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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, Bangladesh/Myanmar, Colombia, Guinea, Iraq/UK, Nigeria, Palestine, the Philippines, Ukraine, and Venezuela.

A preliminary examination of acts allegedly committed in Gabon resulted in a decision not to proceed as there was not "a reasonable basis to believe that the acts allegedly committed in Gabon in the context of the 2016 post-election violence, either by members of the opposition or by the Gabonese security forces, constitute crimes against humanity within the meaning of the Rome Statute of the ICC."

### **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.

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. Appeals resulted in new sentences for Bemba, Mangenda and Kilolo in September 2018. Bemba was sentenced to one year

imprisonment and fined EUR 300 000, Kilolo and Mangenda were each sentenced to eleven months imprisonment. Kilolo was fined EUR 30 000. All were credited with time spent in detention and as a result the imprisonment portion of their sentences are considered served. The fines are to be paid by mid-December 2018, three months after the decision, and transferred to the Trust Fund for Victims.

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

In May 2014 the Government of CAR referred this situation, which 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 on November 11, 2018 for Alfred Yekatom and he was surrendered to the Court on November 17. An initial appearance before the Court is the next step in the case.

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

## **Darfur, Sudan**

There are four current cases concerning the situation in Darfur, Sudan. The suspects in all of the cases -- Ahmad Harun, Ali Kushayb, Omar Hassan Ahmad Al Bashir, Abdallah Banda Abakaer Nourain, and Abdel Raheem Muhammad Hussein -- 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.

The trial of Bosco Ntaganda began in September 2015 and closing statements were made in August 2018. Ntaganda is accused of 13 counts of war crimes, and five counts of crimes against humanity. Deliberations continue and the Court's decision will be made in due course.

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

## **Georgia**

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

## **Libya**

The cases of Mahmoud Mustafa Busayf Al-Werfalli, Saif Al- Islam Gaddafi, and Al-Tuhamy Mohamed Khaled remain pending as they all remain 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 and was sentenced to nine years imprisonment. The Reparations Order became final in March 2018. Al Mahdi was found liable for EUR 2.7 million.

Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud was surrendered to Court's custody at the end of March 2018. A confirmation of charges hearing is the next step.

## **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 Defence is currently presenting its evidence. 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 in 2018.

Last 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. This year's ASP took place in early December in The Hague.

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