



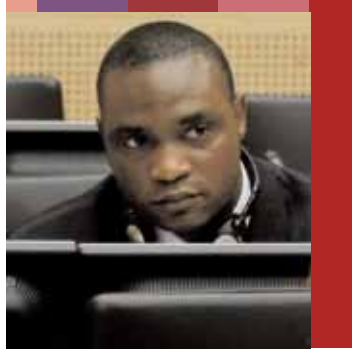
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ICC Weekly Update

16 September 2009 #1



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.

Katanga and Ngudjolo Chui Case

Commencement of the trial in the case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* postponed until 24 November 2009

Trial Chamber II of the International Criminal Court issued a **decision** on 31 August 2009, postponing the commencement of the trial in the case *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* until 24 November 2009. The Chamber found that compelling reasons require that the date of 24 September 2009 initially set for the commencement of the trial be put back.

The Chamber announced that it would ensure an expeditious trial consonant with the Rome Statute and the rules, and that the time the Prosecutor needs to present his evidence is not unduly long. The Chamber underscored that several recently raised issues must be adjudicated before the trial can begin:

- the changes required to the table submitted by the Prosecutor at the request of the Chamber presenting all the evidence and the list of witnesses he intends to call. The purpose of that document is to provide a properly structured presentation of prosecutorial evidence, particularly for the Defence;
- the need for the parties to reach agreement on evidentiary issues and for the Chamber to rule on the Defence for Mathieu Ngudjolo Chui's request regarding the admissibility and relevance of more than 290 pieces of evidence submitted by the Prosecutor;
- the need for the Chamber to rule on the Defence for Germain Katanga's motion of 30 June that his arrest and detention in the Democratic Republic of the Congo be declared unlawful and that the proceedings be stayed;
- the possible changes to the protective measures for witnesses called in this case, in particular those also called in the Lubanga case who have been granted protective measures by another Trial Chamber.

For these reasons, Trial Chamber II has decided to postpone the commencement of the trial in the case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* and to convene a status conference on 1 October 2009 at 9:30 am (The Hague local time).

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.

Bemba Case

The Appeals Chamber grants suspensive effect to the Prosecutor's Appeal against the decision on the interim release of Jean-Pierre Bemba Gombo

On 3 September 2009, the Appeals Chamber of the International Criminal Court decided to grant **suspensive effect** to the Prosecutor's Appeal against the Pre-Trial Chamber II decision, dated 14 August 2009, which granted Jean-Pierre Bemba Gombo "conditional release". Hence, implementation of the decision on interim release is suspended pending the final decision on the merits of the Prosecution's Appeal.

Pre-Trial Chamber II had decided, on 14 August, to grant the request of Jean-Pierre Bemba Gombo for interim release, albeit under conditions. Pre-Trial Chamber II held that the continued detention of Jean-Pierre Bemba Gombo did not appear necessary:

- (i) to ensure his appearance at trial,
- (ii) to ensure that he does not obstruct or endanger the investigation or the court proceedings and,
- (iii) to prevent Jean-Pierre Bemba Gombo from continuing with the commission of the same or related crimes which are within the jurisdiction of the Court and which arise out of the same circumstances in the present case.



Jean-Pierre Bemba Gombo at the hearing ©ICC-CPI

However, Pre-Trial Chamber II had deferred the implementation of its decision pending a determination in which State Jean-Pierre Bemba Gombo will be released and which set of conditions shall be imposed.

The hearings with States on Mr Jean-Pierre Bemba Gombo's conditional release are postponed

On 3 September 2009, Pre-Trial Chamber II issued a **decision postponing the public hearings** on Jean-Pierre Bemba Gombo's conditional release, until the Appeals Chamber has ruled on the appeal against the decision made on 14 August 2009, on interim release. The hearings were initially scheduled to be held on 7 to 11 September and on 14 September, with representatives of the Kingdom of Belgium, the Republic of Portugal, the Republic of France, the Federal Republic of Germany, the Italian Republic, and the Republic of South Africa.

Pre-Trial Chamber II had invited those States, to which Jean-Pierre Bemba Gombo requested to be released, to provide informative observations on the questions of his interim release onto their territory and any possible set of conditions restricting liberty to be imposed.

Judge Tendaifilova, acting as Single Judge, noted the Appeals Chamber decision of 3 September 2009, granting suspensive effect to the Prosecutor's appeal against the decision on the interim release of Mr Bemba. Being mindful of the possibility that the Appeals Chamber overturns the decision on the interim release, the Single Judge considered it unfeasible, at this stage, to proceed with convening the public hearings as initially scheduled. The Single Judge also took into consideration the need to preserve the Court's resources.

Bemba's Defence will not appeal the confirmation of charges decision

On 7 September, Mr Bemba's Defence informed Pre-Trial Chamber II that, for the celerity of the procedure, it does not intend to apply for leave to appeal, against the 15 June decision on the confirmation of charges.

The Prosecutor had applied for leave to appeal against this above-mentioned decision, on 22 June 2009.

Videostreaming

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 at our **Youtube channel**.

Situation in Sudan, Darfur

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 the 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 will commence on 19 October 2009

Commencement of the confirmation of charges hearing, in the case *The Prosecutor v. Bahr Idriss Abu Garda*, will take place on 19 October 2009 and not on 12 October, as initially scheduled.

On Friday 11 September 2009, Pre-Trial Chamber I of the International Criminal Court issued a **decision** postponing the hearing, in order to allow the Prosecutor to provide the suspect with a list of evidence and the statements of witnesses in Arabic, the language which he fully understands and speaks.

ICC officials attend UN Consultative Conference on International Criminal Justice in New York

The President, Prosecutor and Registrar of the International Criminal Court (ICC) attended the UN Consultative Conference on International Criminal Justice in New York during 9 - 11 September, 2009. The conference was sponsored by the MacArthur Foundation and convened by the Hauser Center for Nonprofit Organizations at Harvard University.

The aim of the conference was for the key policy makers of the international criminal justice system, from senior ICC officials and the leadership of the Assembly of States Parties to Regional Courts and Commissions and civil society leaders, to prepare and present discussion papers aimed at identifying a system wide approach to fighting impunity and strengthening the coherence of the Rome Statute system.

The President addressed the conference with a keynote speech centering on his vision of the Rome Statute system, and ways to enhance its reach and depth.

The Prosecutor presented the Prosecutorial Strategy for 2009 - 2012 focusing on the three principles defined in the previous strategy for 2006 - 2009, positive complementarity, focused investigations and prosecutions, and maximizing the impact of its work.

The Registrar's paper centered on the necessity of finding a long term solution to developing national legal systems so that all States Parties are able to conduct fair and genuine trials for international crimes, and proposed a number of action which the Registry could take to further this aim.

The papers presented by the participants can be found at <http://www.internationalcriminaljustice.net/prereg2009/>.

Interacting with communities

Third outreach mission to Kisangani, Democratic Republic of the Congo

From 24 to 31 August 2009, the International Criminal Court's Outreach Unit visited Kisangani, the capital of Orientale Province in the Democratic Republic of the Congo (DRC). This was the third outreach mission to the city, home to the political, military and judicial institutions of Orientale Province, which includes Ituri District.

The Court's representative spent a week meeting provincial parliamentarians, senior military officers of the Congolese army (FARDC), military and civil judges and prosecutors, lawyers, local journalists, and representatives of NGOs and civil society organisations.

The meeting with provincial parliamentarians, led by the Speaker of the Provincial Assembly, gave the parliamentarians an opportunity to raise the concerns of people affected by cases in the DRC situation currently before the Court. Discussions focused mainly on the length of proceedings, the independence of judges from the Prosecutor, the implementation of arrest warrants issued by the Court, and the impact of the ICC's actions on the peace process in Ituri.

At the meetings with military officers and members of the legal profession, themed presentations were given in addition to information on

the conduct of cases, particularly on issues such as command responsibility, superior orders and the law, the plea of self-defence for military officers, and the principle of complementarity for judges, prosecutors and lawyers.

As with the two previous missions to Kisangani, the Court's representative in charge of outreach met with journalists and representatives of NGOs. Discussions centred mainly on the progress of cases before the Court regarding the situations in the DRC, the Central African Republic and Sudan. The group expressed particular concern about the failure to execute arrest warrants issued by the Court, the fact that investigations were only being conducted in African countries, the warrant issued by the Court for the arrest of a sitting Head of State, and the slow progress of proceedings.



Information session with Members of the local Parliament in Kinsangani held on 28 August 2009 ©ICC-CPI

Generally, the mission provided an opportunity to clear up particular misunderstandings, and to reiterate the following message: [TRANSLATION] "The Court is an independent judicial institution. It is conducting investigations in Africa at the request of African countries, except for the Sudan situation, which originates from a United Nations Security Council resolution. The ICC Prosecutor is in charge of investigations and the judges are responsible for applying the law. The Court expects States Parties

to submit to the obligations which they freely entered into on ratifying the Rome Statute".

'Ask the Court'

In this programme Principals of the Court answer questions from the most affected communities in the Democratic Republic of the Congo, Central African Republic, Sudan and Uganda.

Questions are answered by the former President of the Court Judge Philippe Kirsch, Registrar of the Court Ms Silvana Arbia and Deputy Prosecutor Ms Fatou Bensouda.

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