



**Cour
Pénale
Internationale**

**International
Criminal
Court**

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28 December 2011 #109 ICC Weekly Update



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 case against Callixte Mbarushimana was held from 16 to 21 September 2011. On 16 December 2011, Pre-Trial Chamber I declined to confirm the charges against Mr Mbarushimana and ordered his release.

Callixte Mbarushimana is released from the ICC's custody

On 23 December 2011, Callixte Mbarushimana was released in accordance with the **decision issued by Pre-Trial Chamber I** of the International Criminal Court (ICC). Thanks to the full cooperation of the Netherlands, the Host State of the ICC, and of France, Mr Mbarushimana was released on French territory, as he requested.

On 16 December 2011, Pre-Trial Chamber I decided by Majority to decline to confirm the charges in the case of *The Prosecutor v. Callixte Mbarushimana* and ordered that the warrant of arrest issued against him cease to have effect. Mr Mbarushimana was released from the ICC's custody on 23 December 2011, upon the completion of the necessary arrangements, as ordered by Pre-Trial Chamber I.

Callixte Mbarushimana was surrendered to the custody of the ICC by French authorities on 25 January 2011, in accordance with the warrant of arrest delivered against him on 28 September 2010 by Pre-Trial Chamber I. In the document containing the charges, the Prosecutor charged Mr Mbarushimana with five counts of crimes against humanity (murder, inhumane acts, rape, torture, and persecution) and eight counts of war crimes (attacking civilians, murder, mutilation, cruel treatment, rape, torture, destruction of property and pillaging). The Confirmation of Charges hearing was held from 16 to 21 September 2011. The Majority of the Chamber, comprising Judge Sylvia Steiner and Judge Cuno Tarfusser, found that there was not sufficient evidence to establish substantial grounds to believe that Callixte Mbarushimana could be held criminally responsible, under article 25(3)(d) of the Rome Statute, for these counts. Judge Sanji Mmasenono Monageng, Presiding, filed a dissenting opinion.

Decisions taken between 19 - 23 December 2011

Mbarushimana Case

Decision on the Presiding Judge of the Appeals Chamber in the appeal of the Prosecutor of 19 December 2011 against the decision of Pre-Trial Chamber I entitled "Decision on the confirmation of charges"

Issued by the Appeals Chamber on 19 December 2011

Order on the filing of a response to the request of the Prosecutor of 19 December 2011 for suspensive effect

Issued by the Appeals Chamber on 19 December 2011

Decision on the appeal of the Prosecutor of 19 December 2011 against the “Decision on the confirmation of the charges” and, in the alternative, against the “Decision on the Prosecution’s Request for stay of order to release Callixte Mbarushimana” and on the victims’ request for participation

Issued by the Appeals Chamber on 20 December 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 December 2011

Banda and Jerbo Case

Public Redacted Decision on the second defence’s application pursuant to Articles 57(3)(b) and 64(6)(a) of the Statute

Issued by Trial Chamber IV on 21 December 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 December 2011

Bemba Case

Second order regarding the applications of the legal representatives of victims to present evidence and the views and concerns of victims

Issued by Trial Chamber III on 21 December 2011

Situation in Côte d’Ivoire

Côte d’Ivoire, which is not party to the Rome Statute, had accepted the jurisdiction of the ICC on 18 April 2003; more recently, and on both 14 December 2010 and 3 May 2011, the Presidency of Côte d’Ivoire reconfirmed the country’s acceptance of this jurisdiction. On 3 October 2011, the Pre-Trial Chamber authorised the Prosecutor to open an investigation into the situation in Côte d’Ivoire since 28 November 2010. The hearing on the confirmation of charges in the case *The Prosecutor v. Laurent Gbagbo*, the only case currently heard before the Court in this situation, is scheduled to start on 18 June 2012.

Decisions taken between 19 - 23 December 2011

Gbagbo Case

Decision ordering the filing of a public redacted version of the “Prosecutor’s Application Pursuant to Article 58 as to Laurent Koudou Gbagbo”

Issued by Pre-Trial Chamber III on 19 December 2011

Public redacted version of “Decision on the Prosecutor’s Application Pursuant to Article 58 for a warrant of arrest against Laurent Koudou Gbagbo”

Issued by Pre-Trial Chamber III on 20 December 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

Assembly of States Parties concludes its tenth session

Español



On 21 December 2011, the Assembly of States Parties to the Rome Statute of the International Criminal Court ("the Assembly") concluded its tenth session at UN Headquarters in New York.

In the latter part of the session, the Assembly elected six members of the Committee on Budget and Finance for a three-year term, namely: Mr Hugh Adsett (Canada), Mr Fawzi Gharaibeh (Jordan), Mr Samuel P.O. Itam (Sierra Leone), Ms Mónica Sánchez Izquierdo (Ecuador), Ms Elena Sopková (Slovakia) and Mr Masatoshi Sugiura (Japan). The Assembly also designated a new external auditor, la Cour des comptes (France), for a four-year period.

Further, the Assembly adopted six resolutions: on cooperation, amendment to the rule 4 of the Rules of Procedure and Evidence, reparations, permanent premises, the "omnibus" resolution and the 2012 budget.

In the resolution on cooperation, the Assembly, inter alia, addressed the issue of the importance of timely and effective cooperation of States and non-States Parties with the Court as well as the need for the ratification process of the Rome Statute to be matched by national implementation of the ensuing obligations.

The amendment to the rule 4 of the Rules of Procedure and Evidence aimed at strengthening the Presidency of the Court and increase efficiency of the judicial proceedings by having the Presidency decide on the assignment of judges to divisions in accordance with article 39, paragraph 1.

The resolution on reparations requested the Court to establish coherent principles, which would guide the process of issuing individual orders for reparations. The resolution underlined the importance of identification and freezing of any assets of the convicted individuals in order to provide timely and effective assistance through all necessary measures, including effective communication with relevant States. Furthermore, the resolution stressed that liability for reparations is exclusively based on the individual criminal responsibility of a convicted person.

The resolution on the permanent premises reiterated the firm intention of the project to remain within proposed €190 million budget. Additionally, it emphasized the role of the Oversight Committee on permanent premises to deliver on its mandate by ensuring that design and functionality requirements stay within approved budget and that the ownership costs of the permanent premises are kept at the lowest level possible. The Assembly also elected nine of the ten members of the Oversight Committee for a two-year term.

The Assembly also adopted the omnibus resolution, which contained, inter alia, procedures relating to non-cooperation, which is understood as the failure by a State Party or a State which has entered into an ad hoc arrangement or an agreement with the Court to comply with a specific Court request for cooperation.

The Assembly approved, by consensus, appropriations totalling €111,000,000 with €108,800,000 for the budget and €2,200,000 to replenish the Contingency Fund. Furthermore, the Assembly approved a staffing level of 766.

The Assembly of States Parties will hold its eleventh session from 14 to 22 November 2012 in The Hague, The Netherlands.

Closing statement at the ninth plenary meeting by Amb. Tiina Intelmann, the President of the Assembly

21.12.2011 -Statement [English](#) | on Prosecutor - [English](#)

Source: Assembly of States Parties

Assembly of States Parties to the Rome Statute elects six judges

Español, عربي



At the second meeting of its tenth session, the Assembly proceeded to elect the following six judges of the International Criminal Court:

- CARMONA, Anthony Thomas Aquinas
Group of Latin American and Caribbean States (Trinidad and Tobago),
list A, male
- DEFENSOR-SANTIAGO, Miriam
Group of Asia-Pacific States (Philippines),
list B, female
- EBOE-OSUJI, Chile
Group of African States (Nigeria),
list A, male
- FREMR, Robert
Group of Eastern European States (Czech Republic),
list A, male
- HERRERA CARBUCCIA, Olga Venecia
Group of Latin American and Caribbean States (Dominican Republic),
list A, female
- MORRISON, Howard
Group of Western European and Other States (United Kingdom),
list A, male

List A judges have established competence in criminal law, while List B judges have competence in relevant areas of international law, such as international humanitarian as well as human rights law.

The judges were elected for a term of office of nine years that would commence on 11 March 2012. Biographical information on the judges is contained in document ICC ASP/10/18/Add.1.

Information on the results of the 15 rounds of balloting may be found at the website of the Court under Assembly of States Parties (<http://www.icc-cpi.int/menus/asp>).

Source: Assembly of States Parties

Swedish donation is significant boost to resources Trust Fund for Victims

New York, 16 December 2012

The Swedish International Development Agency (Sida) has announced a voluntary contribution of 10 million Swedish crowns - approximately 1.1 million euros - to the Trust Fund for Victims at the International Criminal Court.

The announcement was made by the Swedish Government at the occasion of the 10th annual meeting of the Assembly of States Parties to the Rome Statute, which established both the Court and the Trust Fund.

According to the statement of Sweden, "victims' participation and right to reparations are unique and essential features of the Rome Statute. We encourage more States Parties to contribute to the Fund's valuable work for victims of atrocities".

Ms Elisabeth Rehn, Chair of the Board of Directors of the Trust Fund for Victims expressed her gratitude to the Swedish Government for the largest single contribution in the history of the Trust Fund. She stated that, "this generous contribution will help to rehabilitate thousands of victim survivors who have suffered terrible atrocities in places like the Democratic Republic of the Congo, northern Uganda and the Central African Republic. This donation is also very timely given that we may be facing decisions on several cases at the ICC next year and the Trust Fund may be asked to assist the Court with implementing reparations".

Ms Rehn also confirmed that, "SIDA has now established a precedent for other donors given that the contribution has been announced as multi-year funding and is not earmarked, thus allowing the Trust Fund to be flexible in their ability to deliver rehabilitation assistance and reparations to the most vulnerable victims under the jurisdiction of the ICC".

The Swedish donation constitutes the single largest donation to the Trust Fund to date. It comes without restrictions or earmarking and may therefore be used for both of the Trust Funds mandates: victims' assistance in situations before the Court, and the implementation of Court-orders for reparation to victims in particular cases before the Court. So far, the Trust Fund has reached out to over 80,000 victims in northern Uganda and the DRC by providing physical and psycho-social rehabilitation services, as well as material support.

The ICC's first-ever award for reparations, which will trigger the Trust Fund implementation mandate, is anticipated to occur in 2012.

The website www.TrustFundforVictims.org provides information on the mandates and activities of the Trust Fund, including the following recently published documents:

Report of the Chair of the Board of Directors of the Trust Fund for Victims to the 10th meeting of Assembly of States Parties (12 December 2012)

"Earmarked Support for the Trust Fund for Victims" – TFFV Programme Progress Report, (Winter 2012)

"On the Reparations Mandate of the Trust Fund for Victims" (December 2012)

Source: Trust Fund for Victims

Calendar

DECEMBER 2011						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
26	27	28	29	30	31	
Judicial recess						
January 2012						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
						1
2	3	4	5	6	7	8
Judicial recess						
Please note that there will be no hearings during the ICC's Judicial Recess from Friday, 16 December 2011 (17:30) until Monday, 9 January 2012 (09:00)						

The calendar is subject to last minute changes.