

# THE INTERNATIONAL CRIMINAL COURT & CONGO

## About the International Criminal Court

The International Criminal Court (ICC) is a permanent international tribunal seated at The Hague, Netherlands, established by the Rome Statute. The Rome Statute was adopted on July 17, 1998, and came into effect on July 1, 2002. The ICC was created to prosecute the most serious international crimes: genocide, crimes against humanity, war crimes, and crimes of aggression.



While the ICC has the power to hear cases within its mandate, it operates on the principle of complementarity and will only exercise its jurisdiction if national courts with jurisdiction either cannot or will not prosecute perpetrators of international crimes. The ICC may exercise jurisdiction if an accused is a national of a State Party, if a relevant crime occurs in the territory of a State Party, or if a situation giving rise to crimes within the Court's purview is referred by the UN Security Council, even if it occurs in a state which is not a party to the Rome Statute. Jurisdiction is limited to crimes occurring after July 1, 2002 or after the relevant state ratifies the Rome Statute, whichever is later.

The Court has opened investigations into crimes in eight situations: the Democratic Republic of the Congo, Uganda, the Central African Republic, Darfur (Sudan), Kenya, Libya, Côte d'Ivoire (Ivory Coast), and Mali.

There are 122 signatories to the Rome Statute; the United States is not a signatory.

## Statistics

- 30 indicted
- Ongoing proceedings in 11 cases
- 7 concluded cases – 5 acquitted, 2 died in detention
- 12 indicted individuals remain at large

## The ICC and Congo

The situation in Democratic Republic of the Congo was referred to the ICC in April 2004 by Congolese President Joseph Kabila. The Prosecutor has charged six people with committing crimes within the jurisdiction of the Court in Congo: Thomas Lubanga Dyilo, Germain Katanga and Mathieu Ngudjolo Chui, Bosco Ntaganda, Callixte Mbarushimana, and Sylvestre Mudacumura. Each was charged with multiple counts of war crimes and crimes against humanity.



The trial of **Thomas Lubanga Dyilo** was the first to be completed before the ICC. Lubanga, who had been in custody in Kinshasa for murdering UN peacekeepers, was surrendered to the ICC in March 2006 after an arrest warrant was issued in February 2006. Following a tumultuous trial, Lubanga was convicted in March 2012 for conscripting and using child soldiers in the hostilities for the Patriotic Force for the Liberation of Congo. He was sentenced to fourteen years in prison on July 10, 2012. In jurisprudence, *Lubanga* is notable for its expansion of the law pertaining to child soldiers in armed conflict. Rulings confirm the longstanding doctrine of international human rights law regarding children that consent (i.e. enlistment versus compulsion) is irrelevant, and there is no need to show compulsion of the victim to prove the crime of conscripting or using child soldiers.

**Bosco Ntaganda** turned himself into the American Embassy in Rwanda in March 2013 and was extradited to The Hague, where proceedings against him will begin.

Katanga (alleged leader of the Front for Patriotic Resistance in Ituri) and Ngudjolo (alleged leader of Nationalist and Integrationist Front) are being tried together, with trial beginning in November 2009 and continuing today. Mbarushimana was released from ICC custody after the Court declined to confirm the charges against him. Ntaganda is in ICC custody and Mudacumura remains at large.