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## ICC Updates: Bemba Conviction followed by Termination of the Ruto & Sang Case

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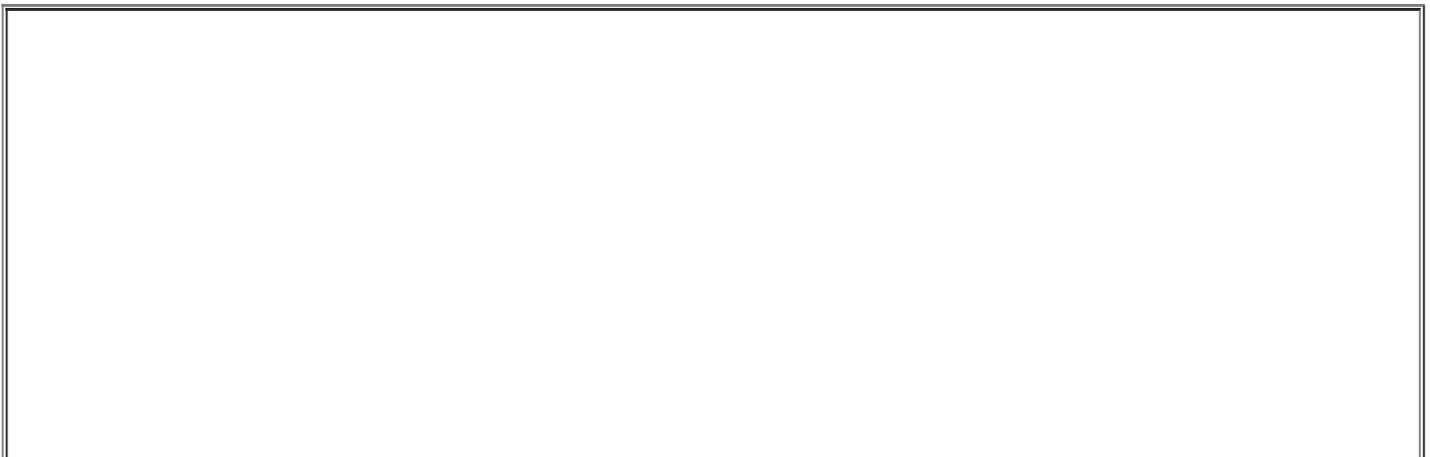
### **ICC Updates: Bemba Conviction followed by Termination of the Ruto & Sang Case**

It has been an action-packed month for the ICC. Amongst committing Dominic Ongwen to trial in the Uganda situation and an admission of guilt by Ahmad Al Faqi Al Mahdi in the Mali case, developments have been rapidly occurring in the Ruto & Sang case in connection with Kenya's post-election violence of 2007/2008, and the Bemba case on the situation in the Central African Republic (CAR).

#### **Bemba Conviction**

On 21 March 2016, a three judge panel of Trial Chamber III unanimously convicted Jean-Pierre Bemba, a politician and Former Vice President of the Democratic Republic of Congo (DRC) and leader of the rebel group Mouvement de Liberation du Congo (MLC) for the crimes against humanity of murder, and rape, and three counts of the war crimes of murder, rape, and pillaging committed by Bemba's forces in the CAR from 2002-2003. Mr Bemba deployed 1,500 men to CAR at the request of former CAR President Ange-Felix Patassé to support him and counter opposing forces.

Somewhat controversially, it is the first ICC case in which an accused was successfully convicted under the theory of command responsibility. This theory holds a military commander responsible for crimes committed by subordinates under his effective command and control, or where the commander knew or should have known that the subordinates were committing the crimes and failed to take measures to prevent their commission. While not a physical perpetrator, the Court found Bemba personally liable for the actions of his troops and likened him to a military commander as stipulated under Article 28 of the ICC Statute. The Court held that Bemba knew that the MLC forces under his effective control were committing or about to commit the crimes charged, and failed to take necessary and reasonable measures to prevent or repress the commission of the crimes by his subordinates.





*Mr. Jean-Pierre Bemba Gombo at the ICC © Voice of America (<http://www.voanews.com>)*

### **Ruto & Sang Case Vacated**

The trial of Kenyan Deputy President William Samoei Ruto and his co-defendant, journalist Joshua Arap Sang came back to the limelight when the Appeals Chamber reversed Trial Chamber V(A)'s decision on the admission of prior recorded testimony on 12 February 2016. The effect of this was that prior recorded testimony of certain key witnesses, who later recanted, could no longer be used by the Prosecution in its case against Ruto & Sang. The consequences of the Appeals Chambers' decision are apparent in Trial Chamber V(A)'s recent decision to vacate the proceedings against Ruto & Sang on 5 April 2016. The majority, consisting of Judge Fremr and Judge Eboe-Osuji, agreed that the trial should not continue but with different reasons. Judge Fremr issued a separate opinion in which he reasons that the evidentiary basis of the Prosecution's case is too weak for a reasonable Chamber to enter a conviction, with the effect that the accused are to be acquitted ([here](#)). Judge Eboe-Osuji's separate opinion also agreed that the trial should not continue but strongly reasoned that the result is not an "acquittal", but rather a "vacated" proceeding or "mistrial" as a result of the "troubling incidence of witness interference and intolerable political meddling" ([here](#)). Judge Carbuccia issued a dissenting opinion concluding that "there is sufficient evidence upon which, if accepted, a reasonable Trial Chamber could convict the accused" ([here](#)).

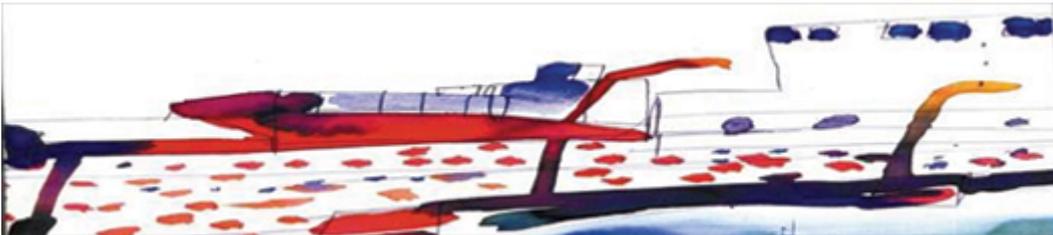


*Mr. William Samoei Ruto (left) and Mr. Joshua Arap Sang (right) at the ICC Â© AfriCounsel  
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