

Situation in the Democratic Republic of the Congo

Update: 8 July 2019

The Prosecutor v. Bosco Ntaganda

Questions and answers: Judgment in the Ntaganda case

8 July 2019

1. WHAT DID THE CHAMBER DECIDE?

Trial Chamber VI of the International Criminal Court (ICC) found Mr Bosco Ntaganda guilty, beyond reasonable doubts, of 18 counts of war crimes and crimes against humanity committed in Ituri, Democratic Republic of the Congo (DRC), in 2002-2003.

Trial Chamber VI found that there was a non-international armed conflict in Ituri, district of the DRC from on or about 6 August 2002 to on or about 31 December 2003, between the Union des Patriotes Congolais (UPC) and its military wing, the Forces Patriotiques pour la Libération du Congo (FPLC) and, at all times, at least one opposing party.

The conduct of the UPC/FPLC against the civilian population was the intended outcome of a preconceived strategy to target a specific group of the civilian population, and the crimes committed took place pursuant to a policy of the UPC/FPLC. Mr Ntaganda fulfilled a very important military function in the UPC/FPLC.

In this context, the Chamber found Mr Ntaganda guilty of crimes against humanity (murder and attempted murder, rape, sexual slavery, persecution, forcible transfer and deportation) and war crimes (murder and attempted murder, intentionally directing attacks against civilians, rape, sexual slavery, ordering the displacement of the civilian population, conscripting and enlisting children under the age of 15 years into an armed group and using them to participate actively in hostilities, intentionally directing attacks against protected objects, and destroying the adversary's property as a war crime).

While the evidence did not sustain all incidents charged by the Prosecutor, it did demonstrate that in relation to each of the 18 counts at least part of the charges were proven beyond any reasonable doubt.

The Chamber has found that Mr Ntaganda was liable as a direct perpetrator for parts of the charges of three of the crimes, and was an indirect perpetrator for the other parts of these crimes. The Chamber found that he was an indirect co-perpetrator of the rest of the crimes.

2. ON WHICH BASIS DID THE CHAMBER CONCLUDE THAT MR NTAGANDA IS GUILTY?

To make its decision, the Chamber reviewed all the evidence submitted during the trial, including documents, eye witnesses and insiders. Over the course of 248 hearings, the Chamber heard 80 witnesses and experts called by the Office of the ICC Prosecutor, Ms Fatou Bensouda, 19 witnesses called by the Defence team lead by Mr Stéphane Bourgon and three witnesses called by the legal representatives of the victims participating in the proceedings, as well as five victims who presented their views and concerns.

The Trial Chamber issued 347 written decisions and 257 oral decisions during the trial phase. After the presentation of evidence, the Chamber received written closing submissions from the parties and the Legal Representatives of Victims; in total more than 1 400 pages. The total case record consists of 264 transcripts of hearings, totalling several thousand pages, and 1791 items of evidence.

3. WHAT SENTENCE CAN BE PRONOUNCED AGAINST MR NAGANDA AND WHEN?

The judges may impose a prison sentence, a fine may be added or forfeiture of the proceeds, property, and assets derived directly or indirectly from the crimes committed. The maximum sentence is 30 years. However, in extreme cases, the Court may impose a term of life imprisonment.

In order to determine Mr Ntaganda's sentence in this case, the Chamber will receive submissions from the parties and participants regarding the possible sentence, and will schedule a separate hearing to receive evidence and to discuss matters related to sentencing. Mr Ntaganda will remain in detention until such time.

4. WILL VICTIMS OBTAIN REPARATIONS?

Victims before the ICC have rights that have never been granted before an international criminal court or tribunal. They can participate during the proceedings.

In this particular case, Trial Chamber VI authorised 2,129 victims to participate in the trial proceedings, represented by their legal counsel, Ms Sarah Pellet and Mr Dmytro Suprun from the ICC Office for Public Counsel for the Victims.

Independently of the participation, victims may ask for reparations in case of conviction. In the case against Mr Ntaganda, issues related to the procedure for victims' reparations will be addressed in due course, after sentencing.

5. IS THIS VERDICT FINAL OR CAN IT BE APPEALED?

The parties (the Prosecution and Defence) may appeal the decision of conviction, or parts of it, within thirty days, in which case, an Appeals Chamber composed of five judges will decide on the matter.