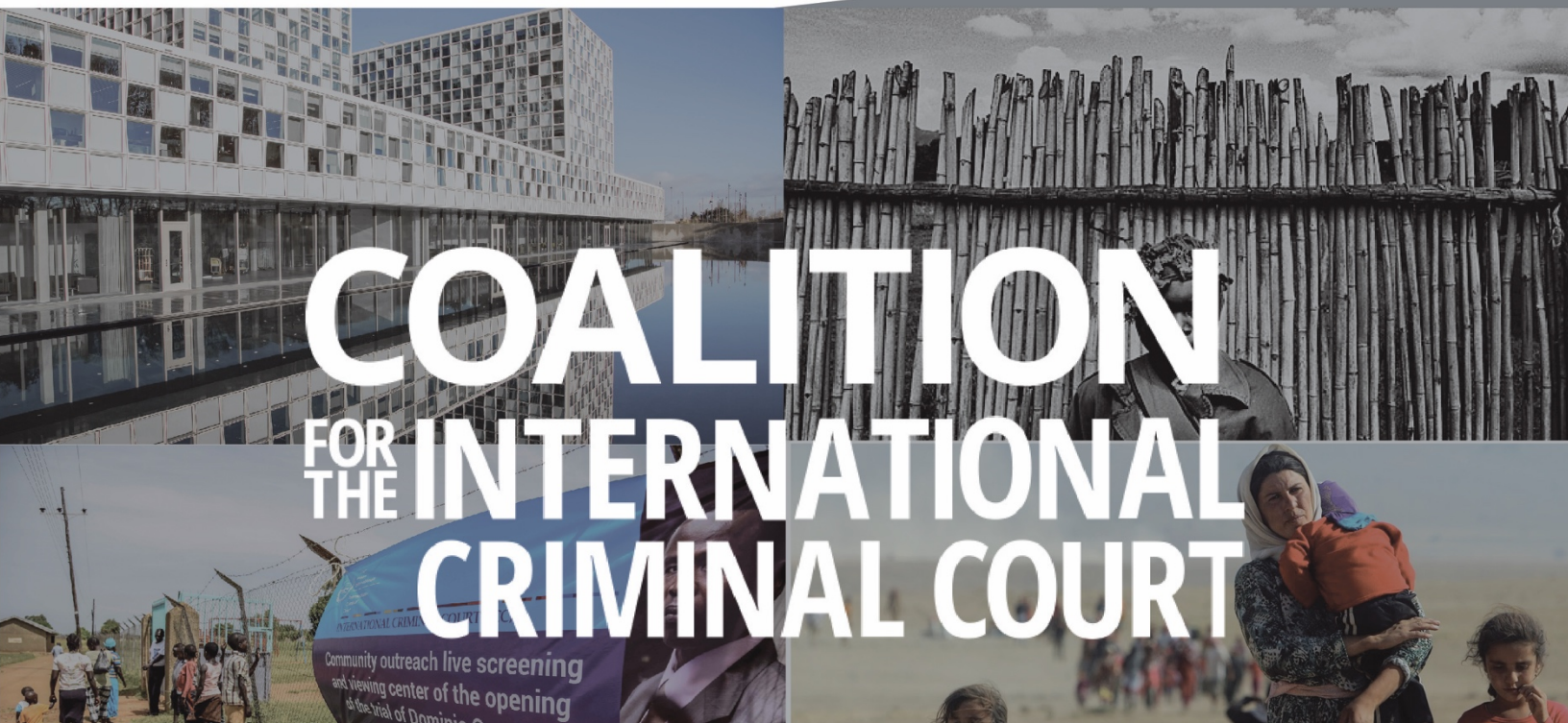




2017 AT A GLANCE

INTERNATIONAL CRIMINAL COURT



**COALITION
FOR THE INTERNATIONAL
CRIMINAL COURT**

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1. Situations under investigation (11)

	Situation	Opened	Scope	Referral
1	Democratic Republic of the Congo	June 2004	War Crimes (WC) & Crimes against Humanity (CAH) since 1 July 2002 in context of non-international armed conflict (NIAC), mainly in Ituri region and Kivu provinces	DRC (Apr. 2004)
2	Uganda	July 2004	WC & CAH since 1 July 2002 in context of conflict between national authorities & LRA. Regional focus on Northern Uganda	Uganda (Jan. 2004)
3	Darfur, Sudan	June 2005	Genocide, WC & CAH in Darfur, Sudan since 1 July 2002, with outreach to diaspora in eastern Chad & those in exile throughout Europe	UNSC (Mar. 2005)
4	Central African Republic I	May 2007	WC & CAH since 1 July 2002 in context of conflict in the CAR, with peak violence period from 2002-3	CAR (Dec. 2004)
5	Central African Republic II	Sep. 2014	WC & CAH in context of renewed violence since Aug. 2012, mainly between Séléka and anti-balaka groups	CAR (May 2014)
6	Kenya	Mar. 2010	CAH in context of 2007-8 post-election violence (PEV), with regional focus in six of eight provinces: Nairobi, North Rift Valley, Central Rift Valley, South Rift Valley, Nyanza Province, and Western Province	<i>Proprio motu</i> (Mar. 2010)
7	Libya	Mar. 2011	WC & CAH in context of situation in Libya since 15 Feb. 2011. Regional focus throughout Libya in, <i>inter alia</i> , Tripoli, Benghazi, and Misrata	UNSC (Feb. 2011)
8	Côte d'Ivoire	Oct. 2011	CAH in context of 2010-11 PEV, mainly 16 Dec. to 12 Apr., but also 19 Sep. 2002 to present; throughout	<i>Proprio motu</i> (Oct. 2011)
9	Mali	Jan. 2013	WC since Jan. 2012, mainly in Gao, Kidal and Timbuktu and in Bamako and Sévaré	Mali (July 2012)
10	Georgia	Jan. 2016	WC & CAH between 1 July and 10 Oct. 2008 in context of international armed conflict (IAC), in and around South Ossetia	<i>Proprio motu</i> (Jan. 2016)
11	Burundi	Oct. 2017	CAH between 26 Apr. 2015 and 26 Oct. 2017, committed in Burundi or by nationals of Burundi outside Burundi.	<i>Proprio motu</i> (Oct. 2017)

2. Situations under preliminary examination by the Office of the Prosecutor (9)

Situation	Announced	Scope	Basis for (re-) opening
Afghanistan	2007	Conflict between pro and anti-gov. forces: CAH and WC since 1 May 2003 Phase 3: Admissibility	Art. 15 communication
Colombia	2 Mar. 2005	Conflict between gov. rebel and paramilitary forces: WC since 1 Nov. 2009; and CAH since 1 Nov. 2002 Phase 3: Admissibility	Art. 15 communication
Guinea	14 Oct. 2009	CAH committed in the context of the events at Conakry Stadium: 28 September 2009 Phase 3: Admissibility	Art. 15 communication
Nigeria	18 Nov. 2010	Conflict between Nigeria and Boko Haram: since 1 July 2002 Phase 3: Admissibility	Art. 15 communication
Ukraine¹	25 Apr. 2014	“Maidan” protests context: from 21 Nov. 2013 to 22 Feb. 2014. Other events in Ukraine (Crimea and Donbas): since 20 Feb. 2014 - Phase 2: Subject-matter jurisdiction	Art. 12(3) declaration
Iraq/UK²	13 May 2014	Iraq conflict and occupation: WC by UK nationals from 2003-8 Phase 2: Subject-matter jurisdiction	Art. 15 communication
Palestine	16 Jan. 2015	Alleged crimes in occupied Palestinian territory, including East Jerusalem: since 13 June 2014 Phase 2: Subject-matter jurisdiction	Art. 12(3) declaration
Registered Vessels of the Comoros, Greece, and Cambodia	14 May 2013	31 May 2010 Israeli-raid of Humanitarian Aid Flotilla bound for Gaza	Art. 14 referral
Gabon	29 Sept. 2016	Alleged crimes since May 2016 surrounding presidential elections - Phase 2: Subject-matter jurisdiction	Art. 14 referral
Concluded	The OTP has concluded preliminary examinations of situations in Venezuela, the Republic of Korea and Honduras , declining in each case to open an investigation.		

¹Ukraine lodged article 12(3) declarations on 17 April 2014 and 8 September 2015, accepting ICC jurisdiction over alleged crimes committed on its territory from 21 November 2013 to 22 February 2014 and from 20 February 2014 onward.

²Reopened by the ICC prosecutor—following 2006 closure—after receiving new information alleging responsibility of United Kingdom officials for war crimes involving systematic detainee abuse in Iraq from 2003 until 2008.

3. Arrest Warrants

- **31** arrest warrants and **9** summonses to appear have been made public to date.
- There are **16** outstanding arrest warrants against **15** individuals.

Outstanding Arrest Warrants

1. **Joseph Kony (Uganda):** At large since July 2005 (CAH, WC)
2. **Vincent Otti (Uganda):** At large (presumed dead) since July 2005 (CAH, WC)
3. **Sylvestre Mudacumura (DRC):** At large since July 2012 (WC)
4. **Ahmad Muhammad Harun (Sudan):** At large since April 2007 (CAH, WC)
5. **Ali Muhammad Ali Abd-Al-Rahman (Sudan):** At large since April 2007 (CAH, WC)
6. **Omar Hassan Ahmad Al-Bashir (Sudan):** At large since March 2009 (CAH, WC)
7. **Omar Hassan Ahmad Al-Bashir (Sudan):** At large since March 2009 (2nd arrest warrant 2010) (CAH, WC, Gen.)
8. **Abdel Raheem Muhammad Hussein (Sudan):** At large since March 2012 (CAH, WC)
9. **Abdallah Banda Abakaer Nourain (Sudan):** At large since September 2014 (WC)
10. **Saif Al-Islam Gaddafi (Libya):** At large since June 2011 (CAH)
11. **Al-Tuhamy Mohamed Khaled (Libya):** At large since April 2013 (CAH, WC)
12. **Mahmoud Mustafa Busayf Al-Werfailli (Libya):** At large since August 2017 (WC)
13. **Simone Gbagbo (Côte d'Ivoire):** At large since February 2012 (CAH)
14. **Walter Osapiri Barasa (Kenya):** At large since August 2013 ((Article 70 (1)(c))
15. **Paul Gicheru (Kenya):** At large since March 2015 (Article 70(1)(c))
16. **Philip Kipkoech Bett (Kenya):** At large since March 2015 (Article 70(1)(c))

Arrest Warrants by Country

Uganda

In 2004, Uganda invited the ICC to investigate an ongoing decades-long conflict between the Lord's Resistance Army and the government. In 2005, the ICC issued arrest warrants for five senior LRA members. One of them, Ongwen, is currently on trial. Two arrest warrants were withdrawn following the deaths of the suspects.

1. Joseph Kony (CAH, WC, 2005) - At large.

Arrest warrant: 8 July 2005; Unsealed: 13 October 2005.

2. Dominic Ongwen (CAH, WC, 2005) - In ICC custody.

Arrest warrant: 8 July 2005; Unsealed: 13 October 2005; Trial opened: 6-7 December 2016.

3. Vincent Otti (CAH, WC, 2005) - At large.

Arrest warrant: 8 July 2005; Unsealed: 13 October 2015; Presumed deceased: 2008 (Court awaiting official confirmation of death before terminating proceedings).

Democratic Republic of Congo (DRC)

The conflict in the DRC is one of the world's deadliest since World War II. The ICC's first ever investigation opened in 2004 and has focused on the leaders of several armed militia and rebel groups suspected of war crimes and crimes against humanity.

1. Sylvestre Mudacumura (WC, 2012) - At large.

Arrest warrant: 13 July 2012.

2. Bosco Ntaganda (CAH, WC, 2006) - In ICC custody.

Arrest warrant: 22 August 2006; Unsealed: 28 April 2008; Second arrest warrant: 13 July 2012; Trial opened: 2 September 2015.

3. Thomas Lubanga Dyilo (WC, 2006) - In the custody of the DRC, serving ICC sentence; Reparations stage.

Arrest warrant: 10 February 2006; Unsealed: 17 March 2016; Trial opened: 26 January 2009.

4. Germain Katanga (CAH, WC, 2007) - In the DRC custody, facing national prosecution; Reparations stage.

Arrest warrant: 2 July 2007; Unsealed: 18 October 2007; Trial opened: 24 November 2009.

5. Mathieu Ngudjolo Chui (CAH, WC, 2007) - Acquitted, deported to the DRC.

Arrest warrant: 6 July 2007; Unsealed: 7 February 2008; Trial opened: 24 November 2009.

6. Callixte Mbarushimana (CAH, WC, 2010) - Released from ICC custody. Case closed.

Arrest warrant: 25 September 2010; Unsealed: 11 October 2010.

Central African Republic I & II (CAR)

The Central African Republic has experienced several periods of armed conflict. The ICC has opened two investigations into alleged war crimes and crimes against humanity, focusing on crimes committed from 2002 to 2003 and crimes committed since 2012.

1. Jean-Pierre Bemba Gombo (CAH, WC, 2008) - Convicted; Appeals stage.

Arrest warrant: 23 May 2008; Unsealed: 24 May 2008; Trial opened: 22 November 2010.

2. Jean-Pierre Bemba Gombo (Article 70(1)(b) & (c), 2013)³ - Convicted; Appeals stage.

Arrest warrant: 20 November 2013; Unsealed: 28 November 2013; Trial opened: 29 September 2015.

³Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido are allegedly criminally responsible for committing several offences against the administration of justice, including the following counts: (i) Presenting evidence that the party knows to be false or forged to the Court in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* (Article 70(1)(b) of the Statute); and, (ii) Corruptly influencing a witness to provide false testimony in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* (Article 70(1)(c) of the Statute).

3. Jean-Jacques Mangenda Kabongo (Article 70 (1)(b) & (c), 2013) - Convicted; Appeals stage.
Arrest Warrant: 20 November 2013; Unsealed: 28 November 2013; Trial opened: 29 September 2015.
4. Aimé Kilolo Musamba (Article 70 (1)(b) & (c), 2013) - Convicted; Appeals stage.
Arrest warrant: 20 November 2013; Unsealed: 28 November 2013; Trial opened: 29 September 2015.
5. Fidèle Babala Wandu (Article 70 (1)(b) & (c), 2013) - Convicted; Appeals stage.
Arrest warrant: 20 November 2013; Unsealed: 28 November 2013; Trial opened: 29 September 2015.
6. Narcisse Arido (Article 70 (1)(b) & (c), 2013) - Convicted; Appeals stage.
Arrest warrant: 20 November 2013; Unsealed: 28 November 2013; Trial opened: 29 September 2015.

Darfur, Sudan

Although Sudan is not a party to the Rome Statute, Darfur fell under ICC jurisdiction in March 2005 after the UN Security Council referred the situation to the ICC prosecutor. The investigation has led to five ICC cases and heightened tensions.

1. **Ahmad Muhammad Harun (CAH, WC, 2007) - At large**
Arrest warrant: 27 April 2007.
2. **Ali Muhammad Ali Abd-Al-Rahman (“Ali Kushayb”) (CAH, WC, 2007) - At large**
Arrest warrant: 27 April 2007.
3. **Omar Hassan Ahmad Al-Bashir (CAH, WC, Gen. 2009, 2010) - At large**
Arrest warrant: 4 March 2009; Second Arrest warrant: 12 July 2010.
4. **Abdel Raheem Muhammad Hussein (CAH, WC, 2012) - At large**
Arrest warrant: 1 March 2012.
5. **Abdallah Banda Abakaer Nourain (WC, 2014) - At large.**

Summons to appear: 27 August 2009; Summons to appear unsealed: 15 June 2010;
First voluntary appearance: 17 June 2010; Arrest warrant: 11 September 2014.

Libya

The situation in Libya was referred to the ICC by the UN Security Council in February 2011, in the wake of alleged crimes against humanity after the 2011 popular demonstrations. The ICC has issued five arrest warrants in the Libya situation, however, one was withdrawn due to the death of the suspect.

1. Saif Al-Islam Gaddafi (CAH, 2011) - At large.

Arrest warrant: 27 June 2011.

2. Abdullah Al-Senussi (CAH, 2011) - ICC case inadmissible, in Libyan custody.

3. Al-Tuhamy Mohamed Khaled (CAH, WC 2013) - At large.

Arrest warrant: 18 April 2013; Unsealed: 24 April 2017.

4. Mahmoud Mustafa Busayf Al-Werfalli (WC, 2017) - At large.

Arrest warrant: 15 August 2017.

Côte d'Ivoire

Following post-election violence in 2010-11, an ICC investigation was opened in the situation of Côte d'Ivoire. Its former President and Minister of youth are defendants in an ongoing ICC trial in The Hague.

1. Laurent Koudou Gbagbo (CAH, 2011) - In ICC custody, trial ongoing.

Arrest warrant: issued 23 November 2011; Unsealed: 30 November 2011; Trial opened: 28 January 2016.

2. Charles Blé Goudé (CAH, 2011) - In ICC custody, trial ongoing.

Arrest warrant: 21 December 2011; Unsealed: 30 September 2013; Decision to join Gbagbo and Blé Goudé cases: 11 March 2015; Trial opened: 28 January 2016.

3. Simone Gbagbo (CAH, 2012) - At large (in custody in Côte d'Ivoire).

Arrest warrant: 29 February 2012; Unsealed: 22 November 2012.

Kenya

After the 2007 elections in Kenya, widespread violence ensued, resulting in over 1000 dead, 600,000 displaced and hundreds sexually assaulted. In March 2010, the ICC started its investigation into alleged crimes committed during the post-election period.

1. Walter Osapiri Barasa (Article 70 (1)(c), 2013) - At large.

Arrest warrant: 2 August 2013; Unsealed: 2 October 2013.

2. Paul Gicheru (Article 70(1)(c), 2015) - At large.

Arrest warrant: 10 March 2015; Unsealed: 10 September 2015.

3. Philip Kipkoech Bett (Article 70(1)(c), 2015) - At large.

Arrest warrant: 10 March 2015; Unsealed: 10 September 2015.

Mali

In July 2012, Mali referred the situation in its territory to the ICC in response to an armed conflict in the north between government forces and various rebel groups. The ICC preliminary examination led the ICC to formally open an investigation.

1. Ahmad al-Faqi al-Mahdi (WC, 2015) - Convicted, Reparations stage.

Arrest warrant: issued 18 September 2015; Trial opened: 22 August 2016.

Confirmed deceased suspects

1. Okot Odhiambo (CAH, WC, 2005) - Deceased 2013, proceedings terminated 2015.

2. Raska Lukwiya (CAH, WC, 2005) - Deceased 2006, proceedings terminated 2007.

3. Muammar Gaddafi (CAH, 2011) - Deceased 2011, proceedings terminated 2011.

4. Saleh Mohammed Jerbo Jamus (WC, 2009) - Deceased 2013, proceedings terminated 2013.

4. Summonses to appear

Kenya

1. Uhuru Muigai Kenyatta - Summons to appear: 8 March 2011; charges confirmed and then withdrawn
2. Francis Kirimi Muthaura - Summons to appear: 8 March 2011; charges confirmed and then withdrawn
3. Mohammed Hussein Ali - Summons to appear: 8 March 2011; charges not confirmed
4. William Samoei Ruto - Summons to appear: 8 March 2011; charges confirmed, but vacated
5. Henry Kiprono Kosgey - Summons to appear: 8 March 2011; charges not confirmed
6. Joshua Arap Sang - Summons to appear: 8 March 2011; charges confirmed, but vacated

Darfur, Sudan

1. Abdallah Banda Abakaer Nourain - first appearance on 17 June 2010; Summons to appear: 27 August 2009.
2. Bahar Idriss Abu Garda - declined to confirm charges on 8 February 2009; Summons to appear: 7 May 2009.

5. Overview

Outstanding arrest warrants (16, against 15 individuals)	<u>DRC</u> (1) Sylvestre Mudacumura; <u>Uganda</u> (2) Joseph Kony; (3) Vincent Otti (<i>believed to be deceased</i>); <u>Darfur, Sudan</u> (4) Ahmad Muhammad Harun; (5) Ali Muhammad Ali Abd-Al-Rahman ("Ali Kushayb"); (6) Omar Al-Bashir (<i>warrant 1: WC; CAH</i>); (<i>warrant 2: adding GEN</i>); (7) Abdel Raheem Muhammad Hussein; (8) Abdallah Banda Abakaer Nourain; <u>Libya</u> (9) Saif Al-Islam Gaddafi; (10) Al-Tuhamy Mohamed Khaled; (11) Busayf Al-Werfaili; <u>Côte d'Ivoire</u> (12) Simone Gbagbo; <u>Kenya</u> (13) Walter Osapiri Barasa; (14) Paul Gicheru; and (15) Philip Kipkoech Bett
Confirmation of charges phase	
Decline to confirm charges/ Case withdrawn	<u>DRC</u> Callixte Mbarushimana-Chamber declined to confirm the charges <u>Darfur, Sudan</u> Bahar Idriss Abu Garda- Chamber declined to confirm the charges <u>Kenya</u> Uhuru Kenyatta-decision on the withdrawal of charges-13 March 2015 William Ruto and Joshua Sang – case terminated on 5 April 2016
Charges confirmed, awaiting trial start	<u>Darfur, Sudan</u> Abdallah Banda Abakaer Nourain – Trial opening vacated pending the accused arrest or voluntary appearance
Ongoing trial phase	<u>DRC</u> Ntaganda – Trial opened 2 September 2015 <u>Côte d'Ivoire</u> Gbagbo and Blé Goudé – Trial opened 28 January 2016 <u>Uganda</u> Dominic Ongwen- Trial opened 6 December 2016
Sentencing and appeals phase: conviction or acquittal	<u>CAR</u> Jean Pierre Bemba Gombo (CAH, WC) – Conviction on 21 March 2016. Sentencing hearing took place on 21 June 2016. Appeals stage. Bemba, Kilolo, Mangenda, Babala and Arido – Conviction for all five accused on 19 October 2016. Sentenced collectively to nearly seven years' imprisonment for offences against the administration of justice. Due to time served and suspended sentences, all but Bemba walked free from Court. Two fines to be paid to the TFV were ordered.
Acquittal confirmed	<u>DRC</u> Mathieu Ngudjolo Chui – Acquittal confirmed on 24 February 2015
Reparations	<u>DRC</u> Thomas Lubanga Dyilo – Reparations implementation stage. Conviction confirmed on 1 December 2014. Transferred to the DRC on 19 December 2012 to complete sentence. Germain Katanga –Conviction confirmed on 13 November 2015. Transferred to the DRC on 19 December 2015, completing sentence on 18 January 2016. Facing domestic prosecution for related crimes. Individual and collective reparations were ordered by the Chamber on 23 March 2017. Katanga is liable for 1 million dollars. <u>Mali</u> Ahmad Al Faqi Al Mahdi- Conviction and sentencing on 27 September 2016. On 17 August 2017, Trial Chamber VIII issued a Reparations order. Al Mahdi is liable for 2.7 million euros in expenses for individual and collective reparations.

6. In the Courtroom: the ICC in 2017

The following articles, originally appearing on the Coalition for the ICC's website over the course of the ICC judicial year, provide an overview and timeline of the developments in the three trials running at the International Criminal Court in 2017—and more on cases and situations at the pre-trial and reparations phases.

January to February: Prosecution witnesses headline three ICC trials

Published on the Coalition's website on 14 February 2017⁴

Ntaganda: Prosecution case nears end; Judges clarify jurisdiction over child soldiers

The ICC trial of former Congolese militia leader Bosco Ntaganda, charged with numerous counts of war crimes and crimes against humanity, got off to a fast start in 2017 as judges put to rest what had been a contested issue since the pre-trial stage: that the ICC does have jurisdiction to try individuals for the war crimes of rape and sexual slavery of child soldiers in their own forces. Ntaganda and his defense team appealed the decision.

The proceedings then entered the final stages of the prosecution case, during which another witness was refused protective measures - other than expert witnesses, up until that point only three prosecution witnesses had testified without such measures. A week later the witness, a former Congolese judge, went on to become one of the only witnesses to publicly testify against Ntaganda up until that point. A former UN investigator also served as an expert witness to testify to allegations of reports of widespread crimes by Ntaganda's forces.

Ongwen: Witnesses discuss LRA command structure; Ugandans follow from afar

The ICC trial of Dominic Ongwen, charged with 70 counts of war crimes and crimes against humanity over conduct as a Lord's Resistance Army (LRA) commander in northern Uganda, picked up again in January after opening in December 2016. The proceedings

⁴ <http://www.coalitionfortheicc.org/news/20170214/courtroom-prosecution-witnesses-headline-three-icc-trials>

were streamed to not only affected communities in northern Uganda, but also Ongwen's home village, prompting strong reactions from various groups.

In the courtroom, the prosecution brought forward an LRA expert to provide context for the conflict as well as LRA beliefs and methods. The remainder of the month saw prosecution witnesses continue to testify, with several recounting their experiences with the government intercepting and interpreting LRA radio transmissions, as well as an LRA insider explaining codes used by the group. In the first week of February, the second former LRA radio operator to testify for the prosecution described LRA leader Joseph Kony as unpredictable, sometimes ordering and then halting civilian abductions. He also spoke about promises of amnesty from the Ugandan government in exchange for defection from the group, while claiming Kony used the threat of ICC prosecution to discourage commanders from leaving him.

The defense team was yet to present its evidence. The trial, after a brief recess, resumed February 27.

Gbagbo/Blé Goudé: Testimony on post-election violence; Judges urge trial efficiency

The ICC trial of Laurent Gbagbo and Charles Blé Goudé, arising from the 2010-11 post-electoral violence (PEV) situation in Côte d'Ivoire, resumed on 6 February 2017 after budgeting constraints related to conducting three simultaneous ICC trials saw proceedings suspended for two months. Upon resumption, the presiding judge announced a series of steps to be taken to ensure a more timely and efficient trial process going forward, such as reducing the number of witnesses and questioning time.

In February, the defense continued to cross-examine a prosecution witness claiming to be present during the electoral violence in Abobo and possessing video evidence. The defense challenged the credibility of the witness, alleging that he and the prosecution falsely represented the nature and relevance of the footage. The first half of February also saw the questioning of a retired soldier who alleged hearing orders to "kill" while eavesdropping on radio transmissions during the PEV crisis; and the questioning of a police officer who was in Abidjan at the time, including about any special instructions he might have received.

February to May: Amid trials, ICC makes inroads for global justice

Published on the Coalition's website on 10 May 2017⁵

Ntaganda: Prosecution case and victims' views; Defense eyes 'No case to answer'

February in the ICC war crimes and crimes against humanity trial of former Patriotic Forces for the Liberation of Congo (FPLC) leader Bosco Ntaganda saw the prosecution present its final witness. The prosecution witness testified via video link about academic records of some of the alleged child soldiers who previously testified during the trial. The Ntaganda defense objected to the testimony, aimed at establishing age at the time of being forced to quit school and join the FPLC, by arguing that its late submission prevented proper cross-examination of the earlier witnesses.

Early March saw five victims of alleged FPLC crimes in the Democratic Republic of Congo (DRC) present their views, with each stating expectations for reparations in the event of a guilty verdict. In April three additional victims testified as witnesses about their and their families' experiences, including of torture, rape, and murder.

A February request by the defense that ICC judges conduct site visits in the DRC to gain more in-depth knowledge of logistical and geographic aspects raised in witness testimonies was rejected by judges, who cited a lack of clarity as to the visit's added-value. The visit was intended to precede the start of the defense case in May.

The defense in April made clear that it intended to file a 'no case to answer' motion, which, if successful, could result in termination of the case without the defense even presenting its evidence.

Ongwen: Deemed fit for trial, accused faces prosecution witnesses; Court visits Uganda

In an ongoing issue since 2016, trial judges in the case against Dominic Ongwen decided that according to findings by defense psychiatric experts, the former Lord's Resistance Army (LRA) commander is mentally fit to stand trial. The defense previously suggested it would argue grounds on which an accused person can be found not criminally responsible.

⁵ <http://www.coalitionfortheicc.org/news/20170510/courtroom-amid-trials-icc-making-inroads-global-justice>

The widespread debate that followed, including within civil society, addresses whether an LRA child abductee like Ongwen can be held to account for crimes later committed as an adult.

The prosecution's case meanwhile continued. According to one former member of the Ugandan armed forces, the military began intercepting LRA communications after hearing of an anticipated ICC investigation. In those recordings, the witness at one point identified Ongwen telling LRA leader Joseph Kony details of an attack on Odek camp for internally displaced persons (IDPs). A contentious cross-examination led to the presiding judge intervening on several occasions. The witness later attributed his conduct to a fear of being arrested upon returning, while the prosecution reassured him of his immunities under international law.

The next two witnesses, LRA insiders, shared details of attacks allegedly ordered by Ongwen on the Odek and Lukodi IDP camps as well as of the alleged planning of an attack on a camp in Pajule. One further testified about LRA deputy leader and ICC suspect Vincent Otti's supposed killing by fellow commanders over his interest in defection.

Some prosecution witnesses provided a picture of life in the LRA. The defense doubted one witness claiming to have been Ongwen's bodyguard, while another witness testified about LRA initiation practices following abduction.

Gbagbo & Blé Goudé: Debates and "central witness" color prosecution case

The trial of former Ivorian President Laurent Gbagbo and youth leader Charles Blé Goudé continued, with one prosecution witness failing to testify as judges began considering a series of debates between parties on issues of protective measures and protection from self-incrimination. Meanwhile, a prolonged cross-examination took place between the defense and a former senior-level Ivorian police officer who testified about radio communications and command structures. The prosecution also presented a video showing Gbagbo delivering belligerent rhetoric to his troops and supporters.

After a brief recess to deal with a potential conflict of interest between a witness and his anticipated counsel, the trial resumed with a leader of the Ivorian Gendarmerie forces – and member of Gbagbo's inner circle – testifying. The presiding judge urged the witness to be truthful when he appeared evasive on certain lines of questioning; he eventually produced information regarding frictions in Gbagbo's alleged command structure. The defense cross-examination ended sooner than expected.

The next prosecution witness to testify was the former head of the Security Operations Command Center (CECOS) – described as a “central witness” and the only officer in charge of CECOS from 2005 to 2011. The former head of CECOS testified about, and was cross-examined on, a number of issues: his prosecution by the regime that replaced Gbagbo’s; the structure of the CECOS; meetings between Gbagbo and senior officers; and the 16 December 2010 march that resulted in numerous civilian casualties.

After the testimony of a former Gbagbo supporter, the trial adjourned until 24 April.

What else happened in the Rome Statute system?

On 22 March 2017, Jean-Pierre Bemba Gombo and four associates were sentenced collectively to nearly seven years’ imprisonment for offenses against the administration of justice under Article 70 of the Rome Statute. The Court’s first such conviction and sentence was followed by further developments around witness-tampering in the Bosco Ntaganda trial, with the prosecution and defense sparring over the propriety of the prosecutor’s investigation of Article 70 allegations while prosecuting Ntaganda for crimes against humanity and war crimes. The defense called for a stay of proceedings, and while judges rejected the request, they did bar the prosecution, unless specifically authorized by judges, from relying on any material obtained during its Article 70 investigation in the core crimes trial.

The main Bemba case, during which witness-tampering allegations arose, meanwhile entered the reparations stage, although the path to an order benefiting victims could depend on any appeal on the judgment and sentence. In the Ahmad al-Faqi al-Mahdi case from the prosecutor’s Mali situation, the Court continued to receive submissions and reports, including by civil society, on how to implement reparations related the Court’s first destruction of cultural property conviction.

Meanwhile, at the reparations implementation stage, after the Trust Fund for Victims (TFV) submitted information to judges detailing how it intends to implement the collective reparations process approved in the Thomas Lubanga case following Lubanga’s 2012 war crimes conviction, judges in April instructed the TFV to continue by identifying victims who will benefit as well as local implementing partners for the envisioned programs.

The previous month the Court issued its second reparations order, this time for 297 victims of convicted former Congolese rebel leader Germain Katanga. Each will receive USD \$250 in symbolic compensation in addition to benefiting from collective programs, with Katanga himself held personally liable for USD \$1 million of the overall USD \$3.75 million award. The defense gave its notice of appeal in April.

In late February/early March, the ICC President visited ongoing general assistance projects for affected communities in northern Uganda, implemented by the TFV and local partners. The TFV, which is charged with implementing Court-ordered reparations as well as with providing general assistance to communities prior to conviction, released its periodic newsletter at the start of May to report its progress in both regards.

While proceedings at the Court carried on, attention also turned toward several ICC suspects still-at-large. In the case of the Court's most notorious suspect, Sudanese President Omar al-Bashir, the ICC released an official report in April on al-Bashir's travels to ICC and non-ICC member states since October 2016, as well as on the Court's response. As recently as late March, al-Bashir had visited member state Jordan for the Arab League Summit.

Meanwhile, a domestic court in Côte d'Ivoire acquitted ICC suspect and former First Lady Simone Gbagbo of crimes against humanity for her alleged role in the country's 2010-11 post-election violence, pushing focus onto reported flaws in the domestic process as well as onto Gbagbo's outstanding ICC arrest warrant. And following indications that the ICC Prosecutor would prioritize the Libya investigation in 2017, the Court made public a 2013 arrest warrant against a senior security forces officer in the Muammar Gaddafi regime – Al-Tuhamy Mohamed Khaled – in the hopes of mobilizing cooperation around his arrest.

Further delving into issues of non-cooperation, on 7 April ICC judges heard South Africa's explanation for its failure to arrest al-Bashir during his visit to the country for the African Union summit in June 2015. The decision by judges would address whether South Africa's concerns were adequately heard by the Court prior to the incident, and in turn, whether South Africa's actions amounted to a violation to be dealt with by the Court's governing body of states or the UN Security Council (see next article).

May to July: Key junctures as ICC enters summer recess

Published on the Coalition's website on 28 July 2017⁶

Ntaganda: Defense strategy takes center stage

The Bosco Ntaganda defense opened on 29 May after the prosecution and victims' representatives finished presenting their respective cases. Ntaganda is charged with five counts of crimes against humanity and thirteen counts of war crimes allegedly committed in the Ituri region of eastern DRC while he was deputy military head of the rebel group Patriotic Forces for the Liberation of Congo (FLPC).

In April, the ICC had rejected Ntaganda's request to stay proceedings, in which he alleged that he could no longer be ensured a fair trial due to the Prosecutor's simultaneous investigation into Article 70 offenses against administration of justice. Judges did, however, bar the use during proceedings of evidence collected in the context of Article 70 absent their authorization.

Judges also in June rejected a defense application to move the case toward an early termination over a weak prosecution case, and while allowing Ntaganda to appeal the decision, rejected his accompanying request to halt the trial in the meantime.

The day after Ntaganda's testimony began, the Appeals Chamber settled a long-running issue in the case, confirming that the former FLPC deputy chief of staff could be tried at the ICC on charges of rape and sexual slavery of members of his own forces.

In the early stages of his testimony, Ntaganda claimed that the Union of Congolese Patriots militia in which he was a top commander rejected underage recruits, maintaining that training camps enforced screening policies including visual examination and assignment of small tasks. He did not mention what age was considered acceptable for recruitment into the militia.

Ntaganda was permitted to testify for six weeks, and would resume his testimony after judicial recess.

⁶ <http://www.coalitionfortheicc.org/news/20170728/courtroom-key-junctures-icc-enters-summer-recess>

Ongwen: Prosecution case takes shape as witnesses testify

After opening in earnest in January 2017, the trial of former Lord's Resistance Army (LRA) commander Dominic Ongwen - on 70 counts of war crimes and crimes against humanity in Northern Uganda - reached the heart of the prosecution case prior to the Court's summer recess, with numerous witnesses testifying in The Hague and via video-link.

One witness testified about her duties as a babysitter, assigned soon after her abduction by the LRA. According to the witness, who was expected to carry children under her care whenever the unit changed location, she was raped by a fighter in Ongwen's household at age 13, testifying that she then became the man's wife. A former LRA intelligence officer told judges that Ongwen was in charge of "distributing" abducted girls and women to senior fighters.

Another witness told the Court that even adults were abducted and used to carry looting spoils, while younger abductees were those most often used to kill those attempting escape. During questioning by the common legal representative of victims, the witness referred to the day he began whistling while carrying out his assignments for the LRA.

In June, a survivor of an LRA attack on the Lukodi internally displaced persons (IDP) camp testified that Ugandan soldiers assigned to protect them fled when rebels attacked, adding that soldiers only pursued the rebels the following morning and did not question her when she was hospitalized following the attack. Another witness later testified that militia guarding the Abok IDP camp similarly failed to confront the LRA during an attack.

An Acholi chief recounted meeting Ongwen before the attack on the Pajule IDP camp - to negotiate peace between the LRA and government forces. The Acholi chief testified that government and LRA soldiers shot at him and other traditional leaders attempting to negotiate peace, while the defense suggested the chief may have been an LRA collaborator during its cross-examination.

A former LRA abductee claiming to have escaped the rebel group after a year and nine months testified that he returned to insults in his community and challenges resuming school. The witness added that he was advised by former LRA fighters at a rehabilitation clinic to lie about the duration of his LRA service in order to extend treatment.

Prior to the ICC summer recess in July, the Court heard a former fighter-turned-witness testify that Ongwen's was one of three groups to target the Pajule IDP camp in

2003, with Ongwen's group abducting civilians and looting the trading center. Another described participating, with the defense challenging the claim, in alleged attacks led by Ongwen against the Odek and Abok IDP camps, stating that the purpose of the Odek attack was specifically to re-stock exhausted food supplies.

Gbagbo & Blé Goudé: (Re)evaluating procedures and defense rights

Judges were busy in the months ahead of the Court's summer recess on important mid-trial procedural issues in the case against former Ivorian President Laurent Gbagbo and former youth leader Charles Blé Goudé. Both are standing trial at the ICC over their roles in an alleged common plan to consolidate power after Gbagbo's 2010 presidential election loss.

In its request that judges allow previously recorded testimony in place of live testimony, under Rule 68(3), for seven witnesses providing context for a 25 February 2011 attack in Yopougon, the prosecution argued that the measure would speed up lengthy trial proceedings while leaving the defense ample time to cross-examine the witnesses.

The Blé Goudé defense responded that Rule 68(3) had not improved efficiency of the case to that point, while the Gbagbo defense argued that recorded testimony on contested facts at the heart of the charges would be improper. In April, judges rejected the Gbagbo argument in principle, but agreed that the efficiency argument had not proved compelling and rejected the prosecution request.

In June, trial judges further elaborated on Rule 68(3), deciding that in principle prior recorded testimony can include written statements.

On 19 July 2017, the ICC Appeals Chamber delivered its judgement on a long-running issue in the case: Gbagbo's continued detention. Judges reversed the Trial Chamber's 11th decision refusing Gbagbo's conditional release, finding a number of potentially important errors. Presiding Judge Piotr Hofmanski pointed to a failure by the Trial Chamber to consider the length of time that Gbagbo had already spent in detention - since 2011 - when it assessed the risks of his release.

Judge Hofmanski added that the Chamber should have considered the potential for Gbagbo's advanced age to reduce rather than raise the chances of absconding, and that his denial of responsibility for the ICC charges against him should not have factored into the decision. The Trial Chamber was directed to determine anew whether Gbagbo should be released from detention, with or without conditions.

Meanwhile in a Court-wide initiative, a week before the judgment the plenary of ICC judges adopted amendments to the Court's Regulations, introducing several procedural innovations to make the Court's appeals more efficient.

The trial was scheduled to resume on 28 August, with all remaining prosecution witnesses expected to testify appearing at that point.

From still-at-large to reparations: What else is happening?

In June, ICC suspect Saif al-Islam Gaddafi was reportedly released from custody in Libya under a recent amnesty law. Gaddafi is the subject of a 2011 ICC arrest warrant for two counts of crimes against humanity within the Court's UN Security Council-referred Libya situation. Despite references to amnesty, Tripoli's acting General Prosecutor argued Gaddafi would not qualify due to the severity of his alleged crimes during the 2011 civil war in Libya.

With Gaddafi's whereabouts unknown, the ICC Prosecutor on 14 June appealed to Libyan authorities, the Security Council, all states, whether ICC members or not, and all relevant organizations to help secure Gaddafi's immediate arrest and surrender to the ICC. The Prosecutor also called for cooperation with the arrest and surrender of former security chief Al-Tuhamy Mohamed Khaled.

While some have advocated that the ICC collaborate with the UN and UN-backed interim government in Libya to secure Gaddafi's transfer to The Hague, others were disappointed ICC judges would not press the Security Council to deal with non-cooperation in the Security Council-referred Darfur investigation.

On 6 July, ICC judges found the South African government in breach of its legal obligation to arrest ICC suspect and Sudanese President Omar al-Bashir when he visited the country for an African Union summit in 2015. Judges declined to refer the matter to Security Council, citing ineffectiveness of such a response in past instances of non-cooperation with al-Bashir's arrest. The ruling was subject to appeal by either party.

The ruling came as the ICC was receiving submissions from Jordan - one of only three ICC member states in the Middle East - on its decision to allow al-Bashir to attend the 28th Arab League summit in Amman in late March. The Jordanian government, notified by the ICC on two occasions of its obligation to arrest and surrender the ICC suspect, submitted as early as March its position that as a sitting head-of-state al-Bashir enjoys immunity under customary international law. South African domestic courts, and now the ICC Pre-Trial Chamber, have rejected a very similar argument.

Last year the ICC found the Kenyan government had failed to cooperate with the ICC investigation into violence during Kenya's 2007-08 post-elections crisis, only months after judges cited likely witness interference in their decision to terminate the last remaining core crimes case out of the situation.

One of those wanted for allegedly bribing witnesses in the Kenya situation - Philip Kipkoech Bett - is now challenging the ICC arrest warrant against him on the basis of fair trial rights as well as the Rome Statute complementarity principle. In late July a senior prosecutor told Kenya's High Court that the Kenyan government was unwilling to prosecute Bett and co-ICC suspect Paul Gicheru in his application to execute the ICC warrants against the two.

The Court's work on the other end of the spectrum - reparations for victims following conviction - saw the Trust Fund for Victims (TFV) Board of Directors decide in May to allocate \$1,000,000 USD to pay for the individual and collective awards ordered in the Germain Katanga case. Katanga was convicted in 2014 of committing war crimes and crimes against humanity during an attack against Bogoro village in Ituri, eastern DRC, and sentenced to 12 years in prison. The draft implementation plan submitted in July looks to provide the full amount for which Katanga, deemed indigent, was found personally liable.

July to October: Procedures and witnesses tested in three ICC trials

Published on the Coalition's website on 9 November 2017⁷

Ntaganda: Defense case continues amid witness concerns

Bosco Ntaganda's testimony in his own defense resumed on 29 August 2017 after the Court's summer recess. Ntaganda is charged with five counts of crimes against humanity and thirteen counts of war crimes allegedly committed in the Ituri region of eastern Democratic Republic of the Congo (DRC) while he was deputy military head of the rebel group Patriotic Forces for the Liberation of Congo (FPLC).

When cross-examined by the prosecution on his knowledge of Congolese militia child recruits involved in Ugandan training exercises in 2000, Ntaganda stated that he and other senior members were trained at the time in Jinja, miles away from recruit trainings in Kyankwanzi. Ntaganda also testified that he was not aware at the time of international efforts to demobilize underage fighters in Kyankwanzi, where the prosecution argued 200 to 300 of 700 recruits came from Ntaganda's Chui Mobile Force.

On issues related to command responsibility, Ntaganda testified in September on his efforts in the FPLC as a "peacemaker and disciplinarian," denying knowledge of attacks, ethnically motivated or otherwise, by his forces against the civilian population, and maintaining that he acted decisively to punish violations in "the odd, isolated case." According to Ntaganda, these included pillaging, which the prosecution argued was condoned in lieu of salaries for fighters. The former FPLC deputy commander also denied murdering a priest and ordering troops to rape three nuns on grounds of suspected collaboration with rival Lendu combatants.

The last phase of Ntaganda's testimony focused on alleged witness interference. At the heart of the issue is a June 2015 decision by judges allowing the prosecution to access non-privileged conversations between detainees Ntaganda and Thomas Lubanga since March 2013, which the prosecution disclosed in November 2016 along with allegations that both Ntaganda and Lubanga attempted to interfere with and coach potential defense witnesses. Ntaganda argued that all such conversations were for the legitimate preparation of his defense case.

⁷ <http://www.coalitionfortheicc.org/news/20171106/courtroom-procedures-and-witnesses-tested-three-icc-trials>

After deciding in April that a fair trial would be possible despite defense claims that the prosecution had gained an improper advantage, judges discontinued courtroom questioning on the matter when it appeared to enter the domain of a witness-tampering investigation (Rome Statute article 70). Judges also lifted existing related restrictions on Lubanga's communications, enforced in the DRC following his transfer there in December 2015 to complete his ICC sentence.

On September 5, the ICC Appeals Chamber (AC) rejected Ntaganda's appeal on an earlier Trial Chamber (TC) decision in which judges denied a defense request to file a 'no case to answer' motion. The defense argued that the TC violated Ntaganda's right against self-incrimination and thus his right to a fair trial, but the AC found that the TC used its discretion in a fair and reasonable manner, and that a 'no case to answer' procedure is not the sole guarantee of a fair trial.

Following Ntaganda's testimony, the defense shortened its initial witness list from over 100 to 40. The move followed concerns from the defense about its trouble getting witnesses to appear.

Ongwen: Prosecution presents case to pin down responsibility

The ICC trial of Dominic Ongwen, former Sinia Brigade commander of the Lord's Resistance Army (LRA), opened in The Hague in December 2016, with prosecution witnesses dominating proceedings in 2017. Ongwen stands charged with 70 counts of war crimes and crimes against humanity allegedly committed in northern Uganda, and largely against internally displaced persons (IDP) camps.

The trial resumed after summer recess with the prosecution trying to ascertain Ongwen's role in the LRA and the degree and willingness of his command over his LRA forces. Testimony suggested that during ceasefire talks between Ugandan authorities and the LRA in 2006, Ongwen was encouraged, on more than one occasion, to leave the rebel armed group and release underage fighters. A Ugandan army colonel testified that nobody, himself included, could convince Ongwen to acquiesce.

Several witnesses specifically focused on Ongwen's alleged role in the attack against the Pajule IDP camp. One former LRA fighter testified about his abduction by the LRA and becoming a member of the battalion Ongwen allegedly commanded in the Pajule attack. Another former fighter testified that LRA commanders more senior than Ongwen were responsible for planning the Pajule attack. She also claimed that Ongwen was under arrest by the LRA at the time of the decision. A further witness claiming to have been abducted

during the Pajule attack stated that he had not seen or heard of Ongwen taking part in the attack.

A different former LRA fighter meanwhile testified about his experiences following alleged abduction by a battalion of Ongwen's Sinia Brigade, including shooting a gun for the first time during the attack on Odek in 2003, and being tasked with looting food supplies from Abok.

Witness testimony also addressed early interactions between Ugandan authorities and the ICC. A Ugandan intelligence official responsible for liaising with the ICC Office of the Prosecutor (OTP) testified that the government provided evidence on 15 LRA commanders, including Ongwen. On cross-examination, the defense questioned how the witness would have known which evidence to share with the OTP in 2004, prior to arrest warrants being issued, and probed his knowledge and mandate around alleged atrocities by Ugandan authorities at the time.

Other prosecution witnesses focused on LRA practices related to alleged sexual and gender-based crimes in the case, such as forced marriage; alleged initiation practices for LRA abductees; and the preparation of government-intercepted LRA radio communications for presentation in Court.

Gbagbo & Blé Goudé: Clarifying appeals and victims' participation procedures

According to the ICC Prosecutor's case, Laurent Gbagbo, former President of Côte d'Ivoire, and members of his inner circle, including co-defendant Charles Blé Goudé, created and executed a common plan to consolidate power after losing the country's 2010 presidential election. Both are charged with four counts of crimes against humanity in the trial that opened in January 2016.

The latest chapter on a continuing issue in the case—Gbagbo's detention—saw Trial Chamber (TC) judges decide in late September against interim release due to its finding that material circumstances would not reduce the risks associated with Gbagbo's requested release. The decision came after the Appeals Chamber (AC) reversed the TC's 11th such decision and ordered it to reassess the risks of absconding or obstructing proceedings against considerations such as Gbagbo's health, age and length of detention.

Gbagbo appealed the latest TC decision on 5 October, but the AC dismissed the appeal, noting that the defense had not complied with amended Court regulations on what should appear in appeals notices that do not require prior permission by judges.

Regarding procedures for participating victims, in October the TC ruled in favor of a request by the Legal Representative of Victims for family members to continue legal action on behalf of six deceased participating victims. The defense has sought leave to appeal the decision.

In their decision, judges disagreed with the Gbagbo defense that this would amount to an improper transfer of the “right” to express views and concerns, and referred to established Court practice in rejecting the suggestion that such matters should be governed by Ivorian civil law. In clarifying a procedure for similar future “resumption of action” applications, the judges agreed with the defense that such a procedure should maintain the right to raise objections.

Arrest warrants to reparations for cultural destruction: What else is happening?

The OTP’s continuing efforts to investigate alleged Rome Statute crimes committed in Libya since 2011 yielded a new ICC arrest warrant in August 2017. In issuing a warrant for Mahmoud Mustafa Busayf al-Werfalli for his direct involvement in seven rounds of executions leading to the deaths of 33 people between June 2016 and July 2017 in Benghazi or surrounding areas, the ICC Prosecutor conceded that al-Werfalli’s arrest and surrender would remain a challenge.

According to the ICC arrest warrant, al-Werfalli joined the Al-Saiqa Brigade after the former state forces unit became part of the post-Gaddafi Libyan National Army’s (LNA) “Operation Dignity” in Benghazi. The warrant states that since 2015 al-Werfalli has held a commanding role in Al-Saiqa. It is in this capacity that he stands suspected of murder as war crime, with purported video and audio evidence providing pre-trial judges reasonable grounds for the arrest warrant.

At the beginning of September 2017, the Prosecutor renewed the call for al-Werfalli’s surrender to the Court. The Prosecutor stressed Libya’s continuing obligation to cooperate with the arrest and surrender of the suspect absent an admissibility challenge from competent Libyan authorities and a decision by ICC judges suspending any such obligation.

The Prosecutor noted the LNA’s official statement that al-Werfalli had been arrested and was being investigated by a military prosecutor, but expressed concern about conflicting reports on his whereabouts, including some alleging that al-Werfalli has been involved in additional killings since the arrest warrant was issued.

The Court meanwhile continued to address challenges in the arrest of ICC suspect and Sudanese President Omar al-Bashir, wanted for alleged war crimes, crimes against humanity, and genocide in Darfur. Following a July ICC finding of non-compliance by the government of South Africa, the government of Jordan found itself having to explain its own failure to act on requests to arrest al-Bashir when he visited the ICC member state in March. The process continued into October with the government submitting sources of law cited in its defense of the non-arrest.

On the other side of the international justice process, in the ICC's Mali situation, Trial Chamber judges issued a reparations order in August following Ahmad al-Faqi al-Mahdi's 2016 guilty plea to the war crime of intentionally directing attacks against religious and historic buildings in Timbuktu.

Al Mahdi was found liable for €2.7 million in harms. In their decision, ICC judges highlighted that the destruction of cultural heritage "carries a message of terror and helplessness; destroys part of humanity's shared memory and collective consciousness, and renders humanity unable to transmit its values and knowledge to future generations."

Considering al-Mahdi indigent, the judges instructed the Trust Fund for Victims to help fund the collective and individual reparations in its draft plan expected by February 2018. Individual reparations are meant to benefit those economically dependent on the attacked buildings and those with damaged ancestral burial sites.

November: Moving forward on Burundi and Afghanistan situations

Apart from developments in cases already at the pre-trial, trial, appeals, and reparations phases at the ICC, 2017 saw two situations under preliminary examination—in Afghanistan and Burundi—advance to new stages with decisions by the ICC Prosecutor to request formal investigations. Regarding the situation in Burundi, ICC judges authorized the opening of an investigation in the days leading up to the government's 27 October withdrawal from the Rome Statute.

Quick look: ICC prosecutor requests investigation in Afghanistan

On 20 November 2017, the ICC prosecutor filed an official request for judicial authorization to open an investigation into war crimes and crimes against humanity allegedly committed by all sides to the conflict in the Islamic Republic of **Afghanistan**.⁸ The investigation, should it be approved by ICC judges, would cover crimes allegedly committed by individuals from any party to the conflict—irrespective of their nationality—on the territory of Afghanistan since 2003.⁹

The prosecutor also indicated that the investigation would look into war crimes related to the conflict in Afghanistan and allegedly committed on the territory of other ICC member states since 1 July 2002.

The situation in Afghanistan has been the focus of a preliminary examination by the ICC-OTP since 2007. The situation was assigned to an ICC Pre-Trial Chamber on 3 November 2017, following notification by the ICC Prosecutor of her decision to request authorization for a formal investigation.¹⁰ On 20 November, the ICC Prosecutor filed her official request.¹¹

According to the Prosecutor's request, there is a reasonable basis to believe war crimes and crimes against humanity were committed by the Taliban and its affiliated Haqqani Network, and that war crimes were committed by members of the Afghan National Security Forces, the United States' (US) armed forces, and the US Central Intelligence Agency. The

⁸ <https://www.icc-cpi.int/Pages/item.aspx?name=171120-otp-stat-afgh>

⁹ <http://www.coalitionfortheicc.org/news/20171107/reactions-icc-investigation-afghanistan>

¹⁰ https://www.icc-cpi.int/Pages/item.aspx?name=171103_OTP_Statement

¹¹ <https://www.icc-cpi.int/Pages/record.aspx?docNo=ICC-02/17-7-Red>

request argues that an ICC investigation would serve the interests of justice due to the gravity of the alleged crimes and the absence of relevant national criminal proceedings.¹²

The RS crimes alleged in the situation, whether committed by the Taliban and other rebel groups or by Afghan or foreign government forces, include: murder; persecution; gender crimes; intentionally directing attacks against civilians as well as against humanitarian personnel and protected objects; cruel treatment and torture; conscription of children; and sexual violence.

Since 2009, according to the UN in February 2017, fighting in Afghanistan killed 24,841 civilians and injured 45,347¹³, with 2016 proving the deadliest yet for children.¹⁴

Victims will have a chance to present their views before judges take a decision on whether the investigation request satisfies legal criteria under the RS—a decision that could take from 1-3 months from the date of the official request (20 November 2017).¹⁵

Quick look: ICC judges authorize investigation in Burundi

On 9 November—a year-and-a-half after the announcement of a preliminary examination into the situation in Burundi, and almost two weeks after Burundi’s withdrawal from the RS (27 October)—ICC Pre-Trial Chamber judges unsealed¹⁶ their decision¹⁷ authorizing a formal investigation into alleged crimes against humanity committed between 2015 and 2017 in Burundi or by its nationals.¹⁸

The request had been made under seal on 5 September in order to “*protect the integrity of the investigation and the life and well-being of victims and potential witnesses.*” With the matter still under seal, Pre-Trial Chamber III authorized the prosecutor’s request on 25 October, and as a measure to further mitigate possible risks, granted the Prosecutor’s additional request for a delay of 10 working days to notify states of the decision under RS article 18.

¹² https://www.icc-cpi.int/itemsDocuments/Afghanistan/171120-afgh-art_15-app-summ_ENG.pdf

¹³ https://unama.unmissions.org/sites/default/files/protection_of_civilians_in_armed_conflict_annual_report_2016_16_feb_2017_final.pdf

¹⁴ <http://www.un.org/apps/news/story.asp?NewsID=56113#.Whf1iUqnE2w>

¹⁵ https://www.icc-cpi.int/itemsDocuments/Afghanistan/171120-afgh-art_15-notice_ENG.PDF

¹⁶ <https://www.icc-cpi.int/Pages/item.aspx?name=pr1342>

¹⁷ <https://www.icc-cpi.int/Pages/record.aspx?docNo=ICC-01/17-9-Red>

¹⁸ <http://www.coalitionfortheicc.org/news/20171109/civil-society-welcomes-burundi-icc-investigation>

Most of the crimes that will be considered in the investigation have allegedly been perpetrated by state security forces against civilians opposed to Burundian President Pierre Nkurunziza's successful 2015 campaign for a third term. The Pre-Trial Chamber considered supporting materials, including victims' communications, and determined there was a reasonable basis to investigate alleged crimes against humanity including murder, imprisonment or severe deprivation of liberty, torture, rape, enforced disappearance, and persecution.

In its decision, the Pre-Trial Chamber noted estimates of at least 1,200 alleged killings, thousands illegally detained and tortured, and hundreds disappeared since April 2015, as well as the displacement of 413,490 persons between April 2015 and May 2017.

In authorizing the investigation, judges also found that the ICC would have jurisdiction to extend the investigation into possible RS crimes committed before 26 April 2015 or after the withdrawal (beginning and end of current investigation's temporal scope, respectively) if those crimes were related to the crimes allegedly committed while Burundi was a State Party.

The Pre-Trial Chamber also confirmed that the withdrawal did not discharge the government of Burundi from its obligation to cooperate with the ICC investigation and any resulting proceedings.

**November to December: Capping off 2017 in the ICC
courtroom**

Tune into www.coalitionfortheicc.org in December 2017!

7. Composition of the Court and the ASP

ICC Chambers

Pre-Trial Chamber I

Situations: Georgia, Côte d'Ivoire, Mali, Libya and the Situation on Registered Vessels of the Union of the Comoros, the Hellenic Republic and the Kingdom of Cambodia (also previously DRC and Darfur)

Judges: Judge Joyce Aluoch (Kenya), Presiding Judge
Judge Cuno Tarfusser (Italy)
Judge Péter Kovács (Hungary)

Pre-Trial Chamber II

Situations: Uganda, DRC, CAR I, CAR II, Kenya, Darfur (Sudan) and Gabon

Judges: Judge Cuno Tarfusser (Italy), Presiding Judge
Judge Marc Perrin de Brichambaut (France)
Judge Chang-ho Chung (Republic of Korea)

Pre-Trial Chamber III

Pre-Trial Chamber III was dissolved by a Presidency decision on 15 March 2012; accordingly, the Cote d'Ivoire situation has been assigned to Pre-Trial Chamber I.

Situations: *Previously* CAR II and Côte d'Ivoire

Judges: Judge Silvia Fernández de Gurmendi (Argentina), Presiding Judge
Judge Elizabeth Odio Benito (Costa Rica) (*term expired*)
Judge Adrian Fulford (UK) (*term expired*)

Trial Chamber I

The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé (opened 28 Jan. 2016)

Judges: Judge Cuno Tarfusser (Italy), Presiding Judge
Judge Olga Herrera-Carbuccia (Dominican Republic)
Judge Geoffrey A. Henderson (Trinidad & Tobago)

Trial Chamber II

The Prosecutor v. Mathieu Ngudjolo Chui (acquitted)
The Prosecutor v. Germain Katanga (reparations)
The Prosecutor v. Thomas Lubanga Dyilo (reparations)

Judges: Judge Marc Perrin de Brichambaut (France), Presiding Judge
Judge Olga Herrera Carbuccion (Dominican Republic)
Judge Peter Kovacs (Hungary)

Trial Chamber III

The Prosecutor v. Jean-Pierre Bemba Gombo (reconstituted for reparations)

Judges: Judge Joyce Aluoch (Kenya)
Judge Geoffrey A. Henderson (Trinidad & Tobago)
Judge Chang-ho Chung (Republic of Korea)

Trial Chamber IV

The Prosecutor v. Abdallah Banda Abakaer Nourain (trial opening vacated)¹⁹

Judges: Judge Joyce Aluoch (Kenya), Presiding Judge
Judge Geoffrey A. Henderson (Trinidad & Tobago)
Judge Chile Eboe-Osuji (Nigeria)

Trial Chamber V (a)

The Prosecutor v. William Samoei Ruto and Joshua Arap Sang (trial terminated 5 April 2016)

Judges: Judge Chile Eboe-Osuji (Nigeria), Presiding Judge
Judge Olga Herrera Carbuccion (Dominican Republic)
Judge Robert Fremr (Czech Republic)²⁰

¹⁹Saleh Mohammed Jerbo Jamus died on 19 April 2013; therefore on 4 October 2013, Trial Chamber IV terminated the proceedings against him and his name was removed from this case. The initial trial commencement date in the Banda Case of 5 May 2014 was vacated due to logistical difficulties; the new date is yet to be confirmed.

²⁰ On 26 April 2013, the Presidency of the ICC reconstituted Trial Chamber V (b) and V (a), Judge Robert Fremr replaced Judge Christine Van Wyngaert; this was following a request made by Judge Christine Van Wyngaert.

Trial Chamber V (b)

The Prosecutor v. Uhuru Muigai Kenyatta (charges withdrawn 5 Dec. 2014)

Judges: Judge Kuniko Ozaki (Japan), Presiding Judge
Judge Robert Fremr (Czech Republic)
Judge Geoffrey A. Henderson (Trinidad and Tobago)²¹

Trial Chamber VI

The Prosecutor v. Bosco Ntaganda (trial opened 2 Sep. 2015)

Judges: Judge Robert Fremr (Czech Republic), Presiding Judge
Judge Kuniko Ozaki (Japan)
Judge Chang-ho Chung (Republic of Korea)

Trial Chamber VII

The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido (trial opened 29 Sep. 2015)

Judges: Judge Bertram Schmitt (Germany), Presiding Judge
Judge Marc Perrin de Brichambaut (France)²²
Judge Raul C. Pangalangan (Philippines)

Trial Chamber VIII

The Prosecutor v. Ahmad al-Faqi al-Mahdi (judgment on 27 Sep. 2016)

Judges: Judge Raul C. Pangalangan (Philippines) Presiding Judge²³
Judge Antoine Kesia-Mbe Mindua (the DRC)
Judge Bertram Schmitt (Germany)

²¹On 30 January 2014, the Presidency of the ICC reconstituted Trial Chamber V (b), Judge Geoffrey A. Henderson replaced Judge Chile Eboe-Osuji; this was following a request made by Judge Chile Eboe-Osuji.

²²Judges Marc Perrin de Brichambaut and Raul C. Pangalangan, normally attached to the Pre-Trial Division were temporarily assigned to the Trial Division on 17 March 2015 and 24 August 2015 respectively.

²³On 3 May 2016, the judges of Trial Chamber VIII elected Judge Raul C. Pangalangan as Presiding Judge and Single Judge.

Trial Chamber IX

The Prosecutor v. Dominic Ongwen (trial opened 6 Dec. 2016)

Judges: Judge Bertram Schmitt (Germany)
Judge Peter Kovacs (Hungary)
Judge Raul C. Pangalangan (Philippines)

Appeals Chamber

The composition of the Appeals Chamber may vary in the different cases as some Appeals Chamber judges were previously on the Pre-Trial or Trial Chamber in a particular case, meaning that they have to be excused and replaced for that case at the appeals phase.

Judges: Judge Sanji Mmasenono Monageng (Botswana), President of Appeals Division
Judge Silvia Alejandra Fernández De Gurmendi (Argentina)
Judge Christine Van Den Wyngaert (Belgium)
Judge Howard Morrison (United Kingdom)
Judge Piotr Hofmański (Poland)

ICC Judges

Current Judges

The Judges – List (date elected)

1. Silvia Alejandra FERNÁNDEZ DE GURMENDI (Argentina) – List A (20 Jan. 2010)
2. Joyce ALUOCH (Kenya) – List A (11 Mar. 2009)
3. Kuniko OZAKI (Japan) – List B (20 Jan. 2010)
4. Sanji Mmasenono MONAGENG (Botswana) – List B (11 Mar. 2009)
5. Chang-ho CHUNG (Republic of Korea) - List A (11 Mar. 2015)
6. Christine Baroness VAN DEN WYNGAERT (Belgium) – List A (11 Mar. 2009)
7. Cuno Jakob TARFUSSER (Italy) – List A (11 Mar. 2009)
8. Howard Morrison (United Kingdom) – List A (11 Mar. 2012)
9. Olga Venecia del C. HERRERA CARBUCCIA (Dominican Republic) – List A (11 Mar. 2012)
10. Robert FREMR (Czech Republic) – List A (11 Mar. 2012)

11. Chile EBOE-OSUJI (Nigeria) – List A (11 Mar. 2012)
12. Geoffrey A. HENDERSON (Trinidad and Tobago) – List A (1 Feb. 2014)
13. Piotr HOFMANSKI (Poland) - List A (11 Mar. 2015)
14. Péter KOVACS (Hungary) - List B (elected 11 Mar. 2015)
15. Antoine Kesia-Mbe MINDUA (Democratic Republic of Congo) - List B (11 Mar. 2015)
16. Marc Pierre PERRIN de BRICHAMBAUT (France) - List B (11 Mar. 2015)
17. Betram SCHMITT (Germany) - List A (11 Mar. 2015)
18. Raul Cano PANGALANGAN (Philippines) – List B (13 July 2015)

Former Judges

List A:

Judge Sylvia STEINER (Brazil) – Judge from 11 March 2003 to 10 March 2012. *Elected for a nine-year term from the Group of Latin American and Caribbean States.*

Judge Anthony T. CARMONA (Trinidad and Tobago) - *Judge from 11 March 2012 to 18 March 2013. Assigned to the Trial Division. Elected for a nine-year term from the Group of Latin American and Caribbean States.*

Judge Maureen Harding CLARK (Ireland) - *Judge from 11 March 2003 to 10 December 2006. Elected for a nine-year term from the Western European and Others Group of States.*

Judge Bruno COTTE (France) - *Judge from 17 January 2008 to 31 May 2014. Elected for a four-year-and-two-months term (to fill a judicial vacancy) from the Western European and Others Group of States.*

Judge Fatoumata Dembele DIARRA (Mali) - *Judge from 11 March 2003 to 31 May 2014. Elected for a nine-year term from the African Group of States.*

Judge Sir Adrian FULFORD (United Kingdom) - *Judge from 11 March 2003 to 31 August 2012. Elected for a nine-year term from the Western European and Others Group of States.*

Judge Karl T. HUDSON- PHILLIPS (Trinidad and Tobago) - *Judge from 11 March 2003 to 30 September 2007. Elected for a nine-year term from the Latin American and Caribbean Group of States.*

Judge Claude JORDA (France) - *Judge from 11 March 2003 to 12 August 2007. Elected for a six-year term from the Western European and Others Group of States.*

Judge Philippe KIRSCH (Canada) – *Judge from 11 March 2003 to 10 March 2009. Elected for a six-year term from the Western European and Others Group of States.*

Judge Daniel David Ntanda NSEREKO (Uganda) - *Judge from 1 June 2008 to 10 March 2012. Elected for a term of four-year-and-two-month term (to fill a judicial vacancy) from the African Group of States. Assigned to the Appeals Division.*

Judge Elizabeth ODIO BENITO (Costa Rica) - *Judge from 11 March 2003 to 31 August 2012. Elected for nine-year term from the Latin American and Caribbean Group of States.*

Judge Georghios M.PIKIS (Cyprus) - *Judge from 11 March 2003 to 10 March 2009. Elected for a six-year term from the Asian Group of States.*

Judge Tuiloma Neroni SLADE (Samoa) - *Judge from 11 March 2003 to 10 March 2006. Elected for a three-year term from the Asian Group of States.*

Judge Sang-Hyun SONG (Republic of Korea) - *Judge from 11 March 2003 to 25 January 2015. Elected from the Asian Group of States for a term of three years, re-elected in 2006 for a further full term of nine years. President of the Court as of 11 March 2009, for a term of three years, and re-elected on 11 March 2012 for another three-year period. Assigned to the Appeals Division.*

Judge Ekaterina TRENDAFILOVA (Bulgaria) - *Judge from 11 March 2006 to 25 January 2015. Elected for a nine-year term from the Group of Eastern European States. Assigned to the Pre-Trial Division.*

List B:

Judge René BLATTMANN (Bolivia) - *Judge from 11 March 2003 to 31 August 2012. Elected for a six-year term from the Latin American and Caribbean Group of States.*

Judge Hans-Peter KAUL (Germany) - *Judge from 11 March 2003 to 1 July 2014. Elected from the Western European and Others Group of States for a three-year term and then re-elected in 2006 for a further nine-year term. Assigned to the Pre-Trial Division.*

Judge Erkki KOURULA (Finland) - *Judge from 11 March 2003 to 25 January 2015. Elected from the Western European and Others Group of States for a three-year term and then re-elected in 2006 for a further nine-year term. Assigned to the Appeals Division.*

Judge Akua KUENYEHIA (Ghana) - *Judge from 11 March 2003 to 25 January 2015. Elected from the African Group of States for a three-year term and then re-elected in 2006 for a further nine-year term. Assigned to the Appeals Division.*

Judge Navanethem PILLAY (South Africa) - *Judge from 11 March 2003 to 31 August 2008. Elected for a six-year term from the African Group of States.*

Judge Mauro POLITI (Italy) – *Judge from 11 March 2003 to 10 March 2006. Elected for a six-year term from the Western European and Others Group of States.*

Judge Fumiko SAIGA (Japan) - *Judge from 1 June 2008 to 24 April 2009. Elected to fill a judicial vacancy for a fifteen-month term from the Asian Group of States.*

Judge Anita UŠACKA (Latvia) - *Judge from 11 March 2003 to 25 January 2015. Elected from the Eastern European Group of States for a three-year term and then re-elected in 2006 for a further nine-year term. Assigned to the Appeals Division.*

ICC President and Vice-Presidents

On 11 March 2015, the judges of the ICC, sitting in a plenary session, elected Judge Silvia Fernandez de Gurmendi (Argentina) as President of the Court for a three-year term with immediate effect. Judge Joyce Aluoch (Kenya) was elected First Vice-President and Judge Kuniko Ozaki (Japan) second Vice-President.

The President

Judge Silvia Fernandez de Gurmendi (Argentina)

Judge as of 20 January 2010, for a term of eight years and two months (to fill a judicial vacancy). Assigned to the Pre-Trial Division. Elected from the Latin American and Caribbean Group of States (GRULAC), list A.

- Has over 20 years practice of international and humanitarian law and in human rights;
- Was the Director General for Human Rights at the Ministry of Foreign Affairs;
- Acted as a representative of Argentina in cases before the Inter American Commission of Human Rights and the Inter American Court of Justice;
- Represented Argentina before universal and regional human rights bodies and advised on transitional justice issues related to the prevention of genocide and other international crimes;
- Contributed to the creation and setup of the Court. Was instrumental in the negotiations of the complementary instruments of the Rome Statute as chair of the Working Group on Rules of Procedure and Evidence and the Working Group on Aggression;
- Academic experience includes professorships of international criminal law at the universities of Buenos Aires and Palermo and as an assistant professor of international law at the University of Buenos Aires;
- Published a number of national and international publications related to the International Criminal Court including, amongst others, the role of the Prosecutor, criminal procedure, and the definitions of victims

The First Vice-President

Judge Joyce Aluoch (Kenya)

Judge as of 11 March 2009, for a term of nine years. Assigned to the Trial Division. Elected from the African Group of States, list A.

- Holds a Law Degree from the University of Nairobi, a diploma in Legal Studies from the Kenya School of Law and a Master's Degree in International Affairs (GMAP) from the Fletcher School of Law and Diplomacy, Tufts, University, Medford USA;
- Was a Judge of the High Court of Kenya for over 20 years, and was elevated to the Court of Appeals, then the highest court in Kenya in December 2008;
- Is also an advocate of the High Court of Kenya;
- As a senior judge who was the vice-chairperson of the Judicial Curriculum Review Committee she has extensive experience in the training of judges, magistrates and paralegals in the provision of regional and international human rights instruments, a program she undertook in conjunction with the International Association of Women Judges;
- Contributed to the promotion of the rights of the child, as chair of the African Union Committee of Experts on the Rights of the Child, preparing the rules of practice and procedure for the committee as well as guidelines for initial reporting to the African Committee by Member States of the African Union;
- Special missions undertaken by Judge Aluoch include negotiations entered into on behalf of the African Union with the Government of Sudan to ratify the African charter to secure the rights of children, and a fact-finding mission to war-torn northern Uganda to report on the effects of the war on children;
- Served for six years as vice-chair and member of the UN Committee on the Right and Welfare of the Child and chaired a task-force that worked toward the implementation of the new Sexual Offences Act, 2006, aimed at developing a national policy framework and a national action plan for handling sexual offences in Kenya

The Second Vice-President

Judge Kuniko Ozaki (Japan)

Judge as of 20 January 2010, for a term of eight years and two months (to fill a judicial vacancy). Assigned to the Trial Division. Elected from the Asian Group of States, list B.

- Has extensive practical and academic experience in the field of international criminal law and human rights;
- Having graduated from Tokyo University in 1978 and obtained an M.Phil. in international relations from Oxford University in 1982;
- Worked for the Japanese government in a number of positions, including Ambassador and Special Assistant to the Foreign Ministry, Director for Human Rights and Humanitarian Affairs in the Foreign Ministry, Director for Refugees in the Justice Ministry and Specialist to the Criminal Affairs Bureau of the Justice Ministry;

- From 2006 to 2009, she served as Director for Treaty Affairs for the United Nations Office on Drugs and Crime (UNODC), where her main responsibility was implementation of relevant international treaties as well as the development of domestic legislation on organized crime, corruption and terrorism; the training of judges and prosecutors in developing countries; and the establishment of the rule of law and national criminal justice systems in post-conflict regions;
- Judge Ozaki also taught as a professor of international law at the Tohoku University Graduate School of Law and at other national universities, and has written extensively on international criminal law, refugee law and law of human rights.

Presidents of the Assembly of States Parties (ASP)

8 December 2014 – 14 December 2017 (13th, 14th, 15th, 16th ASP Sessions)

- President: Mr. Sidiki Kaba (Senegal)
- Vice-Presidents:
 - o Mr. Sebastiano Cardi (Italy)
 - o Mr. Sergio Ugalde (Costa Rica)²⁴

2 December 2011 – 8 December 2014 (10th, 11th, 12th ASP Sessions)

- President: Ms. Tiina Intelmann (Estonia)
- Vice-Presidents:
 - o Mr. Markus Börlin (Switzerland)
 - o Mr. Ken Kanda (Ghana)

14 November 2008 – 12 December 2011 (7th, 8th, 9th ASP Sessions)

- President: Mr. Christian Wenaweser (Liechtenstein)
- Vice-Presidents:
 - o Mr. Jorge Lomonaco (Mexico)
 - o Mr. Zachary D. Muburi-Muita (Kenya)²⁵
 - o Ms. Simona Mirela Miculescu (Romania)

28 November 2005 – 14 November 2008 (4th, 5th, 6th ASP Sessions)

- President: Mr. Bruno Stagno Ugarte (Costa Rica)
- Vice-Presidents:
 - o Mr. Erwin Kubesch (Austria)
 - o Ms. Hlengiwe Mkhize (South Africa)

²⁴ Ambassador Alvaro Moerzinger (Uruguay) completed his term as ASP Bureau vice-president earlier in 2016 after his tenure as ambassador of Uruguay to the Netherlands ended. The Hague Working Group coordinator/ASP Bureau Vice-president Ambassador Sergio Ugalde (Costa Rica) served in this position in the interim period, and was officially appointed by consensus during the 2016 ASP opening session, for the remainder of the current ASP Bureau term.

²⁵ The ASP Bureau, having been elected at the seventh session for a term of three years, continued in office during the ninth session, with the exception of Vice-President of the Assembly, Mr. Zachary D. Muburi-Muita (Kenya), who, by a letter, dated 27 August 2010, resigned from his position.

3 September 2002 – 28 November 2005 (1st, 2nd and 3rd ASP Sessions)

- President: H.R.H. Prince Zeid Ra'ad Zeid Al-Hussein (Jordan)
- Vice-Presidents:
 - o Mr. Felipe Paolillo (Uruguay)
 - o Mr. Allieu Ibrahim Kanu (Sierra Leone)

Registrars of the ICC

2013- present: Mr. Herman von Hebel (The Netherlands)

2008- 2013: Ms. Silvana Arbia (Italy)

2003-2008: Mr. Bruno Cathala (France)

8. Status of the Rome Statute & Related Agreements

124 states have ratified, acceded to, or accepted the Rome Statute:

- 33 are from Africa;
- 29 are from the Americas;
- 17 are from Asia-Pacific;
- 42 are from Europe; and
- 3 are from Middle East-North Africa.

Of the 124 states that have at some point ratified, acceded to, or accepted the Rome Statute (RS), one has since withdrawn its ratification (Burundi on 27 October 2017).

Of the 139 states to have signed the RS, 31 have not ratified, of which 4 have declared that they no longer intend to ratify (USA, Israel, Sudan, and Russia).

31 states are signatories to the Rome Statute:

Africa (8)	Americas (4)	Asia-Pacific (2)	Europe (6)	MENA (11)
Angola	Bahamas	Solomon Islands	Armenia	Algeria
Cameroon	Haiti	Thailand	Kyrgyzstan	Bahrain
Eritrea	Jamaica		Monaco	Egypt
Guinea-Bissau	USA*		Russia*	Iran
Sao Tome & Principe			Ukraine	Israel*
Sudan*			Uzbekistan	Kuwait
Zimbabwe				Morocco
* The above signatory count reflects the signatures of Israel, Sudan, the United States, and Russia. However, all four states submitted formal notes to the UNSG "nullifying" their signature. For further information, please consult the UN Treaty Collections at http://treaties.un.org				Oman
				Syria
				UAE
				Yemen

16 states acceded to the Rome Statute directly, without signing first:

1. Dominica 12 February 2001 (a)
2. Timor-Leste 6 September 2002 (a)
3. St. Vincent & Grenadines 3 December 2002 (a)
4. Afghanistan 10 February 2003 (a)
5. St. Kitts & Nevis 22 August 2006 (a)
6. Montenegro 23 October 2006 (d)²⁶
7. Japan 17 July 2007 (a)
8. Suriname 15 July 2008 (a)
9. Cook Islands 18 July 2008 (a)²⁷
10. Grenada 19 May 2011 (a)
11. Tunisia 24 June 2011 (a)
12. Maldives 21 September 2011 (a)
13. Vanuatu 2 December 2011 (a)
14. Guatemala 2 April 2012 (a)
15. Palestine 2 January 2015
16. El Salvador 3 March 2016

41 states have never signed, acceded to, or ratified the Rome Statute:

Africa (7)	Americas (2)	Asia-Pacific (21)	Europe (6)	MENA (5)
Eq. Guinea	Cuba	Bhutan	Azerbaijan	Iraq
Ethiopia	Nicaragua	Brunei	Belarus	Lebanon
Mauritania		China	Holy See	Libya
Rwanda		DPRK	Kazakhstan	Qatar
Somalia		India	Turkey	Saudi Arabia
Swaziland		Indonesia	Turkmenistan	
Togo		Kiribati		
		Lao		
		Malaysia		
		Micronesia		
		Myanmar		
		Nepal		
		Niue		
		Pakistan		
		Palau		
		Papua New Guinea		
		Singapore		
		Sri Lanka		
		Tongo		
		Tuvalu		
		Vietnam		

UNGA members: 193 states

2/3 majority: 129 states

²⁶. [http://treaties.un.org/Pages/HistoricalInfo.aspx?#"Montenegro"](http://treaties.un.org/Pages/HistoricalInfo.aspx?#)

²⁷. Cook Islands is party to the Rome Statute but not a UNGA Member State.

States that ratified the RS in 2016: (1)

- **Africa:** NA
- **Americas:** El Salvador
- **Asia-Pacific:** NA
- **Europe:** NA
- **Middle East-North Africa:** NA

States that ratified the RS in 2015: (1)

- **Africa:** NA
- **Americas:** NA
- **Asia-Pacific:** NA
- **Europe:** NA
- **Middle East-North Africa:** Palestine

States that ratified the RS in 2013: (1)

- **Africa:** Côte d'Ivoire
- **Americas:** NA
- **Asia-Pacific:** NA
- **Europe:** NA
- **Middle East-North Africa:** NA

States that ratified the RS in 2012: (1)

- **Africa:** NA
- **Americas:** Guatemala
- **Asia-Pacific states:** NA
- **Europe:** NA
- **Middle East-North Africa:** NA

States that ratified the RS in 2011: (6)

- **Africa:** Cape Verde
- **Americas:** Grenada
- **Asia-Pacific:** Maldives, Philippines, Vanuatu
- **Europe:** NA
- **Middle East-North Africa:** Tunisia

States that ratified the RS in 2010: (4)

- **Africa:** Seychelles
- **Americas:** Saint Lucia
- **Asia-Pacific:** Bangladesh
- **Europe:** Republic of Moldova
- **Middle East-North Africa:** NA

States that ratified the RS in 2009: (2)

- **Africa:** NA
- **Americas:** Chile
- **Asia-Pacific:** NA
- **Europe:** Czech Republic
- **Middle East-North Africa:** NA

States that ratified the RS in 2008: (3)

- **Africa:** Madagascar
- **Americas:** Suriname
- **Asia-Pacific:** Cook Islands
- **Europe:** NA
- **Middle East-North Africa:** NA

States that ratified the RS in 2007: (1)

- **Africa:** NA
- **Americas:** NA
- **Asia-Pacific:** Japan
- **Europe:** NA
- **Middle East-North Africa:** NA

States that ratified the RS in 2006: (4)

- **Africa:** Chad, Comoros
- **Americas:** Saint Kitts & Nevis
- **Asia-Pacific:** NA
- **Europe:** Montenegro
- **Middle East-North Africa:** NA

States that ratified the RS in 2005: (3)

- **Africa:** Kenya
- **Americas:** Dominican Republic, Mexico
- **Asia-Pacific:** NA
- **Europe:** NA
- **Middle East-North Africa:** NA

States that ratified the RS in 2004: (5)

- **Africa:** Burkina Faso, Burundi, Democratic Republic of Congo, Liberia
- **Americas:** Guyana
- **Asia-Pacific:** NA
- **Europe:** NA
- **Middle East-North Africa:** NA

States that ratified the RS in 2003: (5)

- **Africa:** Guinea
- **Americas:** NA
- **Asia-Pacific:** Afghanistan
- **Europe:** Albania, Georgia, Lithuania
- **Middle East-North Africa:** NA

States that ratified the RS in 2002: (39)

- **Africa:** Benin, Democratic Republic of Congo, Djibouti, The Gambia, Malawi, Mauritius, Namibia, Niger, Uganda, United Republic of Tanzania, Zambia
- **Americas:** Barbados, Bolivia, Brazil, Colombia, Ecuador, Honduras, Panama, Saint Vincent and the Grenadines, Uruguay
- **Asia-Pacific:** Australia, Cambodia, Mongolia, Republic of Korea, Samoa, Timor-Leste
- **Europe:** Bosnia and Herzegovina, Bulgaria, Cyprus, Estonia, Greece, Ireland, Latvia, Malta, Portugal, Romania, Slovakia, The Former Yugoslav Republic of Macedonia
- **Middle East-North Africa:** Jordan

States that ratified the RS in 2001: (21)

- **Africa:** Central African Republic, Nigeria
- **Americas:** Antigua & Barbuda, Argentina, Costa Rica, Dominica, Peru, Paraguay
- **Asia-Pacific:** Nauru
- **Europe:** Andorra, Croatia, Denmark, Hungary, Liechtenstein, The Netherlands, Poland, Serbia, Slovenia, Sweden, Switzerland, United Kingdom of Great Britain & Northern Ireland
- **Middle East-North Africa:** NA

States that ratified the RS in 2000: (21)

- **Africa:** Botswana, Gabon, Lesotho, Mali, Sierra Leone, South Africa
- **Americas:** Belize, Bolivarian Republic of Venezuela
- **Asia-Pacific:** Marshall Islands
- **Europe:** Austria, Belgium, Canada, Finland, France, Germany, Iceland, Luxembourg, New Zealand, Norway, Spain, Tajikistan
- **Middle East-North Africa:** NA

States that ratified the RS in 1999: (6)

- **Africa:** Ghana, Senegal
- **Americas:** Trinidad & Tobago
- **Asia-Pacific:** Fiji
- **Europe:** Italy, San Marino
- **Middle East-North Africa:** NA

States that have taken action to withdraw from the Rome Statute (3 as of 1 November 2017)

1. **South Africa:** deposit of *note verbale* with UN Secretary-General on executive decision to withdraw on 19 October 2016; **rescinded decision to withdraw in March 2017 following a South African High Court ruling on 22 February declaring the withdrawal unconstitutional and invalid.**
2. **Burundi:** deposit of instrument of withdrawal with the UN Secretary- General on executive action to withdraw on 27 October 2016; **withdrawal became effective on 27 October 2017; obligated to cooperate with newly authorized ICC-OTP investigation.**
3. **The Gambia:** served notice of intention to withdraw on 8 November 2016, citing bias against African countries; **intent to withdraw reversed by subsequent President Adama Barrow.**

RS States Parties that have ratified the Kampala Amendments on the *Crime of Aggression* (34)

State	Ratification Date	State	Ratification Date
Liechtenstein	8 May 2012	Spain	25 September 2014
Samoa	25 September 2012	San Marino	14 November 2014
Trinidad & Tobago	13 November 2012	Georgia	5 December 2014
Luxemburg	15 January 2013	Malta	30 January 2015
Estonia	27 March 2013	Costa Rica	5 February 2015
Germany	3 June 2013	Czech Republic	12 March 2015
Botswana	4 June 2013	Switzerland	10 September 2015
Cyprus	25 September 2013	Lithuania	7 December 2015
Slovenia	25 September 2013	Finland	30 December 2015
Andorra	26 September 2013	Macedonia	1 March 2016
Uruguay	26 September 2013	El Salvador	3 March 2016
Belgium	26 November 2013	Iceland	17 June 2016
Croatia	20 December 2013	Palestine	26 June 2016
Slovakia	29 April 2014	Chile	23 September 2016
Austria	17 July 2014	Netherlands	23 September 2016
Poland	25 September 2014	Portugal	11 April 2017
Latvia	25 September 2014	Argentina	28 April 2017

RS States Parties that have ratified the Kampala Amendment to Article 8: (34)

State	Ratification Date	State	Ratification Date
Liechtenstein	8 May 2012	Spain	25 September 2014
Samoa	25 September 2012	San Marino	26 September 2011
Trinidad & Tobago	13 November 2012	Georgia	3 November 2015
Luxemburg	15 January 2013	Malta	30 January 2015
Estonia	27 March 2013	Costa Rica	5 February 2015
Germany	3 June 2013	Czech Republic	12 March 2015
Botswana	4 June 2013	Switzerland	10 September 2015
Cyprus	25 September 2013	Lithuania	7 December 2015
Slovenia	25 September 2013	Finland	30 December 2015
Andorra	26 September 2013	Macedonia	1 March 2016
Uruguay	26 September 2013	El Salvador	3 March 2016
Belgium	26 November 2013	Mauritius	5 September 2013
Croatia	20 December 2013	Norway	10 June 2013
Slovakia	28 April 2014	Chile	23 September 2016
Austria	17 July 2014	Netherlands	23 September 2016
Poland	25 September 2014	Portugal	11 April 2017
Latvia	25 September 2014	Argentina	28 April 2017

Agreement on the Privileges and Immunities of the ICC (APIC): 77 ratifications

1. 77 states have ratified, acceded to, approved, accepted, or succeeded to the APIC, including 1 non-state party to the RS—Ukraine. The last states to join the APIC were Peru and the Republic of Moldova, which ratified and acceded to the treaty on 17 January 2017 and 17 May 2017 respectively.
2. 62 states have signed the APIC: the last states to sign the agreement were Bahamas, Jamaica, Poland, Romania, and Uruguay – on 30 June 2004.
3. **39 states parties to the RS have neither signed nor ratified the APIC:**

Africa (14*)	Americas (10)	Asia-Pacific (13)	Europe (6)	MENA (0)
Cabo Verde	Antigua & Barbuda	Afghanistan	San Marino	
Chad	Barbados	Australia**	Tajikistan	
Comoros	Dominica	Bangladesh		
Congo	El Salvador**	Cambodia		
Côte d'Ivoire ²⁸	Grenada	Cook Islands		
Djibouti	Guatemala	Fiji		
Gambia	St. Kitts & Nevis	Japan		
Kenya	St. Lucia	Maldives		
Mauritius	St. Vincent & the Grenadines	Marshall Islands		
Niger	Suriname	Nauru		
Nigeria		Philippines		
Seychelles		Timor-Leste		
South Africa		Vanuatu		
Zambia				
*Prior to the government of Burundi's withdrawal from the Rome Statute on 27 October 2017, the number of African states parties stood at 15.				
**Australia and El Salvador, along with Peru, which ratified the APIC in 2017, stated their intention to ratify the treaty during a pledging ceremony held at the 15 th Assembly of States Parties session in The Hague.				

For a detailed breakdown of the status of ratifications and signatories to the APIC, consult the Coalition's Factsheet on the APIC.²⁹

²⁸ Responding to the Coalition's 2017 letter to states regarding ratification of the APIC, the government of Côte d'Ivoire indicated on 26 July 2017 that it is in the process of finalizing its ratification. <http://www.coalitionfortheicc.org/document/cote-divoire-response-apic-campaign-2017>

²⁹http://www.coalitionfortheicc.org/sites/default/files/cicc_documents/apic_in_the_world_ratifications_and_signatures_may_2017_1.pdf



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