



Situation in Darfur, Sudan

There are five 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 *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 confirmation of charges hearing, in 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. 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. On 4 October 2013, Trial Chamber IV terminated the proceedings against Saleh Jerbo after receiving evidence pointing towards the death of Mr Jerbo on 19 April 2013. On 11 September 2014, Trial Chamber IV issued an arrest warrant against Abdallah Banda Abakaer Nourain. The Chamber also vacated the trial date previously scheduled to open on 18 November 2014 and directed the ICC Registry to transmit the new requests for arrest and surrender to any State, including the Sudan, on whose territory Mr Banda may be found.

Banda Case

ICC Trial Chamber IV issues arrest warrant against Abdallah Banda Abakaer Nourain



On 11 September 2014, Trial Chamber IV of the International Criminal Court (ICC) issued, by majority, an arrest warrant against Abdallah Banda Abakaer Nourain. Three charges of war crimes allegedly committed in Darfur (Sudan) were confirmed against him on 7 March 2011. The Chamber vacated the trial date previously scheduled to open on 18 November 2014 and directed the ICC Registry to transmit the new requests for arrest and surrender to any State, including the Sudan, on whose territory Mr Banda may be found.

Trial Chamber IV had requested the Government of Sudan's cooperation to facilitate the accused's presence at trial. This cooperation, according to the information provided by the Registry, is not forthcoming. By way of consequence, the Chamber considered that there are no guarantees that, in the current circumstances, he will be in an objective position to appear voluntarily, regardless of whether he wishes to be present at trial or not. The Chamber concluded that an arrest warrant is now necessary to ensure the accused's presence. The Chamber stressed that should Mr Banda nonetheless appear voluntarily before the Court, the Chamber will take the voluntary appearance into consideration and revisit accordingly the conditions of his stay in The Netherlands during the trial.

The Chamber will determine in due course the appropriate course of action in order to ensure Sudan's compliance with the request of the Court. The situation in Darfur was referred to the ICC by United Nations Security Council resolution 1593 on 31 March 2005, under article 13(b) of the Rome Statute.

Decisions and orders

Warrant of arrest for Abdallah Banda Abakaer Nourain

Issued by Trial Chamber IV on 11 September 2014

Situation in Côte d'Ivoire

Côte d'Ivoire, which was not party to the Rome Statute at the time, had accepted the jurisdiction of the ICC on 18 April 2003; on 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. On 15 February 2013, Côte d'Ivoire ratified the Rome Statute. The confirmation of charges hearing in the case *The Prosecutor v. Laurent Gbagbo* took place from 19 to 28 February 2013. On 12 June 2014, Pre-Trial Chamber I confirmed by majority four charges of crimes against humanity (murder, rape, other inhumane acts or – in the alternative – attempted murder, and persecution) against Laurent Gbagbo and committed him for trial before a Trial Chamber. On 22 November 2012, Pre-Trial Chamber I unsealed a warrant of arrest in the case *The Prosecutor v. Simone Gbagbo* for four charges of crimes against humanity allegedly committed in the territory of Côte d'Ivoire between 16 December 2010 and 12 April 2011. On 1 October 2013, Côte d'Ivoire challenged the admissibility of the Simone Gbagbo case. Pre-Trial Chamber I will issue a decision on this issue in due course. Mrs Gbagbo is not in the Court's custody. On 30 September 2013, Pre-Trial Chamber I unsealed an arrest warrant in the case *The Prosecutor v. Charles Blé Goudé* initially issued on 21 December 2011 for four counts of crimes against humanity allegedly committed in the territory of Côte d'Ivoire between 16 December 2010 and 12 April 2011. On 22 March 2014, Charles Blé Goudé was surrendered to the ICC by the national authorities of Côte d'Ivoire and he made his first appearance before the ICC on 27 March 2014. The confirmation of charges hearing is scheduled to open on 29 September 2014. Mr Blé Goudé is in the Court's custody.

Decisions and orders

Laurent Gbagbo Case

Decision on the Defence request for leave to appeal the "Decision on the Confirmation of Charges against Laurent Gbagbo"

Issued by Pre-Trial Chamber I on 11 September 2014

Blé Goudé Case

Decision on the "Defence request to amend the document containing the charges to exclude prejudicial facts"

Issued by Pre-Trial Chamber I on 11 September 2014

Decision on the "Defence request to amend the document containing the charges for violation of the rule of speciality"

Issued by Pre-Trial Chamber I on 11 September 2014

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. The trial in the case *The Prosecutor v. Jean-Pierre Bemba Gombo* started before Trial Chamber III on 22 November 2010, for two charges of crimes against humanity and three charges of war crimes, and the submission of evidence in the case is now closed. On 20 November 2013, a warrant of arrest for *Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu, and Narcisse Arido* was issued by the ICC for offences against the administration of justice allegedly committed in connection with the case *The Prosecutor v. Jean-Pierre Bemba Gombo*. On 25 November 2013, Fidèle Babala Wandu and Aimé Kilolo Musamba were transferred to the ICC Detention Centre. On 27 November 2013, Aimé Kilolo Musamba, Fidèle Babala Wandu, and Jean-Pierre Bemba Gombo made their initial appearance before the ICC. Jean-Jacques Mangenda Kabongo was transferred to the ICC Detention Centre on 4 December 2013 and made his initial appearance before the ICC on 5 December 2013. Narcisse Arido was transferred to the ICC Detention Centre on 18 March 2014 and made his initial appearance on 20 March 2014. The decision on the confirmation of the charges will be made in writing in due course.

Decisions and orders

Bemba Case

Decision on "Prosecution Request for a corrected version of the Defence Closing Brief and extension of time to file a response"

Issued by Trial Chamber III on 3 September 2014

Decision on "Requête de la Représentante légale des victimes relative à l'augmentation du nombre de pages autorisé afin de répondre aux 'Closing Brief of Mr. Jean-Pierre Bemba Gombo' (ICC-01/05-01/08-3121-Conf)"

Issued by Trial Chamber III on 8 September 2014

Situation in the Democratic Republic of the Congo

The Democratic Republic of the Congo (DRC) ratified the Rome Statute on 11 April 2002. On 3 March 2004, the Government of the DRC referred the situation in its territory to the Court. After a preliminary analysis, the Prosecutor initiated an investigation on 21 June 2004. In this situation, six cases have been brought before the relevant Chambers: *The Prosecutor v. Thomas Lubanga Dyilo*; *The Prosecutor v. Bosco Ntaganda*; *The Prosecutor v. Germain Katanga*; *The Prosecutor v. Mathieu Ngudjolo Chui*; *The Prosecutor v. Callixte Mbarushimana*; and *The Prosecutor v. Sylvestre Mudacumura*. Thomas Lubanga Dyilo, Germain Katanga and Bosco Ntaganda are currently in the ICC's custody. Sylvestre Mudacumura remains at large. The trial in the case *The Prosecutor v. Thomas Lubanga Dyilo* started on 26 January 2009. On 14 March 2012, Trial Chamber I **convicted** Mr Lubanga Dyilo and he was **sentenced** on 10 July 2012 to a total period of 14 years of imprisonment. On 7 August 2012, Trial Chamber I issued a **decision** on the principles and the process to be implemented for reparations to victims in the case. All three decisions are currently subject to appeal. The trial in the case against Germain Katanga and Mathieu Ngudjolo Chui started on 24 November 2009 and closing statements were heard from 15 to 23 May 2012. On 21 November 2012, Trial Chamber II decided to sever the charges against Mathieu Ngudjolo Chui and Germain Katanga. On 18 December 2012, Trial Chamber II **acquitted** Mathieu Ngudjolo Chui of the charges of war crimes and crimes against humanity and ordered his immediate release. On 21 December 2012, Mr Ngudjolo Chui was released from custody. The Office of the Prosecutor has appealed the verdict. On 7 March 2014, Trial Chamber II **convicted** Germain Katanga, as an accessory, of one count of crime against humanity and four counts of war crimes committed during the attack on the village of Bogoro, Ituri, on 24 February 2003. The Prosecutor and the Defence had appealed the judgment, but discontinued the appeals on 25 June 2014. On 23 May 2014, Trial Chamber II, ruling in the majority, sentenced Germain Katanga to a total of 12 years' imprisonment. The time spent in detention at the ICC – between 18 September 2007 and 23 May 2014 – will be deducted from the sentence. Decisions on possible reparations to victims will be rendered later. On 16 December 2011, Pre-Trial Chamber I declined to confirm the charges in the case *The Prosecutor v. Callixte Mbarushimana*. Mr Mbarushimana was released on 23 December 2011. On 22 March 2013, Bosco Ntaganda surrendered himself to the Court voluntarily and is now in the ICC's custody. His initial appearance hearing took place before Pre-Trial Chamber II on 26 March 2013. The confirmation of charges hearing in the case was held from 10 to 14 February 2014. On 9 June 2014, Pre-Trial Chamber II unanimously confirmed charges consisting in 13 counts of war crimes and 5 counts of crimes against humanity against Bosco Ntaganda and committed him for trial before a Trial Chamber.

Decisions and orders

Ntaganda Case

Order Setting the Agenda for the 11 September 2014 Status Conference

Issued by Trial Chamber VI on 10 September 2014

Situation in Libya

On 26 February 2011, the United Nations Security Council decided unanimously to refer the situation in Libya since 15 February 2011 to the ICC Prosecutor. On 3 March 2011, the ICC Prosecutor decided 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 ICC's custody. On 31 May 2013, Pre-Trial Chamber I rejected Libya's challenge to the admissibility of the case against Saif Al-Islam Gaddafi and reminded Libya of its obligation to surrender the suspect to the Court. On 21 May 2014, the ICC Appeals Chamber confirmed the decision of Pre-Trial Chamber I declaring admissible the case against Saif Al-Islam Gaddafi. On 11 October 2013, Pre-Trial Chamber I decided that the case against Abdullah Al-Senussi is inadmissible before the ICC as it was currently subject to domestic proceedings conducted by the Libyan competent authorities and that Libya is willing and able genuinely to carry out such investigation. On 24 July 2014, the Appeals Chamber unanimously confirmed Pre-Trial Chamber I's decision, declaring the case against Abdullah Al-Senussi inadmissible before the ICC and proceedings against Abdullah Al-Senussi before the ICC came to an end.

Decisions and orders

Saif Al-Islam Case

Decision on the appeal of Mr Al-Senussi against the Pre-Trial Chamber's "Decision on Libya's postponement of the execution of the request for arrest and surrender of Abdullah Al-Senussi pursuant to article 95 of the Rome Statute and related Defence"

Issued by the Appeals Chamber on 11 September 2014

Relevant Links

Courtroom proceedings can be followed on the ICC website: www.icc-cpi.int, where you can also consult the **hearing schedule**.



Other Statements and Events

Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda: 'The Public Deserves to know the Truth about the ICC's Jurisdiction over Palestine'

Press release : 02/09/2014

Recent media reports and commentaries have erroneously suggested that the International Criminal Court (ICC) has persistently avoided opening an investigation into alleged war crimes in Gaza due to political pressure. As Prosecutor of the ICC, I reject this baseless allegation in the strongest terms. It is devoid of any merit.

When an objective observer navigates clear of the hype surrounding this issue, the simple truth is that the Office of the Prosecutor of the ICC has never been in a position to open such an investigation for lack of jurisdiction. We have always, clearly and publicly, stated the reasons why this is so.

The Rome Statute, the ICC's founding treaty, is open to participation by states. As Prosecutor, I can only investigate and prosecute crimes committed on the territory or by the nationals of states that have joined the ICC Statute or which have otherwise accepted the jurisdiction of the ICC through an ad hoc declaration to that effect pursuant to article 12-3 of the Statute.

This means that, at the present time, the alleged crimes committed in Palestine are beyond the legal reach of the ICC, despite the arguments of some legal scholars that fundamental jurisdictional rules can be made subject to a liberal and selective interpretation of the Rome Statute. As such, they appear to advocate that as the object and purpose of the ICC is to end impunity for mass crimes, the Court ought to intervene, even where clear jurisdictional parameters have not been met. This is neither good law nor makes for responsible judicial action.

The Palestinian Authority sought to accept the jurisdiction of the ICC in 2009. The Office of the Prosecutor carefully considered all of the legal arguments put forth and concluded in April 2012, after three years of thorough analysis and public consultations that Palestine's status at the United Nations (UN) as "observer entity" was determinant – since entry into the Rome Statute system is through the UN Secretary-General, who acts as treaty depositary. The Palestinian Authority's "observer entity" status at the UN at that time meant that it could not sign up to the Rome Statute. As Palestine could not join the Rome Statute, the former Prosecutor concluded that it could not lodge an article 12-3 declaration bringing itself under the ambit of the treaty either, as it had sought to do.

On 29 November 2012, Palestine's status was upgraded by the UN General Assembly (UNGA) to "non-member observer State" through the adoption of resolution 67/19. The Office examined the legal implications of this development for its purposes and concluded that while this change did not retroactively validate the previously invalid 2009 declaration lodged without the necessary standing, Palestine could now join the Rome Statute.

That Palestine has signed various other international treaties since obtaining this "observer State" status confirms the correctness of this position. Nonetheless, to date, the Rome Statute is not one of the treaties that Palestine has decided to accede to, nor has it lodged a new declaration following the November 2012 UNGA resolution. It is a matter of public record that Palestinian leaders are in the process of consulting internally on whether to do so; the decision is theirs alone to make and the ICC Prosecutor cannot take this decision for them.

By the very nature of the Court's mandate, every situation in which I act in my capacity as ICC Prosecutor will be politically fraught. My mandate as Prosecutor is nonetheless clear: to investigate and prosecute crimes based on the facts and exact application of the law in full independence and impartiality.

Whether States or the UN Security Council choose to confer jurisdiction on the ICC is a decision that is wholly independent of the Court. Once made, however, the legal rules that apply are clear and decidedly not political under any circumstances or situation. In both practice and words, I have made it clear in no uncertain terms that the Office of the Prosecutor of the ICC will execute its mandate, without fear or favour, wherever jurisdiction is established and will vigorously pursue those – irrespective of status or affiliation – who commit mass crimes that shock the conscience of humanity. The Office's approach to Palestine will be no different if the Court's jurisdiction is ever triggered over the situation.

It is my firm belief that recourse to justice should never be compromised by political expediency. The failure to uphold this sacrosanct requirement will not only pervert the cause of justice and weaken public confidence in it, but also exacerbate the immense suffering of the victims of mass atrocities. This, we will never allow.

For further information, please consult the [Report on Preliminary Examinations Activities \(2013\)](#) of the Office of the Prosecutor.

A slightly modified version of this statement was published by [The Guardian on Friday, 29 August 2014](#).

Source: Office of the Prosecutor OTPNewsDesk@icc-cpi.int.

President Song, Prosecutor Bensouda and ASP-President Intelmann: Humanity is bound together in a common quest to end impunity

Press Release: 10/09/2014

President Sang-Hyun Song and Prosecutor Fatou Bensouda of the International Criminal Court (ICC) and the President of the Assembly of States Parties, Tiina Intelmann, today concluded a three-day mission to South Africa.

During their mission, President Song and Prosecutor Bensouda held bilateral meetings with key government and justice officials and engaged with civil society, academics, students, diplomats and the media in the context of Dialogues on Peace and Justice, a programme organised by the Kingdom of the Netherlands, that brought a delegation of Hague-based international legal institutions to Johannesburg, Pretoria and Cape Town for engagement with local stakeholders. Together with President Intelmann, they also participated in the conference: "Africa and the International Criminal Court: Lessons Learned and Synergies Ahead" organised by Africa Legal Aid (AFLA) in Johannesburg.

In their meetings with South African officials, both President Song and Prosecutor Bensouda commended the leading role South Africa – one of the first countries to sign and ratify the Rome Statute – has played in the evolution of the ICC, through its continued support and cooperation.

In his remarks, President Song underlined that South Africa, with its unique experience, has a tremendous amount to contribute to the global pursuit of peace and justice through the rule of law. "This country is known worldwide for the historic leap it made from apartheid to democracy, with the help of a process of truth-seeking and reconciliation," he said. "While we work side by side with States, we must also look to each other for guidance. I think it is fitting to discuss how we can form synergies in the evolving international criminal justice system. We can look to States like South Africa for lessons in overcoming painful histories through accountability, but also how this can be achieved through truth-seeking and reconciliation."

During the AFLA conference, Prosecutor Bensouda stressed the link between accountability for mass crimes and the rule of law to stability, security and prosperity. She further emphasized the crucial importance of the support of the African Union (AU) for the work of the ICC. Together in a complementary fashion the ICC and the AU can cooperate and support one another to promote and implement their critical work with full respect for their respective mandates. As such, she welcomed opportunities for further dialogue and cooperation.

"Attacks against civilians; sexual and gender-based violence in times of war and recruitment and use of children as soldiers are just some of the examples where the ICC and the AU can work together" said the Prosecutor. "In addition to sharing our policies on some of these issues, we can contribute to enhancing the AU's efforts to stem the tide of these scourges by sharing our expertise and experiences in the investigation and prosecution of these grave crimes."

ASP President Intelmann, recalling the Assembly meeting last year, highlighted that States Parties, in the framework of the Assembly, have been open to addressing concerns of all States Parties. She further called for continued political support of States and other stakeholders for the Court: "We need to keep investing our energies in the fight against impunity and ensure the independence of the Court."

ICC Officials called for greater support for the Court. They reiterated the importance of our collective duty to never neglect the calls of victims whose rights and dignity have been trampled on by mass crimes. Today, thousands of African victims continue to suffer the brunt of mass atrocities. The ICC encourages and supports all genuine efforts at the national level aimed at bringing to justice, those alleged to be responsible for commission of mass crimes. In the absence of this primary responsibility, however, it would be an abdication of duty if the ICC were to fail to exercise its jurisdiction, especially when it is called upon to do so by African states themselves, in the face of such brutality.

Ending impunity for mass crimes is a common responsibility of humanity as a whole and justice for victims of such grave crimes should never be sacrificed at the altar of political expediency.

ICC principals participate in "Retreat on Strengthening the Proceedings at the ICC"



Participants at the "Retreat on Strengthening the Proceedings at the ICC", held from 3-5 September 2014, in Glion, Switzerland. © FDFA



ICC Prosecutor Fatou Bensouda, ICC President Judge Sang-Hyun Song, ICC Registrar Herman von Hebel and Ambassador Markus Börlin during the retreat. © FDFA

On 3-5 September 2014, the President of the International Criminal Court (ICC), the ICC Prosecutor, the ICC Registrar and a number of ICC Judges participated in a "Retreat on Strengthening the Proceedings at the ICC", in Glion, Switzerland, organised by the Federal Department of Foreign Affairs of Switzerland on the occasion of the end of the term of Ambassador Markus Börlin as Vice President of the Assembly of States Parties in December 2014. The retreat brought together around 60 senior policy makers and practitioners, including representatives of the ICC, States Parties, and NGOs as well as independent experts. Building on the work of the ASP Study Group on Governance, the Working Group on Lessons Learned of the Court and other actors, the retreat enabled intense and informal discussions on how to further enhance the effectiveness at the ICC.

On 9 September 2014, members of the Committee on Budget and Finance view Outreach information products including the ICC exhibit Justice Matters during their mission to Bunia, Democratic Republic of the Congo

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Calendar

Judicial developments

- **29 September 2014**
Scheduled opening of the confirmation of charges hearing in the case *The Prosecutor v. Charles Blé Goudé*
- **7 October 2014**
Scheduled opening of the trial in the case *The Prosecutor v. Uhuru Muigai Kenyatta*
- **13 October 2014**
Scheduled opening of the oral closing arguments in the trial *The Prosecutor v. Jean-Pierre Bemba Gombo*

View the online [ICC hearing schedule](#)

Forthcoming activities

- **17 September 2014**
ICC Registrar Herman von Hebel to speak at the MasterPeace conference, Rotterdam (Netherlands) <http://masterpeace2014.nl/masterpeace-great-minds-meeting/>
- **21 September 2014**
ICC to open its doors for The Hague International Day, The Hague (Netherlands) <http://www.internationaledag.nl/>

The calendar is subject to last-minute changes.