

Situation in the Democratic Republic of the Congo

ICC-PIDS-CIS-DRC-05-004/15_Eng

The Prosecutor v. Sylvestre Mudacumura

Updated: 25 August 2015

ICC-01/04-01/12

Sylvestre Mudacumura

Suspected of nine counts of war crimes allegedly committed from 20 January 2009 to the end of September 2010 in the context of the conflict in the Kivus (DRC). Not in ICC custody.

The International Criminal Court (ICC) issued a warrant of arrest for Sylvestre Mudacumura on 13 July 2012. As the Alleged Supreme Commander of the *Forces Démocratiques pour la Libération du Rwanda* (FDLR), Mr Mudacumura is suspected of nine counts of war crimes, allegedly committed from 20 January 2009 to the end of September 2010, in the context of the conflict in the Kivus, in the Democratic Republic of Congo (DRC). Sylvestre Mudacumura remains at large.

Date of birth: 1954

Place of birth: Cellule Ferege, Gatumba sector, Kibilira commune, Gisenyi prefecture, Rwanda

Status: Alleged Supreme Commander of the Army for the *Forces Démocratiques pour la Libération du Rwanda*

Warrant of arrest: 13 July 2012

Status of proceedings: Execution of the arrest warrant is pending

Charges

In accordance with the warrant of arrest, Sylvestre Mudacumura has allegedly engaged his criminal responsibility as an indirect co-perpetrator under article under article 25(3)(b) of the Rome Statute for nine counts of war crimes, allegedly committed in the Kivu Provinces of the DRC, between 20 January 2009 and the end of September 2010:

- (i) Murder;
- (ii) Mutilation;
- (iii) Cruel treatment;
- (iv) Torture;
- (v) Outrage upon personal dignity;
- (vi) Attack against the civilian population;
- (vii) Pillaging;
- (viii) Rape;
- (ix) Destruction of property.

Alleged crimes (non-exhaustive list)

The Pre-Trial Chamber is of the opinion that there are reasonable grounds to believe that:

- From 20 January 2009 to 25 February 2009, 2 March 2009 to 31 December 2009 and January 2010 to end of September 2010, there was an armed conflict of a certain level of intensity and of a non-international character took place over a prolonged period of time in the Kivu Provinces of the DRC;
- The conflict opposed the *Forces Démocratiques pour la Libération du Rwanda* (FDLR), an organized armed group sometimes in coalition with other groups, to the *Forces Armées de la République Démocratique du Congo* (FARDC), in coalition with the *Rwanda Defence Forces* (RDF) during operation Umoja Wetu and with the United Nations Organization Mission in the DRC (MONUC) during operations Kimia II and Amani Leo;
- From February to December 2009, the FDLR allegedly conducted attacks in the Kivus, including in: Busurungi and surrounding villages, Kipopo, Malembe, Manje, Mianga, and Mutakato;
- During those attacks, war crimes were allegedly committed, namely: murder, mutilation, cruel treatment, torture, outrage upon personal dignity, attack against the civilian population, pillaging, rape, and destruction of property.

The Chamber also finds that there are not reasonable grounds to believe that:

- Mr. Mudacumura acted in a position of authority, as the top military commander of a well organised organisation with clear hierarchical structure and with control over his forces and authority over recruiting, promoting, removing and disciplining them;

- His orders had allegedly a direct effect on the commission of the crimes. He was also informed of the accusations towards forces under his authority;
- Regarding the Mianga and Busurungi attacks in May 2009, Mr. Mudacumura allegedly participated in trying to cover up the exact nature of the FDLR's criminal actions there.

Key judicial developments

REFERRAL AND OPENING OF THE INVESTIGATION

The DRC ratified the Rome Statute, the founding instrument of the International Criminal Court, on 11 April 2002.

On 3 March 2004, the Government of the DRC referred to the Court the situation (the events falling under the Court's jurisdiction) in its territory since the entry into force of the Rome Statute on 1 July 2002.

After a preliminary analysis, the Prosecutor initiated an investigation on 21 June 2004.

WARRANT OF ARREST

On 15 May 2012, the Prosecutor filed a first application to Pre-Trial Chamber II for the issuance of a warrant of arrest for Sylvestre Mudacumura which was dismissed by the Chamber on 31 May 2012 for lack of specificity.

On 13 June 2012, the Prosecutor submitted a second application to Pre-Trial Chamber II for the issuance of a warrant of arrest for Sylvestre Mudacumura

On 13 July 2012 Pre-Trial Chamber II issued a warrant of arrest for Sylvestre Mudacumura.

On 21 August 2014, the ICC Presidency re-assigned the situation in the DRC to Pre-Trial Chamber I.

Composition of Pre-Trial Chamber I

Judge Joyce Aluoch, presiding Judge
Judge Cuno Tarfusser
Judge Péter Kovács.

Representation of the Office of the Prosecutor

Fatou Bensouda, Prosecutor
James Stewart, Deputy Prosecutor
Anton Steynberg, Senior Trial Lawyer

Defence Counsel for Sylvestre Mudacumura

N/A

Legal Representatives of the Victims

N/A