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## ICC Update

*By Monique Cuillerier*

The International Criminal Court is currently engaged in eight preliminary examinations, and has thirteen situations under investigation.

Preliminary examinations are currently being conducted in Bolivia, Colombia, Guinea, Iraq/UK, Nigeria, Palestine, the Philippines, Ukraine, and two separate examinations into Venezuela.

### **Afghanistan**

In March 2020, the Prosecutor was authorized to begin an investigation into alleged crimes against humanity and war crimes since 2003 in Afghanistan, as well as other alleged crimes committed on the territory of other States Parties since 2002 but linked to the conflict in Afghanistan.

### **Bangladesh/Myanmar**

In November 2019, an investigation into alleged crimes of deportation, persecution, and any other crimes relevant to the Court against the Rohingya people was begun.

In February, a delegation from the Court traveled to Bangladesh to explain to the public how investigations are conducted.

A redacted, public version of the “Registry’s Second Report on Information and Outreach Activities” regarding this situation was made available in December 2020.

## **Burundi**

An investigation into crimes under the Rome Statute that may have occurred in Burundi was authorized in 2017 and currently focuses on alleged crimes between 2015 and 2017.

The investigation is focused on alleged crimes of murder and attempted murder, imprisonment or severe deprivation of liberty, torture, rape, enforced disappearance, and persecution.

## **Central African Republic (I)**

Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu, and Narcisse Arido, were found guilty of offences against the administration of justice in October 2016 and sentencing took place in September 2018.

All convictions and acquittals are now considered final and imprisonment sentences are complete.

## **Central African Republic (II)**

The Government of CAR referred this situation to the Court in May 2014.

The situation focuses on alleged war crimes and crimes against humanity committed since 1 August 2012, in the context of the conflict between Muslim Séléka and Christian anti-balaka groups.

An arrest warrant was issued in November 2018 for Alfred Yekatom and he was surrendered to the Court shortly thereafter. A further arrest warrant, for Patrice-Edouard Ngaïssona, was issued in December 2018 and he was arrested five days later. The two cases were joined in February 2019. The trial began in February 2021.

Mahamat Said Abdel Kani was the subject of a warrant issued in 2019. He was surrendered to the Court on January 24 2021. A confirmation of charges hearing is tentatively scheduled for October 2021.

### **Côte d'Ivoire**

The cases of Laurent Gbagbo and Charles Blé Goudé, charged with crimes against humanity allegedly committed in Côte d'Ivoire in 2010 and 2011, were joined in March 2015 and the trial began in January 2016. In January 2019, both were acquitted. The Appeals Chamber will consider the appeal filed by the Prosecutor in this case.

The case against Simone Gbagbo remains at the pre-trial stage as she is still not in the custody of the Court.

### **Darfur, Sudan**

The situation in Darfur, Sudan was referred to the Court by the UN Security Council in March 2005.

There are several open cases concerning the situation in Darfur, Sudan with four suspects — Ahmad Harun, Omar Hassan Ahmad Al Bashir, Abdallah Banda Abakaer Nourain, and Abdel Raheem Muhammad Hussein — who remain at large.

Ali Muhammad Ali Abd-Al-Rahman surrendered himself to the Court in June 2020. The confirmation of charges hearing is scheduled for May 2021.

### **Democratic Republic of the Congo**

In 2012, Thomas Lubanga Dyilo was convicted and sentenced to 14 years of imprisonment. He has transferred to a prison in DRC in 2015 where he continues to serve his sentence. Implementation of the collective reparations decision continues.

The trial of Bosco Ntaganda began in September 2015 and he was found guilty in July 2019 of 18 counts of war crimes, and crimes against humanity committed in Ituri, DRC between 2002 and 2003. In early November 2019, Ntaganda was sentenced to thirty years imprisonment. The verdict and sentence are subject to appeal and the victims' reparations are still to be considered.

Sylvestre Mudacumura, for whom an arrest warrant was issued in 2012, remains at large.

### **Georgia**

An investigation into crimes against humanity and war crimes allegedly committed in and around South Ossetia, Georgia in 2008 was begun in January 2016 and continues.

### **Libya**

Mahmoud Mustafa Busayf Al-Werfalli, Saif Al-Islam Gaddafi, and Al-Tuhamy Mohamed Khaled all remain at large and, as such, their cases are still pending.

### **Kenya**

Arrest warrants for Walter Osapiri Barasa and Philip Kipkoech Bett for various offences against the administration of justice remain outstanding.

Paul Gicheru surrendered in November 2020. The confirmation of charges procedure will be conducted in writing, with documents expected to be filed in February 2021.

### **Mali**

Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud was surrendered to Court's custody in March 2018. His trial, which began in July 2020, is ongoing.

### **Uganda**

The case against Joseph Kony and Vincent Otti remains pending as they are still at large.

The trial of Dominic Ongwen began in December 2016 and a judgement was delivered in February 2021. Ongwen was found guilty on 61 counts.

### **Other**

123 countries have ratified the Rome Statute — 33 in Africa, 19 in the Asia-Pacific area, 18 in Eastern Europe, 28 in Latin America and the Caribbean, and 25 in Western Europe and other states.

## **Election of the next Prosecutor**

Following a prolonged and fraught process that resulted in a vote, rather than a consensus decision, Karim Khan, of the United Kingdom, was chosen as the next ICC Prosecutor on February 12th. He will begin his term on June 16, 2021.

In a second round of voting, Khan received 72 votes from 123 countries. Concerns regarding transparency and lack of vetting were raised by civil society during the election process.

Khan worked in the the Offices of the Prosecutor at the International Criminal Tribunal for the Former Yugoslavia and the Prosecutor at the International Criminal Tribunal for Rwanda.

Khan was also Lead Counsel for Kenyan Deputy President William Ruto at the ICC. The case was terminated on the basis that the Prosecution had insufficient evidence. Khan also served as counsel for Saif al-Islam Gaddafi, for whom a warrant has been issued by the ICC.

Most recently, he was with the United Nations Investigative Team for the Promotion of Accountability for Crimes Committed by Da'esh/ISIL in Iraq.