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26 September 2011 #96 ICC Weekly Update



Situation in the Republic of 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, six Kenyan citizens voluntarily appeared before Pre-Trial Chamber II on 7 and 8 April 2011. The confirmation of charges hearing in the case *The Prosecutor v. William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang* took place from 1 to 9 September 2011. The confirmation of charges hearing in the case *The Prosecutor v. Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali* commenced on 21 September 2011.

Muthaura, Kenyatta and Ali Case

Kisumu: Registry and the common legal representative for victims consult with Kenyan victims ahead of the Confirmation of Charges Hearing in the case *The Prosecutor v. Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali*



Morris Anyah, Common Legal Representative and Mikel Delagrange, VPRS, meeting with victims in Kisumu, Kenya © ICC-CPI

During the first week of September, the common legal representative for victims, Mr Morris Anyah, held consultations in Kisumu, Kenya with victims authorised to participate in the proceedings in the case *The Prosecutor v. Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali* before the International Criminal Court (ICC). Some of the main issues addressed included the victims' concerns for their security, clarity on the issue of reparations for the victims and the continuing plight of the internally displaced.

In line with Pre-Trial Chamber II's order of 26 August 2011, Mr Anyah led the early September consultations with assistance from the Victims Participation and Reparations Section (VPRS) of the ICC Registry, and organised it in conjunction with civil society organisations in Kenya. As Mr Anyah recently replaced a number of former legal representatives of the victims, the meetings were also an occasion for VPRS to explain to the victims the reasons for this change, and to explain the process by which he was appointed the common legal representative.

A key objective of the consultations was to confirm whether or not the victims consented to having their identities disclosed to the Defence or the public. Citing tensions in the areas affected by the post-election violence, all of the victims consulted requested that their anonymity be maintained. The victims were also concerned about their lack of visibility as Internally Displaced Persons (IDPs), given that most of the victims in this case had returned to their “ancestral homes”, and therefore had not been considered or given compensation packages by the Kenyan Government. Indeed, one victim likened being an IDP in Kenya “as similar to being disabled”. In response Mr Anyah explained the reparations regime available through the ICC and also highlighted relevant limitations, ensuring that the victims were aware that reparations may be awarded only in the case of a conviction and at the end of the trial, and that the process could take years to complete.

In addition to these direct consultations with the victims, VPRS also conducted training exercises with relevant civil society organisations in Kenya that have been working to help facilitate victim participation in one or the other cases before the Court.

At present, 233 victims have been authorised by Pre-Trial Chamber II to participate in the proceedings in the case against Mr Muthaura, Mr Kenyatta and Mr Ali. The confirmation of charges hearing in the case started on 21 September 2011.

Decisions taken between 19 - 23 September 2011

Decision on the “Request by the Government of Kenya in respect of the Confirmation of Charges Proceedings”

Issued by Pre-Trial Chamber II on 20 September 2011

Judgment on the appeal of the Republic of Kenya against the decision of Pre-Trial Chamber II of 30 May 2011 entitled “Decision on the Application by the Government of Kenya Challenging the Admissibility of the Case Pursuant to Article 19(2)(b) of the Statute”

Dissenting Opinion of Judge Anita Ušacka

Issued by the Appeals Chamber on 20 September 2011

Decision on the “Prosecution’s Request to Exclude Certain Documents Submitted by the Defence”

Issued by Pre-Trial Chamber II on 22 September 2011

Ruto, Kosgey and Sang Case

Decisions taken between 19 - 23 September 2011

Judgment on the appeal of the Republic of Kenya against the decision of Pre-Trial Chamber II of 30 May 2011 entitled “Decision on the Application by the Government of Kenya Challenging the Admissibility of the Case Pursuant to Article 19(2)(b) of the Statute”

Dissenting Opinion of Judge Anita Ušacka

Issued by the Appeals Chamber on 20 September 2011

Decision on the “Request by the Victims’ Representative for access to confidential materials” and Requesting Observations from the Prosecutor

Issued by Pre-Trial Chamber II on 21 September 2011

Decision on the “Renewed Request by the Victims’ Representative for authorisation by the Chamber to make submissions on specific issues of law and/or fact”

Issued by Pre-Trial Chamber II on 22 September 2011

Second Decision on the “Request by the Victims’ Representative for access to confidential materials”

Issued by Pre-Trial Chamber II on 23 September 2011

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 and Mathieu Ngudjolo Chui and the suspect 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. The confirmation of charges hearing in this case was held from 16 to 21 September 2011. The decision on the confirmation of charges is pending.

Decisions taken between 19 - 23 September 2011

Katanga and Ngudjolo Chui Case

Décision relative à la « Requête urgente de l’Accusation aux fins de prohibition des contacts entre les accusés Mathieu Ngudjolo et Germain Katanga et avec leur équipe de Défense pendant la durée de leur témoignage sous serment »

Issued by Trial the Chamber II on 23 September 2011

Mbarushimana Case

Decision on the admissibility of the appeal of Mr Callixte Mbarushimana against the decision of Pre-Trial Chamber I of 28 July 2011 entitled “Decision on ‘Second Defence request for interim release’”

Issued by the Appeals Chamber on 21 September 2011

Decision on the applications for participation of victim applicants a/2176/11 and a/2195/11

Issued by the Appeals Chamber on 23 September 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 Trial Chamber III. The trial started on 22 November 2010.

Decisions taken between 19 - 23 September 2011

Bemba Case

Order setting an agenda for a status conference

Issued by Trial Chamber III on 22 September 2011

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*; and *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*. Four warrants of arrest have been issued by Pre-Trial Chamber I for Messrs Harun, Kushayb and Al Bashir. The three 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, on 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’s 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 19 - 23 September 2011

Al Bashir Case

Décision modifiant le délai pour le dépôt d’observations relatives au récent séjour d’Omar Al Bashir en la République du Tchad

Issued by Pre-Trial Chamber I on 21 September 2011

Banda and Jerbo Case

Decision on the lifting of redactions

Issued by Trial Chamber IV on 22 September 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

Maldives becomes the 118th State to join the Rome Statute system

On 21 September 2011, the government of the Republic of Maldives deposited its instrument of accession of the Rome Statute of the International Criminal Court (ICC) to the UN. The Statute will enter into force for Maldives on 1 December 2011, bringing the total number of States Parties to the Rome Statute to 118. The Maldives will also be the 17th State Party from the Asian region.

The ICC President, Judge Sang-Hyun Song, welcomed the accession by Maldives, saying: "In March this year I had the pleasure to exchange views on the ICC with representatives from the Maldives at the Asia-Pacific Parliamentary Consultation in Kuala Lumpur, and I was encouraged by the resolve they showed for moving the accession process forward in their country. I am truly delighted that those efforts have now fully materialised, and the Maldives becomes yet another state strengthening Asian participation in the Rome Statute system of international justice".

The President of the Assembly of States Parties to the Rome Statute, Ambassador Christian Wenaweser also welcomed the Maldives to the Rome Statute family, saying "The accession of the Maldives sends a strong signal to the Asian region, which is still the least represented in the Assembly of States Parties. 120 States voted 'yes' on the Rome Statute in 1998 and I am confident that we will see the number of States Parties reaching this level by the end of the year".

The ICC applauds Maldives' decision to join the international community's efforts to put an end to impunity for the perpetrators of the most serious crimes that threaten the peace, security and well-being of the world.



H.E. Mr Ahmed Naseem, Minister of Foreign Affairs of the Republic of Maldives and Ms Patricia O'Brien, Legal Counsel of the United Nations
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Opening of the Regional seminar on the ICC in Tunisia



Regional seminar on the ICC in Tunisia © ICC-CPI

On 19 September 2011, Judge Fatoumata Dembele Diarra, First Vice-President of the International Criminal Court (ICC), and Mr Mohammed Charef, Attorney General and Director of judicial services of the Tunisian Ministry of Justice, opened in Tunis (Tunisia) the first regional seminar on the Court in North Africa. The seminar is taking place from 19 to 23 September, under the patronage of His Excellency the President of the Republic of Tunisia. It will provide interactive training on the Rome Statute to over 60 leading law professionals across the Maghreb region and the Middle East, with a view to enhancing States' cooperation with the Court.

Wishing the seminar participants a warm welcome in Tunisia, a country that ratified the Rome Statute on 21 June 2011, Mr Charef stressed that this seminar is an important occasion to invite the Arab States, as well as other States, to join the ICC, especially now, since the Court is one of the most important achievements of the international community to give justice to all peoples without discrimination. After thanking the *Organisation Internationale de la Francophonie*, the French Ministry of Foreign Affairs and the Ministry of Justice of Tunisia for their support in organising the event, Judge Diarra, the ICC First Vice-President, highlighted in her opening speech that becoming a State Party to the Rome Statute is confirming a commitment to engage in the fight against the crimes under the ICC's jurisdiction, namely war crimes, crimes against humanity, genocide and aggression.

The International Criminal Court is the only permanent international court with the mission of helping to put an end to impunity for the perpetrators of the most serious crimes of concern to the international community as a whole, and thus to contribute to the prevention of such crimes. Photos of the seminar available [here](#).

ICC Registrar closes regional seminar in Tunisia

On closing the Regional Training Seminar on the International Criminal Court (ICC), held in Tunis (Tunisia), from 19 to 23 September, Ms Silvana Arbia, the Registrar of the Court, congratulated the participants, saying that their work has made a very important contribution to the Court's reflection, done together with the States, on ways to strengthen cooperation. The Registrar thanked the Tunisian Ministry of Justice, the French Ministry of Foreign Affairs and the *Organisation Internationale de la Francophonie* for their vital assistance in organising the seminar.

After five days of intensive and productive work for a "better understanding of the ICC system", representatives of the Ministries of Foreign Affairs and Justice, of the National Bar Associations and of civil society organisations, from North Africa and the Middle East region, adopted a report containing their recommendations and conclusions from their work.

The seminar was held under the patronage of His Excellency the President of the Republic of Tunisia, Fouad Mebaza, and aimed at enhancing States' cooperation with the Court. During the seminar, the participants discussed issues such as complementarity, international cooperation and legal representation of the defendants and of the victims.

Following the closing ceremony, an information session with Tunisian and Arab lawyers was held in the context of the campaign "Calling Arab Lawyers". Ms Arbia highlighted that this campaign has the ambitious and crucial objective of increasing the number of Arab lawyers authorised to practice before the Court to represent either the defendants or the victims. This session is part of the successful ICC campaigns geared toward Arab Lawyers and African Female Lawyers. Electronic copies of the information package will also be available upon request via e-mail, or can be downloaded from the following website: <http://callingcounsel.icc-cpi.info/>.

Legal Tools Database further enhanced

With more than 26,000 hits and 1,400 unique visitors per month, the ICC Legal Tools Database has become the leading resource for legal information on core international crimes. The Database – available as a free public good at www.legal-tools.org – now contains 48,082 legal documents on core international crimes.

The Database includes several collections, *inter alia*, 11,272 documents generated by the ICC itself; a collection of 13,082 key documents produced by other international criminal jurisdictions; the largest collection of national cases involving core international crimes (1,891 documents); a detailed collection and research tool for relevant national legislation; and a collection of documents prepared during the negotiations of the ICC Statute, Rules of Procedure and Elements of Crime document, including for the amendments of provisions in the Statute on crimes (8,991 documents). In the course of 2011, more than 1,000 World War II-related documents are being added to the Database.

In addition to searching the full text of each document in the Database (with the exception of approximately 200 old documents), the search engine also reviews a range of metadata registered for every document in the Database.

The Legal Tools Database is available in English and French, but searches can be conducted in many more – and an increasing number of – languages.

For more information:

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Source: Office of the Prosecutor

Calendar

SEPTEMBER 2011						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
26	27	28	29	30		
OCTOBER 2011						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
					1	2
3	4	5	6	7	8	9
ICC to host NGO Roundtable Meeting						
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

The calendar is subject to last minute changes.