

Situation in Central African Republic II

11 December 2019

The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona

Decision on the Confirmation of charges in the Yekatom and Ngaïssona case, 11 December 2019

WHAT DID THE JUDGES DECIDE?

On 11 December 2019, Pre-Trial Chamber II of the International Criminal Court (“ICC” or “Court”), issued a unanimous decision partially confirming the charges of war crimes and crimes against humanity brought by the Prosecutor against Alfred Yekatom and Patrice-Edouard Ngaïssona and committed them to trial before a Trial Chamber. In view of ensuring protection of victims and witnesses, the decision is confidential and a redacted version of it will be published at a later stage.

The decision on the confirmation of the charges only serves to determine whether the Prosecutor’s case should proceed to trial. It does not establish the guilt of the two accused persons who are presumed innocent until proved guilty beyond reasonable doubt before the Court.

WHICH CHARGES HAVE BEEN CONFIRMED?

The Chamber found that there are substantial grounds to believe that, between September 2013 and December 2014, an armed conflict not of an international character was ongoing in the territory of the Central African Republic between the Seleka and the Anti-Balaka, both constituting organised armed groups at that time; and that the Anti-Balaka carried out a widespread attack against the Muslim civilian population, perceived – on the basis of their religious or ethnic affiliation – as complicit with, or supportive of the Seleka and therefore collectively responsible for the crimes allegedly committed by them.

With regard to M. Yekatom, the Chamber concluded that there are substantial grounds to believe that he is responsible for: (i) the war crimes of murder, cruel treatment, torture, directing attacks against the civilian population, directing attacks against a building dedicated to religion, conscription, enlistment and use of children under the age of 15 years to participate actively in hostilities, and displacement; and (ii) the crimes against humanity of murder, deportation, forcible transfer of population, imprisonment and other forms of severe deprivation of physical liberty, torture, persecution and other inhumane acts. The alleged crimes were committed in various locations in the CAR (Bangui, including Cattin; Boeing; Yamwara School and the PK9-Mbaïki Axis). The Chamber found that there are substantial grounds to believe that M. Yekatom has committed the above-mentioned crimes jointly with others or through other persons or, in the alternative, has ordered the commission of these crimes.

With regard to M. Ngaïssona, the Chamber concluded that there are substantial grounds to believe that he is responsible for: (i) the war crimes of directing attacks against the civilian population, murder, torture, cruel treatment, rape, directing attacks against buildings dedicated to religion, displacement of the civilian population, destroying the property of an adversary, pillaging; and (ii) the crimes against humanity of murder, deportation, forcible transfer of population, imprisonment and other forms of severe deprivation of physical liberty, torture, rape, persecution and other inhumane acts. The alleged crimes were committed in various locations in the CAR (Bangui, including Cattin; Boeing; Yamwara School; Bossangoa and the PK9-Mbaïki Axis). The Chamber found that there are substantial grounds to believe that M. Ngaïssona aided, abetted or otherwise assisted in the commission of the above-mentioned crimes or, in the alternative, has contributed in any other way to their commission by a group of persons acting with a common purpose.

The Chamber declined to confirm the remaining charges that were not supported by the evidence presented by the Prosecutor.

CAN THIS DECISION BE APPEALED?

The Defence and the Prosecutor cannot directly appeal the decision confirming the charges. However they can request authorisation from Pre-Trial Chamber II to appeal it. The deadline for such a request will start running after the decision’s translation into French is notified.

WHAT ARE THE EXPECTED NEXT STEPS NOW?

A public redacted version of the confirmation decision will be issued in due course. Subject to the exercise by the parties of their right to request leave to appeal this decision, the Presidency of the ICC will constitute a Trial Chamber in due course. The Trial Chamber is responsible for conducting the subsequent phase of the proceedings and composed of three judges other than those who sat on the Pre-Trial bench. Promptly after it is constituted, the Trial Chamber will hold status conferences, confer with the parties and participants in order to set the date of the trial and adopt the procedures necessary to facilitate the fair and expeditious conduct of the proceedings. The Chamber will rule on several preliminary issues, including the timing and the manner of disclosure of evidence.

ARE VICTIMS PARTICIPATING IN THIS CASE?

Yes, the judges have authorised 1085 victims to participate in the case. They are represented by their legal representatives, Mr Dmytro Suprun, Mr Abdou Dangabo Moussa, Ms Elisabeth Rabesandratana, Mr Yaré Fall, Ms Marie-Edith Douzima-Lawson, and Ms Paolina Massidda.

WHERE ARE THE SUSPECTS CURRENTLY BEING DETAINED?

Since their transfer to the Court, the suspects have been detained at the ICC Detention Centre in Scheveningen, The Hague (The Netherlands). The Detention Centre meets the highest international human rights standards for the treatment of detainees. Detained persons are presumed innocent unless and until proven guilty beyond reasonable doubt after a trial.

WHO ARE THE JUDGES SITTING IN THIS CASE?

Pre-Trial Chamber II is composed of Judge Antoine Kesia-Mbe Mindua (Presiding Judge), Judge Tomoko Akane and Judge Rosario Salvatore Aitala. ICC Judges are persons of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices. All have extensive experience relevant to the Court's judicial activity. They are elected by the Assembly of States Parties on the basis of their established competence in criminal law and procedure and/or in relevant areas of international law such as international humanitarian law and human rights law.