



**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**

# ICC Weekly Update

19 October 2009 #6



## 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.

### Abu Garda case

#### Confirmation hearing in the Abu Garda case opened on Monday, in the presence of the suspect

On Monday, 19 October 2009, Pre-Trial Chamber opened the confirmation hearing in the case of *The Prosecutor v. Bahr Idriss Abu Garda*, in the presence of the suspect, who has not waived his right to be present at the hearing. According to the schedule adopted by the Chamber, the hearing will continue until 29 October, 2009. Abu Garda arrived voluntarily in The Netherlands on Saturday 17 October, with enough time before the opening of the hearing to meet with his counsel.

The suspect had appeared voluntarily on 18 May, 2009, in compliance with a summons issued by Pre-Trial Chamber I. It was the first time that the International Criminal Court's (ICC) judges issued a summons to appear rather than a warrant of arrest. Pre-Trial Chamber I had considered that Abu Garda would appear before the Court and that his arrest was not necessary.



Abu Garda at the hearing ©ICC-CPI

"The presence of Abu Garda at the confirmation of charges hearing shows his willingness to co-operate with the court", stated Ms Silvana Arbia, Court Registrar, during a press conference held on 16 October at the ICC headquarters in the presence of the two parties and other participants to the proceedings. The Registrar welcomed the co-operation of the Dutch authorities under the Headquarters Agreement with the Court, which has made it possible for the suspect to be present, under optimum conditions, both on his initial appearance and now at the confirmation hearing.

Abu Garda is the first suspect to appear before the ICC in the context of the situation in Darfur (Sudan), which was referred to the Court by resolution 1593 of the United Nations Security Council. He is suspected of three war crimes allegedly committed on 29 September, 2007, against the African Union peacekeeping mission in the Sudan: violence to life, in the form of murder, whether committed or attempted; intentionally directing attacks against personnel, installations, material, units, or vehicles involved in a peacekeeping mission; and pillaging.

"The peacekeepers were deployed to serve and protect civilians in Haskanita. Instead, they were murdered. The attack on Haskanita is one of many attacks against peacekeepers in Darfur, but it is the most violent incident. With the killings they had to withdraw, leaving thousands of civilians unprotected. The attack had consequences for the delivery of humanitarian aid as well as safety and security in the region. This cannot go unpunished", said Prosecutor Luis Moreno-Ocampo during the press conference.

At the confirmation hearing, the Prosecutor must support each charge with sufficient evidence to establish substantial grounds to believe that the suspect committed the crime charged. The evidence will include documentary evidence and testimony from three witnesses. The Defence is entitled to challenge that evidence, to produce other evidence, and to cross-examine the witnesses called by the Prosecutor. It will also be calling a Defence witness to testify before the Chamber.

Defence Counsel, Mr Karim Khan, explained, during the press conference that “the Defence is going to put our focus on testing what we say to be an unsatisfactory incomplete and partial prosecution investigation”.

The Legal Representatives of the 78 victims authorised to take part in the proceedings are able make opening and closing statements explaining their clients’ personal interests in the case, and are entitled to intervene on issues of fact or law which could affect those interests.

During the press conference, Ms Hélène Cissé and Mr Akin Akinbote, legal representatives of African victims participating in this case, expressed the wish of their clients to have justice done and seen to be done, for this case to become a deterrent for belligerents not to attack peacekeeping mission members, and to ensure these members that they genuinely have the benefit of the protection given to them according to international law.

Pre-Trial Chamber I will have 60 days from the close of the confirmation hearing in which to render its decision. It may confirm the charges, wholly or in part, decline to confirm them, or adjourn the hearing and request the Prosecutor to provide further evidence, or to amend the charges. Both parties may seek leave from the Chamber to appeal against its decision.

If the charges are confirmed, and without prejudice to the issue of the suspect’s guilt, which must be proved beyond all reasonable doubt, the case will be transferred to a Trial Chamber, which will conduct the trial phase of the proceedings.

### Links to Abu Garda case-related background information:

- **Case-related information** on the defendant, counts, alleged crimes, and key judicial developments
- **Schedule** of the confirmation of charges hearing
- **Questions and Answers** related to the case
- **Courtroom layout** for the confirmation of charges hearing
- **Statement of the Registrar** (Déclaration du Greffier) during the Press Conference on 16 October, 2009
- **Audiovisual programmes** on the Abu Garda case

### Links to general information about the Court:

- **Current situations and cases before the Court**
- **Understanding the ICC – Sudan**

### Decisions taken between 12 - 16 October 2009

#### Abu Garda case

##### **"Decision reclassifying certain documents and ordering the filing of public redacted versions"**

Issued by the Pre-Trial Chamber I on the 9th October 2009

##### **Decision on the Office of Public Counsel for the Defence's access transcripts of hearings to real time transcripts of hearings**

Issued by the Pre-Trial Chamber I on the 13th October 2009

##### **Decision on the Schedule for the Confirmation Hearing**

Issued by the Pre-Trial Chamber I on the 13th October 2009

##### **Decision setting a deadline for requests to lift anonymity of victims**

Issued by the Pre-Trial Chamber I on the 14th October 2009

##### **"Decision on the "Request in respect of Information relevant to Victim Participation on the basis of the Decision on 52 Applications for Participation at the Pre-Trial Stage of the Case"**

Issued by the Pre-Trial Chamber I on the 14th October 2009

##### **"Decision setting a deadline for the Defence's Response to the Prosecution's Request of 14 October 2009"**

Issued by the Pre-Trial Chamber I on the 15th October 2009

##### **"Décision du Greffier sur l'indigence des victimes a/0434/09, a/0435/09, a/0456/09, a/0457/09, a/0458/09, a/0459/09, a/0460/09, a/0461/09, a/0462/09 et a/0463/09 représentées par Maître Hélène Cissé"**

Issued by the Registrar on the 15th October 2009

**Décision du Greffier sur l'indigence des victimes a/0170/09, a/0171/09, a/01721/09, a/0173/09, a/0174/09, a/0175/09, a/0176/09, a/0177/09, a/0178/09, a/0179/09, a/0180/09, a/01811/09, a/0182/09, a/0183/09, a/0184/09, a/0185/09, a/0186/09, a/0187/09, a/0188/09, a/0189/09, a/0190/09, a/01911/09, a/01921/09 et a/0436/09 représentées par Maître Brahima Koné**

Issued by the Registrar on the 15th October 2009

**Decision on the Defence's and Prosecution's Requests of 12 October 2009**

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

**Decision lifting anonymity of victims**

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

**Decision setting a deadline for the parties' responses to the victims' legal representatives' request for access to confidential documents**

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

**Decision Amending the Schedule for the Confirmation Hearing**

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

**Decision on the Prosecutor's Request for authorisation to rely on a newly enhanced copy of a document**

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

## 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.

**Decisions taken between 12 - 16 October 2009**

### Lubanga Dyilo Case

**Order on the filing of a clarification in relation to the "Demande de participation du représentant légal des victimes a/0051/06, a/0078/06, a/0232/06 et a/0246/08 à la procédure d'appel interjetés par la Défense et l'Accusation à l'encontre de la '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' rendue le 14 juillet 2009"**

Issued by the Appeals Chamber on the 14th October 2009

### Katanga and Ngudjolo Chui case

**"Decision on the "Prosecution Request for an Extension of the Page Limit for its Response to the « Requête de la Défense de Mathieu Ngudjolo tendant à obtenir le rejet de certaines pièces reprises dans le Tableau des éléments à charge élaboré par le Procureur »"**

Issued by the Trial Chamber II on the 14th October 2009

**Decision requesting the parties' observations regarding the review of the detention of Germain Katanga pursuant to rule 118(2) of the Rules of Procedure and Evidence**

Issued by the Trial Chamber II on the 16th 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](#).

## Situations under analysis

### ICC Prosecutor confirms situation in Guinea under examination

In the wake of recent events in Guinea and in light of information related to the alleged commission of crimes under ICC jurisdiction, ICC Prosecutor Luis Moreno-Ocampo on 14 October confirmed that the situation in Guinea is under preliminary examination by his Office.

Guinea has been a State Party to the Rome Statute since 14 July 2003. As such the ICC has jurisdiction over war crimes, crimes against humanity or genocide possibly committed in the territory of Guinea or by nationals of Guinea, including killings of civilians and sexual violence. The Office of the Prosecutor has taken due note of serious allegations surrounding the events of 28 September 2009 in Conakry and has received information relating to these events in accordance with article 15 of the Rome Statute. A preliminary examination of the situation has been immediately initiated in order to determine whether crimes falling under the Court's jurisdiction have been perpetrated.

"From the information we have received, from the pictures I have seen, women were abused or otherwise brutalized on the pitch of Conakry's stadium, apparently by men in uniform" said Deputy Prosecutor Fatou Bensouda. "This is appalling, unacceptable. It must never happen again. Those responsible must be held accountable".

Other situations under preliminary examination by the Office include Afghanistan, Colombia, Côte d'Ivoire, Georgia, Kenya, and Palestine.

## ICC Prosecutor receives Palestinian Minister of Justice, Arab League and Independent Fact-Finding Committee

On 16 October, the Prosecutor of the International Criminal Court (ICC), Luis Moreno-Ocampo, received a Palestinian delegation headed by Dr. Ali Khashan, Minister of Justice of the Palestinian National Authority (PNA). Dr. Khashan was accompanied by the Palestinian Ambassador to the Netherlands, Nabil Abuznaid, and a team of legal experts including Vaughan Lowe QC, Professor of International Law at Oxford University. The Prosecutor also received members of the Independent Fact-finding Committee led by Professor John Dugard and members of the Arab League Secretariat, in the context of ongoing consultations.

The PNA delegation submitted a preliminary report presenting its legal arguments in support of the declaration lodged on 22 January 2009, accepting the jurisdiction of the Court over crimes committed in Palestine. The Office will carefully examine all supporting arguments submitted, starting with the initial issue of whether the declaration by the PNA accepting the exercise of jurisdiction by the ICC meets statutory requirements. The Prosecutor said "We appreciate the efforts undertaken by the PNA and the extensive legal arguments presented on a highly complex area of law."

A further report is to be presented by the PNA in the near future, clarifying additional issues discussed during the meeting.

Palestinian delegations *previously visited* the Court on 22 January and 13 February 2009.

## Events

### ICC Prosecutor and World Bank Vice-Presidency to Cooperate on Investigations

On 9 October 2009, International Criminal Court (ICC) Prosecutor Luis Moreno-Ocampo and Integrity Vice President of the World Bank Group (INT) Mr. Leonard McCarthy signed a Memorandum of Understanding in The Hague. The agreement will allow for cooperation on areas of common interest, such as the detection, substantiation and prevention of fraud and corruption in connection with conduct which constitutes a crime within the jurisdiction of the Court or which constitutes a serious crime under national law.

*"The victims of crimes under ICC jurisdiction need justice and development. The International Criminal Court and the World Bank have different mandates, but a common interest to help these victims. We are exploring different ways of cooperation to serve them better,"* said the Prosecutor. *"We are connecting our institutions to increase our efficiency. Crimes against the poorest should be punished."*

Mr. McCarthy met with Prosecutor Moreno-Ocampo and members of the Prosecution and Investigation Divisions, and made a presentation to ICC staff on the work on institutional integrity within the World Bank. *"I am looking forward to working with the Prosecutor in areas of mutual interest,"* Mr. McCarthy said. *"We are two global institutions with global mandates, and we will be able to learn from each other."*



World Bank Vice-President, Leonard McCarthy and ICC Prosecutor, Luis Moreno-Ocampo signing Memorandum of Understanding ©ICC-CPI

### President Song addresses members of European Parliament and meets European Commissioner for Development and Humanitarian Aid

On Thursday, 15 October, 2009, ICC President Judge Sang-Hyun Song was the key-note speaker at the Luncheon Conference on *The International Criminal Court (ICC) and the European Union - Challenges for the Promotion of International Justice and the Fight against Impunity*, held at the European Parliament in Brussels. On the same day President Song also met the European Commissioner for Development and Humanitarian Aid, Karel De Gucht.

At the Luncheon Conference, an interactive event organised by the European Parliament group of the NGO *Parliamentarians for Global Action* (PGA), President Song expressed his appreciation for the European Union's strong support of the Court. President Song discussed with members of the European Parliament how the Court and the EU can work together to address remaining challenges in the development of the Rome Statute system. In particular, the agenda included the impact of ICC cases and activity in situation countries; the European Union efforts in promoting the Rome Statute globally and its effective implementation in all European member states' legislation; the co-operation between the Court and the EU to enforce pending arrest warrants and support the mandate of the Court; and the first Review Conference of the Rome Statute.

Also in Brussels, President Song met the European Commissioner for Development and Humanitarian Aid, Karel De Gucht. Among the topics discussed were co-operation between the Directorate General for Development and the Court, the overall relationship between the EU and the Court, as well as preparations for the Review Conference to be held in Kampala, Uganda in 2010.

## Interacting with communities

### Outreach activities in the Central African Republic extend to Bossembele, Damara and Bossangoa

The Outreach Unit of the International Criminal Court went to meet with local administrative authorities in Bossembele on 8 October, Damara (in Ombella-Mpoko province) on 13 October and Bossangoa (in Ouham province) on 15 and 16 October in order to establish the basis of cooperation to hold future Outreach activities in their localities. The International Criminal Court is planning to organise information and Outreach sessions for these administrative authorities, as well as local authorities of these localities, before the end of the year.

This outreach campaign inside the country will continue during the first semester of 2010 with sessions organised for civil society organisations (NGOs, Women's groups etc.) and Youth representatives.

These Outreach activities will be based on a general presentation of the International Criminal Court and will be an opportunity to disseminate information related to judicial developments in the case *The Prosecutor v. Jean-Pierre Bemba Gombo*.

The cities of Bossembele, Damara and Bossangoa are all mentioned in the arrest warrant issued against Jean-Pierre Bemba Gombo. Some of the most serious crimes, falling under the jurisdiction of the Court, would have taken place in these localities between October 2002 and March 2003.

## Calendar

OCTOBER 2009						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
19	20	21	22	23	24	25
Confirmation of charges hearing in Abu Garda case						
26	27	28	29	30	31	
Confirmation of charges hearing in Abu Garda case						
President Song address the UN Meeting of Legal Advisers in NY			President Song presents ICC Report to the UN General Assembly			
NOVEMBER 2009						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
						01
02	03	04	05	60	70	08
09	10	11	12	13	14	15
16	17	18	19	20	21	22
		18-26 Nov: Eighth Session of the Assembly of the State Parties (ASP), in The Hague				
Future events:						
18-26 Nov: Eighth Session of the Assembly of the State Parties (ASP), in The Hague						
24 Nov: Trial of Germain Katanga and Mathieu Ngudjolo case is scheduled to start/ ASP						

The calendar is subject to last minute changes.