



Promoting the rights
and interests of victims
before the International
Criminal Court

ICC Victims' Rights Legal Update: 1 November 2013 – 30 April 2014

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Miscellaneous

Prosecutor's preliminary examinations in 2013

During 2013, the Office of the Prosecutor (OTP) continued the preliminary examination of the situations in Afghanistan, Honduras, Korea, Colombia, Georgia, Guinea and Nigeria. The Office found, *inter alia*, that during the reporting period there was a reasonable basis to believe that: (i) war crimes and crimes against humanity were and continue to be committed in Afghanistan; (ii) the alleged crimes committed during the post-coup period in Honduras do not reach the threshold of crimes against humanity, although new allegations of conduct following the presidential election of 2010 warrant further analysis; (iii) the situation of Nigeria relating to the activities of Boko Haram and the counter-insurgency response by the Nigerian authorities constitutes a non-international armed conflict. The Office completed one preliminary examination in relation to Mali and opened a new examination based on a State Party referral from the Union of the Comoros.¹

Democratic Republic of the Congo (DRC)

Lubanga case

Appeals Chamber grants Mr Lubanga's request to add a new ground of appeal and schedules a hearing for the testimony of two witnesses via video-link

[Background] On 14 March 2012, Trial Chamber I convicted Mr Lubanga as a co-perpetrator of the war crimes of conscripting and enlisting children under the age of fifteen years into the Force Patriotique pour la Libération du Congo (FPLC).² On 10 July 2012, the Trial Chamber sentenced him to 14 years of imprisonment.³ On 3 October 2012, Mr Lubanga filed appeals against both the conviction and the sentence.⁴ On 23 December

¹ OTP's Report on Preliminary Examination Activities of 2013, 25 November 2013, http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Documents/OTP%20Preliminary%20Examinations/OTP%20-%20Report%20%20Preliminary%20Examination%20Activities%202013.PDF

² Judgment pursuant to Article 74 of the Rome Statute, 14 March 2012, ICC-01/04-01/06-2842, <http://www.icc-cpi.int/iccdocs/doc/doc1379838.pdf>

³ Decision on Sentence pursuant to Article 76 of the Statute, 10 July 2012, ICC-01/04-01/06-2901, <http://www.icc-cpi.int/iccdocs/doc/doc1438370.pdf>

⁴ Notice of Appeal lodged by the Defence for Mr Thomas Lubanga against Trial Chamber I's Judgment pursuant to Article 74 of the Statute of 14 March 2012, 3 October 2012, ICC-01/04-01/06-2934; <http://www.icc-cpi.int/iccdocs/doc/doc1519587.pdf>; original in French: <http://www.icc-cpi.int/iccdocs/doc/doc1479593.pdf>; Notice of Appeal lodged by the Defence for Mr Thomas Lubanga against Trial Chamber I's Decision on sentence pursuant to Article 76 of the Statute of 10 July 2012, 3 October 2012, ICC-01/04-01/06-2935, <http://www.icc-cpi.int/iccdocs/doc/doc1519602.pdf>; original in French: <http://www.icc-cpi.int/iccdocs/doc/doc1479606.pdf>

2013, Mr Lubanga filed a request seeking the admission of six documents as additional evidence, as well as to add a new ground of appeal.⁵

On 13 January 2014, the Appeals Chamber (i) granted Mr Lubanga's request for variation⁶ having considered that the new ground of appeal, namely the non-disclosure of material potentially relevant to the finding of the use of children under the age of 15 years within the UPC Presidential Guard, sought to "call into question the reliability of a considerable part of the findings upon which Mr Lubanga's conviction is based"; and (ii) decided to rule on the admissibility of the additional six documents jointly with the other issues on appeal, pursuant to Regulation 62(2)(b) of the Regulations of the Court.⁷

On 21 March 2014, the Appeals Chamber scheduled a hearing for the 14 and 15 April 2014 with the aim of hearing the testimony of two witnesses by means of video-link technology.⁸ On 25 March 2014, the Appeals Chamber provided further information regarding the upcoming hearing, and reminded the legal representatives of the victims to request authorisation to question the witnesses, if they wished to do so.⁹ On 30 April 2014, the Appeals Chamber rescheduled the hearing for the 19 and 20 May 2014 and provided instructions on the conduct of the hearing.¹⁰

Ntaganda case

PTC II rejects Ntaganda's application for interim release; Appeals Chamber dismisses Defence's appeal

<http://www.icc-cpi.int/iccdocs/doc/doc1519602.pdf>; original in French: <http://www.icc-cpi.int/iccdocs/doc/doc1479606.pdf>

⁵ Requête de la Défense aux fins d'admission d'éléments de preuve supplémentaires dans le cadre des appels à l'encontre du « Jugement rendu en application de l'Article 74 du Statut » et de la « Décision relative à la peine, rendue en application, 23 December 2013 (made public on 6 January 2014), ICC-01/04-01/06-3056-Red, (original in French) <http://www.icc-cpi.int/iccdocs/doc/doc1707477.pdf> (no English translation available).

⁶ The Appeals Chamber found that Mr Lubanga's request to add a new ground of appeal should be considered as a request for variation of grounds of appeal pursuant to Regulation 61 of the Regulations of the Court. In particular, the Appeals Chamber considered that the addition of a new ground of appeal could be considered as a "variation".

⁷ Decision and order in relation to the request of 23 December 2013 filed by Mr Thomas Lubanga Dyilo, 13 January 2014, ICC-01/04-01/06-3057, <http://www.icc-cpi.int/iccdocs/doc/doc1710462.pdf>

⁸ Scheduling order for a hearing before the Appeals Chamber, 21 March 2014, ICC-01/04-01/06-3067, <http://www.icc-cpi.int/iccdocs/doc/doc1751497.pdf>

⁹ Further order regarding the conduct of the hearing of the Appeals Chamber, 25 March 2013, ICC-01/04-01/06-3068, <http://www.icc-cpi.int/iccdocs/doc/doc1752971.pdf>

¹⁰ Scheduling order and decision in relation to the conduct of the hearing before the Appeals Chamber, 30 April 2014, ICC-01/04-01/06-3083, <http://www.icc-cpi.int/iccdocs/doc/doc1771420.pdf>

[Background] On 22 August 2006, Pre-Trial Chamber I issued a first warrant of arrest against Bosco Ntaganda.¹¹ On 13 July 2012, Pre-Trial Chamber II, to which the situation had been reassigned, issued a second warrant of arrest.¹²

On 18 November 2013, Pre-Trial Chamber II rejected Mr Ntaganda's request for interim release: (i) to guarantee his appearance at the confirmation of charges hearing (and at trial if the charges will be confirmed); and (ii) to ensure that he does not obstruct or endanger the investigation or the Court's proceedings, in particular with respect to more than 30 witnesses, whose identity had been already disclosed to Mr Ntaganda.¹³

On 25 November 2013, Mr Ntaganda filed an appeal against the Pre-Trial Chamber's decision.¹⁴ On 5 March 2013, the Appeals Chamber rejected all grounds of appeal raised by Mr Ntaganda.¹⁵ The Appeals Chamber found that Mr Ntaganda had failed to establish an error in the findings of Pre-Trial Chamber II in relation to the circumstances of his surrender, the gravity of the charges against him and the risk of absconding.

PTC II settles issues related to the Draft Protocol on the Handling of Confidential Information and Contact with Witnesses of the Opposing Party

[Background] On 9 December 2013, the Prosecutor sought adoption by the Chamber of a protocol on the handling of confidential information and on contact with witnesses of the opposing party.¹⁶

On 17 December 2013, the Single Judge decided that the Defence should liaise with the Victims and Witnesses Unit (VWU) *prior* to each mission to the field, to communicate details of upcoming missions. The VWU, in turn, should provide the Defence "with its best practices concerning the establishment of contact and the care to be taken in approaching protected witnesses".¹⁷ The

Defence appealed the Chamber's decision, and its claim was rejected on 13 January 2014.¹⁸

The legal representation of victims in the confirmation of charges hearing and related proceedings

[Background] On 28 May 2013, the Single Judge of Pre-Trial Chamber II established principles on the victims' application process and ordered the Registry to consult with applicants in relation to their preference for legal representation.¹⁹ On 13 November 2013, the Chamber received the Registry's interim report on the organisation of common legal representation, covering (i) consultations held to assess the then 462 applicants' preferences for legal representation; (ii) potential conflicts of interests among groups of applicants; (iii) steps to organise the legal representations of applicants.²⁰ On 20 November 2013, the Single Judge requested the VPRS and OPCV to take steps with regard to the legal representation of victims for the confirmation of the charges hearing and related proceedings.²¹

On 26 November 2013, the OPCV submitted its observations on legal representation.²² The Principal Counsel acknowledged concerns of victim-applicants to the possibility of only having one common legal representative representing the different categories of victims, namely former child soldiers and victims of attacks. She indicated that the OPCV would be able to constitute two separate and autonomous legal teams, one for each category of victims. In addition, the Principal Counsel recommended the appointment of two legal assistants working in the field, each assisting one of the legal teams.

On 2 December 2013, the Single Judge appointed two common legal representatives from OPCV, with their

¹¹ Warrant of arrest against Bosco Ntaganda, 22 August 2006, ICC-01/04-02/06-2, <http://www.icc-cpi.int/iccdocs/doc/doc305328.PDF> (original: in French), <http://www.icc-cpi.int/iccdocs/doc/doc305330.PDF>

¹² Public redacted version - Decision on the Prosecutor's Application under Article 58, 13 July 2012, ICC-01/04-02/06-36-Red, <http://www.icc-cpi.int/iccdocs/doc/doc1441449.pdf>

¹³ Decision on the Defence's application for interim release, 18 November 2013, ICC-01/04-02/06-147, <http://www.icc-cpi.int/iccdocs/doc/doc1683230.pdf>

¹⁴ Notice of appeal by the Defence for Mr Bosco Ntaganda against Pre-Trial Chamber II's Decision on the Defence's Application for Interim Release of 18 November 2013, 25 November 2013, ICC-01/04-02/06-155, <http://www.icc-cpi.int/iccdocs/doc/doc1699730.pdf>

¹⁵ Judgment on the appeal of Mr Bosco Ntaganda against the decision of Pre-Trial Chamber II of 18 November 2013 entitled "Decision on the Defence's Application for Interim Release", 5 March 2013, ICC-01/04-02/06-271-Red, <http://www.icc-cpi.int/iccdocs/doc/doc1743563.pdf>

¹⁶ Public Redacted Version - Prosecution's request to adopt a Protocol on the handling of confidential information and on contact with witnesses of the opposing party, 9 December 2013, ICC-01/04-02/06-167-Red, <http://www.icc-cpi.int/iccdocs/doc/doc1695935.pdf>

¹⁷ Decision on the Protocol on the Handling of Confidential Information and Contact with Witnesses of the Opposing Party, 17 December 2013,

ICC-01/04-02/06-185,

<http://www.icc-cpi.int/iccdocs/doc/doc1701103.pdf>

¹⁸ Requête de la Défense de M. Bosco Ntaganda sollicitant l'autorisation d'interjeter appel de la « Decision on the Protocol on the Handling of Confidential Information and Contact with Witnesses of Opposing Party », rendue le 17 décembre 2013, 23 December 2013, ICC-01/04-02/06-191,original in French: <http://www.icc-cpi.int/iccdocs/doc/doc1704514.pdf> ; no English translation available; Decision on the Defence request for leave to appeal, 13 January 2014, ICC-01/04-02/06-207, <http://www.icc-cpi.int/iccdocs/doc/doc1710518.pdf>

¹⁹ Decision Establishing Principles on the Victims' Application Process, 28 May 2013, ICC-01/04-02/06-67, www.icc-cpi.int/iccdocs/doc/doc1597384.pdf

²⁰ ICC-01/04-02/06-141-Conf-Exp.

²¹ Decision requesting the VPRS and the OPCV to take steps with regard to the legal representation of victims in the confirmation of charges hearing and in the related proceedings, 20 November 2013, ICC-01/04-02/06-150, <http://www.icc-cpi.int/iccdocs/doc/doc1684128.pdf>

²² Observations of the OPCV in accordance with the Single Judge's decision issued on 20 November 2013, 26 November 2013, ICC-01/04-02/06-156, <http://www.icc-cpi.int/iccdocs/doc/doc1688586.pdf>

assistant counsels, to represent the interests of the two distinct groups.²³

On 15 January 2014, the Single Judge indicated that victims child soldiers will be represented by Ms Sarah Pellet whereas victims of attacks carried out by UPC/FPLC will be represented by Dmytro Suprun.²⁴ Victims' procedural rights for the hearing were set out as follows: (i) making oral submissions and opening and closing statements; (ii) access to the public record of the case, and *in camera* and *ex parte* hearings to which the common legal representatives are allowed to participate; (iii) notification of fillings and decisions, *inter alia* all public requests, submissions, motions, responses, Chamber's decisions and other documents; (iv) filing of written submissions on specific issues of law and /or facts.

On 7 February 2014, the Single Judge admitted 198 new applicants as victims of the case: 43 former child soldiers and 155 victims of the attacks.²⁵ In addition, Pre-Trial Chamber II rejected five applications; deferred two other applications; and decided to modify its ruling regarding one victim and to defer its application.

The Prosecutor files the document containing the charges

On 10 January 2014, the Prosecutor filed the document containing the charges in the Ntaganda case, containing 18 counts.²⁶

For all the crimes listed, Bosco Ntaganda is charged under Article 25(3)(a) as a direct perpetrator as well as under Article 25(3)(b), 25(3)(d)(i) or (ii), or 28(a) as a direct or indirect co-perpetrator.

Confirmation of charges hearing held from 10 to 14 February 2014

On 17 June 2013, the Single Judge postponed the commencement of the confirmation of charges hearing to Monday, 10 February 2014.²⁷ The confirmation of charges hearing took place from 10 to 14 February 2014 at the seat of the ICC in The Hague. The Prosecution, Defence and the legal representatives of victims

²³ Decision concerning the organisation of common Legal representation of Victims, 2 December 2013, ICC-01/04-02/06-160, <http://www.icc-cpi.int/iccdocs/doc/doc1693215.pdf>

²⁴ Decision on victims' participation at the confirmation of charges hearing and in the related proceedings, 15 January 2014, ICC-01/04-02/06-211, <http://www.icc-cpi.int/iccdocs/doc/doc1711340.pdf>

²⁵ Second Decision on Victims' participation at the confirmation of charges hearing and in the related proceedings, 7 February 2014, ICC-01/04-02/06-251, <http://www.icc-cpi.int/iccdocs/doc/doc1724114.pdf>

²⁶ Prosecution's submission of document containing the charges and the list of evidence, 10 January 2014, ICC-01/04-02/06-203, <http://www.icc-cpi.int/iccdocs/doc/doc1710033.pdf>; Annex A that is to say the DCC: <http://www.icc-cpi.int/iccdocs/doc/doc1710039.pdf>

²⁷ Decision on the "Prosecution's Urgent Request to Postpone the Date of the Confirmation Hearing" and Setting a New Calendar for the Disclosure of Evidence Between the Parties, 17 June 2013, ICC-01/04-02/06-73, <http://www.icc-cpi.int/iccdocs/doc/doc1605646.pdf>

addressed the Chamber and submitted evidence. A decision on the confirmation of charges is expected in the coming months.

PTC II rejects REDRESS' application to submit amicus curiae observations

[Background] On 13 February 2014, REDRESS submitted an application seeking authorization to submit amicus curiae observations to inform the Chamber of developments in international law, including jurisprudence from diverse jurisdictions, "which demonstrate the ways in which facts justifying charges of rape and sexual violence may, in particular circumstances, also properly support charges of torture, and when these crimes may be charged individually, cumulatively or alternatively".²⁸

On 18 February 2014, Pre-Trial Chamber II rejected REDRESS' application finding that receiving observations from REDRESS was not desirable for the proper determination of the case at this stage of the proceedings.²⁹

PTC II rejects most of the Legal Representatives' request to access confidential documents

[Background] On 3 April 2014, Ms Sarah Pellet and Mr Dmytro Suprun, the common legal representatives of victims participating in the case, requested to access certain confidential documents in the case record, including: (i) the observations submitted by the Prosecutor and the Defence in respect of some batches of victims' applications for participation; (ii) "all the information concerning dual status individuals, including any request by the Prosecutor for the redaction of statements, notes and other materials related to them"; (iii) the Prosecutor's response to the 6 February 2014 Defence Request; and (iv) the Prosecutor's applications for warrants of arrest under article 58 of the Statute.³⁰

On 15 April 2014, Pre-Trial Chamber II rejected the legal representatives' request, and ordered the Victims and Witnesses Unit to communicate to Dmytro Suprun updated information about the security situation of a victim, who is also a witness in the case.³¹

²⁸ Application by the Redress Trust for leave to submit observations pursuant to Rule 103 of the Rules of Procedure and Evidence, 13 February 2014, ICC-01/04-02/06-257, <http://www.icc-cpi.int/iccdocs/doc/doc1732148.pdf>

²⁹ Decision on the application by the Redress Trust to submit Amicus Curiae observations, 18 February 2014, ICC-01/04-02/06-259, <http://www.icc-cpi.int/iccdocs/doc/doc1734422.pdf>

³⁰ Joint Request of the Common Legal Representatives to access confidential documents in the case record, 3 April 2014, ICC-01/04-02/06, <http://www.icc-cpi.int/iccdocs/doc/doc1757470.pdf#search=ICC%2D01%2F04%2D02%2F06%2D287>

³¹ Decision on the "Joint Request of the Common Legal Representatives to access confidential documents in the case record",

Katanga case

TC II finds Germain Katanga guilty, as an accessory, of one count of crime against humanity and four counts of war crimes

On 7 March 2014, Trial Chamber II issued its judgment in the Katanga case and, by Majority, convicted Germain Katanga of: (i) the crime against humanity of murder (Article 7(1)(a)); (ii) the war crime of murder (Article 8(2)(c)(i)); (iii) the war crime of intentionally directing attacks against the civilian population (Article 8(2)(e)(i)); (iv) the war crime of destroying the enemy's property (Article 8(2)(e)(xii)); (v) the war crime of pillaging (Article 8(2)(e)(v)).³² Under Article 25(3)(d), Germain Katanga was acquitted of: (i) the crimes against humanity of rape and sexual slavery (Article 7(1)(g)); (ii) the war crime of rape and sexual slavery (Article 8(2)(e)(vi)). In addition, Germain Katanga was acquitted of the war crime of conscripting or enlisting children under the age of fifteen years into armed forces and using them to participate actively in hostilities (Article 8(2)(e)(vii)).

The Trial Chamber, by Majority, pursuant to Regulation 55 of the Regulations of the Court, recharacterized Katanga's mode of liability for the crimes charged from article 25(3)(a) of the Statute (indirect co-perpetration) to article 25(3)(d) (accessoryship through a contribution made in any other way to the commission of a crime by a group of persons acting with a common purpose). In addition, the Trial Chamber, by Majority, modified, pursuant to Regulation 55 of the Regulations of the Court, the legal characterisation of the facts such that the armed conflict connected to the charges was not of an international character between August 2002 and May 2003.

Judge Van den Wyngaert appended a partially dissenting opinion to the judgment.³³

On 9 April 2014, Mr Katanga's Defence submitted its Notice of Appeal against the Judgment.³⁴ On the same day, the Prosecution filed its Appeal against the Judgment and indicated that "[f]or reasons to be provided in its Document in Support of the Appeal, [it will appeal] the acquittals of Germain Katanga for rape and sexual slavery as a crime against humanity and as a war crime under Articles 7(1)(g) and 8(2)(e)(vi), including legal,

¹⁵ April 2014, ICC-01/04-02/06-295, <http://www.icc-cpi.int/iccdocs/doc/doc1764279.pdf>

³² Jugement rendu en application de l'article 74 du Statut, 7 March 2014, ICC-01/04-01/07, <http://www.icc-cpi.int/iccdocs/doc/doc1744366.pdf>

³³ Minority Opinion of Judge Christine Van den Wyngaert, 7 March 2014, ICC-01/04-01/07-3436-Anxl, <http://www.icc-cpi.int/iccdocs/doc/doc1744372.pdf>

³⁴ Defence Notice of Appeal against the decision of conviction 'Jugement rendu en application de l'article 74 du Statut' rendered by Trial Chamber II, 7 th March 2014, 9 April 2014, ICC-01/04-01/07-3459, <http://www.icc-cpi.int/iccdocs/doc/doc1759481.pdf>

procedural and factual findings that led to those acquittals."³⁵

TC II sets the date for sentencing hearing

On 8 April 2014, Trial Chamber set the date for the sentencing hearing for 5 and 6 May 2014 and authorised the deposition via video-conference of one witness for the Prosecution and of two witnesses for the Defence.³⁶

Registry's information on Mr Katanga's insolvency

[Background] On 14 November 2007, Germain Katanga declared to be indigent. As a result of the Registry's investigation into his assets, Mr Katanga was provisionally considered wholly indigent under regulation 85(1) of the Regulations of the Court, on 27 November 2007.³⁷ On 20 March 2014, Trial Chamber II requested the Registry to provide information on Mr Katanga's financial situation, on whether the accused has made any efforts to compensate victims and on his behaviour while in detention.³⁸

On 4 April 2014, the Registry submitted to Trial Chamber II observations in relation to Mr Katanga's situation. The Registry indicated that it had no further information showing that Mr Katanga's financial situation had changed since 2007. Consequently, the Registry could not declare him solvent with regard to possible fines. In addition, VPRS indicated that it didn't possess any information in relation to efforts undertaken by Mr Katanga to compensate the victims.³⁹

Darfur

Banda case

TC IV grants victim status to fourteen new applicants

[Background] By decision of 29 October 2010, Pre-Trial Chamber I authorised 89 victims to participate in the pre-trial proceedings of the Banda case.⁴⁰ On 16 September

³⁵ Prosecution's Appeal against Trial Chamber II's "Jugement rendu en application de l'article 74 du Statut", 9 April 2014, ICC-01/04-01/07-3462, <http://www.icc-cpi.int/iccdocs/doc/doc1759535.pdf>

³⁶ Ordonnance relative aux requêtes du Procureur et de la Défense en vue de faire déposer des témoins lors de l'audience sur la peine, 8 April 2014, ICC-01/04-01/07-3458, <http://www.icc-cpi.int/iccdocs/doc/doc1759228.pdf>

³⁷ Décision du Greffier sur les demandes d'aide judiciaire aux frais de la Cour déposées par M. Germain Katanga, 23 November 2007, ICC-01/04-01/07-79, <http://www.icc-cpi.int/iccdocs/doc/doc369197.pdf>

³⁸ Courriel du Président de la Chambre de première instance II au Greffier en date du 20 mars 2014.

³⁹ Observations du Greffe relatives à la solvabilité, l'indemnisation des victimes et au comportement en détention de Germain Katanga, 4 Avril 2014, <http://www.icc-cpi.int/iccdocs/doc/doc1756708.pdf> (original in French, no translation in English available).

⁴⁰ Decision on Victims' Participation at the Hearing on the Confirmation of the Charges, 29 October 2010, ICC-02/05-03/09-89, <http://www.icc-cpi.int/iccdocs/doc/doc959401.pdf>

2011, the Registry transmitted to the Chamber six new applications to participate in the proceedings and a report thereon.⁴¹ On 7 May 2012, the Registry transmitted thirteen additional applications for participation, along with an accompanying second report.⁴²

On 12 December 2013, Trial Chamber IV issued its decision in relation to the status of nineteen new applicants.⁴³ Fourteen of them were granted victim status, while the others were rejected on various grounds: three applicants had not provided adequate information; one, who was the “close friend” of a deceased, could not be considered as a close family member; and another one had her alleged emotional loss and material harm falling outside the scope of the charged crimes.

Moreover, Trial Chamber IV explained that VPRS is allowed to provide the parties with redacted versions of the victims’ application to protect the safety, physical and psychological well-being, dignity and privacy of victims. According to the Chamber, the non-disclosure of information identifying the victims to the parties is proportionate and necessary, and does not undermine the fair-trial rights of the accused at this stage of the proceedings.

TC IV sets out measures and guidelines for the participation of victims at trial

[Background] On 6 March 2013, the Chamber set the date for the commencement of trial at 5 May 2014.⁴⁴

On 20 March 2014, Trial Chamber IV set out measures and guidelines for the participation of victims at trial.⁴⁵ Among others, the Chamber gave further information about: (i) the interpretation of Article 68(3) of the Statute; (ii) anonymous victims; (iii) participation in person; (iv) dual status individuals; (v) requests to call witnesses; (vi) presentation of evidence; (vii) challenging the relevance or admissibility of evidence; (viii) questioning by the CLR; (ix) access to confidential filings, documents and evidence; and (x) participation in closed session and *ex parte* hearings. In addition, the Chamber ordered the

⁴¹ Transmission to the Trial Chamber of applications for participation in the proceedings, 16 September 2011, ICC-02/05-03/09-216, <http://www.icc-cpi.int/iccdocs/doc/doc1233621.pdf> ; Report on six applications to participate in the proceedings, 16 September 2011, ICC-02/05-03/09-217, <http://www.icc-cpi.int/iccdocs/doc/doc1233633.pdf>

⁴² Second transmission to the Trial Chamber of applications for participation in the proceedings, 7 May 2012, ICC-02/05-03/09-330, <http://www.icc-cpi.int/iccdocs/doc/doc1398442.pdf>

⁴³ Decision on 19 applications to participate in the proceedings, 12 December 2013, ICC-02/05-03/09-528, <http://www.icc-cpi.int/iccdocs/doc/doc1698365.pdf>

⁴⁴ Decision concerning the trial commencement date, the date for final prosecution disclosure, and summonses to appear for trial and further hearings, 6 March 2013, ICC-02/05-03/09-455, <http://www.icc-cpi.int/iccdocs/doc/doc1563646.pdf>

⁴⁵ Decision on the participation of victims in the trial proceedings, 20 March 2014, ICC-02/05-03/09-545, <http://www.icc-cpi.int/iccdocs/doc/doc1751024.pdf>

CLR to file no later than 17 April 2014 a schedule of the anticipated order of victims due to testify at trial.

TC IV vacates the trial date of 5 May 2014

On 16 April 2014, Trial Chamber IV vacated the trial date of 5 May 2014.⁴⁶

Central African Republic

Bemba case

The Registrar designates the OPCV as legal representative of unrepresented applicants

On 25 November 2013, the Registrar of the ICC notified the parties and participants of the designation of the OPCV as legal representative of the unrepresented applicants.⁴⁷ On 17 February 2014, the Registrar of the ICC also notified the parties and participants of the designation of the OPCV as Legal Representative of unrepresented applicants for the purpose of *reparations*.⁴⁸

TC III partially grants the victims’ legal representative’s request to file new items into evidence

[Background] On 8 November 2013, Maître Marie-Edith Douzima-Lawson requested the admission into evidence of ten items. Maître Douzima grouped the submitted items into the three following categories: (i) decrees; (ii) newspapers; and (iii) written statements of two witnesses. Maître Douzima submitted that the personal interests of the victims she represents are affected by the proposed documents and that such documents are reliable, relevant, probative, and have no prejudicial effect on the proceedings.⁴⁹

On 29 January 2014, Trial Chamber III partially granted Maître Douzima’s request to file new items into evidence.⁵⁰ In particular, the Trial Chamber: (i) decided

⁴⁶ Public redacted Decision vacating the trial date of 5 May 2014, 16 April 2014, ICC-02/05-03/09-564-Red, <http://www.icc-cpi.int/iccdocs/doc/doc1766386.pdf>

⁴⁷ Notification of designation of the Office of Public Counsel for Victims as Legal Representative of unrepresented applicants, 25 November 2013, ICC-01/05-01/08-2906, <http://www.icc-cpi.int/iccdocs/doc/doc1672630.pdf>

⁴⁸ Notification of designation of the Office of Public Counsel for Victims as Legal Representative of unrepresented applicants for reparations, 17 February 2014, ICC-01/05-01/08-2982, <http://www.icc-cpi.int/iccdocs/doc/doc1733916.pdf>

⁴⁹ Requête de la Représentante légale de victimes en vue de soumettre des documents en tant qu’éléments de preuve selon l’article 64(9) du Statut de Rome, 8 November 2013, ICC-01/05-01/08-2866, original in French: <http://www.icc-cpi.int/iccdocs/doc/doc1678318.pdf>; no English translation available.

⁵⁰ Decision on Maître Douzima's "Requête de la Représentante légale de victimes en vue de soumettre des documents en tant qu’éléments de preuve selon l’article 64(9) du Statut de Rome", 29 January 2014

that the victims legal representative's request was moot in respect of four items that had already been admitted into evidence by previous decisions; (ii) postponed the decision with regard to two items because they were almost identical to two other documents already under review by the Chamber (the only difference being the addition of a witness' handwritten notes); (iii) admitted into evidence four other items, namely two presidential decrees and two media reports, among which one article mentioning the rape of one of the witnesses of the case; and (iv) rejected the request to admit into evidence one item, a newspaper, whose relevant article had already been admitted into evidence in a previous decision.

TC III assigns the victims previously represented by Me Zarambaud to Me Douzima

[Background] On 18 November 2010, the Registry informed the Chamber, the parties and participants that Mr Assingambi Zarambaud had been designated as common legal representative of victims belonging to Group A (victims whose applications relate to alleged crimes committed in or around Bangui and PK 12) and Group E (dual status victims); and that Ms Marie-Edith Douzima-Lawson had been designated as common legal representative of victims belonging to Group B (victims whose applications relate to alleged crimes committed in or around Damara and Sibut); Group C (victims whose applications relate to alleged crimes committed in or around Boali, Bossembélé, Bossangoa and Bozoum); and Group D (victims whose applications relate to alleged crimes committed in or around Mongoumba).⁵¹ On 16 January 2014, the Chamber, the parties and participants were informed via email of the passing of Me Zarambaud during the night.

On 7 February 2014, Trial Chamber III assigned the victims previously represented by Me Zarambaud to Me Douzima, and instructed the Registry to continue providing Me Douzima with the assistance of the support team previously assisting Me Zarambaud.⁵²

Bemba, Kilolo, Mangenda, Babala and Arido case

Suspects recently arrested appear before the Court for the first time

[Background] On 20 November 2013, Pre-Trial Chamber II issued a warrant of arrest for Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu, and Narcisse Arido for offences against the

(reclassified as public on 5 February 2014), ICC-01/05-01/08-2950, <http://www.icc-cpi.int/iccdocs/doc/doc1718776.pdf>

⁵¹ Corrigendum to Notification of designation of common legal representatives, 18 November 2010, ICC-01/05-01/08-1012-Corr, <http://www.icc-cpi.int/iccdocs/doc/doc969143.pdf>

⁵² Order on the legal representation of victims previously represented by Me Assingambi Zarambaud, 7 February 2014, ICC-01/05-01/08-2964, <http://www.icc-cpi.int/iccdocs/doc/doc1724349.pdf>

administration of justice allegedly committed in connection with the Bemba case, namely allegedly presenting false or forged evidence and corruptly influencing witnesses. Simultaneously, Mr. Bemba was served a warrant of arrest at the ICC's Detention Center in respect of the same charges.⁵³

On 23 and 24 November 2013, the authorities of the Netherlands, France, Belgium and the Democratic Republic of the Congo (DRC) arrested Kilolo, Mangenda, Babala and Arido within their respective jurisdictions. On 25 November 2013, Fidèle Babala Wandu, Aimé Kilolo and Jean-Pierre Bemba appeared before the Single Judge of Pre-Trial Chamber II.⁵⁴ On 5 December 2013, Jean-Jacques Mangenda, in turn, appeared before the Single Judge of Pre-Trial Chamber II.⁵⁵ Pursuant to Trial Chamber III's decision of 6 December 2013, Mr Bemba's current Co-Counsel, Mr Peter Haynes, will continue acting as counsel for Mr Jean-Pierre Bemba until decided otherwise.⁵⁶

PTC II rejects Kilolo, Mangenda and Babala's requests for interim release

On 14 and 17 March 2014 Pre-Trial Chamber II rejected Babala and Kilolo's and Mangenda's requests for interim release.⁵⁷

Ivory Coast

Laurent Gbagbo case

PTC I decides Laurent Gbagbo should remain in detention

⁵³ Warrant of arrest for Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido, 20 November 2013 (unsealed 28 November 2013), ICC-01/05-01/13-1-Red2, <http://www.icc-cpi.int/iccdocs/doc/doc1691832.pdf> (original: in French), <http://www.icc-cpi.int/iccdocs/doc/doc1694691.pdf> (English translated version).

⁵⁴ Decision setting the date for the first appearance of Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba and Fidèle Babala, and on issues relating to the publicity of the proceedings, 25 November 2013, ICC-01/05-01/13-11, <http://www.icc-cpi.int/iccdocs/doc/doc1688311.pdf>

⁵⁵ Decision convening a hearing for the first appearance of Jean-Jacques Mangenda Kabongo and related issues, 4 December 2013, ICC-01/05-01/13-29, <http://www.icc-cpi.int/iccdocs/doc/doc1694196.pdf>

⁵⁶ Decision on the Registry's "Enregistrement d'une lettre de M. Jean-Pierre Bemba Gombo datée du 5 décembre 2013", 6 December 2013, ICC-01/05-01/08-2918, <http://www.icc-cpi.int/iccdocs/doc/doc1695588.pdf>

⁵⁷ Decision on the "Requête urgente de la Défense sollicitant la mise en liberté provisoire de monsieur Fidèle Babala Wandu", 14 March 2014, ICC-01/05-01/13-258, <http://www.icc-cpi.int/iccdocs/doc/doc1748750.pdf>; Decision on the "Demande de mise en liberté provisoire de Maître Aimé Kilolo Musamba", 14 March 2014, ICC-01/05-01/13-259, <http://www.icc-cpi.int/iccdocs/doc/doc1748753.pdf>; Decision on the "Requête de mise en liberté" submitted by the Defence for Jean-Jacques Mangenda, 17 March 2014, ICC-01/05-01/13-261, <http://www.icc-cpi.int/iccdocs/doc/doc1748936.pdf>

[Background] On 23 November 2011, Pre-Trial Chamber III issued, under seal, a warrant of arrest for Laurent Gbagbo, and unsealed it upon his arrest and transfer to the ICC Detention Centre on 30 November 2011.⁵⁸ On 1 May 2012, the Defence submitted a request for interim release which was rejected on 13 July 2012 by Pre-Trial Chamber I.⁵⁹ This decision was followed by three other decisions reviewing Laurent Gbagbo's detention.⁶⁰

On 12 March 2014, Pre-Trial Chamber I issued a fifth decision on the review of Laurent Gbagbo's detention establishing that Mr Gbagbo should remain in detention for the time being.⁶¹ Pre-Trial Chamber I found that there was no change in circumstances as to justify Mr Gbagbo's release. Pre-Trial Chamber I also ordered the Registry and the Defence to submit, by 2 April 2014, a report detailing the steps taken to address Mr Gbagbo's health conditions.

PTC I allows victims to provide evidence to the Prosecutor

[Background] On 3 June 2013, Pre-Trial Chamber I decided to adjourn the confirmation of charges hearing and requested the Prosecutor to consider providing further evidence or conducting further investigation with respect to all charges. The Chamber also ordered the Prosecutor to submit "any requests for redactions with regard to the evidence she has collected in the course of her further investigation".⁶² On 22 November 2013, the Prosecutor requested an extension of time to request redactions in relation to two documents which were received from the OPCV and which the Prosecutor sought to use for the purpose of the confirmation of charges.⁶³

On 18 December 2013, the Single Judge of Pre-Trial Chamber I granted the Prosecutor's 22 November 2013

⁵⁸ Warrant of Arrest for Laurent Koudou Gbagbo, 23 November 2011, ICC-02/11-01/11-1, <http://www.icc-cpi.int/iccdocs/doc/doc1276751.pdf>

⁵⁹ Decision on the "Requête de la Défense demandant la mise en liberté provisoire du président Gbagbo" (Public redacted version), 13 July 2012, ICC-02/11-01/11-180Red, <http://www.icc-cpi.int/iccdocs/doc/doc1441665.pdf>

⁶⁰ Public redacted version of the Second decision on the review of Laurent Gbagbo's detention pursuant to article 60(3) of the Rome Statute, 12 March 2013, ICC-02/11-01/11-417-Red, <http://www.icc-cpi.int/iccdocs/doc/doc1566131.pdf>; Third decision on the review of Laurent Gbagbo's detention pursuant to article 60(3) of the Rome Statute, 11 July 2013, ICC-02/11-01/11, <http://www.icc-cpi.int/iccdocs/doc/doc1618385.pdf>; Fourth decision on the review of Laurent Gbagbo's detention pursuant to article 60(3) of the Rome Statute, 11 November 2013, ICC-02/11-01/11, <http://www.icc-cpi.int/iccdocs/doc/doc1679815.pdf>

⁶¹ Fifth decision on the review of Laurent Gbagbo's detention pursuant to article 60(3) of the Rome Statute, 12 March 2014, ICC-02/11-01/11-633, <http://www.icc-cpi.int/iccdocs/doc/doc1746943.pdf>

⁶² Decision adjourning the hearing on the confirmation of charges pursuant to article 61(7)(c)(i) of the Rome Statute, 3 June 2013, ICC-02/11-01/11-432, <http://www.icc-cpi.int/iccdocs/doc/doc1599831.pdf>

⁶³ Prosecution's request for an extension of time to apply for redactions pursuant to Regulation 35 and redactions to two documents pursuant to Rule 81(4), 22 November 2013, ICC-02/11-01/11-565, <http://www.icc-cpi.int/iccdocs/doc/doc1685764.pdf>

request for redactions. The Single Judge considered that such redactions were necessary to safeguard the security of concerned persons.⁶⁴ In the same decision, the Single Judge also clarified that "there is nothing in the applicable law preventing the Prosecutor from receiving evidence from victims."

Prosecutor files Amended DCC

On 13 January 2014, the Prosecutor filed the amended document containing the charges and the amended list of evidence.⁶⁵ The Amended DCC provided additional evidence with respect to all charges and resulted from further investigation conducted by the Prosecution in accordance with the 3 June 2013 Pre-Trial Chamber I's decision.⁶⁶

Simone Gbagbo case

PTC I postpones the execution of Ms Gbagbo's Surrender Request pending determination of the Admissibility Challenge; Legal representative of the victims in the Admissibility Challenge proceedings appointed

[Background] On 29 February 2012, Pre-Trial Chamber III issued a warrant of arrest for Ms Gbagbo, which was made public on 22 November 2012.⁶⁷ On 1 October 2013, Ivory Coast filed the Admissibility Challenge arguing that it was presently investigating or prosecuting the case. Consequently, in accordance with Article 95 of the Rome Statute, it requested the Court to stay the execution of the Surrender Request issued against Ms Gbagbo.⁶⁸

On 15 November 2013, Pre-Trial Chamber I agreed to delay the execution of the Surrender Request until the final determination of the Admissibility Challenge.⁶⁹ However, the Chamber deemed it necessary to highlight that the Surrender Request remained valid and that its

⁶⁴ Decision on the "Prosecution's request for an extension of time to apply for redactions pursuant to Regulation 35 and for redactions to two documents pursuant to Rule 81(4)", 18 December 2013, ICC-02/11-01/11-577, <http://www.icc-cpi.int/iccdocs/doc/doc1701616.pdf>

⁶⁵ Prosecution's Submission of Document amendé de notification des charges, l'Inventaire amendé des éléments de preuve à charge, and le Tableau amendé des éléments constitutifs des crimes, and Response to issues raised by Pre-Trial Chamber I', 13 January 2014, ICC-02/11-01/11-592-Anx1, <http://www.icc-cpi.int/iccdocs/doc/doc1710471.pdf>

⁶⁶ Decision adjourning the hearing on the confirmation of charges pursuant to article 61(7)(c)(i) of the Rome Statute, 3 June 2013, ICC-02/11-01/11-432, <http://www.icc-cpi.int/iccdocs/doc/doc1599831.pdf>

⁶⁷ Warrant of Arrest for Simone Gbagbo, 29 February 2012, ICC-02/11-01/11-1, <http://www.icc-cpi.int/iccdocs/doc/doc1344439.pdf>

⁶⁸ Requête de la République de Côte d'Ivoire sur la recevabilité de l'affaire *Le Procureur c. Simone Gbagbo*, et demande de sursis à exécution en vertu des articles 17, 19 et 95 du Statut de Rome, 1 October 2013, ICC-02/11-01/12-11-Red, original in French: <http://www.icc-cpi.int/iccdocs/doc/doc1653132.pdf>; no English translation available

⁶⁹ Decision on the conduct of the proceedings following Côte d'Ivoire's challenge to the admissibility of the case against Simone Gbagbo, 15 November 2013, ICC-02/11-01/12-15, <http://www.icc-cpi.int/iccdocs/doc/doc1682202.pdf>

execution was only postponed. In addition, the Chamber established that the victims who had already communicated with the Court could submit observations within a certain time limit and appointed Ms Paolina Massidda from the OPCV as legal representative of such victims for the purposes of the proceedings related to the Admissibility Challenge.

Finally, on 6 December 2013, the Registry informed the parties and participants that to date it had received 295 applications for participation and/or reparations in relation to the case and that, therefore, the OPCV will be representing the 295 applicants for the purpose of the proceedings following of the admissibility challenge.⁷⁰

Charles Blé Goudé case

Charles Blé Goudé surrenders to ICC custody

[Background] On 21 December 2011, Pre-Trial Chamber III issued a warrant of arrest for Charles Blé Goudé, which was made public by Pre-Trial Chamber I on 30 September 2013.⁷¹ On 3 December 2012, the Registrar transmitted to Ivory Coast a request for the arrest and surrender to the Court of Mr Blé Goudé.⁷²

On 22 March 2013, Charles Blé Goudé was surrendered to the ICC by the Ivorian national authorities. Consequently, Pre-Trial Chamber I convened a hearing for his first appearance for 27 March 2014.⁷³ The confirmation of charges hearing is scheduled to begin on 18 August 2014.⁷⁴

Kenya

Ruto and Sang case

A number of victims withdraw from ICC proceedings amid fear for their safety and security

⁷⁰ Notification following the appointment of the Office of the Public Counsel for Victims as legal representative of victims who have already communicated with the Court in relation to the Admissibility Challenge pursuant to Article 19 of the Rome Statute, 6 December 2013, ICC-02/11-01/12, <http://www.icc-cpi.int/iccdocs/doc/doc1690867.pdf>

⁷¹ Warrant of Arrest of Charles Blé Goudé, 21 December 2011, ICC-02/11-02/11-1, <http://www.icc-cpi.int/iccdocs/doc/doc1292069.pdf>; Decision reclassifying the warrant of arrest against Charles Blé Goudé and other documents, 30 September 2013, ICC-02/11-02/11-30, <http://www.icc-cpi.int/iccdocs/doc/doc1292069.pdf>

⁷² Demande d'arrestation et de remise de Charles Blé Goudé adressée à la République de Côte d'Ivoire, 3 December 2012 (made public: 3 December 2013), ICC-02/11-02/11-19, original in French: <http://www.icc-cpi.int/iccdocs/doc/doc1519492.pdf>

⁷³ Order convening a hearing for the first appearance of Charles Blé Goudé, 24 March 2014, ICC-02/11-02/11-46, <http://www.icc-cpi.int/iccdocs/doc/doc1752115.pdf>

⁷⁴ Transcript of Charles Blé Goudé before Pre-Trial Chamber I, 27 March 2014, ICC-02/11-02/11-T-3-Red, <http://www.icc-cpi.int/iccdocs/doc/doc1754996.pdf>

[Background] On 30 August 2013, the victims' common legal representative in the Ruto and Sang case filed a comprehensive report on the withdrawal of victims by letter dated of 5 June 2013. Ninety-three victims living in the Turbo Area, Kenya, allegedly signed this letter and indicated their wish to withdraw from ICC proceedings. The LRV reported that of these ninety-three individuals, forty-seven were within the scope of the case. A public redacted version of the LRV Report was filed on 5 September 2013.⁷⁵

On 14 November 2013, Trial Chamber V(A) addressed the situation of the forty-seven individuals who had been identified as victims within the scope of the case.⁷⁶ In particular, it established that twenty individuals, who signed the letter and subsequently informed the LRV of their wish to terminate their participation in the proceedings, should be withdrawn from the victims' database maintained by the Registry. The Chamber also established that fifteen other victims who signed the letter but with whom the LRV was unable to make contact, shall remain in the Registry's database until such time as the Registry or the LRV receive confirmation of their decision to withdraw.

The Chamber also urged the LRV to continue to provide information indicative of direct interference or threats to the safety and well-being of specific victims, including those identified in the Withdrawal Letter, in order to enable assessment by the VWU as to whether any further investigation or protective measures may be required.

The Registrar transmits the Sixth and Seventh Periodic Reports on the general situation of victims in Kenya

[Background] On 3 October 2012, Trial Chamber V directed the VPRS to file every two months, in cooperation with the common legal representative, a comprehensive report on the general situation of victims in Kenya, including statistics about the victims' population and information in relation to registered and non-registered victims.⁷⁷

On 25 November 2013, the Registrar transmitted the Sixth Periodic Report on the general situation of victims in Kenya providing information on the activities of the common legal representative and the VPRS on the

⁷⁵ Common Legal Representative for Victims' Comprehensive Report on the Withdrawal of Victims from the Turbo area by Letter dated 5 June 2013, 5 September 2013, ICC-01/09-01/11-896-Corr-Red, <http://www.icc-cpi.int/iccdocs/doc/doc1640862.pdf>

⁷⁶ Decision on the Legal Representative's report on the withdrawal of victims, 14 November 2013, ICC-01/09-01/11-1098-Red2, <http://www.icc-cpi.int/iccdocs/doc/doc1681933.pdf>

⁷⁷ Decision on victims' representation and participation, 3 October 2012, ICC-01/09-02/11-498, <http://www.icc-cpi.int/iccdocs/doc/doc1479387.pdf>

ground.⁷⁸ In the report, the VPRS reported about a workshop it organised for members of the common legal representative's team, local intermediaries and civil society organisations.

On 23 January 2014, the Registrar transmitted the Seventh Periodic Report on the general situation of victims in Kenya providing information on the registration process designed for victims who had not submitted applications using the Court's Standard Application Forms, on the activities of the common legal representative and on the activities of the VPRS on the ground.⁷⁹

TC V(A) motivates its oral decision on excusal from presence at trial

[Background] On 27 November 2013, at its 12th plenary meeting, the Assembly of State Parties adopted, among other amendments, Rule 134*quater* of the Rules of Procedure and Evidence.⁸⁰ On 16 December 2013, Mr Ruto's Defence filed a request pursuant to Article 63(1) of the Rome Statute and Rule 134*quater* of the Rules of Procedure and Evidence to excuse Mr. Ruto from attendance at trial.⁸¹ On 15 January 2014, during a status conference convened pursuant to the Chamber's order, Trial Chamber V(A) decided by oral ruling to conditionally excuse Mr Ruto from presence at trial and indicated that it would issue reasons in due course.⁸²

On 18 February 2014, Trial Chamber V(A) provided the reasons for its oral decision and detailed under which conditions Mr Ruto was to be conditionally excused pursuant to Rule 134*quater* of the Rules.⁸³ The Chamber stated, among others, that the continuous absence of Mr Ruto throughout the entire remainder of the trial may be incompatible with the interests of justice. Consequently, the Chamber required Mr Ruto's presence in the courtroom for the following hearings: (i) the entirety of the closing statements of all parties and participants in the case; (ii) when victims present their views and concerns in person; (iii) the entirety of the delivery of the judgment

⁷⁸ Sixth periodic report on the general situation of victims in Kenya, 25 November 2013, ICC-01/09-01/11-1119-AnxA, <http://www.icc-cpi.int/iccdocs/doc/doc1672627.pdf>

⁷⁹ Seventh Periodic Report on the general situation of victims in the case and the activities of the Victims Participation and Reparations Section and the Common Legal Representative in the field, 23 January 2014, ICC-01/09-01/11-1157-AnxA, <http://www.icc-cpi.int/iccdocs/doc/doc1716803.pdf>

⁸⁰ Resolution ICC-ASP/12/Res.7, Adopted at the 12th plenary meeting, on 27 November 2013, by consensus, http://www.icc-cpi.int/iccdocs/asp_docs/Resolutions/ASP12/ICC-ASP-12-Res7-ENG.pdf

⁸¹ Defence request pursuant to Article 63(1) of the Rome Statute and Rule 134*quater* of the Rules of Procedure and Evidence to excuse Mr. William Samoei Ruto from attendance at trial, 16 December 2013, ICC-01/09-01/11-1124, <http://www.icc-cpi.int/iccdocs/doc/doc1699798.pdf>

⁸² Transcript of the Status Conference held on 15 January 2014, ICC-01/09-01/11-T-72, <http://www.icc-cpi.int/iccdocs/doc/doc1711590.pdf>

⁸³ Reasons for the Decision on Excusal from Presence at Trial under Rule 134*quater*, 18 February 2014, ICC-01/09-01/11-1186, <http://www.icc-cpi.int/iccdocs/doc/doc1734492.pdf>

in the case; (iv) the entirety of the sentencing hearing, if applicable; (v) the entirety of the victim impact hearings, if applicable; (vi) the entirety of the reparation hearings, if applicable; (vii) the first five days of hearing starting after a judicial recess as set out in regulation 19*bis* of the Regulations of the Court; (viii) any other attendance directed by the Chamber either *proprio motu* or other request of a party or participant as decided by the Chamber.

TC V(A) summons eight witnesses and requires Kenya's cooperation

[Background] On 28 November 2013, the Office of the Prosecutor filed a request under articles 64(6)(b) and 93 of the Rome Statute to summon witnesses.⁸⁴ On 8 January 2014, 10 January 2014 and 11 February 2014, Mr Ruto and Mr Sang's Defence and the Government of Kenya respectively filed their response and observations on the Prosecution's request.⁸⁵

On 17 April 2014, Trial Chamber V(A) summoned eight witnesses to testify before it by way of video-link, or at a location in Kenya.⁸⁶ In this decision, the Chamber found that: (i) it had the power to compel the testimony of witnesses; (ii) pursuant to article 93(1)(d) and (l) of the Statute, it could, by way of requests for cooperation, obligate Kenya both to serve summonses and to assist in compelling the attendance before the Chamber of the witnesses summoned; (iii) there were no provisions in Kenyan domestic law that prohibited this kind of cooperation requests; and, (iv) the Prosecution had justified the issuance of the summonses to compel the appearance of the eight witnesses in question.

Kenyatta case

TC V(B) establishes that, as a general rule, Kenyatta must now be present at trial

[Background] On 23 September 2013, Mr Kenyatta filed a request for conditional excusal from continuous presence at trial arguing that his physical presence in the courtroom would only be required at the opening and

⁸⁴ Corrected and amended version of "Prosecution's request under article 64(6)(b) and article 93 to summon witnesses", 29 November 2014, ICC-01/09-01/11-1120-Red2-Corr, <http://www.icc-cpi.int/iccdocs/doc/doc1694953.pdf>

⁸⁵ Public redacted version of "Defence response to the corrected and amended version of 'Prosecution's request under article 64(6)(b) and article 93 to summon witnesses'", 8 January 2014, ICC-01/09-01/11-1136-Red2, <http://www.icc-cpi.int/iccdocs/doc/doc1708025.pdf>; Sang Defence Response to the Prosecution's Request under Article 64(6)(b) and Article 93 to Summon Witnesses, 10 January 2014, ICC-01/09-01/11-1138-Red, <http://www.icc-cpi.int/iccdocs/doc/doc1709489.pdf>; The Government of the Republic of Kenya's submission on the 'Prosecution's request under article 64(6) (b) and article 93 to summon witnesses', 11 February 2014, ICC-01/09-01/11-1184, <http://www.icc-cpi.int/iccdocs/doc/doc1725836.pdf>

⁸⁶ Decision on Prosecutor's Application for Witness Summonses and resulting Request for State Party Cooperation, 17 April 2014, ICC-01/09-01/11-1274, <http://www.icc-cpi.int/iccdocs/doc/doc1766909.pdf>

closing of the trial and the delivery of the judgment. In his request, Mr Kenyatta further indicated that if at any other time his presence was required, this could be satisfied by way of video link.⁸⁷ On 1 October 2013, the Prosecutor and the LRV formally opposed Mr Kenyatta's request.⁸⁸ On 18 October 2013, Trial Chamber V(B), by majority, partially granted Mr Kenyatta's request on the ground that such request had already been granted to Mr Ruto on 18 June 2013 and in light of Mr Kenyatta's important functions as President of Kenya.⁸⁹ On 25 October 2013, the Appeals Chamber reversed the Decision on Mr. Ruto's Request for Excusal and established that the presence of the accused must remain the general rule.⁹⁰ Following the Appeals Chamber's decision in the Ruto and Sang case, the Prosecutor filed a motion in the Kenyatta case asking the Chamber to reconsider its 18 October 2013 decision.⁹¹

On 26 November 2013, Trial Chamber V(B) considered that the recent Appeals Judgement in the Ruto and Sang case provided important new information for Mr Kenyatta's case, as the Appeals Chamber reversed a decision which was grounded on the same reasoning and resulted in a similar outcome as the 18 October decision.⁹² Given the similarities between the two requests, Trial Chamber V(B) reconsidered its decision and established that "Mr Kenyatta will therefore, as a general rule, have to be present for his trial. Any future requests by the accused to be excused from attending parts of the trial will be considered on a case-by-case basis."

Trial Chamber V(B) rejects the Defence's request for a permanent stay of proceedings and vacates trial date of 5 February 2014

⁸⁷ Defence Request for Conditional Excusal from Continuous Presence at Trial, 23 September 2013, ICC-01/09-02/11-809, <http://www.icc-cpi.int/iccdocs/doc/doc1649093.pdf>

⁸⁸ Prosecution's Response to the Defence Request for Conditional Excusal from Continuous Presence at Trial, 1 October 2013, ICC-01/09-02/11-818, <http://www.icc-cpi.int/iccdocs/doc/doc1653372.pdf> ; Victims' Response to "Defence Request for Conditional Excusal from Continuous Presence at Trial", 1 October 2013, ICC-01/09-02/11-819, <http://www.icc-cpi.int/iccdocs/doc/doc1653381.pdf>

⁸⁹ Decision on Defence Request for Conditional Excusal from Continuous Presence at Trial, 18 October 2013, ICC-01/09-02/11-830, <http://www.icc-cpi.int/iccdocs/doc/doc1667182.pdf> ; Decision on Mr Ruto's Request for Excusal from Continuous Presence at Trial, 18 June 2013, ICC-01/09-01/11-777, <http://www.icc-cpi.int/iccdocs/doc/doc1605793.pdf>

⁹⁰ Judgment on the appeal of the Prosecutor against the decision of Trial Chamber V(a) of 18 June 2013 entitled "Decision on Mr Ruto's Request for Excusal from Continuous Presence at Trial", 25 October 2013, ICC-01/09-01/11-1066, <http://www.icc-cpi.int/iccdocs/doc/doc1669852.pdf>

⁹¹ Prosecution's motion for reconsideration of the "Decision on Defence request for conditional excusal from continuous presence at trial" and in the alternative, application for leave to appeal, 28 October 2013, ICC-01/09-02/11-837, <http://www.icc-cpi.int/iccdocs/doc/doc1671357.pdf>

⁹² Decision on the Prosecution's motion for reconsideration of the decision excusing Mr Kenyatta from continuous presence at trial, 26 November 2013, ICC-01/09-02/11-863, <http://www.icc-cpi.int/iccdocs/doc/doc1689002.pdf>

[Background] On 10 October 2013, the Defence filed an application for a permanent stay of the proceedings due to abuse of process.⁹³ On 31 October 2013, the Chamber adjourned the date of the commencement of trial from 12 November 2013 to 5 February 2014 because, *inter alia*, both parties were in agreement that the Prosecution needed additional time to investigate the factual allegations raised in Mr Kenyatta's application.⁹⁴

On 5 December 2013, Trial Chamber V(B) decided to reject Mr Kenyatta's request stating that his assertions would be more appropriately addressed in the course of the trial or in the context of proceedings commenced by the Prosecution under Article 70 of the Statute.⁹⁵

On 23 January 2014, the Chamber decided to vacate the commencement of the trial on 5 February 2014 and convened a status conference in order to give consideration to the various requests and issues brought to its attention by the parties.⁹⁶ Subsequently, the Chamber adjourned the provisional trial commencement date to 7 October 2014.⁹⁷

List of acronyms

IDPs	Internally Displaced Persons
ICC	International Criminal Court
LRV	Legal Representative for Victims
OPCD	Office of Public Counsel for the Defence
OTP	Office of the Prosecutor
OPCV	Office of Public Counsel for Victims
PTC I	Pre-Trial Chamber I, etc.
RoC	Regulations of the Court
TC I	Trial Chamber I, etc.
TFV	Trust Fund for Victims
VPRS	Victims Participation and Reparation Section

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These are summaries of ICC decisions and related pleadings relevant to victims' rights. For further information please consult linked documents.

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⁹³ Defence Application for a Permanent Stay of the Proceedings due to Abuse of Process, 10 October 2013, ICC-01/09-02/11-822-Red, <http://www.icc-cpi.int/iccdocs/doc/doc1662752.pdf>

⁹⁴ Decision adjourning the commencement of trial, 31 October 2013, ICC-01/09-02/11-847, <http://www.icc-cpi.int/iccdocs/doc/doc1674618.pdf>

⁹⁵ Decision on Defence application for a permanent stay of the proceedings due to abuse of process, 5 December 2013, ICC-01/09-02/11-868-Red, <http://www.icc-cpi.int/iccdocs/doc/doc1694746.pdf>

⁹⁶ Order vacating trial date of 5 February 2014, convening a status conference, and addressing other procedural matters, 23 January 2014, ICC-01/09-02/11-886, <http://www.icc-cpi.int/iccdocs/doc/doc1716620.pdf>

⁹⁷ Decision on Prosecution's applications for a finding of non-compliance pursuant to Article 87(7) and for an adjournment of the provisional trial date, 31 March 2014, ICC-01/09-02/11-908, <http://www.icc-cpi.int/iccdocs/doc/doc1755190.pdf>