

BULLETIN of the Coalition for the International Criminal Court



IN FOCUS: ICC Opens Second Trial

On 24 November 2009, the International Criminal Court (ICC) opened its second trial in the case *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*. Congolese warlords **Katanga and Ngudjolo** are accused of war crimes and crimes against humanity, including rape, sexual slavery and recruitment of child soldiers. 359 victims are participating in the proceedings. The trial was **postponed** after six days of hearings due to a traffic accident of one of the judges and will resume on 26 January 2010.

CASES AND SITUATIONS

DRC

Lubanga Case: Appeals Chamber Rules on Legal Characterization of Facts

On 8 December 2009, the ICC Appeals Chamber **reversed** the Trial Chamber I decision of 14 July 2009 in the **Lubanga case** to consider whether to modify the legal characterization of the facts, so as to add crimes of sexual slavery and inhuman and/or cruel treatment to existing charges. The trial is set to resume on 7 January 2010.

CAR

Bemba Case: Interim Release Decision Reversed

On 2 December 2009, the ICC Appeals Chamber **reversed** the decision on the interim

release of **Jean-Pierre Bemba Gombo** who will remain in custody while awaiting his trial scheduled to start on 27 April 2010.

Kenya

ICC Prosecutor Requests Opening of ICC Investigation in Kenya

On 26 November 2009, the ICC Prosecutor **requested** the authorization of Pre-Trial Chamber II to open an investigation into crimes allegedly committed in Kenya in relation to the post-election violence of 2007-2008. Judges will now consider whether there is a reasonable basis to proceed with an investigation. It is the first time that the Prosecutor seeks to open an investigation on his own initiative (*proprio motu*) as distinct from

referrals by state parties or the UN Security Council. The Prosecutor also **notified victims** of the post-election violence that they had 30 days to send Pre-Trial Chamber II comments on whether an investigation should be opened.

UN/ICC

ICC Prosecutor Presents Tenth Report to UNSC on Darfur Situation

On 4 December 2009, ICC Prosecutor Moreno-Ocampo presented his **tenth biannual report** to the United Nations Security Council on his investigation in Darfur, Sudan. On this occasion, the **CICC reiterated its call** on all State Parties, the government of Sudan and other relevant parties to cooperate with the ICC.

EIGHTH ASP HIGHLIGHTS

From 18 to 26 November 2009, the eighth session of the Assembly of States Parties (ASP) to the Rome Statute of the ICC was held in The Hague, Netherlands. States Parties adopted the Court's budget for 2010 and discussed a number of matters, including cooperation, family visits as well as preparations for the 2010 Review Conference. More than 200 NGO representatives participated as observers and contributed through position papers, plenary statements, advocacy meetings, regional government meetings and press conferences. For the first time, the United States and El Salvador participated as observers. A resumed session will take place in New York on 22 – 26 March 2010 to advance preparations for the Review Conference from 31 May to 11 June 2010 in Kampala, Uganda. The ninth ASP session will take place in December 2010 in New York. A resumed session will take place in New York on 22 – 26 March 2010 to advance preparations for the Review Conference which will be held from 31 May to 11 June 2010 in Kampala, Uganda.

Elections

The ASP elected Kuniko Ozaki (Japan) and

Silvia Fernández de Gurmendi (Argentina) to serve as **ICC Judges** for nine years. Bulgaa Altangerel (Mongolia), Betty Kaari Murungi (Kenya), Eduardo Pizarro Leongómez (Colombia) Elisabeth Rehn (Finland) and Vaira Vike-Freiberga (Latvia) were elected as members of the Board of Directors of the **Trust Fund for Victims** for a three year-term.

General Debate

During the **general debate**, there were 43 statements delivered by States Parties, 6 by non States-parties, 2 by International Organizations and 13 by NGOs.

Review Conference

The Assembly prepared for the 2010 Review Conference and adopted a specific **resolution**. Of the amendment proposals submitted by States Parties, the ASP decided to limit the discussions at the Conference to the following proposals: the deletion of **article 124** from the Rome Statute, the **crime of aggression**; and the amendment of **article 8** of the Rome Statute to extend the criminalization of the use of certain weapons to armed conflicts of a

non-international character. Other proposals discussed, which will not however be considered at the upcoming Review Conference, included making the use of chemical weapons, biological weapons, anti-personnel mines, non-detectable fragments, binding laser weapons and nuclear weapons a war crime under the Rome Statute; the inclusion of the crimes of drug trafficking and terrorism within the jurisdiction of the Court; an amendment to the Statute in relation to enforcement of sentences and a proposal to enable the UN General Assembly to consider article 16 deferral requests. Additionally, the ASP agreed that the Review **will take stock** of the impact and effectiveness of the Rome Statute system with a particular focus on complementarity; cooperation; victims and affected communities; and peace and justice.

Budget and Legal Aid

The Assembly approved a €103,623,300 **budget for 2010** in accordance with **recommendations** made by the Committee on Budget and Finance (CBF), which would include operating

costs of the Court's activities, costs associated with the creation of an oversight mechanism and an ICC/AU liaison office as well as a specific budget for the Review Conference. States endorsed the CBF's proposed cuts to legal aid for the defence and victims on the condition that the Court would be given flexibility to redistribute funds and access the contingency fund to cover any eventual overspending.

ICC/AU Liaison office

The ASP decided to establish an ICC Liaison Office to the African Union (AU) in Addis Ababa, Ethiopia to assist the Court in building a constructive relationship with the AU and securing more effective cooperation and support from African countries.

Communications

The ASP in its **Omnibus Resolution** reiterated the need for improved outreach in affected countries and encouraged the ICC to both report on a Court-wide public information plan to the 9th ASP and reinforce internal coordi-

nation of communications activities.

Cooperation

For the first time, a **stand-alone resolution on cooperation** was adopted. Restating language from last year's Omnibus Resolution, this resolution also provides for the appointment of a two-year-term facilitator for cooperation to continue the work of the outgoing focal point.

Premises

The ASP decided that the future permanent ICC building will be designed by **Schmidt Hammer Lassen Architects** (Denmark) pending finalization of negotiations.

Family visits

The ASP adopted a **resolution on family visits to indigent detainees**. The Assembly decided that the Court may, on a temporary basis, partly or fully subsidize family visits for indigent detainees through its regular budget, pending the establishment of a voluntary funding system.

Rome Statute

Signatures: 139 Ratifications: 110

Most Recent: **Chile** (29 June 2009)

APIC

Signatures: 62 Ratifications: 61

Most Recent: **Malawi** (7 October 2009)

Universal Ratification Campaign (URC) 2009 Targets

November: **Turkey**

Dec: **English-speaking Caribbean**

Oversight Mechanism

The ASP decided to establish an **oversight mechanism** to investigate any allegations of serious misconduct by ICC staff and elected officials.

REGIONAL UPDATES

ASIA

Bangladesh and Nepal

CICC members held two workshops on the occasion of ICC President Judge Sang-Hyun Song's visit to Asia on 1-7 December 2009. First, Parliamentarians for Global Action coordinated a Parliamentarians' Workshop on the ICC in Katmandu, Nepal on 1 December 2009 followed by meetings with top government and parliamentary officials. Second, the Bangladeshi Coalition for the ICC held an ICC National Workshop on 7 December 2009 in Dhaka, Bangladesh followed by meetings with key government leaders and a university lecture by Judge Song.

AFRICA

Burkina Faso

On 3 December 2009, the Parliament unani-

mously adopted the ICC implementation bill in Burkina Faso. The draft covers both complementarity and cooperation provisions and does not retain a death penalty.

AMERICAS

Colombia

On 1 November 2009, the Rome Statute's Article 124 provision, which allowed Colombia to become a State Party without being subject to the ICC's jurisdiction for war crimes for a period of seven years, expired. The ICC will have jurisdiction to investigate and prosecute alleged war crimes by Colombian nationals or on Colombian territory as of this date.

EUROPE

United Kingdom

On 12 November 2009, the **Coroners and Justice Bill 2008-2009** received royal assent after

adoption by the Parliament, thus becoming law. The Bill contains amendments to the 2001 International Criminal Court Act, allowing a limited retrospective application of the ICC Act for crimes committed since 1991 and clarifying the 'residence' requirement in the Act.

MENA

Palestine

On 5 November 2009, the United Nations General Assembly **endorsed** the Report of the UN Fact Finding Mission on the Gaza Conflict of 15 September 2009 and requested the Secretary General to transmit the Report to the UNSC. The Report calls on the UN Security Council to consider the situation in Gaza and to refer it to the ICC Prosecutor, in the absence of investigations undertaken within six months in good faith, independence, and in conformity with international standards.

GLOBAL PARTNERS

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