



ICC Weekly Update #239



ICC President meets United Nations Secretary-General in New York

On 8 April 2015, the newly elected President of the International Criminal Court (ICC), Judge Silvia Fernández de Gurmendi, met with Mr Ban Ki-moon, United Nations (UN) Secretary-General, at the UN headquarters in New York (USA), during her first visit to the UN in her new capacity. The ICC President expressed her appreciation to the UN Secretary-General for the UN's continued support for the Court's mission and activities, and reaffirmed the Court's commitment to further strengthening relations with the UN.

The ICC President also highlighted the Secretary-General's role as an invaluable advocate for international justice and the rule of law around the globe. She stressed the need to explore opportunities for working together to ensure accountability for serious crimes, to contribute to the prevention of genocide, crimes against humanity and war crimes, as well as to provide redress to the victims of such atrocities.

The meeting was part of the ICC President's mission to New York where she met a number of high level UN Officials and discussed with them the role of the ICC in building lasting peace, empowering women and fighting gender-based crimes and crimes against children, as well as continued cooperation in the field and UN support for the ICC's activities. In addition, the ICC President will meet with delegates from States Parties to the Rome Statute and Observers in the context of the New York Working Group of the Assembly of States Parties. She will also hold meetings with international NGOs and civil society organizations that have played an important role in establishing, monitoring and promoting the ICC to achieve an effective system of international criminal justice that is supported by the international community as a whole.

Judge Silvia Fernández de Gurmendi (Argentina) was elected as ICC President on 11 March 2015 for a three-year term. The International Criminal Court is a permanent international court established to investigate, prosecute and try individuals accused of committing the most serious crimes of concern to the international community as a whole, namely the crime of genocide, crimes against humanity and war crimes. The ICC, while an independent judicial institution, concluded an **agreement** with the United Nations on 4 October 2004, governing the institutional relationship of the two organizations.

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 1 December 2014, the Appeals Chamber confirmed, by majority, the verdict declaring Mr Lubanga guilty and the decision sentencing him to 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. On 3 March 2015, the Appeals Chamber **amended** the Trial Chamber's order for reparations and instructed the Trust Fund for Victims to present a draft implementation plan for collective reparations to the newly constituted Trial Chamber I no later than six months from the 3 March 2015 judgment. 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 27 February 2015, the Appeals Chamber **confirmed** by majority, Trial Chamber II's decision of 18 December 2012 acquitting Mathieu Ngudjolo Chui of charges of crimes against humanity and war crimes. 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. The judgment is now final. 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. 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. The trial in the Ntaganda case is scheduled to open on 2 June 2015 before Trial Chamber VI.

Ntaganda Case

Decisions and orders

Public redacted version of : Decision on the Prosecution request for redactions

Issued by Trial Chamber VI on 7 April 2015

Public Redacted Version of Decision on Prosecution application for authorisation to provide a summary of Witness P-0040's statement and to apply redactions to the statement's annexes

Issued by Trial Chamber VI on 8 April 2015

Ngudjolo Chui Case

Decisions and orders

Judgment on the Prosecutor's appeal against the decision of Trial Chamber II entitled "Judgment pursuant to article 74 of the Statute"

Issued by the Appeals Chamber on 7 April 2015

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 closing oral statements took place on 12 and 13 November 2014. The judges have commenced their deliberations and the judgement will be pronounced in due course. On 11 November 2014, Pre-Trial Chamber II partially confirmed the charges for *Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu, and Narcisse Arido* and committed the five suspects to trial for offences against the administration of justice allegedly committed in connection with the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*. On 30 January 2015, the Presidency of the ICC constituted Trial Chamber VII, which will be in charge of the trial in this case. On 21 October 2014, Pre-Trial Chamber II ordered the interim release of Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido.

Bemba, Kilolo et al. Case

Decisions and orders

Decision on 'Request concerning the review of seized material' and related matters

Issued by Trial Chamber VII on 9 April 2015

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, on the alleged crimes committed by ISIS

Since the summer of 2014, my Office has been receiving and reviewing disturbing allegations of widespread atrocities committed in Syria and Iraq by the so-called Islamic State of Iraq and al-Sham/Greater Syria ("ISIS" aka "ISIL", "Daesh" or "IS"). Crimes of unspeakable cruelty have been reported, such as mass executions, sexual slavery, rape and other forms of sexual and gender-based violence, torture, mutilation, enlistment and forced recruitment of children and the persecution of ethnic and religious minorities, not to mention the wanton destruction of cultural property. The commission of the crime of genocide has also been alleged. In response to numerous inquiries about my Office's activities in relation to these allegations, I have decided to provide the following clarification.

The atrocities allegedly committed by ISIS undoubtedly constitute serious crimes of concern to the international community and threaten the peace, security and well-being of the region, and the world. They also occur in the context of other crimes allegedly committed by other warring factions in Syria and Iraq. However, Syria and Iraq are not Parties to the Rome Statute, the founding treaty of the International Criminal Court ("Court" or "ICC"). Therefore, the Court has no territorial jurisdiction over crimes committed on their soil.

Under the Rome Statute, the ICC may nevertheless exercise personal jurisdiction over alleged perpetrators who are nationals of a State Party, even where territorial jurisdiction is absent. On this basis, my Office has reviewed communications received alleging crimes committed by ISIS, with a view to assessing the prospect of exercising personal jurisdiction over States Parties nationals within the ranks of this organisation. In doing so, my Office took into account the scope of its policy, which is to focus on those most responsible for mass crimes.

The information gathered indicates that several thousand foreign fighters have joined the ranks of ISIS in the past months alone, including significant numbers of State Party nationals from, inter alia, Tunisia, Jordan, France, the United Kingdom, Germany, Belgium, the Netherlands and Australia. Some of these individuals may have been involved in the commission of crimes against humanity and war crimes. A few have publicised their heinous acts through social media. The information available to the Office also indicates that ISIS is a military and political organisation primarily led by nationals of Iraq and Syria. Thus, at this stage, the prospects of my Office investigating and prosecuting those most responsible, within the leadership of ISIS, appear limited.

In this context, I have come to the conclusion that the jurisdictional basis for opening a preliminary examination into this situation is too narrow at this stage. A renewed commitment and a sense of urgency on the part of the concerned states may help identify viable avenues. The decision of non-Party States and the United Nations Security Council to confer jurisdiction on the ICC is, however, wholly independent of the Court.

It bears emphasising that under the Rome Statute, the primary responsibility for the investigation and prosecution of perpetrators of mass crimes rests, in the first instance, with the national authorities. I remain committed to consult with relevant States to coordinate, and possibly exchange information on crimes allegedly committed by their nationals to support domestic investigations and prosecutions, as appropriate. My Office also remains open to receive additional information which could provide further clarity on the positions occupied by State Party nationals within the ISIS

organisational hierarchy.

I remain profoundly concerned by this situation and I want to emphasise our collective duty as a global community to respond to the plight of victims whose rights and dignity have been violated. ISIS continues to spread terror on a massive scale in the territories it occupies. The international community pledged that appalling crimes that deeply shock the conscience of humanity must not go unpunished.

As Prosecutor of the ICC, I stand ready to play my part, in an independent and impartial manner, in accordance with the legal framework of the Rome Statute.

Background

The International Criminal Court is governed by the Rome Statute, which entrusts the Court with a specific and defined jurisdiction and mandate. A fundamental feature of the Rome Statute (articles 12 and 13) is that the Court may only exercise jurisdiction over international crimes if (i) its jurisdiction has been accepted by the State on the territory of which the crime was committed, (ii) its jurisdiction has been accepted by the State of which the person accused is a national, or (iii) the situation is referred to the Prosecutor by the Security Council acting under Chapter VII of the UN Charter.

The Office of the Prosecutor of the ICC conducts independent and impartial investigations and prosecution of the crimes of genocide, crimes against humanity and war crimes. The Office of the Prosecutor has opened investigations in: Uganda; Democratic Republic of the Congo; Darfur, Sudan; Central African Republic; Kenya; Libya; Côte d'Ivoire and Mali. The Office is also conducting preliminary examinations relating to the situations in Afghanistan, Colombia, Georgia, Guinea, Honduras, Iraq (alleged abuses by UK forces), Nigeria, Palestine and Ukraine.

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Source: Office of the Prosecutor

Interacting with Communities

ICC and ASF hold training seminars in international criminal law at North and South Kivu universities in the Democratic Republic of the Congo



The students of the Law Faculty of the Catholic University of Bukavu, South Kivu, in the Democratic Republic of the Congo (DRC) attending a seminar on the ICC held by the ICC Outreach Unit in partnership with *Avocats Sans Frontières* - Belgium. ©ICC-CPI

From 1 to 7 April 2015, the Outreach Unit of the International Criminal Court (ICC) and *Avocats Sans Frontières* - Belgium (ASF) held two training seminars in international criminal law for law students of the Free University of the Great Lakes of Goma and the Catholic University of Bukavu in the Democratic Republic of the Congo (DRC). These three-day seminars aimed at increasing the students' knowledge of the ICC judicial system and at promoting the fight against international crimes by national courts under the principle of complementarity.

In total, more than a hundred students participated in these activities. Presentations tackled issues such as the proceedings before the ICC, the principle of complementarity, the impact of the Rome Statute in Congolese law, international crimes in the Rome Statute and Congolese law, Congolese jurisprudence regarding international crimes, the role of victims before the ICC and Congolese courts, the right to a fair trial at the ICC and in Congolese courts, the irrelevance of official capacity in international criminal law and criminal responsibility in international law. The presentations were followed by discussions and case studies. The participants received certificates of participation at the end of the seminars.

The ICC Outreach Unit and ASF will continue organizing such seminars in seven other universities in the DRC, including in the Law Faculties of Kisangani, Bunia, Lubumbashi and Kinshasa.



Students receive certificates of participation from representatives of *Avocats sans Frontières*, the ICC Outreach Unit and the Law Faculty of the Catholic University of Bukavu. ©ICC-CPI



The students of the Law Faculty of the Free University of the Great Lakes of Goma, North Kivu, DRC, attending a seminar on the ICC held by the ICC Outreach Unit in partnership with *Avocats Sans Frontières* - Belgium. ©ICC-CPI



From 8 to 10 April 2015, a group of about 30 journalists from Bukavu, South Kivu, attended a training about the ICC and the coverage of trials, organised by the ICC Outreach Unit in the Democratic Republic of the Congo (DRC) in partnership with the NGO *Journalistes pour la promotion de la démocratie et des droits humains* (Journalists for the promotion of democracy and human rights). ©ICC-CPI

Calendar

Judicial developments

- **21 April 2015**
Status conference in the case *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*
- **2 June 2015**
Scheduled opening of the trial in the case *The Prosecutor v. Bosco Ntaganda*
- **21 January 2016**
Scheduled opening of the confirmation of charges hearing in the case *The Prosecutor v. Dominic Ongwen*

View the online [ICC hearing schedule](#)

Forthcoming events

- **24-25 June 2015**
Resumed thirteenth session of the Assembly of States Parties – The Hague

The calendar is subject to last-minute changes.

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