

Situation in the Democratic Republic of the Congo

Update: November 2019

The Prosecutor v. Bosco Ntaganda

Sentence in the Ntaganda case, 7 November 2019

WHAT DID THE CHAMBER DECIDE TODAY?

On 7 November 2019, Trial Chamber VI of the International Criminal Court (ICC) sentenced Bosco Ntaganda to a total of 30 years of imprisonment. The time Mr Ntaganda has spent in detention at the ICC - from 22 March 2013 to 7 November 2019 - will be deducted from this sentence.

On 8 July 2019, Trial Chamber VI had found Mr Ntaganda guilty of 18 counts of war crimes and crimes against humanity, committed in Ituri, Democratic Republic of the Congo (DRC), in 2002-2003.

CAN THIS DECISION BE APPEALED OR REVIEWED?

Yes, the Defence and the Prosecution may appeal this Sentencing Judgment within 30 days, on the grounds of disproportion between the crime and the sentence.

Additionally, in accordance with article 110(3) of the Statute, "[w]hen the person has served two thirds of the sentence; [...] the Court shall review the sentence to determine whether it should be reduced".

WHAT DID THE JUDGES TAKE INTO ACCOUNT TO PRONOUNCE THIS SENTENCE?

To make its decision, the Chamber received submissions from the parties and participants regarding the possible sentence, heard witnesses and admitted evidence, and held a hearing on the matter on 17, 18 and 20 September 2019.

The Chamber considered the gravity of the respective crimes and the degree of harm caused by each crime as well as Mr Ntaganda's culpability, namely his level of intent and degree of participation. In addition, the Chamber considered that aggravating factors, such as the particular cruelty of the conduct against some of the victims, existed for a number of the crimes.

The Chamber considered factors such as Mr Ntaganda's age, position and military training and experience; Mr Ntaganda's personal experience during the Rwandan genocide; alleged measures taken by Mr Ntaganda to save the lives of enemy combatants and protect civilians; Mr Ntaganda's alleged contribution to peace, reconciliation and security in 2004 in Ituri, and Mr Ntaganda's family circumstances and the conditions of his detention in addition to his voluntary surrender to the Court and his statements in relation to the victims. However, while it found potential mitigating circumstances to exist, the Chamber found these factors to either be of insufficient weight or could not, on the basis of the evidence received, find that they were established on a balance of probabilities. It therefore did not give them any weight.

The Chamber also considered the general aggravating circumstance presented by the Prosecution and by one of the Legal Representatives of Victims, namely allegations about witness interference, but did not take this into account as the alleged interference was not proven to the standard required, namely beyond reasonable doubt.

On the basis of its overall assessment, the Chamber imposed a specific sentence for each of the crimes committed by Mr Ntaganda. These sentences ranged from eight years to 30 years of imprisonment.

The Chamber also found that the crimes for which Mr Ntaganda was convicted, despite their gravity and his degree of culpability, nevertheless did not warrant a sentence of life imprisonment. In case life imprisonment is not imposed, the Rome Statute limits the total period of imprisonment to 30 years. When determining the joint overall sentence, the Chamber therefore considered that it had no further discretion and sentenced Bosco Ntaganda to a total of 30 years of imprisonment.

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

WHERE WILL THE SENTENCE BE SERVED?

If the sentencing judgment becomes final, Mr Ntaganda would not remain in the ICC Detention Centre. According to the Statute and the Rules of Procedure and Evidence, the ICC Presidency, having heard the views of the sentenced person, shall designate a State of enforcement from a list of States that have indicated their willingness to accept the sentenced person and have signed an agreement with the Court to that effect.

WILL VICTIMS OBTAIN REPARATIONS?

Victims before the ICC 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 a conviction. In the case against Mr Ntaganda, issues related to the procedure for victims' reparations will be addressed in due course.