



13 December 2010 #59 ICC Weekly Update



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. Mr Abu Garda is not in the custody of the ICC. After the hearing of confirmation of charges, on 8 February 2010, Pre-Trial Chamber I declined to confirm the charges. 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.

Audio-visual summary of the confirmation hearing in the case against Mr Banda and Mr Jerbo

The audio-visual summary of the confirmation of charges hearing in the case *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus* is now available [here](#), in French and English. The Arabic version of the summary will be soon available.



Banda and Jerbo © ICC-CPI/ Toussaint Kluiters

The Confirmation of charges hearing was held on Wednesday, 8 December 2010, before the Pre-Trial Chamber I of the International Criminal Court (ICC) in the absence of the suspects who had waived their right to be present. Representatives of the Office of the Prosecutor presented the Prosecution case. Legal representatives of the 89 victims authorized to participate took the floor expressing their clients' views. Karim Khan, Defence Counsel, expressed the Defence positions on the relevant questions.

Pre-Trial Chamber I authorized the Office of the Prosecutor and the Legal representatives of victims to present written submissions no later than 17 December 2010 if they so wish. The Defence may reply to their filings no later than 4 January 2011. Within a maximum of 60 days after the last written submission, Pre-Trial Chamber I will determine whether or not there is sufficient evidence to establish substantial grounds to believe that Mr Banda and Mr Jerbo committed the alleged crimes. If the Chamber determines that there is sufficient evidence in this regard, the case will go to the trial phase.

Decisions taken between 6 - 10 December 2010

Banda and Jerbo case

Order to the Defence and the Legal Representatives of Victims a/1646/10 and a/1647/10 to file a response to the "Prosecution Objection to the Continued Representation of Victims a/1646/10 and a/1647/10 by Messrs Geoffrey Nice and Rodney Dixon"

Issued by Pre-Trial Chamber I on 6 December 2010

Situation in the Republic of Kenya

The Republic of Kenya ratified the Rome Statute on 15 March 2005, becoming a State Party. On 6 November 2009, upon receiving a letter from the Prosecutor indicating his intention to submit a request for the authorisation of an investigation *proprio motu*, the International Criminal Court's Presidency issued a decision assigning the situation in the Republic of Kenya to Pre-Trial Chamber II. On 26 November 2009, the Prosecutor submitted a request to Pre-Trial Chamber II for the authorisation of an investigation into that situation in relation to the post-election violence of 2007-2008.

ICC Prosecutor will hold a press conference in relation to the situation in Kenya on 15 December

On Wednesday, 15 December 2010, the Prosecutor of the International Criminal Court (ICC), Luis Moreno-Ocampo will hold a press conference and make an important announcement concerning the investigation in the Kenya situation.

The press conference is scheduled for 12:00 (The Hague local time) in the Press Briefing room of the ICC in The Hague.

Web streaming of the press conference will be available at the following links:

- English: <http://livestream.xs4all.nl/icc5.aspx>
- French: <http://livestream.xs4all.nl/icc6.aspx>

Audiovisual summary and broadcast quality files (audio and video) containing highlights of the press conference will be available following the event.

Practical information for journalists attending the press conference can be found [here](#).

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 6 - 10 December 2010

Bemba case

Decision on the defence request for adjustment of fees advanced by the Registry pursuant to Trial Chamber III's Decision on legal assistance for the accused of 20 October 2009

Issued by Trial Chamber III on 7 December 2010

Decision on the Defence Application for Review of the Registrar's Decision of 15 October 2010 on the Application for Adjustment of the Expenses and Fees of the Defence

Issued by Trial Chamber III on 7 December 2010

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

ICC Prosecutor: alleged war crimes in the territory of the Republic of Korea under preliminary examination

The Office of the Prosecutor has received communications alleging that North Korean forces committed war crimes in the territory of the Republic of Korea. The Prosecutor of the ICC, Luis Moreno-Ocampo, confirmed that the Office has opened a preliminary examination to evaluate if some incidents constitute war crimes under the jurisdiction of the Court. They are:

- a. the shelling of Yeonpyeong Island on the 23 November 2010 which resulted in the killing of South Korean marines and civilians and the injury of many others; and
- b. the sinking of a South Korean warship, the Cheonan, hit by a torpedo allegedly fired from a North Korean submarine on 26 March 2010, which resulted in the death of 46 persons.

The Republic of Korea has been a State Party to the Rome Statute since 13 November 2002. As such, the ICC has jurisdiction over war crimes, crimes against humanity or genocide possibly committed on the territory of the Republic of Korea or by its nationals since 1st February 2003, date on which the Statute entered into force in the Republic of Korea.

The Office of the Prosecutor is mandated by the Statute to conduct preliminary examinations for the purpose of determining if the Rome Statute criteria for opening an investigation are met.

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

The Office of the Prosecutor is currently investigating in five situations: The Democratic Republic of Congo, Northern Uganda, the Darfur region of Sudan, the Central African Republic, and Kenya.

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 if national authorities with jurisdiction are unwilling or unable to do so genuinely.

Source: Office of the Prosecutor

The Assembly of States Parties to the Rome Statute opens its ninth session

The Assembly of States Parties to the Rome Statute of the International Criminal Court ("the Assembly") opened its ninth session at UNHQ, which will last from 6 to 10 December 2010.

Opening remarks were delivered by the President of the Assembly, Ambassador Christian Wenaweser, the United Nations Secretary-General, Mr. Ban Ki-moon and the President of Colombia, Mr. Juan Manuel Santos, followed by senior Court officials.

The United Nations Secretary-General, Mr. Ban Ki-moon, recalled the historic Review Conference in Kampala and its momentous achievements with regard to the definition of the crime of aggression and the provisions under which the Court will exercise its jurisdiction with respect to the crime and urged all States to ratify the amendments. Furthermore, Mr. Ban Ki-moon recalled that the Court is the centerpiece of the system of international criminal justice. He also emphasized the crucial importance of States complying with their responsibilities to enforce all outstanding arrest warrants.

President Wenaweser recalled the accomplishments of the Review Conference, and the fact that all decisions in Kampala had been adopted by consensus. He also joined the Secretary-General of the UN in his call to ratify the amendments to the Rome Statute adopted at the Review Conference. He also highlighted the challenges arising for the Assembly from situations where full cooperation by States was not forthcoming and furthermore emphasized the need to establish a dialogue between States Parties and the Court, which would address the needs of both sides as partners in the common effort to fight impunity.

President Juan Manuel Santos asserted the strong commitment of Colombia to fight against impunity at the national level. He recalled that under the Rome Statute, the leading role in combating these crimes lies with States and that the Court should step in only when States are unwilling or unable to do so. President Santos not only underscored the commitment of his administration to provide reconciliation and reparation to victims of violence at the domestic level but also pledged to make a donation to the Trust Fund for Victims. President Santos also expressed the commitment of Colombia to assist and work with the Court for peace and justice as a UN Security Council member starting January 2011.

The President of the ICC, Judge Sang-Hyun Song, noted the recent achievements of the Court, which included increased judicial activity. Furthermore, he appealed to States to continue with their financial contributions to the Court so that it can fulfill its mandate. Lastly, he stressed the importance of following up on the momentum from the Review Conference, ensuring that States continue fulfilling their pledges, increase cooperation with the ICC and uphold the complementarity principle.

The Prosecutor, Mr. Luis Moreno-Ocampo, briefed the Assembly on existing investigations and nine preliminary examinations that are underway, including allegations of war crimes committed in the territory of the Republic of Korea. Mr. Ocampo welcomed the implementation of the independent oversight mechanism that would oversee the internal conduct of the Court's officials but reiterated that further discussions were necessary in order to prevent any negative impact on the integrity of the Rome Statute.

Ms. Elisabeth Rehn, Chair of the Board of Directors of the Trust Fund for Victims, referred to the increasing engagement of the Court with victims exemplified by education, counseling, rehabilitation and reparation initiatives of the Trust Fund, which has over 70,000 direct beneficiaries.

During the first two days of the general debate, 47 States Parties and one Observer State spoke reiterating their commitment to the Rome Statute and international criminal justice. Some States Parties pledged to contribute a total of €400,000 to the Trust Fund for Victims, €200,000 to the Special Trust Fund for Relocation and €85,000 to a new Trust Fund which would fund the family visits of indigent detainees.

The Assembly also elected by consensus six members of the Committee on Budget and Finance.

At the ninth session, the Assembly, inter alia, followed up on the stocktaking exercise of the Review Conference, considered proposals for the amendments of the Rome Statute that were not conveyed for consideration by the Review Conference, as well as considered the 2011 budget of the Court.

The statements may be found at:

Ninth session of the Assembly of States Parties

Press Conference held at the occasion of the 9th session

Newsletter #5: **(English)**

For additional information, please send an email to: asp@icc-cpi.int.

Source: Assembly of States Parties

Assembly of States Parties concludes its ninth session



ICC Registrar Silvana Arbia, ICC Prosecutor Luis Moreno-Ocampo, ICC President Judge Sang-Hyun Song, ASP President Ambassador Christian Wenaweser and other delegates at the 9th session of the Assembly of States Parties © ICC-CPI

On 10 December 2010, the Assembly of States Parties to the Rome Statute of the International Criminal Court ("the Assembly") concluded its ninth session and adopted resolutions, inter alia, on the programme budget for 2011, permanent premises, governance, the Independent Oversight Mechanism and on Strengthening the International Criminal Court and the Assembly of States Parties.

As a part of the Review Conference follow-up, the Assembly considered three stocktaking topics, namely complementarity, cooperation, impact of the Rome Statute on victims and affected communities, and decided to keep under constant review the question of enhancing efficiency and effectiveness of the Court. The focal points on pledges invited States to submit new pledges to the Assembly as well as follow up on the pledges already made. The States Parties also adopted a resolution on the establishment of the study group on governance as a collective exercise by States and the Court.



Ambassador Simona Mirela Miculescu © ICC-CPI

Furthermore, the Assembly approved, by consensus, the 2011 budget of the Court totaling € 103,607,900 and a staffing level of 766.

On the construction of the permanent premises of the Court, the Oversight Committee briefed the Assembly on the continuation of the project and noted that the project remained within the budget of € 190 million.

The Assembly adopted the Operational Mandate for the investigative function of the Independent Oversight Mechanism.

The Assembly also elected Ambassador Simona Mirela Miculescu, Permanent Representative of Romania to the United Nations, as Vice-President of the Assembly and Coordinator of the New York Working Group to



Delegates attending the 9th session of the Assembly of States Parties © ICC-CPI

complete the term of the former Vice-President. The election of the President of the Assembly for the period of the tenth to the twelfth sessions was deferred until the beginning of the tenth session.

The Assembly of States Parties will hold its tenth session from 12 to 21 December 2011 at UNHQ. During that session, the Assembly would, inter alia, elect six new judges and the Prosecutor.

Newsletter #: **(English)**

For additional information, please send an email to: asp@icc-cpi.int.

Source: Assembly of States Parties

ICC Vice-President meets with the Minister of Justice of Montenegro

On 6 December 2010, the First Vice-President of the International Criminal Court (ICC), Judge Fatoumata Dembele Diarra, met with the Minister of Justice of Montenegro, H.E. Mr Miras Radovic, at the seat of the Court, in The Hague (The Netherlands).

The ICC Vice-President welcomed Justice Minister Radovic to the Court, and expressed appreciation for Montenegro's support to the ICC. She said "Montenegro has proven its commitment to the International Criminal Court by adopting the law on cooperation with the ICC in 2009 and participating in the Review Conference in Kampala earlier this year."

Justice Minister Radovic reiterated Montenegro's full commitment to the ICC and the Rome Statute. "We believe that the ICC is the most significant mechanism for safeguarding human rights and the principles of humanitarian law", he said. He also added that, "We are committed to further strengthening cooperation with the ICC and to demonstrating unity in accomplishing goals that are truly achievable."



Minister of Justice of Montenegro, H.E. Mr Miras Radovic, and ICC Vice-President, Ms Fatoumata Dembele Diarra © ICC-CPI

During his visit, Justice Minister Radovic also met with high-ranking officials from the Office of the Prosecutor.

The ICC, governed by the Rome Statute, is the first permanent, treaty-based, international criminal court established to help end impunity for the perpetrators of the most serious crimes of concern to the international community, namely war crimes, crimes against humanity, genocide, and the crime of aggression. The ICC is an independent international organisation, and is not part of the United Nations system.

President Song meets with Juan Manuel Santos, President of Colombia

Judge Sang-Hyun Song, President of the International Criminal Court (ICC), met on Monday 6 December 2010, in New York with H. E. Mr. Juan Manuel Santos, the President of the Republic of Colombia. Both President Song and President Santos spoke earlier on the same day at the opening of the 9th Assembly of States Parties (ASP) to the Rome Statute of the ICC, President Santos being the first ever head of state to do so.

President Song thanked President Santos for demonstrating Colombia's strong support to the ICC's mandate by way of his personal appearance before the Assembly of States Parties. President Santos expressed Colombia's full commitment to the Rome Statute and reiterated that the ICC is a partner in Colombia's peace and justice process under the principle of complementarity. During his speech President Santos referred to the results achieved in Colombia in relation to victims' right to truth, justice and reparation and offered to share Colombia's experience with other States and the international community.



Colombian President Juan Manuel Santos and ICC President Judge Sang-Hyun Song ©ICC-CPI

President Santos extended an invitation to President Song to visit Colombia and informed him of Colombia's willingness to conclude an agreement with the ICC on the enforcement of sentences. President Song and President Santos agreed to work towards signing such an agreement in the near future with a view to strengthening the cooperation with the Court.

President Song's address to the 9th session of the ASP – [English](#)

President Santos's address to the 9th session of the ASP – [English](#) | [Español](#)

President Song meets with Secretary-General of the United Nations

United Nations Secretary-General Ban Ki-moon and the President of the International Criminal Court (ICC), Judge Sang-Hyun Song met today in New York in the margins of the 9th session of the Assembly of States Parties to the Rome Statute of the ICC. They agreed to further strengthen the relationship between the ICC and the UN, recalling that the struggle against impunity for the most serious crimes of concern to humanity is integral to the global efforts for peace, justice and the rule of law.

President Song conveyed to the Secretary-General the ICC's gratitude for the wide-ranging support that the United Nations has extended to the International Criminal Court since the very beginning. In particular, he thanked the Secretary-General for his strong personal engagement at the Review Conference of the Rome Statute held earlier this year in Kampala, Uganda.



ICC President Judge Sang-Hyun Song and UN Secretary General Ban-Kimoon © ICC-CPI

The Secretary-General and President Song discussed the way forward on the key objectives of universality, complementarity and cooperation in order to build on the momentum reached at the Review Conference. They agreed on the importance of raising awareness globally about the ICC and promoting ratification of the Rome Statute particularly in regions that are underrepresented among the States Parties.

They also discussed the potential for the UN to play a key role in the strengthening of national justice systems by increasing focus on Rome Statute issues within rule of law programming and development aid. Under the principle of complementarity enshrined in the Rome Statute, national jurisdictions have the primary responsibility to investigate and prosecute genocide, crimes against humanity and war crimes.

Calendar

DECEMBER 2010						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
13	14	15	16	17	18	19
		ICC Prosecutor holds Press Conference regarding the situation in Kenya				
20	21	22	23	24	25	26
27	28	29	30	31		
Please note that there will be no hearings during the ICC's Judicial Recess from Friday, 17 December 2010 (17:30) until Tuesday, 4 January 2011 (09:00).						

The calendar is subject to last minute changes.