

### **III. FACTS AND BACKGROUND OF THE CASE**

Based on the documents in the case file and investigation of the case before both the trial court judge and the Military High Court, the facts of this case can be summarised as follows.

It is undeniable that, ever since the overthrow of President MOBUTU's regime in 1997, several armed groups or militias have plagued the eastern part of the Democratic Republic of the Congo affecting the provinces of ITURI, NORTH KIVU, SOUTH KIVU, HAUT-KATANGA and TANGANYIKA. The abuses and killings committed against the civilian populations and the occupation of certain parts of the national territory by these armed groups, especially forests and mining areas, have pushed the Government of the Republic to launch military operations against these negative forces. This is the context in which, in June 2019, Captain C. of the Operational Sector of the 101st General Staff left his unit in NYABIBWE and then in MINOVA for a 14-day family visit in [REDACTED] in the [REDACTED] chiefdom, KABARE territory, in SOUTH KIVU province, carrying an AK-47 no 1146 weapon, a grenade and a Motorola-brand walkie-talkie. During his stay in his homeland, Captain C immediately joined the movement called AMANI 'DOUZE KAFUNZI' which later became the 'Movement for the Defence of the Indigenous BAMBUTI People' led by Mr C.

Owing to his position as a junior officer in the FARDC [Armed Forces of the Democratic Republic of the Congo], having undertaken military training at the KIDOTI training centre in 1996, he took command of this movement and proclaimed himself 'Colonel C.'. The movement was now named 'C. Armed Group' and consisted of several BAMUTI (pygmy) members who said they were coming to the aid of their community, which had been mistreated on the one hand by the FARDC and the ecoguards of KAHUZI-BIEGA National Park (PNKB) and, on the other hand, by armed groups located in BIEGA forest including the FDLR, the Mai-Mai and RAI A MUTOMBOKI.

Later, he would set himself up with his insurrection movement in KAHUZI-BIEGA National Park with a view to recovering the land of his ancestors by committing various attacks on the protected area, after proclaiming himself 'General'. C. organised his group with the assistance of J., S. and N. – respectively, Operations and Intelligence Second-in-Command, Administration and Logistics Second-in-Command and Chief of Staff. C.'s armed group deployed its men throughout the area under its control, in particular BATANGA I and II, LUSHASHA NKENDJE and MABINGU. This deployment allowed the group to firmly settle in KAHUZI-BIEGA National Park, wiping out State control over this space and all its surrounding areas. Being the sole master of the area, C brought a reign of terror to the lands under his control and the villages of CIREHE, MABINGU, KABUSHWA, CIRHEMBU CIDUHA, CIBATI, CANYENA, KATANA, BULINDI, LUSHASHA, LUHIHI, etc.

He declared that he had been supplied with weapons and ammunition by Colonel N., through the intervention of Major B., S3 [army position], who visited him regularly. Using these firearms, his men made regular, frequent incursions into one or another of the aforementioned

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villages, where they pillaged and extorted property and abducted peaceful citizens who had put up resistance, having been subjected to atrocious physical violence, to the point of detaining them in an underground cell called 'ANDAKU' which was filled with water and ants.

[Signature]

As well as these incursions, C.'s men would attack women who were on their way to the fields or in the bush looking for firewood and would force them individually or collectively, depending on the case, to have sexual intercourse with them.

C.'s armed group did not limit itself to these abuses and rapes; it also forcefully recruited several BAMBUTI children, whom it integrated into the group, after having abducted them from their parents. These children were taught how to handle weapons and used for various tasks such as guarding prisoners, escorting the leaders, collecting taxes at mining sites and participating in hostilities during armed confrontations against other groups.

#### **Analysis of the facts and their materiality**

In its analysis of the materiality of the facts under appeal, the Military High Court heard both of the defendants and compared their version of events as described in court with that of the version put before the trial court judge and that of the case file documents.

#### **IV. EVIDENCE ADMITTED BY THE MILITARY HIGH COURT**

Having been called to judge the crimes, the Military High Court had to pay particular attention to the question of the evidence. It set about this task as any criminal judge should.

Regarding the international crimes, the Military High Court, like international jurisdictions, heard from several victims who themselves bore witness to the crimes that they had suffered (ICC, *The Prosecutor v. Germain KATANGA*, 7 March 2014).

These witness statements, which were made without oath-taking, were nevertheless taken into account by the Military High Court because they corroborated presumptions or other pieces of evidence to the extent that they were obviously coherent and consistent with the contradictions or improbabilities contained in the defendant C.'s accounts. Generally, in the case of sexual violence, the victim is the only witness to their attack.

Hence the importance of their statement, so that the judge can assess its credibility.

As such, the Military High Court has formed an opinion from these hearings, the proceedings that followed and the cross-examinations. The Military High Court noted that most of the rape victims said that they had also been the victims of pillaging, extortion, imprisonment and other inhumane or degrading acts.

It is in fact a matter of settled case-law that, during oral investigation of the case, the judge should draw on the evidence (Court of Cassation B, 11 JUNE 1951, Pas. [collection of judicial decisions], p. 702; 1 October 1951, Pas. 1952, p. 34).



The Military High Court also recalled the principle of the freedom of proof, which applies to criminal matters in that, under this principle, no piece of evidence may be dismissed or given preference over another a priori. It is up to the criminal judge to assess at their sole discretion the probative value that they intend to grant to the arguments that are presented to them (Court of Cassation, 24 NOV 1927, DOC and Jor Col, p. 367).

In its quest for the truth, the Military High Court has also taken account of the statements of the co-defendant since no legal provision prevents this, and also because the case-law permits it. It has therefore been deemed that the accusations of a co-defendant may be admitted as evidence when they appear to be sincere and are confirmed by other presumptions of guilt. Other evidence, such as presumptions or indications, have caught the attention of the Military High Court.

Lastly, the Military High Court notes that errors regarding locations and dates may not lead to the dismissal of proceedings where the defendant could not be mistaken about the facts that are the subject of the trial.

In light of the above, the Military High Court shall apply the correct criminal classification to the crimes committed by the defendant C, the merits of which it shall examine.

## **V. DISCUSSION OF THE MATTERS OF LAW**

### **1. THE PARTIES' GROUNDS FOR APPEAL**

(a) The Public Prosecutor lodged an appeal against the judgment owing to its legal obligation to appeal in the event that a defendant is sentenced to death or to penal servitude for life, in case it might prove successful (Article 83 of the Internal Rules of the Office of the Prosecutor-General and the Military Prosecutors).

It therefore asks the Military High Court to confirm all of the findings of the trial court judge.



(b) The defendant C., through his aforementioned counsels, believes that he is innocent and that it was wrong for the trial court judge to have found him guilty. He therefore brings four pleas against the decision, namely:

[Signature]

1. The infringement of Article 34 of the Military Penal Code, in that the trial court judge ordered his dismissal from the armed forces, even though he had not been prosecuted and convicted for the theft of military supplies.
  2. The lack of competence of the Military Court of South Kivu, as the trial court judge lost his competence to try and sentence him when he acquitted his co-defendant Major B., whose rank justified the jurisdiction of the Military Court.
  3. The absence of evidence of the crimes against humanity that he allegedly committed and the destruction of fauna and flora in protected areas of KAHUZI-BIEGA National Park (PNKB).
  4. The late filing of the special power of attorney by the ICCN's lawyers.  
For all of these reasons, the defendant C. asks the Military High Court to overturn the decisions of the trial court judge and consequently to re-examine the charges against him and declare them not to have been established. As such, [he asks] that it declare itself lacking competence to rule on the civil actions. Regarding the defendant B., [he asks] that it declare him not guilty of the charges owing to a lack of evidence.
- (c) The civil parties have lodged cross-appeals for an increase to the damages awarded to the victims of rape and the children enlisted in the armed group.

In response to the defendant C.'s grounds for appeal, the civil parties, supported by the Public Prosecutor's Office, reply as follows:

1. For the first ground, it should be remembered that the trial court judge ordered the dismissal of the defendant C. on the basis of Article 31 of the Military Penal Code, which grants the judge that power, providing that, 'the military courts may order the additional penalty of dismissal against any officer sentenced to more than 5 years of penal servitude'.

The Military High Court endorses this argument and declares the ground to be irrelevant.

2. For the second ground, the competence of the Military Court of SOUTH KIVU is founded on Article 93 of the Military Judicial Code and Article 100 of Law No 13/011-B of 11 April 2013 on the organisation, functioning and competences of the ordinary courts. The decision to acquit the defendant Major B. does not remove the competence of the court to try the co-defendant C. because there is an extension of competence. This ground is also irrelevant and the Military High Court dismisses it.
3. As regards the third ground, the civil parties believe that the decision of the trial court judge is sufficiently well founded because the judge ruled not only on the basis of his absolute

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conviction, but also beyond any reasonable doubt. When appearing before the Military High Court, the defendant C. did not dispute that he deserted from the regular army, and stated the reason behind proclaiming himself Commander of an insurrection movement in KAHUZI-BIEGA National Park and the surrounding areas. The Military High Court rejects this ground as being unfounded.

4. On the matter of the final ground relating to the late filing of the special power of attorney by the lawyers of the civil party ICCN, the lawyers have revealed that the special power of attorney lay in the case file as well as the ICCN's registered statutes or the Official Journal of the DRC (nos 428 to 438). The Military High Court had noted this and consequently declares the ground to be irrelevant.

## 2. APPLICABLE LAW

Based on the decision of the trial court judge, the Military High Court notes that that judge applied the Rome Statute of the International Criminal Court, which was ratified by the Democratic Republic of the Congo on 31 March 2002.

While analysing the relevance of the direct application of the international treaty known as the Rome Statute of the International Criminal Court, the Military High Court notes that Article 215 of the Constitution of the DRC provides that international treaties and agreements that have been legally entered into have, from their publication, primacy over laws. It also notes that Article 153 of the Constitution stipulates, among other things, that the military and civil courts and tribunals shall apply duly ratified international treaties, laws and regulatory acts provided that they comply with the law and customs and are not contrary to public order or morals.

It notes that the trial court judge applied this Statute to the crimes committed in 2019 and 2020 by Captain C.

With regard to these constitutional provisions, the Military High Court is entitled to apply the Rome Statute of the International Criminal Court to the case in question because all of the acts attributed to the defendant were committed in circumstances that constitute crimes against the peace and security of humanity. **b. 1. Murder constituting a crime against humanity**

Both defendants, B. and C., are being prosecuted for having committed the crime against humanity of murder in the context of a widespread or systematic attack directed against the civilian population, with knowledge of the attack (Article 7(1) of the Rome Statute of the International Criminal Court).

The elements of the crimes are:

- The perpetrator killed one or more persons;
- The conduct was committed as part of a widespread attack against a civilian population;
- The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

In this case, two people were killed, as detailed in the case file. By way of example, it is worth mentioning the facts reported by victim 17 ONG (nos 149–151), who states that C. is a rebel who was living in the park, and that he reported him for having killed his father N., on 05/08/2019 in the village of [REDACTED] in the [REDACTED] grouping, with whips, spears and machetes.

He states that his family had not sought justice against C. because everybody was afraid of him. The death was reported by the chief of [REDACTED].

This allegation has been established against the defendant C but not against the defendant B, whose participation as an accomplice has not been proven.

## **b. 2. Rape constituting a crime against humanity**

This crime, which is provided for under Article 7(1)(g) of the Rome Statute of the International Criminal Court, is laid against the defendants and their followers. Rape requires the following four elements, which are listed in Article 7(1)(g)-1 of Elements of Crimes, to be present.

1. The perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.
2. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent
3. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
4. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

In the case in question, the Military High Court has referred extensively to the victim statements, which constitute important evidence regarding the sexual violence.

Indeed, the victim's testimony on this matter is considered sufficient and there is no need for it to be corroborated by other witness statements or material or documentary evidence. The medical certificate constitutes additional material evidence, but the absence of a medical certificate should not prejudice the probative value of the victim's statement, which suffices in

itself. The notion of the double status of victim-witness is justified for the simple reason that it was she herself who suffered the ordeal, and she herself who experienced the crime.

In the case in question, the evidence in the case file has informed the Military High Court that 12 women were raped, including the victims.

- V 71 KAS (nos 74–77)
- V 66 NMU (nos 58–60)
- V 70 NAM (nos 38–40)
- V 01 NKB (nos 104–107)

In the AKEYEZU case heard by the International Criminal Tribunal for RWANDA, as regards the existence of a coercive event in the context of the commission of a crime of sexual violence, the Tribunal ruled that ‘coercive circumstances need not be evidenced by a show of physical force. Threats, intimidation, extortion and other forms of duress which prey on fear or desperation may constitute coercion, and coercion may be inherent in certain circumstances, such as armed conflict or the military presence of Interahamwe among refugee Tutsi women at the bureau communal’ (ICTR, AKAYEZU judgment, p. 688). For child victims (under the age of 18), there is an acknowledgement of the incapacity to give genuine consent.

The coercive environment that existed during the attacks carried out by C.’s armed group led to an absence of automatic consent. In effect, the followers of the defendant C. spread terror across the region and were equipped with weapons such that the civilian population was unable to resist them. The armed group was feared by all.

### **b. 3. Imprisonment or other severe deprivation of physical liberty constituting a crime against humanity**

This crime requires the following elements, which are listed in Article 7(1)(e) of Elements of Crimes, to be present.

1. The perpetrator imprisoned one or more persons or otherwise severely deprived one or more persons of physical liberty.
2. The perpetrator was aware of the factual circumstances that established the gravity of the conduct.
3. The gravity of the conduct was such that it was in violation of fundamental rules of international law.
4. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
5. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

In this case, the confessions of the defendant C. and other elements in the case file materially establish that, on the orders of C., his men arrested and seriously deprived 54 people of their physical liberty. These arrests were carried out in a fanciful way, with no respect for the



prisoners' human rights. These people were held in an underground cell called 'ANDAKI' filled with wastewater and ants, and their release was conditional on the payment of a ransom (nos 19–20, 111–112, 117–118, 119–120, 125–127, 128–130, 143–145, 155–158).

[Signature]

The defendant C. and his men were aware of carrying out their plan for a widespread attack against the civilian population of BIEGA and its surrounding areas.

The Military High Court notes that all of the constituent elements of this crime are present. No sufficient evidence of the active or passive involvement of the defendant B. in this crime was provided.



**b. 4. Other inhumane acts of a similar character constituting a crime against humanity**

For this offence to apply, the following conditions are required: Elements of Crimes (Article 7(1)(k)):

[Signature]

1. The perpetrator inflicted great suffering, or serious injury to body or to mental or physical health, by means of an inhumane act.
2. Such act was of a character similar to any other act referred to in Article 7(1) of the Statute.
3. The perpetrator was aware of the factual circumstances that established the character of the act.
4. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
5. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

The Military High Court notes that, here, Elements of Crimes specifies that character or characteristic refers to the nature and gravity of the act. Through this all-embracing phrasing, the Rome Statute intends to cover all acts that have not been conferred with a designated term, but which encompass the elements that constitute a crime against humanity.

Based on the facts of the case in question, the materiality of which is established in the above analysis, during the course of their occupation and their attack directed against the civilian population of KAHUZI-BIEGA and its surrounding areas, the defendant C. and his men committed several inhumane acts including:

- Pillaging the property of the civilian populations in the aforementioned villages. These pillaging crimes caused suffering that classifies them as other inhumane acts under the Statute. The victims lost an important amount of property in order to regain their freedom. This is the case for:
  - V 29 AKG (nos 22–25), who paid USD 100, one cow and three goats as a ransom for the release of her son.
  - V 28 LMG (nos 19–21) who, on 20/04/2020, paid FC 200 000, three goats and one foam mattress for their release from the underground hole.
  - V 34 KKF (nos 180–183) who, in December 2019, was taken to C. by his men. Since she didn't recognise him, C. introduced himself as the owner of the entire park and as a colonel. This victim was thrown into the underground hole, 'ANDAKI', where she spent three weeks. In order to be released, 'Colonel' C. forced her to pay USD 3 000 and one cow worth USD 500, which he used to celebrate New Year 2020.



The Military High Court notes that this offence has been established against the defendant C. but not against Major B., against whom no evidence has been brought.

**4. The use of children in an armed group** [Signature]

Initially, the Military High Court notes that the trial court judge made their decision having examined this charge as a war crime on the ground that it took place in the context of an armed conflict of a non-international nature.

The Military High Court will not follow the reasoning of the trial court judge because it considers the armed group led by C. to be a group of individuals organised within an insurrection movement. However, it will consider the use of children in an armed group, an offence provided for and punished under Article 187 of Law No 09/001 of 10 January 2009 on child protection.

Under this provision, the constituent elements of the offence are:

- The status of child;
- The material act of using a child;
- The type of activity;
- The intentional element.

In this case, the children were persons under the age of 18 who were recruited and trained to serve in an armed group.

Children who were coming home from school or on their way to school, and even children who were herding their flocks, were captured by Mr C. or his men and brought to BATANGA, abandoning their schools and families. This was the case for the victims heard by the Military High Court at the public hearing of 20 September 2022.

- E 5 GKA (nos 78–80)
- E 4 SBI (nos 93–94)
- E 2 REN (nos 88–92)
- E 7 HAB- E 6 AND (nos 81–83)

The above persons were protected persons on the grounds of being children under the age of 18 and their birth certificates prove that they were all aged under 18 at the time of the events. These children were forcefully enlisted and used for fighting, after having been trained in handling weapons, for transporting loot, for escorting C in the mining quarries, for preparing the soldiers' food, for guarding the Mai Mai lucky charms of C's armed group, etc. All of the victims left the armed group on the day that C. was arrested.

The Military High Court rules this charge to have been established against the defendant C. alone, with no evidence having been brought of the participation of the defendant B.

**5. Bringing firearms into a national park** [Signature]

The Congolese Institute for Nature Conservation (ICCN) is a legal person governed by Decree No 10/15 of 10 April 2010 on the status of public establishments. It has lawfully joined the case as a civil party by paying the relevant fees; it is a lawful party to the civil proceedings. KAHUZI-BIEGA National Park (PNKB) is a public space belonging to the Congolese State, located in KABARE territory, SOUTH KIVU province, and is part of the ICCN.

The Public Prosecutor has brought charges against the defendant C. for having brought firearms into a protected area, in violation of Article 71 of Law No 14/003 of 11 February 2014 on nature conservation.

In effect, the defendant established his armed group in the PNKB for the reasons discussed above and, in doing so, brought AK-47, PKM and RPG-7 weapons for his insurrection movement into the area. It should be noted that the PNKB is not only a protected area under national law, but is also on the UNESCO World Heritage List, as it is a site of universal natural value.

**6. House building and construction work in a protected area**

Article 77 of the aforementioned Law stipulates: ‘The punishment of six months to one year of penal servitude and a fine of 10 million to 100 million Congolese francs or only one of these penalties shall be handed down to any person who, in a protected area:

1. Carries out works that are not permitted under the development plan and which are likely to change the mineralogy and palaeontology, archaeological remains, the countryside, the relief, the natural drainage, the soil fertility, the watercourses and their purity, the vegetation, or the wild fauna and flora;
2. Removes plant litter and vegetation or uses fertilisers and biocides;
3. Builds a house, farm or barn, unless it is exclusively for the purpose of managing the protected area’.

In the case in question, the defendant C., within a protected area in the IRAMBI-KATANA grouping, more specifically in the PNKB, constructed small houses to house the General Staff of his insurrection movement and to house its fighters. He also removed plant litter and vegetation from the spaces that he occupied. (See evidence in the case file and various photographs).

He launched an attack on the ecoguards, who were employed by the civil claimant ICCN, on 26 January 2020 at their base in [REDACTED]. The witness statements gathered during the investigation (nos 94–99) show that C.’s armed group used this space to mine for gold, to saw planks and to make charcoal.



On the basis of the above, the Military High Court rules the charge against the defendant C. of all of these acts committed in the PNKB, in relation to the armed conflict, to have been established in fact and in law.

[Signature]

### **THE CRIMINAL RESPONSIBILITY OF THE DEFENDANT C.**

The criminal responsibility of the aforementioned defendant is founded on Article 25 of the Rome Statute of the International Criminal Court.

Under Article 25(2) of the Rome Statute, a person is criminally responsible and liable for punishment for a crime within the jurisdiction of the International Criminal Court if they commit such a crime as an individual or jointly with another person, or if they order, solicit or induce the commission of such a crime.

The defendant C., as materially established above, is a military leader who reached the rank of Captain in the FARDC who, after deserting, proclaimed himself Colonel of the insurrection movement that he took command of in the PNKB, encouraging his followers to commit the various crimes against humanity stated above, with the exception of the defendant B., for whom the materiality of the crimes he is charged with has not been established.

### **THE CIVIL REponsibility OF THE CONGOLESE STATE**

By lawful summons issued by the registrar of the Military High Court on 07 September 2022, the Democratic Republic of the Congo was required to appear, in its capacity as a civilly responsible party, at the hearing of 15 September 2022 in order to present its arguments. The Congolese State did not appear and the Court ruled it to have defaulted.

The basis for this responsibility is founded on Article 260 of Book III of the Congolese Civil Code, which establishes the responsibility for the crimes of another person.

In order for the Congolese State to be held responsible on the basis of this article, the law requires the following elements to be present:

- a relationship of subordination between the master and the principal;
- fault on the part of the agent;
- harm caused to a third party on the occasion of the provision of the services for which the principal used the agent.

In the case in question, the Military High Court finds that the State cannot control the private lives of its employees and that it cannot be blamed for not having monitored the actions of Captain C., who was, at any rate, declared a deserter by his direct superiors (see desertion report in the case file) and whose alleged crimes were not committed as part of his official role because he had already unilaterally terminated his contract with the army.

For this reason, the Military High Court finds the Congolese State, in its capacity as principal, to not be civilly responsible and removes it from the case. The defendant alone shall be sentenced to compensate the civil parties for the harm suffered in this case.

[Signature]



No	Direct victim civil party	Indirect victim	Murder [Signature]	Severe deprivation of physical liberty and other inhumane acts	Rape	Enlisting children	Damages pa francs equival
1.							
2.	V 27 NMP			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
3.	V 28 LMG			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic of the
4.	V 29 AKG	- The child of the victim - Not otherwise identified - Victim of deprivation of liberty		Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic of the
5.	V 30 MMG			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic of the

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6.	V 31 CBM		DEMOCRATIC REPUBLIC OF THE CONGO MILITARY HIGH COURT REGISTRY MILITARY JUSTICE [Signature]	Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic of the
7.	M.			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
8.	V 42 OCM			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
9.	V 43 HRG			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
10.	V 44 CRB			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
11.	V 45 CKR			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
12.	V 46 MMM	A. (friend of the civil party also arrested under the same circumstances).		Severe deprivation of physical liberty and other inhumane acts			USD 5 000 in with the D Republic Congo

The Military High Court, by majority vote of its members, answers NO to all of the offences he is charged with.

Consequently, he is acquitted of these charges;

- On the matter of whether the defendant C. is guilty of the charges, the Military High Court, by majority vote of its members, answers:  
YES for commanding an insurrection movement  
YES for the crimes against humanity of murder, rape, imprisonment or other forms of deprivation of liberty, and other inhumane acts of a similar character;  
YES for simple desertion;

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YES for the use of children in an armed group;

YES for bringing firearms into a national park;

YES for house-building and construction work in a protected area. Consequently, he is sentenced, with no mitigating circumstances being admitted, as follows:

- 20 years of penal servitude for commanding an insurrection movement;
- 5 years of penal servitude for simple desertion;
- Penal servitude for life for each crime against humanity;
- 10 years of penal servitude for the use of children in an armed group;
- 6 months of penal servitude for bringing firearms into a national park;
- 6 months of penal servitude for house-building and construction work in a protected area.

In accordance with Article 7 of the Military Penal Code, a single punishment – the harshest, namely penal servitude for life – is imposed.

The Court dismisses him from his position.

**Ruling on the civil actions:**

The Court admits the actions brought by the natural person civil parties and the ICCN [Congolesse Institute for Nature Conservation], a legal person, and declares them to be partially founded;

Orders the defendant C. to pay, by way of damages, the amounts assessed ex aequo et bono to the natural person civil parties, which are payable in the equivalent in Congolese francs:



No	Direct victim civil party	Indirect victim	Murder [Signature]	Severe deprivation of physical liberty and other inhumane acts	Rape	Enlisting children	Damages paid in francs equivalent
1.							
2.	V 27 NMP			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
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6.	V 31 CBM		DEMOCRATIC REPUBLIC OF THE CONGO MILITARY HIGH COURT REGISTRY MILITARY JUSTICE [Signature]	Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic of th
7.	M.			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
8.	V 42 OCM			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
9.	V 43 HRG			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
10.	V 44 CRB			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
11.	V 45 CKR			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
12.	V 46 MMM	A. (friend of the civil party also arrested under the same circumstances).		Severe deprivation of physical liberty and other inhumane acts			USD 5 000 in with the D Republic Congo
13.	V 47 BMJ	O arrested by C's men for a debt owed by Mr M.		Severe deprivation of physical liberty			USD 3 000 in with the D Republic Congo

14.	V 48 BKE		DEMOCRATIC REPUBLIC OF THE CONGO MILITARY HIGH COURT REGISTRY MILITARY JUSTICE [Signature]	Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
15.	V 49 SMU			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
16.	V50 BRE			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
17.	Vob 2 MBJ	The son of the victim P, victim of severe deprivation of		physical liberty and other inhumane acts			USD 5 000 in with the D Republic Congo
18.	B.		Attempted murder				USD 5 000 in with the D Republic Congo
19.	K.			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
20.	V 01 NKB E 3 NSR			Severe deprivation of physical liberty	Rape		USD 5 000 in with the D Republic Congo
21.	V 02 MBJ			Severe deprivation of physical liberty			USD 3 000 in with the D Republic Congo
22.	V 03 AKP			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo

23.	V 04 BMJ		DEMOCRATIC REPUBLIC OF THE CONGO MILITARY HIGH COURT REGISTRY MILITARY JUSTICE [Signature]	Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
24.	V 05 CSD			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
25.	V 06 BNP	Father, not otherwise identified, victim of torture and deprivation of liberty		Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
26.	V 07 TRI			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
27.	V 08 MBI			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
28.	V 09 BNJ			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
29.	V10 BMA			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
30.	V11 NNC			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
31.	V 12 FCE			Severe deprivation of physical liberty and other inhumane acts	Rape		USD 6 000 in with the D Republic Congo

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32.	V3NAV		DEMOCRATIC REPUBLIC OF THE CONGO MILITARY HIGH COURT REGISTRY MILITARY JUSTICE [Signature]	Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
33.	V 14 ACD	His brother S. also a victim of torture and deprivation of liberty		Severe deprivation of physical liberty and other inhumane acts			USD 5 000 in with the D Republic Congo
34.	V 15 OHE	His brother S. also a victim of torture and deprivation of liberty		Severe deprivation of physical liberty and other inhumane acts			USD 5 000 in with the D Republic Congo
35.	V 16 BKP			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
36.	V 17 ONJ	His father N. was a murder victim	Murder				USD 10 000 in with the D Republic Congo
37.	V 18 BFB	His wife F. was also a torture victim		Severe deprivation of physical liberty and other inhumane acts			USD 7 000 in with the D Republic Congo
38.	V 19 NMF	Mother of A, a child soldier		Severe deprivation of physical liberty and other inhumane acts			USD 5 000 in with the D Republic Congo
39.	V 20 AND E 6 AND			Severe deprivation of physical liberty and other inhumane acts		Enlisting children	USD 5 000 in with the D Republic Congo
40.	V 21 FCJ			Severe deprivation of physical liberty and other inhumane acts	Rape		USD 5 000 in with the D Republic Congo

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41.	V 22 MBM		DEMOCRATIC REPUBLIC OF THE CONGO MILITARY HIGH COURT REGISTRY MILITARY JUSTICE [Signature]	Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
42.	V 23 SMN			Severe deprivation of physical liberty and other inhumane acts			USD 7 000 in with the D Republic Congo
43.	N.			Severe deprivation of physical liberty and other inhumane acts			USD 5 000 in with the D Republic Congo
44.	V 25 NAT	Her husband was a victim of torture		Severe deprivation of physical liberty and other inhumane acts			USD 5 000 in with the D Republic Congo
45.	V 33 AMS			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
46.	V 34 KKF			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
47.	V 35 FNJ	Her husband M. was a victim of torture and deprivation of liberty		Severe deprivation of physical liberty and other inhumane acts			USD 6 000 in with the D Republic Congo
48.	V 36 SMM	Her husband was a victim of deprivation of liberty		Other inhumane acts			USD 5 000 in with the D Republic Congo
49.	V 37 BMB			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo

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50.	V 38 BBC		DEMOCRATIC REPUBLIC OF THE CONGO MILITARY HIGH COURT REGISTRY MILITARY JUSTICE [Signature]	Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
51.	V 39 BBJ			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
52.	V 40 SNJ			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
53.	V 52 IMD			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
54.	V 56 NCF			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
55.	V 57 BBC			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
56.	V 58 OGD			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
57.	V 59 BBJ			Severe deprivation of physical liberty and other inhumane acts			USD 3 000 in with the D Republic Congo
58.	V 60 KBE	Mr N.		Severe deprivation of physical liberty			USD 2 000 in with the D Republic Congo

59.	S.		DEMOCRATIC REPUBLIC OF THE CONGO MILITARY HIGH COURT REGISTRY MILITARY JUSTICE [Signature]		Rape		USD 5 000 in with the D Republic Congo
60.	V 70 NAM			Severe deprivation of physical liberty	Rape		USD 6 000 in with the D Republic Congo
61.	E 7 HAB					Enlisting children	USD 5 000 in with the D Republic Congo
62.	V 62 FMU				Rape		USD 5 000 in with the D Republic Congo
63.	V 61 FNE			Severe deprivation of physical liberty	Rape		USD 6 000 in with the D Republic Congo
64.	V 63 WW			Severe deprivation of physical liberty	Rape		USD 6 000 in with the D Republic Congo
65.	V 64 SJE			Severe deprivation of physical liberty	Rape		USD 6 000 in with the D Republic Congo
66.	V 66 NMU			Severe deprivation of physical liberty and other inhumane acts	Rape		USD 6 000 in with the D Republic Congo
67.	V 67 NKA			Severe deprivation of physical liberty	Rape		USD 6 000 in with the D Republic Congo

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68.	V 67 NKA		DEMOCRATIC REPUBLIC OF THE CONGO MILITARY HIGH COURT REGISTRY MILITARY JUSTICE [Signature]	Severe deprivation of physical liberty	Rape		USD 6 000 in with the D Republic Congo
69.	V 68 AKA			Severe deprivation of physical liberty and other inhumane acts	Rape		USD 6 000 in with the D Republic Congo
70.	V 69 BKA			Severe deprivation of physical liberty and other inhumane acts	Rape		USD 6 000 in with the D Republic Congo
71.	V 71 KAS	Her husband (deprivation of liberty), her two sons (deprivation of liberty), her daughter (rape)		Severe deprivation of physical liberty and other inhumane acts	She and her 14-year-old daughter were both also raped		USD 6 000 in with the D Republic Congo
72.	E 5 GKA			Severe deprivation of physical liberty		Enlisting children	USD 6 000 in with the D Republic Congo
73.	E 2 REN			Severe deprivation of physical liberty		Enlisting children	USD 6 000 in with the D Republic Congo
74.	E 4 SBK			Severe deprivation of physical liberty		Enlisting children	USD 5 000 in with the D Republic Congo

75.	N.	Wife raped and father-in-law and uncle killed	DEMOCRATIC REPUBLIC OF THE CONGO MILITARY HIGH COURT REGISTRY MILITARY JUSTICE [Signature]	Severe deprivation of physical liberty and other inhumane acts	Wife raped		USD 6 000 in with the D Republic Congo
76.	E 1 TEM			Severe deprivation of physical liberty		Enlisting children	USD 5 000 in with the D Republic Congo
77.	B.			Severe deprivation of physical liberty			USD 3 000 in with the D Republic Congo
78.	N.	Mother of T.				Enlisting children	USD 5 000 in with the D Republic Congo
79.	S.	Father of R.				Enlisting children	USD 5 000 in with the D Republic Congo
80.	M.	Paternal uncle of the child G.				Enlisting children	USD 5 000 in with the D Republic Congo
81.	M.	Father of the child H.				Enlisting children	USD 5 000 in with the D Republic Congo
82.	O.	Grandfather of the child B. and N.			Rape	Enlisting children	USD 6 000 in with the D Republic Congo
83.	K.	Father of M.					USD 5 000 in with the D Republic Congo

84.	K.	Two children killed during clashes between C. and D. and F.	MURDER DEMOCRATIC REPUBLIC OF THE CONGO MILITARY HIGH COURT REGISTRY MILITARY JUSTICE [Signature]				USD 10 000 in with the D Republic Congo
85.	A., H., born in [REDACTED] on [REDACTED]	Grandfather of the child C.				Enlisting children	USD 5 000 in with the D Republic Congo
86.	B. (father), N. (mother)	Brother of P. M., [REDACTED]				Enlisting children	USD 5 000 in with the D Republic Congo
87.	N. (mother) of Petro	P. M., [REDACTED]		(For herself and the child) Severe deprivation of physical liberty and other inhumane acts		Enlisting children	USD 6 000 in with the D Republic Congo

And the civil party ICCN, USD 50 000 payable in Congolese francs for all harms combined.

Orders the destruction of the buildings illegally erected by the defendant and his men in the protected areas of the PNKB [Kahuzi-Biega National Park] at its own expense.

The court costs are to be borne by the public treasury.

The cross-appeals lodged by the natural person civil parties are held to be admissible but unfounded owing to a lack of evidence of an aggravation of harm from the first degree.