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ICC Update

By Monique Cuillerier

The International Criminal Court is currently engaged in ten preliminary examinations, has eleven situations under investigation, and is pursuing 26 cases that involve 42 defendants.

The preliminary examinations are currently being conducted in Afghanistan, Colombia, Gabon, Guinea, Iraq/UK, Nigeria, Palestine, the Philippines, Ukraine, and Venezuela.

Regarding Afghanistan, the Prosecutor has requested authorization to initiate an investigation. Victims of the alleged crimes were invited to submit representations and 699 were received. A decision regarding an investigation will be made in due course.

Central African Republic (I)

Referred to the Court by the Government of the Central African Republic in 2004, Jean-Pierre Bemba Gombo was found guilty of crimes against humanity and war crimes in March 2016. In early June 2018, the Appeals Chamber decided to acquit him because they found the trial court had erroneously convicted Bemba of specific acts outside the scope of the charges and erred in its assessment of whether he took all necessary and reasonable measures to prevent or punish his subordinates of the other crimes involved.

Bemba, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu, and Narcisse Arido, were found guilty of offences against the administration of justice allegedly committed in connection with the case above and received sentences ranging from six months to two years, along with fines of EUR 300,000 for Bemba and EUR 30,000 for Aimé Kilolo Musamba. The case awaits appeals.

Central African Republic (II)

The Government of CAR referred this situation 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. The situation continues to be investigated.

Côte d'Ivoire

The trial of Laurent Gbagbo and Charles Blé Goudé began in January 2016 and continues. Both are accused of four counts of crimes against humanity and remain in the Court's custody. The case against Simone Gbagbo remains at the pre-trial stage as she is not in the Court's custody.

Darfur, Sudan

There have been no changes in the four cases concerning the situation in Darfur, Sudan. The suspects, Ahmad Harun, Ali Kushayb, Omar Hassan Ahmad Al Bashir, Abdallah Banda Abakaer Nourain, and Abdel Raheem Muhammad Hussein, all remain at large.

Democratic Republic of the Congo

In 2012, Thomas Lubanga Dyilo was convicted and sentenced to 14 years of imprisonment. In December 2017, a decision set the amount of his liability for collective reparations at US\$10,000,000. Implementation of the collective reparations decision remains pending.

In the case of the Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui, Ngudjolo Chui was acquitted in 2012, while Katanga was sentenced to twelve years in 2014, and was transferred to a prison facility in DRC the following year. In March 2017, individual and collective reparations were awarded to the victims of his crimes.

The trial of Bosco Ntaganda began in September 2015 and continues. Ntaganda is accused of 13 counts of war crimes, and five counts of crimes against humanity. Over two thousand victims have been granted the right to participate in the trial.

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

Georgia

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

Libya

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

Kenya

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

Mali

In September 2016, Ahmad Al Faqi Al Mahdi was found guilty of the war crime of intentionally attacking historic monuments and religious buildings in September and was sentenced to nine years imprisonment. The case is in the victims' reparations stage.

Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud was surrendered to Court's custody at the end of March 2018. He is awaiting an initial appearance.

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 the Prosecution continues to present their case. Over 4000 victims have been granted the right to participate in the trial.

Other

To date, 123 countries have ratified the Rome Statute of the International Criminal Court, which marks its 20th anniversary this year.

This past year's Assembly of States Parties meeting included the adoption of a consensus resolution on the activation of the jurisdiction of the Court over the crime of aggression, as of 17 July 2018.