



11 October 2010 #50 ICC Weekly Update



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 trial in the case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* started on 24 November, 2009.

The Appeals Chamber reversed the decisions to stay proceedings and to release Thomas Lubanga Dyilo

On Friday, 8 October, 2010, the Appeals Chamber of the International Criminal Court (ICC) reversed Trial Chamber I's decisions to stay proceedings in the case *The Prosecutor v. Thomas Lubanga Dyilo*, and to release the accused. In accordance with this decision, Mr Lubanga Dyilo will remain in the custody of the Court during the trial proceedings, which can now be resumed.



Thomas Lubanga Dyilo © ICC-CPI | Judge Song © ICC-CPI

Trial Chamber I of the ICC had, on 8 July, 2010, ordered to stay the proceedings in the case against Thomas Lubanga Dyilo, considering that the fair trial of the accused was no longer possible because the Prosecution had failed to implement the Chamber's orders. Trial Chamber I had ordered the Office of the Prosecutor to confidentially disclose to the Defence the names and other necessary identifying information, of intermediary 143. The Prosecution, however, did not comply with these orders. Following the decision to stay the proceedings, Trial Chamber I ordered, on 15 July, the release of the accused. The ICC Prosecutor submitted two appeals against these decisions.

Judge Song, presiding judge in these appeals, delivered a summary of the judgments in open court, and explained that the Appeals Chamber rejects two arguments of the Prosecutor, namely that the Trial Chamber erred when it found that the Prosecutor refused to comply with the Chamber's orders and that the Trial Chamber misconstrued the Prosecutor's position with respect to his duties of protecting victims, witnesses and others.

In his oral summary of the judgments, Judge Song stressed that it is undisputed that the Prosecutor did not comply with the orders to disclose the identity of intermediary 143 while 'orders of the Chambers are binding and should be treated as such by all parties and participants unless and until they are suspended by the Appeals Chamber'. The presiding judge also highlighted that 'under the Statute, the Trial Chamber, subject only to the powers of the Appeals Chamber, is the ultimate guardian of a fair and expeditious trial'.

The Appeals Chamber considers, however, that the Trial Chamber erred by resorting immediately to a stay of proceedings without first imposing sanctions to bring about the Prosecutor's compliance with its orders. 'Sanctions are a key tool for Chambers to maintain control of proceedings within the trial framework and to safeguard a fair trial without having to have recourse to the drastic remedy of staying proceedings', stated Judge Song in the summary of the judgments.

Finally, the Appeals Chamber also finds that the decision to release Mr Lubanga Dyilo was predicated entirely on the decision to stay proceedings, which is reversed, thus the decision to release the accused must also be reversed.

Thomas Lubanga Dyilo is accused of having committed, as co-perpetrator, war crimes of enlisting and conscripting children under the age of 15 years into the *Forces patriotiques pour la libération du Congo* (Patriotic Forces for the Liberation of Congo) (FPLC), and using them to participate actively in hostilities in Ituri, a district of the eastern province of the Democratic Republic of the Congo (DRC), between September 2002 and August 2003.

Decisions taken between 4 - 8 October, 2010

Lubanga case

Order on the reclassification of a document

Issued by the Appeals Chamber on 6 October, 2010

Judgment on the appeal of the Prosecutor against the decision of Trial Chamber I of 8 July 2010 entitled "Decision on the Prosecution's Urgent Request for Variation of the Time-Limit to Disclose the Identity of Intermediary 143 or Alternatively to Stay

Issued by the Appeals Chamber on 8 October, 2010

Judgment on the appeal of Prosecutor against the oral decision of Trial Chamber I of 15 July 2010 to release Thomas Lubanga Dyilo

Issued by the Appeals Chamber on 8 October, 2010

Situation in the Central African Republic

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, initially scheduled to start on 14 July, 2010, has been postponed.

Decisions taken between 4 - 8 October, 2010

Bemba case

Order for submissions on the presentation of evidence at trial

Issued by Trial Chamber III on 4 October, 2010

Decision on the Prosecution's Request for Approval of a Proposed Expert and for Extension of Time for the Submission of the Expert Report

Issued by the Trial Chamber III on 7 October, 2010

Scheduling Order for the judgment on the appeal of Mr Jean-Pierre Bemba Gombo against the decision of Trial Chamber III of 24 June 2010 entitled "Decision on the Admissibility and Abuse of Process Challenges"

Issued by the Appeals Chamber on 8 October, 2010

Order on the classification of documents

Issued by the Appeals Chamber on 8 October, 2010

Decision on the defence application to obtain a ruling to correct the revised Second Amended Document containing the Charges

Issued by Trial Chamber III on 8 October, 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

Regional seminar on the ICC held in Yaoundé (Cameroon)

Judge Fatoumata Dembele Diarra, Vice-President of the International Criminal Court (ICC), and Professor Maurice Kamto, Minister Delegate of the Ministry of Justice of Cameroon, opened on 4 October in Yaoundé (Cameroon) a regional seminar on the International Criminal Court. Representatives from Ministries of Foreign Affairs and Justice, Bar Associations and civil societies from eight francophone countries in central Africa are participating in the seminar, which lasted until 8 October.



Ms Arbia and the speakers at the closing ceremony ©ICC-CPI

After thanking the Organisation Internationale de la Francophonie, the French Ministry of Foreign Affairs and the Ministry of Justice of Cameroon for their support in organising the event, Judge Diarra, the ICC Vice-President, highlighted in her opening speech that the ICC and the national tribunals have a common aim, which is the triumph of justice and the fight against impunity. Judge Diarra explained that the purpose of the seminar is to jointly build a future where crimes will no longer remain unpunished, and where the dissuasive force of sentences will put an end to war crimes, crimes against humanity, genocide and crimes of aggression.

On closing the Regional Training Seminar, Ms Silvana Arbia, the Registrar of the Court, congratulated the participants, saying: 'you have just confirmed that the Court, your Court, is not a foreign Court, [and that] it forms an integral part of national judicial systems'.

After five days of intensive and productive work on the theme 'Perspectives on the issues and challenges facing international criminal justice: the International Criminal Court and national courts', representatives of the Ministries of Foreign Affairs and Justice, of the National Bar Associations and of civil society organisations of eight French-speaking countries in central Africa adopted a report containing their recommendations and conclusions from their work. These suggestions will also strengthen cooperation and implement positive complementarity, said Ms Arbia.

The Registrar thanked the Ministry of Justice of Cameroon, the French Ministry of Foreign Affairs and the Organisation Internationale de la Francophonie for their vital assistance in organising the Seminar. She also emphasised the special relationship between Cameroon and the Court, even though Cameroon has not yet ratified the Rome Statute. This relationship is illustrated by 'Cameroon's regular positive responses to the Court's requests for cooperation, and its readiness to host this seminar', said the Registrar.

Over a five-day period, participants from Burundi, Cameroon, Congo Brazzaville, Gabon, the Central African Republic, the Democratic Republic of the Congo, Rwanda and Chad shared their views with senior representatives of the Court and experts. A series of workshops focused on issues such as the place of the ICC within the international criminal justice system, its mandate and structure, the principles governing its jurisdiction and the rights of parties and participants in proceedings before the Court.

The ICC President opens Commonwealth meeting on the ICC

On 5 October, 2010, the President of the International Criminal Court (ICC), Judge Sang-Hyun Song, called on the Commonwealth countries that are States Parties to the Rome Statute to use their good relations with Commonwealth non-States Parties 'to highlight the benefits of membership in the Rome Statute system' and to offer technical assistance to facilitate their ratification of the Statute. Thirty-four Commonwealth countries had rejoined the Rome Statute system, three of them having ratified it this year.

Judge Song addressed the audience at the opening of the 'Commonwealth meeting on the International Criminal Court,' organised by the Legal and Constitutional Affairs Division (LCAD) of the Commonwealth Secretariat and held from 5 to 7 October, 2010, at Marlborough House, London. During the meeting, several crucial aspects of the system created by the Rome Statute of the ICC were discussed. In his opening speech, Judge Song congratulated the Commonwealth Secretariat on its consistently excellent work as a facilitator of technical assistance and a catalyst in promoting ratification and full implementation of the Rome Statute among the Commonwealth countries.

President Song described the achievements of the ICC, and explained the purely judicial nature



Judge Song at the opening of the Commonwealth meeting on the ICC
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of its mandate, its independence, geographical diversity, and, most importantly, the guarantees the ICC offers for a fair trial and the strong emphasis put on the position of victims participating before the Court. He also discussed the existence of several misperceptions about the Court and encouraged the Commonwealth countries that are not States Parties to the Rome Statute to seek additional information about the ICC if necessary and to consider ratification with an open mind. Twenty of the fifty-four Commonwealth States have so far not joined the ICC, although five of them have signed the Statute.

Judge Song stressed that the Rome Statute reflects the conviction of the majority of the world's States that genocide, crimes against humanity, war crimes and the crime of aggression cannot be tolerated. Judge Song also emphasised that the ICC is a court of last resort and that it is the duty of every State to exercise its national criminal jurisdiction over those responsible for such crimes. 'Impunity can be ended, but only with decisive action and consistent commitment', declared the ICC President.

ICC President's speech

Calendar

OCTOBER 2010						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31
NOVEMBER 2010						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
Future events: 22 November, 2010: The confirmation of charges hearing is scheduled to commence in the case of <i>The Prosecutor v. Abdallah Banda Abakaer Nourain (Banda) and Saleh Mohammed Jerbo Jamus (Jerbo)</i>						

The calendar is subject to last minute changes.