

11 June 2012 #131 ICC Weekly Update

Situation in Libya

On 26 February 2011, the United Nations Security Council decided unanimously to refer the situation in the Libyan Arab Jamahiriya since 15 February 2011 to the ICC Prosecutor. On 3 March 2011, the ICC Prosecutor announced his decision to open an investigation in the situation in Libya, which was assigned by the Presidency to Pre-Trial Chamber I. On 27 June 2011, Pre-Trial Chamber I issued three warrants of arrest respectively for **Muammar Mohammed Abu Minyar Gaddafi, Saif Al-Islam Gaddafi and Abdullah Al-Senussi** for crimes against humanity (murder and persecution) allegedly committed across Libya from 15 until at least 28 February 2011, through the State apparatus and Security Forces. On 22 November 2011, Pre-Trial Chamber I formally terminated the case against Muammar Gaddafi due to his death. The remaining suspects are not in the custody of the Court.

Four ICC staff members detained in Libya; Immediate release requested

Four staff members of the International Criminal Court (ICC) have been detained in Libya, since Thursday, 7 June. The ICC President, Judge Sang-Hyun Song, requests their immediate release: "We are very concerned about the safety of our staff in the absence of any contact with them. These four international civil servants have immunity when on an official ICC mission. I call on the Libyan authorities to immediately take all necessary measures to ensure their safety and security and to liberate them". The ICC is communicating with the relevant authorities of Libya to ensure their release.

In accordance with the Pre-Trial Chamber I [decision](#), dated 27 April 2012, the delegation travelled to Libya on Wednesday, 6 June, to meet with Saif Al-Islam Gaddafi in Zintan, in part as a privileged visit by the Office of Public Counsel for the Defence, currently appointed to represent Mr Gaddafi in the case brought against him. The delegation also included members of the ICC Registry with the view of discussing with Mr Gaddafi the option to appoint counsel of his own choosing. Libya made a submission to the Pre-Trial Chamber ensuring that it would facilitate access to Mr Gaddafi by his lawyers. This agreement has been further confirmed during the contacts between the Libyan government and the ICC Registry.

In accordance with the unanimous resolution 1970 of the United Nations Security Council, which seized the ICC with the Libyan situation, Libya has the legal obligation to fully cooperate with the ICC, including the respect of the legal regime imposed by the Rome Statute which emphasizes the rights of the suspects to have privileged contacts with their lawyers.

The ICC hopes that the situation will be speedily resolved in the spirit of the cooperation that has existed between the Court and the Libyan authorities.

Decisions taken between 4 - 8 June 2012

Gaddafi and Al-Senussi Case

Decision on the "Request related to the filing of observations by the Amicus Curiae"

Issued by Pre-Trial Chamber I on 4 June 2012

Decision on the "Application on behalf of Mishana Hosseinioun for Leave to Submit Observations to the Pre-Trial Chamber in the Admissibility Proceedings"

Issued by Pre-Trial Chamber I on 4 June 2012

Decision on the "Application for Leave to Appeal Against 'Decision on the Application on behalf of Mishana Hosseinioun for Leave to Submit Observations to the Pre-Trial Chamber'"

Issued by Pre-Trial Chamber I on 4 June 2012

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*; *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*; and *The Prosecutor v. Abdel Raheem Muhammad Hussein*. Five warrants of arrest have been issued by Pre-Trial Chamber I for Messrs Harun, Kushayb, Al Bashir and Hussein. The four 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, in 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 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.

Darfur: ICC Prosecutor's Report to the United Nations Security Council

On 5 June 2012, in New York, International Criminal Court (ICC) Prosecutor Luis Moreno-Ocampo briefed the United Nations Security Council on the situation in Darfur.

The Prosecutor updated the Council on the ongoing investigation in Darfur and ongoing cooperation with States Parties and non-States Parties on the implementation of the pending arrest warrants.

This was the 15th report to the Council by the Prosecutor on Darfur pursuant to UNSCR 1593 (2005). It was also the last report of Mr Moreno-Ocampo as Prosecutor of the International Criminal Court.

Source: *Office of the Prosecutor*

ICC Prosecutor's statement to the United Nations Security Council on the situation in Darfur UNSCR 1593 (2005)

New York

5 June 2012

Mr. President,

1. As the Costa Rica Minister for Foreign Affairs, Mr. Bruno Stagno Ugarte, stated to this Council, the "never again" promise is being tested in the Sudan.
2. With Resolution 1593 (2005), the Council took the initiative to refer a situation of ongoing atrocities to a permanent, existing Court. This was a conscious decision, that a judicial investigation of the facts and the identification of those responsible should not wait for the end of the conflict. The ability of the Court to implement immediately its mandate was a crucial factor mentioned by members of the Council in adopting this decision.
3. Investigating Darfur was an enormous challenge for the Court. There were serious allegations of thousands of crimes committed in a vast territory by different parties. The Office conducted an impartial investigation, receiving documents collected by the UN Commission of Inquiry and reports from the Government of the Sudan itself, who even authorized us to interview a General as a suspect in Khartoum. To respect its duty to protect witnesses, the Office had to investigate the crimes without visiting the crime scene. The Office travelled around the world to collect hundreds of testimonies of victims and eyewitnesses who escaped from the Sudan. Most of the evidence is confidential to protect the lives of the witnesses and their relatives.

4. During the previous briefing, the Sudan challenged the value of the evidence. The Office is prepared to discuss the matter in the courtroom at The Hague before the Judges. That is where evidence is discussed.
5. Ten Judges, members of the Pre-Trial and Appeal Chambers, discussed the value of the evidence collected by the Office of the Prosecutor. They, the Judges, concluded that Government of the Sudan forces committed war crimes and crimes against humanity in Darfur following a strategy adopted at the higher echelons of the State apparatus. The Pre-Trial Chamber identified the individuals that have to face justice and issued arrest warrants against a Militia/*Janjaweed* leader, Ali Kushayb, who reported to the then Minister of State for the Interior, Ahmad Harun, who in turn reported to the then Minister of the Interior Abdel Raheem Muhammad Hussein, who finally reported to President Al Bashir. I would like to clarify that the responsibility of these individuals is not a mere consequence of their official roles. In all the cases there are witnesses that describe in detail their active participation in the strategy to commit crimes.
6. The charges for President Al Bashir include the crime of genocide. The Pre-Trial Chamber concluded that Omar Al Bashir acted with specific intent to destroy in part the Fur, Masalit and Zaghawa ethnic groups.
7. In all the cases the Pre-Trial Chamber considered that arrest is necessary in order to stop the commission of crimes.

Mr. President,

8. The Court fulfilled its judicial mandate. The evidence collected uncovered the functioning of the State apparatus used to commit genocide, crimes against humanity and war crimes. Those who bear the greatest responsibility have been indicted. The current challenge is their arrest.
9. In accordance with Security Council Resolution 1593 (2005), the Government of the Sudan has the legal obligation to implement the arrest warrants. But President Al Bashir is taking advantage of his position of power to continue with his strategy and to ensure his own impunity and the impunity of those who follow his instructions. There is no information to believe that the crimes against humanity and genocide have stopped.
10. President Al Bashir's strategy includes:
 - a. Threats to the international community to commit new crimes in other areas of the Sudan;
 - b. Denial of his own crimes, denial of the rapes in the villages and in the camps; attributing the killings to banditry, sporadic clashes between rebel groups, or reducing its relevance through statistical comparisons; and attributing conditions in the camps to other factors like drought, lack of proper seeds, or inability to access farming land;
 - c. Forcing the international community into a never-ending negotiation in order to gain access to those displaced;
 - d. Offering the permanent promise of a peace negotiation. The international community chases promises of peace agreements that are systematically ignored while President Bashir's forces commits more attacks and creates the conditions for new promises of peace agreements;
 - e. Announcing justice initiatives followed only by new announcements, not by action. After more than seven years of instituting judicial mechanisms, the Government of the Sudan has conducted no proceedings relevant to the crimes committed in Darfur; and
 - f. Displaying open defiance of the Security Council's authority including through public announcement that the Security Council's resolutions will not be implemented.

Mr. President,

11. The Council is well aware of the situation. Resolution 2035, adopted on 17 February 2012, demanded an end to military action, including aerial bombardments; demanded an end to sexual violence and indiscriminate attacks on civilians; expressed concerns about obstacles deliberately placed in front of the work of the Panel of Experts and of that of UNAMID; and called for the Government of the Sudan to undertake effective efforts to ensure accountability for serious violations of international law and to ensure unrestricted humanitarian access. The Council also expressed "[Regret] that some individuals affiliated with the Government of Sudan and armed groups in Darfur have continued to commit violence against civilians, impede the peace process, and disregard the demands of the Council."
12. The situation is clear. Implementing the arrest warrant will produce a dramatic change in Darfur. In a normal criminal case it is difficult to locate the fugitives. Here it is easy. The whereabouts of the four fugitives in Darfur cases are known. Ali Kushayb remains in Darfur, Ahmad Harun can be found in his Governor's residence in South Kordofan, Abdel Raheem Hussein sits in his office at the Ministry of Defence in Khartoum, and Al Bashir can be found in the Presidential Palace in Khartoum. The next phase in these Darfur cases is to arrest the indictees.

Mr. President,

13. The failure to arrest and surrender Mr. Harun, Mr. Kushayb, Mr. Hussein and President Al Bashir is a direct challenge to the Council's authority. It is for the Council to determine the measures to be adopted to ensure the compliance of the Government of the Sudan with the Security Council resolutions. The reality is that Council members have to reconcile their national interests with their responsibilities for international peace and security. I witnessed the impact of the Security Council acting with consensus. The Office would like to contribute by presenting an option that in due time could be explored by the Council.
14. The execution of the arrest warrants on the Sudanese territory is the primary responsibility of the Government of the Sudan and UNAMID should not be authorized to carry out or assist to secure arrests. Instead, the Council can in due course evaluate other possibilities, including asking UN Member States or regional organizations to execute arrest operations in furtherance of the arrest warrants issued by the International Criminal Court.
15. Such a decision may be problematic, but the victims will receive a clear message: they are not ignored. And the perpetrators will receive a clear message: there will be no impunity.

Thank you.

For the report please click here: [English](#) | [Français](#) | [عربي](#)

Source: *Office of the Prosecutor*

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 4 - 8 June 2012

Bemba Case

Second Order on the reclassification of transcripts

Issued by Trial Chamber III on 4 June 2012

Decision on the "Submissions on Defence Evidence"

Issued by Trial Chamber III on 7 June 2012

Situation in Kenya

On 31 March 2010, Pre-Trial Chamber II granted the Prosecutor's request to open an investigation *proprio motu* in the situation in Kenya, State Party since 2005. Following summonses to appear issued on 8 March 2011 in two separate cases, six Kenyan citizens voluntarily appeared before Pre-Trial Chamber II on 7 and 8 April 2011. The confirmation of charges hearings in the two cases took place from 1 to 9 September 2011, and 21 September to 5 October 2011, respectively. On 23 January 2012, the judges declined to confirm the charges against Henry Kiprono Kosgey and Mohammed Hussein Ali. Pre-Trial Chamber II confirmed the charges against William Samoei Ruto, Joshua Arap Sang, Francis Kirimi Muthaura and Uhuru Muigai Kenyatta and committed them to trial. On 29 March 2012, the ICC Presidency constituted Trial Chamber V and referred to it the two cases: *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang* and *The Prosecutor v. Francis Kirimi Muthaura and Uhuru Muigai Kenyatta*.

Decisions taken between 4 - 8 June 2012

Ruto and Sang case

Scheduling order and amended agenda for the status conference

Issued by Trial Chamber V on 6 June 2012

Muthaura and Kenyatta case

Scheduling order and amended agenda for the status conference

Issued by Trial Chamber V on 6 June 2012

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. On 22 February 2012, Pre-Trial Chamber III decided to expand its authorisation for the investigation in Côte d'Ivoire to include crimes within the jurisdiction of the Court allegedly committed between 19 September 2002 and 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 4 - 8 June 2012

Gbagbo Case

Decision on Victims' Participation and Victims' Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings

Issued by Pre-Trial Chamber I on 4 June 2012

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 Registry calls for experts on reparations for victims

The Registry of the International Criminal Court (ICC) calls for experts to assist the Court in the area of reparations.

Pursuant to regulation 110 (2) of the Regulations of the Registry and, the Registry may present information to a Chamber regarding appropriate experts to assist a Chamber in determining the scope, extent of damage, loss and injury and to suggest various options in regard to the types and modalities of reparations pursuant to rule 97 (2) of the Rules of Procedure and Evidence.

A Chamber may consider appointing experts in the reparations proceedings should their expertise be deemed necessary. Experts appointed by a Chamber will be invited to apply for inclusion in the list of experts created and maintained by the Registry in accordance with regulation 44 of the Regulations of the Court.

The Registry would like to call the experts who meet the following general mandatory requirements:

- demonstrated expertise and extensive experience in a wide range of areas relevant to questions of reparations, including but not limited to law, victims consultation, design and implementation of reparations programmes, victimology, reparations in relation to armed conflict, public health and well-being, assessment of individual and collective harm, loss adjustment, child protection and gender based violence;
- demonstrated nationally, regionally or internationally recognised competence in their field of expertise;
- demonstrated ability to act with independence and impartiality in the exercise of professional duties; and
- fluency in at least one of the working languages of the Court, which are English and French.

Familiarity with aspects of the local context including affected communities and national programs for reparations would be considered an asset. Interested experts are invited to send the following documents by **30 June 2012** to the Court via ExpertsReparation2@icc-cpi.int:

- a. a detailed curriculum vitae;
- b. proof of their qualifications;
- c. an appropriate indication of their expertise in the relevant field; and
- d. where applicable, they should state whether they are included in any list of experts acting before any national court.

Designated experts will be required to act in their personal capacity. Individuals holding decision-making positions in a government or in any other organisation or entity which may give rise to a conflict of interest with the responsibilities inherent in the mandate of expert are not to be accepted on the list of experts maintained by the Court.

Delegation of Judges from Bulgaria visit the ICC

On 7 June 2012, a delegation of judges from Bulgaria visited the International Criminal Court (ICC) and met with ICC Judge Ekaterina Trendafilova and other high-ranking officials of the Court.



Members of the delegation included: Yani Georgiev Bahchevanov, President of the Appellative Court of Burgas, Violeta Ivanova Boyadzhieva-Mincheva, President of the Appellative Court of Varna, Georgi Velikov Chambov, President of the Appellative Court of Plovdiv, Iliyana Vasileva Popova, President of the Appellative Court of Veliko Tarnovo, Encho Emilov Enchev, President of the District Court of Dobrich, Lidiya Petkova Chobanova, Vice-president

ICC Judge Trendafilova with a Delegation of Judges from Bulgaria at the seat of the Court in The Hague © ICC-CPI

of the Appellative Court of Veliko Tarnovo, Mariana Ivanova Hiteva-Paunova, Vice-president of the Appellative Court of Plovdiv, Georgi Kirilov Koshncharov, Vice-president of the Appellative Court of Burgas, Iliya Petrov Pacholov, Vice-president of the Appellative Court of Varna, Pavlina Georgieva Dimitrova, Judge of the Appellative Court of Varna, Kristiana Stoyanova Krasteva, Assessor of the Appellative Court of Varna, Kremena Ehrmann, Jurist, Consultant, and Teodor Todorov Kuyumdzhiev, Interpreter.

The Court thanks the judges for their continued support and cooperation.

Calendar

JUNE 2012						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
11	12	13 Trial Chamber I to hear submissions for sentencing in the case against Thomas Lubanga Dyilo	14 ICC President Song to participate in a high-level panel at the Fifth International Conference of the International Association For Court Administration (The Hague, The Netherlands)	15 Solemn Undertaking Ceremony for the newly elected ICC Prosecutor	16	17
18 Confirmation of charges hearing to start in the case against Laurent Gbagbo	19	20	21	22 Court to host ICC Trial Competition (Spanish)	23	24
25	26	27	28	29	30	
JULY 2012						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
						1 10 th Anniversary of the International Criminal Court
2	3	4	5	6	7	8
9	10	11	12	13	14	15
17 July: International Criminal Justice Day						