chamber I issued by majority, a 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.

Both the Office of the Prosecutor and the Defence of Mr Lubanga appealed this decision.

The Prosecution concluded the presentation of its case in the trial of Thomas Lubanga Dyilo on 14 July, 2009. Lubanga Dyilo, alleged founder and leader of the Union des patriotes congolais (UPC), faces counts of war crimes consisting of enlisting and conscripting children under the age of 15 years and using them to participate actively in hostilities in the Democratic Republic of the Congo (DRC). The trial started on 26 January, 2009.

## Decisions taken between 28 September - 02 October 2009

### Lubanga Dyilo case

#### Decision adjourning the evidence in the case and consideration of Regulation 55

Issued by Trial Chamber I on 02 October 2009

#### Decision on the prosecution's request for an order on the disclosure of tu quoque material pursuant to Rule 77

Issued by Trial Chamber I on 02 October 2009

#### Order annexing to the "Decision replacing a judge in the Appeals Chamber" of 23 September 2009 the decision of the Presidency on the request of 16 September 2009, pursuant to article 41 of the Rome Statute, to be excused from judicial functions

Issued by Trial Chamber I on 02 October 2009

### Katanga and Ngudjolo Chui case

#### Decision replacing a judge in Trial Chamber II

Issued by the Presidency on 30 September 2009

## Situation in the Central African Republic (CAR)

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 28 September - 02 October 2009

### Bemba Case

#### Scheduling Order and Agenda for the Status Conference on 6 October 2009

Issued by Trial Chamber III on 02 October 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 crime. 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 28 September - 02 October 2009

### Abu Garda case

#### Decision on the 34 Applications for Participation at the Pre-Trial Stage of the Case

Issued by Pre-Trial Chamber I on 25 September 2009

#### Decision requesting the Defence to submit observations on reclassification

Issued by Pre-Trial Chamber I on 02 October 2009

#### Decision Distributing the Proposed Schedule for the Confirmation Hearing

Issued by Pre-Trial Chamber I on 02 October 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 **hearing schedule**.

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

## ICC Prosecutor Supports Three-Pronged Approach to Justice in Kenya

The Prosecutor of the International Criminal Court (ICC), Luis Moreno-Ocampo, reiterated on 30 September, his resolve to address the post-election violence of early 2008 with the Kenyan leaders and to prevent recurring violence through a three-pronged approach: with the ICC prosecuting those most responsible; national accountability proceedings as defined by the Kenyan Parliament, such as a Special Tribunal, for other perpetrators; and other reforms and mechanisms such as the Justice, Truth and Reconciliation commission to shed light on the full history of past events and to suggest mechanisms to prevent such crimes in the future. "Kenya will be a world example on managing violence," he stressed.

A high level delegation from the Government of Kenya met with Mr. Moreno-Ocampo in The Hague on 3 July 2009, when it expressed its government's commitment to ending impunity for the crimes committed. The delegation also stressed that prosecuting the perpetrators of the crimes then committed was necessary to prevent new violence ahead of the 2012 elections. The Government of Kenya committed to referring the situation to the Prosecutor in accordance with Article 14 of the Rome Statute, unless the Kenyan Parliament could agree on a genuine national mechanism to prosecute those responsible for the crimes.

In the recent past, the Prosecutor has met on different occasions with members of the Kenyan Government, emphasizing that, with Kenyan leadership, these three tracks should complement each other.

Decisive consultations between the Prosecutor and the Kenyan principals will take place in the coming weeks. Justice will not be delayed.

The International Criminal Court is an independent, permanent court that investigates and prosecutes persons accused of the most serious crimes of international concern, namely genocide, crimes against humanity and war crimes. In February 2008, the Office of the Prosecutor announced that it was carrying out a preliminary examination of the situation in Kenya.

### Relevant links:

[Waki Commission list of names in the hands of ICC Prosecutor](#)

[ICC Prosecutor receives materials on post-election violence in Kenya](#)

[Agreed Minutes of Meeting of 3 July 2009 between the ICC Prosecutor and the Delegation of the Kenyan Government](#)

## ICC welcomes the Czech Republic as the 110<sup>th</sup> new State Party

In a symbolic ceremony held on 1 October, at the seat of the International Criminal Court (ICC), the Czech Republic was welcomed as the newest State Party member to the Rome Statute. The Czech Republic deposited its instrument of ratification to the Rome Statute on 21 July, and the Statute entered into force on 1 October, 2009, bringing the total number of States Parties to the Rome Statute to 110.

ICC President, Judge Sang-Hyun Song congratulated the Ambassador of the Czech Republic, H.E. Petr Mareš whilst presenting him with a special edition of the Rome Statute. He praised the ratification and hailed the addition of the Czech Republic as a representational "milestone towards the ultimate goal of global ratification" particularly now that "all 27 Member States of the European Union are also States Parties to the Rome Statute."



Ambassador Mareš receives the Rome Statute from President Song in the presence of Ambassador Lomônaco ©ICC-CPI

"The Court will continue to do what it can to engage with states considering ratification or accession. This is an area where states, multilateral organisations and NGOs have also made critical contributions. As the Court works with its States Parties in this and other areas of common concern, I am most grateful to have a new partner", President Song added.

Ambassador Mareš expressed his particular gratitude towards the former President of the ICC, Philipp Kirsch who attended the ceremony, and the

Prosecutor, Mr Moreno-Ocampo. Ambassador Mareš emphasized their “personal, valuable support” to the process of the ratification of the Rome Statute in the Czech Republic.

“The Czech Republic hopes that its ratification will serve as a stimulus for other countries to consider accession to the International Criminal Court. On this occasion, the Czech Republic calls on States to support the International Criminal Court and to comply with the international obligations, which derive from their membership. The States’ co-operation with the Court is the principal key element for the effective promotion of justice, which is our common goal”, Ambassador Mareš added.

The ceremony took place in the presence of the Vice-President of the Assembly of States Parties and Ambassador of Mexico, H.E. Mr Jorge Lomónaco. He remarked on the significant accomplishment of this ratification: “The Czech Republic is the 17th State from Eastern Europe that has ratified the Rome Statute, setting an example for other States in the region that have yet to join the International Criminal Court, and calling them to follow its steps in order to have a united regional voice that speaks against impunity for genocide, crimes against humanity and war crimes”.

### Relevant links:

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

[Speech of the Vice-President of the Assembly of States Parties, the Ambassador of Mexico, H.E. Mr Jorge Lomónaco](#)

[Speech of the Ambassador of the Czech Republic, H.E. Petr Mareš](#)

[Video footage of the ceremony](#) | [Photographs of the ceremony](#)

## Interacting with communities

### First outreach session with military officers in Bunia, Ituri, DRC

On Saturday 26 September 2009, the multi-purpose hall in Bunia, capital of Ituri in the Democratic Republic of the Congo, was the setting for an outreach and discussion session between outreach staff from the International Criminal Court (ICC) and fifty officers from the FARDC (armed forces of the Democratic Republic of the Congo). The aim of the session was to inform the soldiers about the ICC, clear up misunderstandings



Session with military officers in Bunia, Ituri, DRC, 26 September 2009 ©ICC-CPI

about its mandate and draw up a schedule for other meetings of this kind with Ituri-based soldiers outside Bunia.

Various subjects were covered, including the background to the creation of the ICC, and its mission, mandate and jurisdiction. The session also dealt with the latest judicial developments in cases before the Court, particularly those relating to the situation in the Democratic Republic of the Congo.

The soldiers’ interest in the issues was apparent from the lively discussion on the nature of the crimes falling within the Court’s jurisdiction and the responsibility of senior commanders for such crimes committed by their troops. Speaking on behalf of the participants, the military prosecutor invited for the occasion reminded the audience of certain points, such as the primacy of the Rome Statute over national legislation in force in the Democratic

Republic of the Congo, including the Congolese military criminal code.

The outreach session ended with a video produced by the Court about the Bemba case, comprising a question and answer session between people from the Central African Republic and senior Court officials (“Ask the Court” programme).

The officers promised to relay the information they had received to the soldiers under their direct command, in order to promote a greater understanding of the rules of international law, and to raise the soldiers’ awareness of national and international efforts to combat the impunity of those who commit the most serious crimes.

This first meeting between the Court and FARDC soldiers will be followed by others in the garrisons of a number of villages in Ituri, including Komanda, Kasenyi, Mahagi and Aru.

## University students in Bunia, Ituri learn about the latest judicial developments at the ICC

As part of its field outreach programme, the ICC Outreach Unit ran an information day on Friday 25 September for university students in Bunia, capital of Ituri in the Democratic Republic of the Congo.

The day began with a talk on the creation, organisation, mandate and activities of the Court. After the talk, two videos produced by the Court were screened to the students: one about the Lubanga trial and the end of the stage of the Prosecutor's presentation of the evidence, and the other about the Bemba trial showing a question and answer session between people from the Central African Republic and senior Court officials (the "Ask the Court" programme). A lively discussion followed, demonstrating the students' interest in the Court's activities.



Information day for students in Bunia, Ituri, on 25 September 2009©ICC-CPI

The purpose of the information day, which was designed and run jointly with the students, was to give information about the progress of the various cases before the ICC. The participants showed great interest, and the concerns they raised were responded to appropriately and in line with their expectations. In addition, the participants suggested setting up a specialised documentation unit at their university to facilitate the work of researchers interested in the ICC's activities.

With the aim of strengthening this partnership with the