

Summary of Trial Chamber VI's sentencing judgment in the case of *The Prosecutor v. Bosco Ntaganda*, issued on 7 November 2019

1. Trial Chamber VI, composed of Judges Robert Fremr (Presiding), Kuniko Ozaki, and Chang-ho Chung ('Chamber'), of the International Criminal Court ('Court') delivers its sentencing judgment in the case of *The Prosecutor v. Bosco Ntaganda*. The judgment consists of 117 pages, with one annex. The present summary serves to convey the findings made in the sentencing judgment that are most relevant for the public. The written sentencing judgment, in which the Chamber's analysis of the evidence and its reasoning is set out in detail, is the only authoritative document. The sentencing judgment is available to the public in full.

I. *Background*

2. On 8 July 2019, the Chamber convicted Mr Bosco Ntaganda of various crimes against humanity and war crimes. This case concerns the conduct of Mr Ntaganda, as a member of the *Union des Patriotes Congolais* ('UPC') and its military wing, the *Forces Patriotiques pour la Libération du Congo* ('FPLC'), in events that took place in the Ituri district of the Democratic Republic of Congo in 2002 and 2003. On or about 20 November 2002, the UPC/FPLC launched an assault on Mongbwalu, which is in the Banyali-Kilo *collectivité*. After it took over Mongbwalu, the UPC/FPLC also captured Sayo, Kilo and Nzebi. In February 2003, the UPC/FPLC launched a coordinated series of assaults on several villages in the Walendu-Djatsi *collectivité*, and took control of the villages of Lipri, Tsili, Kobu, Bambu, Buli, Gola, Jitchu, and Nyangaray, as well as some surrounding places. The majority of the crimes that Mr Ntaganda was convicted of were committed during these two operations. In addition, Mr Ntaganda was convicted

of the conscription and enlistment of children under the age of 15, and their active use in hostilities, as well as of the rape and sexual slavery of some of these children.

3. The Chamber further recalls that it convicted Mr Ntaganda as a direct perpetrator (pursuant to Article 25(3)(a) of the Statute) for one murder as a crime against humanity and as a war crime, and for persecution as a crime against humanity. He was convicted as an indirect co-perpetrator (also pursuant to Article 25(3)(a) of the Statute) for the other murders and acts of persecution, as well as for all of the other crimes.
4. On the same day as it delivered the judgment, the Chamber ordered the Office of the Prosecutor ('Prosecution'), the Defence and the Legal Representatives of Victims to file any requests to submit further evidence or to call witnesses in relation to sentencing by 29 July 2019.
5. Following requests from the parties and participants, the Chamber authorised three witnesses to testify before the Chamber in person, and admitted into evidence the prior recorded testimony of five more witnesses, as well as several documents and videos. On 17, 18, and 20 September 2019, the Chamber held a public hearing on sentencing, during which it heard the aforementioned three witnesses and oral submissions of the parties and the Legal Representatives of Victims on the sentences to be pronounced. On 30 September 2019, the parties and Legal Representatives filed their written submissions on the sentencing, and responded to each other on 8 October 2019.

II. Legal framework

6. The Court's legal framework establishes a comprehensive scheme for the determination of a sentence. Although Articles 77 and 78 of the Statute do not specify the purpose of punishment for crimes under the Statute, the Preamble establishes retribution and deterrence as the primary objectives of punishment at

the Court. Retribution must not be understood as fulfilling a desire for revenge, but rather as an expression of the international community's condemnation of the crimes. Furthermore, by imposing a proportionate sentence, the harm caused to the victims is also acknowledged. A sentence should further be adequate to discourage reoffending and to dissuade those who may consider committing similar crimes from doing so.

7. The Court's legal framework does not contain mandatory minimum or maximum sentences, or sentence ranges, for specific crimes. Article 78(3) of the Statute does, however, provide that any joint sentence of imprisonment may not exceed 30 years, unless the extreme gravity of the crime and the individual circumstances of the convicted person warrant a term of life imprisonment. The Chamber enjoys broad discretion in determining the sentence, but the totality of the sentence must be proportionate to the crimes and reflect the culpability of the convicted person.
8. Basing itself primarily on its findings in the Judgment, the Chamber considered the gravity of the crimes first generally, *in abstracto*, by assessing the constitutive elements of each crime, and then *in concreto*, by assessing the particular circumstances of the case, looking at factual circumstances of each crime Mr Ntaganda was convicted of and this culpability. The sentence must also reflect the individual circumstances of the convicted person, including any aggravating and mitigating factors. In case of aggravating factors, the Chamber did not rely on the same factor more than once, and any factors it assessed in relation to the gravity of the crimes were not considered as aggravating circumstances, and *vice versa*.

III. Main findings on the crimes Mr Ntaganda was convicted of

Mr Ntaganda's culpability

9. At the outset, the Chamber recalls that Mr Ntaganda was found guilty as an indirect co-perpetrator for the crimes committed within the First and Second

Operation (Counts 1 to 5, 7 to 8, 10 to 13 and 17 to 18). With the exception of sexual slavery under Counts 7 and 8, and attacking a protected object under Count 17, these crimes were committed during both the First Operation and the Second Operation. The Chamber found that the indirect co-perpetrators, including Mr Ntaganda, by virtue of their agreement to drive out the Lendu from the attacked localities, meant: i) for civilians to be attacked and killed; ii) for their property to be appropriated and destroyed; iii) for civilians to be raped and subjected to sexual slavery; iv) for civilians to be forcibly displaced; v) for protected objects to be intentionally attacked; and vi) for the aforementioned conduct to be targeted towards the Lendu civilian population as such, the latter thereby amounting to persecution. The Chamber thus considered that, while his degree of participation in the crimes committed during the First and Second Operation may have varied, as detailed below, Mr Ntaganda's degree of intent during both Operations was the same.

10. The Chamber considered Mr Ntaganda's 'degree of participation' in the crimes committed during the First Operation and the Second Operation as part of its assessment of the *in concreto* gravity of his culpable conduct with respect to each crime. In this respect, the Chamber recalls that it found in the Judgment that the First and Second Operation were part of one and the same plan to drive out all the Lendu from the localities targeted during the course of the UPC/FPLC's military campaign against the RCD-K/ML. The UPC/FPLC soldiers' acts during these two successive operations formed part of the same course of conduct. As a tool in the hands of the co-perpetrators, the conduct of the individual UPC/FPLC soldiers in the execution of the crimes was attributed to the co-perpetrators as their own.
11. The Chamber further recalls that Mr Ntaganda's giving of orders to commit crimes and personal engagement in violent conduct towards the enemy – which the Chamber only found to have been established in relation to the First Operation – was just one of the ways through which he contributed to the common plan. The Chamber considered Mr Ntaganda's culpability for the crimes

committed during both the First Operation and the Second Operation to be high, irrespective of whether he was in close physical proximity to the locations where the crimes were committed; and even in instances where he did not have previous, contemporaneous, or subsequent knowledge of the specifics of the crimes committed. Mr Ntaganda's culpability in relation to the crimes found to have been committed during the Second Operation is therefore not less or diminished, as compared to his general culpability for the crimes that were committed during the First Operation. Rather, the fact that during the First Operation he gave orders to commit crimes and personally engaged in violent conduct towards the enemy, as set out in the Judgment, is a factor which, in the view of the Chamber, further increases his culpability.

12. The Defence argued that all of Mr Ntaganda's contributions to the Second Operation were directed towards a lawful military purpose of the Second Operation. However, the Chamber recalls that the First and Second Operation were part of the same military campaign and constituted a logical succession of events. The success of the UPC/FPLC's assault on Mongbwalu, which was coordinated by Mr Ntaganda, allowed it to continue with the commission of crimes against the targeted group during both operations.

Murder, attempted murder, and intentionally attacking civilians

13. As regards the crimes against life that Mr Ntaganda was convicted of, the Chamber found Mr Ntaganda responsible as a direct perpetrator for the murder of *Abbé Bwanalunga* in Mongbwalu during the First Operation. The Chamber also found Mr Ntaganda responsible as an indirect co-perpetrator for murders committed by UPC/FPLC soldiers, and, in one location, also by Hema civilians, during the course of the First and Second Operation.

14. In determining the appropriate sentence the Chamber took into account the fact that the same conduct underlies Mr Ntaganda's convictions for both murder as a crime against humanity (Count 1) and murder as a war crime (Count 2).
15. Murder is inherently one of the most serious crimes. The Chamber convicted Mr Ntaganda of the murder of at least 74 individuals and the attempted murder of five more, in addition to making broader findings of murders of unquantified numbers of persons. This means that murder was committed on a large scale.
16. The Chamber considered the harm caused by the murders. It received evidence from a witness who knew *Abbé Bwanalunga* personally, who indicated that the *Abbé's* death became notorious among the clergy and the population and that the three nuns who were abducted together with him to this day still refuse to speak about what they witnessed.
17. The murders irreversibly impacted not only the direct victims but also those who witnessed them, the victims' family members, and relatives left behind. Some individuals who survived or witnessed the murders and attempted murders that Mr Ntaganda was convicted of still bear permanent scars, both physical and psychological, including long-term memory loss, neurological disturbances and extensive physical scarring.
18. Mr Ntaganda's degree of culpability is substantial in relation to the murders and attempted murders committed during both operations, and his degree of participation was even higher during the First Operation due to his proximity to and intensity of his involvement in the murders committed during this operation. The Chamber further identified the following factors in aggravation: particular cruelty of commission in a number of incidents, particular defencelessness of some of the victims and, in relation to the murder of *Abbé Boniface Bwanalunga*, the fact that Mr Ntaganda, as a high-ranking official, committed the murder in the presence of his subordinates and the discriminatory motive of Mr Ntaganda regarding *Abbé's* murder.

19. The Chamber further found Mr Ntaganda responsible as an indirect co-perpetrator for intentionally directing attacks against civilians in Mongbwalu and Sayo, in the context of the First Operation, and in Bambu, Jitchu, and Buli, in the context of the Second Operation (Count 3).
20. The crime of intentionally attacking civilians is a serious violation of one of the fundamental principles of international humanitarian law. As a crime which does not require an actual harm to occur for the elements of the crime to be established, the Chamber considered it to be less serious than crimes against life that require the actual occurrence of that harm, such as murder.
21. Civilians were intentionally attacked in five locations, during both the First and the Second Operation. The crime was therefore committed on a relatively large scale. The Chamber considered Mr Ntaganda's degree of culpability to have been substantial in relation to the aforementioned attacks. Part of the attacks took place during the assaults in Mongbwalu and Sayo, which were overseen by Mr Ntaganda, and on one occasion Mr Ntaganda directly ordered a soldier to fire at a group of fleeing persons. The Chamber therefore considered his degree of participation during the First Operation to be even higher given his proximity to and the intensity of his participation in the attacks.
22. While the crime of intentionally attacking civilians is committed by the mere launching of an attack, the Chamber identified that, in some instances, as a result of the attacks launched, civilians were in fact killed. This was treated as an aggravating circumstance for the purposes of sentencing in relation to Count 3.

Rape and sexual slavery (Counts 4-9)

23. The Chamber found Mr Ntaganda responsible for sexual violence crimes committed against two distinct types of victims, namely members of the civilian population (Counts 4, 5, 7 and 8) and female UPC/FPLC members under the age of 15 (Counts 6 and 9). Noting the different factual considerations relevant to the

two types of victims, the Chamber analysed the two types of victims separately and pronounces a separate sentence for rape and sexual slavery as war crimes for the civilian victims and the UPC/FPLC victims.

24. In relation to the crimes committed against members of the civilian population, the Chamber found Mr Ntaganda responsible as an indirect co-perpetrator for rapes by UPC/FPLC soldiers of women, girls, and men during and in the aftermath of the UPC/FPLC assaults on Mongbwalu and in Kilo, in the context of the First Operation, and in Kobu, Sangi, and in Buli, in the context of the Second Operation. The overall number of specific rape victims was 21, with the Chamber also making broader findings of the rapes of unquantified numbers of persons. The Chamber also found Mr Ntaganda responsible as an indirect co-perpetrator for the sexual slavery of a woman and of an 11-year-old girl in Kobu and Buli, in the context of the Second Operation.
25. In relation to the crimes committed against female UPC/FPLC members under the age of 15, the Chamber found Mr Ntaganda responsible as an indirect co-perpetrator for the rape of an approximately nine-year-old girl and the rape and sexual slavery of two girls under 15 years of age.
26. For the purpose of its analysis, the Chamber took into account the fact that for the sexual violence crimes committed against members of the civilian population, the same conduct underlies Mr Ntaganda's convictions for both rape as a crime against humanity (Count 4) and rape as a war crime (Count 5), and for both sexual slavery as a crime against humanity (Count 7) and sexual slavery as a war crime (Count 8). The Chamber also took into account the fact that its findings in the Judgment that the victims of sexual slavery were made 'to engage in one or more acts of a sexual nature', were based on the rapes committed against them. This part of the conduct underlying the convictions for rape and sexual slavery is therefore the same. The Chamber's sentence determination for sexual slavery for both the civilian and female members of the UPC/FPLC under the age of 15

therefore encompasses only the additional element of the exercise of a power of ownership.

27. The Statute and the Rules accord a special status to sexual violence crimes, crimes against children, and the victims thereof. During the drafting process of the Rome Statute, the especially grave nature and consequences of sexual violence crimes, in particular against children, were recognised. The rape and sexual slavery of civilians and of children under the age of 15 associated with the UPC/FPLC in this case are very serious crimes. The number of civilian victims of rape in particular is substantial. While the number of female UPC/FPLC victims under the age of 15 is lower, their rapes were systematic and, for the UPC/FPLC victims subjected to sexual slavery, their deprivations of liberty lasted longer than for the civilian victims.
28. Victims suffered physical, psychological, psychiatric, and social consequences, such as ostracisation, stigmatisation and social rejection, both in the immediate and longer term. For example, a 13-year-old victim of rape from Mongbwalu suffered injuries which took several months to heal and required surgery years later and incurred a long-lasting fear which caused her to drop out of school. Two civilian victims of rape and one civilian victim of rape and sexual slavery were assessed by a psychological expert, who found that they suffer from Post-Traumatic Stress Disorder, experience issues with sexuality and distortions of self-image.
29. Children under the age of 15 who were subjected to sexual violence when they were members of the UPC/FPLC similarly suffered physical and psychological consequences, including sexually transmitted diseases, and unwanted pregnancies.
30. Mr Ntaganda's level of intent and participation was substantial as far as the sexual crimes against civilians are concerned. While his degree of intent in relation to the commission of the sexual crimes against the members of the UPC/FPLC was lower than for the sexual crimes against civilians, his degree of

participation in their commission was significant. The Chamber further identified the following factors in aggravation for the civilian victims: the particular defencelessness of the civilian victims of rape and sexual slavery, and specifically as to rape, the repeated victimisation of some of the victims, as well as the particular cruelty of commission in a number of incidents. For the female UPC/FPLC soldier victims under the age of 15, the Chamber considered the particular defencelessness of the victims and the repeated nature of the victimisation as aggravating factors.

31. In determining the sentences for sexual slavery of both the civilian and female UPC/FPLC soldier victims under the age of 15, the Chamber considered only the additional element of exercise of a power of ownership, because the sexual violence they suffered is reflected in the sentences for rape.

Pillage, attacking protected objects, and destroying the adversary's property (Counts 11, 17-18)

32. As regards pillage (Count 11), the Chamber found Mr Ntaganda responsible as an indirect co-perpetrator for the appropriation of items during the First Operation, in Mongbwalu and Sayo by UPC/FPLC soldiers, and in Mongbwalu also by Hema civilians. He was further convicted of the pillaging by UPC/FPLC soldiers in Kobu, Lipri, Bambu, and Jitchu, in the context of the Second Operation. Many civilians were affected by the looting and they were sometimes left without anything.
33. The Chamber further found Mr Ntaganda responsible as an indirect co-perpetrator for intentionally directing an attack against a protected object, namely the health centre in Sayo, in the context of the First Operation (Count 17). Especially in times of armed conflict and during ongoing hostilities, when as a result of the fighting more persons become injured or wounded, the protection of medical facilities must be respected. Attacking such structures disrupts the ability

of medical personnel to care for the sick and wounded. Indeed, when the Sayo health centre was attacked, five patients, who were unable to leave by themselves, were left without medical care. This was considered to be an aggravating factor by the Chamber.

34. Mr Ntaganda was also convicted as an indirect co-perpetrator for destroying houses in Mongbwalu and Sayo, in the context of the First Operation, and in Lipri and Tsili, Kobu, Jitchu, Buli, and Sangi, in the context of the Second Operation. Houses and buildings in or around these eight localities were destroyed by shelling or burning. This crime was therefore committed on a significant scale and with a considerable geographical spread. The destruction of houses deprives civilians of a private place, a shelter and a sense of security.

*Forcible transfer of population and ordering the displacement of the civilian population
(Counts 12-13)*

35. The Chamber found Mr Ntaganda responsible as an indirect co-perpetrator for forcible transfer of population in Mongbwalu in the context of the First Operation, and in Lipri, Tsili, Kobu, and Bambu in the context of the Second Operation. It also found Mr Ntaganda responsible as an indirect co-perpetrator for ordering the displacement of the civilian population in these same locations.
36. Forcible transfer of population as a crime against humanity and ordering the displacement of the civilian population as a war crime are serious crimes intended to protect the right of individuals to remain in their homes or communities. The former is *in abstracto* more serious than the latter as it requires the population to be displaced.
37. In the circumstances of the present case, the coercive acts which caused the transfer of the population in the course of the First and Second Operation are the same acts on the basis of which Mr Ntaganda was convicted for the crimes charged under Counts 1 to 5, 7, 8, 11, 17, and 18. In determining the sentence for

Count 12, the Chamber therefore only considered the additional element of forcible transfer of one or more persons from the area in which they are lawfully present without grounds permitted under international law.

38. The number of persons affected by forcible transfer was significant and some of those who fled Mongbwalu, Lipri, Tsili, Kobu, and Bambu and went into the bush had to endure harsh living conditions. Moreover, a great number of those who fled Mongbwalu during the First Operation arrived in the Walendu-Djatsi *collectivé* and concentrated in Lipri, Kobu, and Bambu. These were localities from which individuals were later again forcibly transferred.
39. Mr Ntaganda's degree of culpability was substantial in relation to the aforementioned crimes committed during both the First and Second Operation while, in the view of the Chamber, his degree of participation was even higher during the First Operation due to his presence in the field and his direct order to displace.

Persecution (Count 10)

40. The Chamber found Mr Ntaganda responsible for persecution as a direct perpetrator by killing *Abbé* Bwanalonga in Mongbwalu in the context of the First Operation. It also found him responsible for persecution as an indirect co-perpetrator in Mongbwalu, Nzebi, Sayo, and Kilo in the context of the First Operation, and in Nyangaray, Lipri, Tsili, Kobu, Bambu, Sangi, Gola, Jitchu, and Buli in the context of the Second Operation.
41. In the view of the Chamber, persecution constitutes, in and of itself, one of the most serious crimes against humanity, as it amounts to a denial of fundamental rights of one or more persons by virtue of their belonging to a particular group or collectivity.
42. In the circumstances of the present case, while acknowledging the gravity of the crime, the Chamber notes that that conduct which underlies Mr Ntaganda's conviction for persecution and his conviction for the crimes committed against the

Lendu in the context of the First and Second Operation (Counts 1 to 5, 7 to 8, 11 to 13, and 17 to 18) is the same. What differentiates the aforementioned crimes from persecution is the additional legal element of discriminatory intent, required to be proven for persecution. However, in this respect, as far as commission as an indirect co-perpetrator is concerned, the conduct on which the conviction for the crimes charged under Counts 1 to 5, 7 to 8, 11 to 13, and 17 to 18, was pursuant to a common plan and organisational policy that also contained a discriminatory element against the Lendu. As far as commission as a direct perpetrator is concerned, the Chamber took into account that the crime underlying Counts 1 and 2 committed by Mr Ntaganda as a direct perpetrator had a discriminatory dimension.

43. Under these circumstances, the Chamber considers that the sentence imposed on Mr Ntaganda for the crime of persecution, both as a direct perpetrator and as an indirect co-perpetrator, should not be higher than the highest sentence imposed on him for the underlying crimes amounting to persecution.

Conscripting and enlisting children under the age of 15 years into armed forces or groups and using them to participate actively in hostilities (Counts 14, 15, 16)

44. The Chamber found Mr Ntaganda responsible as an indirect co-perpetrator for conscripting and enlisting children under the age of 15 years into the UPC/FPLC between on or about 6 August 2002 and 31 December 2003; and for using children to participate actively in hostilities between on or about 6 August 2002 and 30 May 2003. They were used in the First Operation and in the UPC/FPLC assault on Bunia in May 2003, as bodyguards for UPC/FPLC soldiers and commanders, including for Mr Ntaganda himself and for UPC President Thomas Lubanga, and to gather information about the opposing forces and MONUC personnel.
45. Enlistment, conscription, and use of individuals under the age of 15 to participate actively in hostilities are serious crimes and association with an armed group as a child under 15 can have a significant impact on victims. The living conditions of

the child recruits in the training camps were harsh. They were subjected to threats, including to their life, monitoring of movement, and severe punishments, including beatings and executions – sometimes without apparent reason. A former child soldier testified that her future had been compromised and her life had been ruined by the fact that her studies were interrupted. Furthermore, some of those who were used in hostilities were made to kill people, and some got shot at, were injured, or died on the battlefield.

46. While Mr Ntaganda's degree of intent in relation to the commission of these crimes was lower than in relation to the commission of crimes against the Lendu, his degree of participation in their commission was significant. Among other things, Mr Ntaganda was, throughout the relevant period, personally and actively involved in the UPC/FPLC's recruitment process. The training of recruits fell under his responsibility, and he regularly paid visits to the various training camps in order to inspect the training process. It was through the training centres, in Mandro and elsewhere, that children under the age of 15 became incorporated into the UPC/FPLC. Also, Mr Ntaganda's personal escort also included at least three individuals under the age of 15, who – among other things - guarded his residence and compound, and participated in combat operations with him.
47. The Chamber further identified the particularly harsh treatment of some of the victims and the fact that some of the victims were particularly defenceless as aggravating factors.

IV. Mr Ntaganda's individual circumstances

48. The Chamber considered a number of potentially mitigating circumstances in this case. The Defence submitted that there were very 'powerful' mitigating factors, whereas the Prosecution and Legal Representatives of Victims submitted that there were none which would warrant any reduction in sentence. In fact, some of the factors submitted by the Defence were actually referred to by the Prosecution

and one of the Legal Representatives as factors that heighten the need for a high sentence. The Prosecution referred in this regard to Mr Ntaganda's age, his position and experience, and his history with the Rwandan genocide. The Legal Representative of the Victims of the Attacks similarly submitted that Mr Ntaganda's intelligence and military education should be considered as an aggravating factor.

49. First, the Chamber considered Mr Ntaganda's age, position and military training and experience. It rejected the Defence's suggestion that Mr Ntaganda was very young in assuming his responsibilities within the UPC/FPLC and considered his age at the relevant time to be neither an aggravating nor mitigating factor. Other matters in relation to Mr Ntaganda's position at the time and military training and experience were considered by the Chamber in assessing his culpability.
50. Second, the Chamber considered Mr Ntaganda's personal experience during the Rwandan genocide. Although the Chamber does not doubt the traumatic impact on Mr Ntaganda of having lived through the Rwandan genocide, and indeed acknowledged this in its Judgment, it considered that the alleged protection of one group through acts aimed at the destruction and disintegration of another could not, under any circumstance, constitute a matter of mitigation. It therefore decided not to give this factor any weight.
51. Third, the Chamber considered measures allegedly taken by Mr Ntaganda to save the lives of enemy combatants and protect civilians. Ultimately, however, the Chamber did not consider the alleged instances of Mr Ntaganda's conduct in this regard to be established on a balance of probabilities and therefore did not give this matter any weight in mitigation.
52. Fourth, the Chamber considered Mr Ntaganda's alleged contribution to peace, reconciliation and security in 2004 in Ituri. After examining all the relevant material, including evidence led during the sentencing hearing, the Chamber did not find a genuine and concrete contribution to peace and reconciliation, or demobilisation and disarmament to be established on the part of Mr Ntaganda, on

a balance of probabilities. It therefore did not give this matter weight in mitigation.

53. Fifth, the Chamber considered matters related to Mr Ntaganda's behaviour towards and cooperation with the Court. These were Mr Ntaganda's voluntary surrender, his behaviour during trial, and behaviour in detention. However, the Chamber noted the significant delay of five years of Mr Ntaganda's surrender, which, for the Chamber, reduced the value of its mitigating impact, and noted that the behaviour during trial was not exceptional. Neither factor was therefore afforded weight in mitigation. Weighing the conduct in detention with the overall gravity of the crimes and aggravating circumstances established of the crimes, the Chamber considered the weight accorded to be too limited to impact on the individual and overall sentences.
54. Sixth, the Chamber considered Mr Ntaganda's actions and statements in relation to the victims. While noting with appreciation the expressions of compassion made by Mr Ntaganda on two occasions during the trial, the Chamber considered them to be very general, directed at the victims of all ethnic groups who suffered during the conflict in the DRC between 2002 and 2003 and continuing, rather than specifically directed at the victims of his own crimes. Overall, the Chamber concluded that the expressions of compassion were not sufficient to constitute a mitigating circumstance.
55. Finally, the Chamber considered Mr Ntaganda's family circumstances and the conditions of his detention. The Chamber took account of the Defence's submissions on the impact of restrictions on Mr Ntaganda's contacts on him and his family, compounded by the remoteness of his place of detention. However, the Chamber also noted that the restrictions were imposed on Mr Ntaganda because of his own actions, and took account of the fact that the restrictions were being periodically reviewed including as to their continuing proportionality to and impact on Mr Ntaganda's family and private life. These matters were therefore not given weight in mitigation by the Chamber.

Mr Ntaganda's personal circumstances alleged to be aggravating

56. In addition to Mr Ntaganda's individual circumstances that were analysed as potential mitigating factors, the Chamber also considered those personal circumstances that according to the Prosecution and Legal Representatives must be seen as general aggravating factors.
57. According to the Prosecution, Mr Ntaganda engaged in misconduct at the ICC Detention Centre. The Prosecution submitted that his attempts to obstruct the investigation and/or prosecution of the charges in this case are aggravating factors that warrant a higher sentence. The Legal Representative of the Former Child Soldiers similarly argued that the Chamber ought to take the alleged witness interference into account for the purposes of sentencing.
58. During the trial proceedings, the Chamber imposed restrictions on Mr Ntaganda's communication, because there were reasonable grounds to believe that he engaged in conduct that warranted their imposition pursuant to Regulation 101(2) of the Regulations of the Court, including reasonable grounds to believe that Mr Ntaganda intended or attempted to engage in witness interference. However, since doing so, the Chamber has not been presented with further information that would warrant making such findings to a different standard. This is relevant, as any aggravating circumstances have to be proven beyond reasonable doubt.
59. According to the Prosecution, the Chamber should now enter specific findings beyond reasonable doubt regarding Mr Ntaganda's alleged witness interference. However, given that the information on which the Prosecution requested the Chamber to make beyond reasonable doubt findings is neither in evidence nor tested through the regular process applicable to trial proceedings, the Chamber could not make findings to this standard, and therefore the allegations about witness interference were not taken into account as aggravating circumstances.

V. *Conclusion: individual sentences and the overall joint sentence*

60. On the basis of its overall assessment, including of Mr Ntaganda's individual circumstances, as previously described, the Chamber considers the following sentences to appropriately reflect the gravity of the crimes, Mr Ntaganda's culpability and any aggravating circumstances the Chamber found for the specific crimes. In order of the counts as charged:

- murder and attempted murder as a crime against humanity and as a war crime (Counts 1 and 2):

30 years of imprisonment

- intentionally directing attacks against civilians as a war crime (Count 3):

14 years of imprisonment

- rape of civilians as a crime against humanity and as a war crime (Counts 4 and 5):

28 years of imprisonment

- rape of children under the age of 15 incorporated into the UPC/FPLC as a war crime (Count 6):

17 years of imprisonment

- sexual slavery of civilians as a crime against humanity and as a war crime (Counts 7 and 8):

12 years of imprisonment

- sexual slavery of children under the age of 15 incorporated into the UPC/FPLC as a war crime (Count 9):

14 years of imprisonment

- persecution as a crime against humanity (Count 10):

30 years of imprisonment

- pillage as a war crime (Count 11):

12 years of imprisonment

- forcible transfer of the civilian population as a crime against humanity (Count 12):

10 years of imprisonment

- ordering the displacement of the civilian population as a war crime (Count 13):

8 years of imprisonment

- conscripting and enlisting children under the age of 15 years into an armed group and using them to participate actively in hostilities as a war crime (Counts 14, 15, and 16):

18 years of imprisonment

- intentionally directing attacks against protected objects as a war crime (Count 17):

10 years of imprisonment

and

- destroying the adversary's property as a war crime (Count 18):

15 years of imprisonment

61. In the circumstances of the case, taking into consideration the nature and gravity of the crimes, as well as Mr Ntaganda's solvency, the Chamber does not consider it appropriate to also impose a fine or forfeiture of proceeds in addition to imprisonment.

62. As for the determination of a joint sentence specifying the total period of imprisonment pursuant to Article 78(3) of the Statute, the Chamber recalls that, under that provision, the total period of imprisonment shall be no less than the highest individual sentence pronounced, i.e. in this case 30 years of imprisonment. Furthermore, in conformity with Article 77(1)(b) of the Statute, the total period of imprisonment shall not exceed 30 years of imprisonment or a sentence of life imprisonment.
63. As previously noted by the Chamber, the sentence for the crime against humanity of persecution combines Mr Ntaganda's culpability and the aggravating circumstances for the underlying crimes (i.e. the crimes that Mr Ntaganda was convicted for under Counts 1 to 5, 7 to 8, 11 to 13, and 17 to 18). However, the total sentence to be imposed on Mr Ntaganda must further reflect Mr Ntaganda's conviction for the additional crimes committed vis-à-vis children under the age of 15 who were recruited into the UPC/FPLC so as to properly account for the multiplicity of crimes and his overall culpability. As the highest individual sentence is 30 years of imprisonment, and the maximum imprisonment for a specified number of years is also 30 years, the Chamber can only impose 30 years or life imprisonment as the overall joint sentence.
64. Life imprisonment is permissible as a penalty under the Statute when justified by the extreme gravity of the crime and the individual circumstances of the convicted person (Article 78(1)(b) of the Statute). The Chamber has taken note of the wish of the victims represented by the Legal Representative of Victims of the Attacks for a joint sentence of life imprisonment to be imposed. However, having regard to its conclusion per crime, noting the overlap in conduct between part of these crimes, and on the basis of all other considerations relevant to this case, notwithstanding the fact that there are no mitigating circumstances to be afforded any weight, the Chamber found that the crimes for which Mr Ntaganda has been convicted, despite their gravity and his degree of culpability, nevertheless do not warrant a sentence of life imprisonment.

65. Accordingly, in the particular circumstances of this case, as a result of the highest individual sentence and the statutorily mandated maximum specified term of imprisonment for the joint sentence being the same, no further discretion is given to the Chamber in the determination of the overall joint sentence, which shall therefore be 30 years of imprisonment.
66. Pursuant to Article 78(2) of the Statute, the time Mr Ntaganda has spent in detention in accordance with an order of this Court, namely, following his surrender to and arrival at the Court on 22 March 2013, shall be deducted from this sentence.
67. Reparations to victims pursuant to Article 75 of the Statute shall be addressed in due course. Pursuant to Article 81 of the Statute and Rule 150 of the Rules, Mr Ntaganda and the Prosecution may appeal the present Judgment within 30 days.