



REPUBLIQUE CENTRAFRICAINE

Unité – Dignité – Travail

COUR PÉNALE SPÉCIALE

Chambre d'appel

Before: Mr Barthélémy YAMBA, President
Mr Olivier BEAUVALLET, Judge
Mr Volker NERLICH, Judge

Registrar: Mr Martin BOTEOKO

Date: 20 July 2023

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*English Summary of
'Judgment no. 9 on the appeals against judgment no. 003-2022 of 31
October 2022 of Trial Chamber I'*

Office of the Special Prosecutor

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Accused persons

Mr Adoum ISSA SALLET alias BOZIZÉ
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* This is a courtesy translation of the French-language original.

1. Today, having deliberated in accordance with the law, the Appeals Chamber delivers its judgment on the appeals in open court in the case against Issa Sallet Adoum alias Bozizé, Ousman Yaouba and Mahamat Tahir. The President of the Appeals Chamber reads out this summary of the grounds and the operative part of the judgment. However, it must be noted that only appeals judgment itself is authoritative.

2. The appeals judgment will be notified to the parties after the hearing. It will also be published on the SCC's website.¹

I. Introduction

3. On 21 May 2019, a group of armed men belonging to the group '*Retour, Réclamation et Réhabilitation*' ('3R') attacked the villages of Koundjili and Lemouna in the Ouham-Pendé prefecture in the north-west of the Central African Republic, killing many men and raping several women.

4. Three days later, on 24 May 2019, Issa Sallet Adoum, alias Bozizé, Ousman Yaouba, and Mahamat Tahir, members of the 3R who had taken part in the attacks, were handed over to the authorities. The legal proceedings that followed culminated in a trial before the Trial Chamber of the Special Criminal Court (the 'SCC'). This was the first trial before the SCC.

5. On 31 October 2022, the Trial Chamber handed down its judgement against the three defendants. For their participation in the events at Koundjili and Lemouna, the Trial Chamber found them guilty of the crimes against humanity of murder and other inhumane acts and the war crimes of murder and outrages upon personal dignity, in particular humiliating and degrading treatment. The accused Issa Sallet was also found guilty of the crime against humanity and war crime of rape, which occurred in Koundjili, in his capacity as military commander.

6. The Trial Chamber sentenced Issa Sallet to life imprisonment and the other two defendants to twenty years' imprisonment.

7. The three defendants and the Special Prosecutor appealed against the Trial Chamber's judgement.

8. The Appeals Chamber received written submissions from the parties on the appeals and held appeal hearings from 30 May to 1 June and on 19 June of this year, during which it received additional submissions from the parties.

¹ <https://www.legal-tools.org/doc/fls6pp/>. The present summary is available at <https://www.legal-tools.org/doc/bqm3v8/>; the French version thereof at <https://www.legal-tools.org/doc/bkxfwl/>. Website of the SCC: www.cpsrca.cf

II. Admissibility of the appeals

9. As regards the admissibility of the appeals, the Appeals Chamber notes that the appeals of the three defendants were filed in the form and within the time limits provided by law. They are therefore admissible, and the Appeals Chamber has considered their merits.

10. As to the Special Prosecutor's appeal, which is labelled as a 'cross-appeal', the Appeals Chamber notes that the Special Prosecutor did not file an appeal brief, as required by law. For this reason, the Special Prosecutor's appeal is inadmissible.

III. Preliminary questions

11. Before dealing with the merits of the appeals, it is appropriate to summarise the Appeals Chamber's decision on one of the preliminary issues it raised during the appeal hearing.

12. It concerns the fact that the Trial Chamber did not rule on the charges concerning the responsibility of the defendants Ousman Yaouba and Mahamat Tahir for the crimes in Koundjili, even though they had been indicted for these crimes.

13. The Appeals Chamber considers that, generally, if a trial chamber has failed to rule on the charges before it, it is appropriate for the Appeals Chamber to rule on those charges itself, or to remit the case to another trial chamber.

14. However, the Appeals Chamber considers that, in the present case, the charges of complicity in war crimes and crimes against humanity committed in Koundjili, if proven, would be secondary to those for which the two defendants were convicted and for which they brought the case before the Appeals Chamber, that is, the crimes committed in Lemouna.

15. Consequently, the charges relating to the alleged responsibility of the defendants Yaouba and Tahir for the events at Koundjili will be declared moot.

IV. Analysis of the grounds of appeal

16. The defendants have raised numerous grounds of appeal, alleging errors of law and fact in the impugned judgment. The defence's grounds of appeal are grouped into two parts: in the first part, the defence alleges numerous violations of the defendants' right to a fair trial. The second part is devoted to grounds of appeal alleging errors of law and fact invalidating the conviction, i.e., the substance of the Trial Chamber's judgment, including sentencing.

A. Alleged violation of the accused's right to a fair trial

17. The first category of grounds of appeal includes several arguments.

1. *Grounds of appeal concerning the accused's right to equality of arms and adequate facilities for the preparation of the defence*

18. The defence submits that, for several reasons, the defendants' right to equality of arms and to have at their disposal the means necessary to prepare their defence was violated during the trial before the Trial Chamber and during the judicial investigation that preceded it.

19. The Appeals Chamber has carefully considered these arguments. For the reasons detailed in its judgment, it has concluded that these arguments are unfounded. It has therefore rejected these grounds of appeal.

2. *Grounds of appeal concerning the accused's right to be informed of the nature and cause of the charges against them*

20. The defence also alleges the violation of the defendants' right to know and understand the nature and substance of the charges against them.

21. The Appeals Chamber recalls that the legal framework of the SCC ensures respect for the accused's right to be informed of the charges against him or her, principally through the committal order, issued by an investigating cabinet, and, where applicable, the committal judgment of the Special Indictments Chamber. The law provides for specific procedures for raising questions relating, among other things, to the charges, of which the defence has not availed itself. Nevertheless, the Appeals Chamber has decided to deal with the substance of the arguments.

22. However, the defence's arguments regarding the clarity of the charges for crimes against humanity and war crimes are unfounded. The defendants cannot claim that they were not sufficiently informed of the legal basis for these two charges.

23. As to the clarity of the charges relating to the modes of liability, the Appeals Chamber notes a number of inaccuracies in the manner in which the modes of liability were dealt with in the committal order and committal judgment. Despite these shortcomings, the Appeals Chamber considers that these failings are not of such magnitude as to merit the intervention of the Appeals Chamber.

3. *Grounds of appeal concerning the right to a reasoned judgment*

24. The defence maintains further that the impugned judgment is insufficiently reasoned.

25. The Appeals Chamber notes that giving reasons for a judgment is much more than a formality. By giving reasons for their decision, judges explain to the accused, the other parties to the proceedings and the public how they have analysed the evidence and arrived at their decision on guilt or innocence and, where appropriate, sentence; they demonstrate that they have considered the arguments of the parties and they expose their decision to scrutiny by society.

26. To comply with the obligation to give a properly reasoned judgment, the trial chamber must clearly explain how it reached its factual and legal conclusions.

27. In the present case, the Appeals Chamber considers that the impugned judgment does not satisfy these requirements as regards the statement of reasons for the Trial Chamber's factual findings. The impugned judgment contains very little explanation of the analysis of the evidence. The Appeals Chamber must now determine the consequence of this failure.

28. The Appeals Chamber also notes that in the present case, a number of facts are not disputed by the defendants. Indeed, their written submissions reveal that only three aspects of the accused's guilt are genuinely in dispute. These are as follows:

- The question of whether the crimes committed in Lemouna and Koundjili took place in the context of, and were associated with, a non-international armed conflict and whether the facts could therefore be classified as war crimes;
- Whether the said crimes were part of a widespread or systematic attack directed against a civilian population, whether the accused knew this, and whether the acts could thus be qualified as crimes against humanity; and
- Whether the individual responsibility of the defendants has been established.

29. In these circumstances, the Appeals Chamber considers that the most appropriate course of action in respect of the noted deficiency in the reasoning of the impugned judgment is for the Appeals Chamber itself to determine the key issues referred to above. Similarly, the Appeals Chamber will deal with the question of whether the sentencing section of the impugned judgment is sufficiently reasoned together with the other sentencing issues.

4. Grounds of appeal concerning the presumption of innocence

30. The defence has raised numerous alleged violations of the presumption of innocence. The Appeals Chamber has carefully considered these arguments but concluded that they are unfounded, for the reasons set out in its judgment.

5. Other arguments concerning alleged violations of the accused's right to a fair trial

31. Issa Sallet's defence raises several arguments to maintain that the accused's rights were violated during the preliminary investigation and the judicial investigation. However, an overall review of the investigation or pre-trial phase is not the responsibility of the Appeals Chamber when it is seized of an appeal against a judgment handed down by a trial chamber.

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32. This concludes the summary of the Appeals Chamber's findings on the grounds of appeal alleging violations of the defendants' right to a fair trial. The summary of the grounds of appeal and the decision of the Appeals Chamber on the merits of the case now follow.

A. Grounds of appeal alleging errors of fact and law concerning war crimes

33. The first group of arguments concerns the conviction for war crimes. To establish a war crime, it is necessary to establish that, at the time of the events, there was an armed conflict, that there was a link between the crimes and the armed conflict and that the accused had knowledge of the existence of the armed conflict. The defence challenges the Trial Chamber's conclusions on these three points.

1. Existence of an armed conflict at the time of the crimes

34. With regard to the existence of a non-international armed conflict, two main elements must be taken into account: first, it must be established that there was a conflict between the armed forces of a State and one or more armed groups, or between armed groups. To qualify as an armed group, the grouping in question must have a sufficient degree of organisation. Secondly, the conflict must reach a certain intensity.

35. The Trial Chamber found in the present case that there was a conflict between the 3R group and the armed forces of the Central African Republic, as well as between the armed group known as 'Revolution and Justice' ('RJ') and the anti-balaka. It set out the history and organisation of the 3R group, but the impugned judgment contains very little information about the degree of organisation of the RJ group and the anti-balaka.

36. However, after a thorough analysis of the relevant evidence, the Appeals Chamber finds that the 3R group, the RJ group and the anti-balaka constituted armed groups within the meaning of international humanitarian law.

37. As to the second element, the intensity of the conflict, the Appeals Chamber emphasises that it must be established whether there were direct clashes between armed forces or group.

38. With regard to the present case, the Trial Chamber noted 'the persistence of the armed conflict and the intensity of the violence against the civilian population since 2013 with the advent of the Anti-balaka and (ex-)Seleka, the clashes between armed groups such as the 3Rs, the Anti-balaka, the RJs and the Government forces have followed one another without interruption'. The Appeals Chamber notes that, based on the reasoning of the impugned Judgment, it is not clear how the Trial Chamber reached this conclusion.

39. However, having analysed the relevant evidence, the Appeals Chamber considers that the necessary threshold of conflict intensity is established.

40. To sum up, despite the shortcomings in the reasoning of the impugned judgment, the Appeals Chamber, after reviewing the relevant evidence, finds that the existence of an armed conflict of a non-international character is established.

2. Link between the crimes and the armed conflict

41. To constitute a war crime, it must also be established that the crime in question was linked to the armed conflict. According to the defence, the Trial Chamber's finding that such a link had been established was flawed.

42. The Appeals Chamber considers, however, that in the present case and in view of the facts established, there is a sufficient link between the acts and the armed conflict in the Central African Republic. In particular, the defendants acted based on an order from the hierarchy of the 3R group; they used assault rifles and wore uniforms.

3. The accused's knowledge of the armed conflict

43. The third element that must be established is the accused's knowledge of the armed conflict. The defence contends that the Trial Chamber wrongly considered that this element had been established. However, the defence's arguments are essentially based on the argument that there was no armed conflict. The Appeals Chamber has already rejected this argument.

4. Overall conclusion on the contextual element of war crimes

44. In conclusion, the Appeals Chamber finds that in the present case the existence of an armed conflict is established. It is also established that the crimes of which the accused are accused took place in the context of and were associated with that armed conflict and that the accused were aware of that fact. The contextual element of war crimes is therefore established.

B. Grounds of appeal alleging errors of fact and law concerning crimes against humanity

45. The defence disputes the conclusions of the Trial Chamber regarding the contextual element of crimes against humanity. In particular, the Trial Chamber is said to have erred when it concluded that the existence of a widespread or systematic attack against the civilian population and the defendants' knowledge of that attack had been established.

46. The defence also challenges the Trial Chamber's application of the category of 'other inhuman acts' as a crime against humanity.

1. Existence of a widespread or systematic attack directed against a civilian population and the accused's knowledge of the attack

47. The Appeals Chamber notes that the Trial Chamber's reasoning regarding the existence of a widespread or systematic attack was insufficient. However, after a thorough analysis of the relevant evidence, the Appeals Chamber concludes that the existence of an attack against the population by the 3R group is established. There is ample evidence of the repeated commission of crimes against civilians since 2015. This attack was widespread and systematic.

48. Regarding the Defence's argument that the Trial Chamber should have established the existence of an organisational policy of the 3R group, in accordance with Article 7(2)(a) of the Rome Statute of the International Criminal Court, the Appeals Chamber notes that such an element is not included in the definition of crimes against humanity in the Central African Republic, nor is it part of customary international law.

49. On the question of whether the defendants knew that their crimes were part of a widespread and systematic attack against a civilian population, the Appeals Chamber, having analysed the relevant evidence, found that such knowledge on the part of the three defendants was indeed established.

50. In sum, the Appeals Chamber finds that in the present case it has been established that the 3R group was carrying out a widespread and systematic attack against the civilian population. The conduct alleged against the accused was part of that attack, and the accused knew it. The contextual element of crimes against humanity is therefore established.

2. Erroneous application of the category of 'other inhumane acts'

51. The definition of crimes against humanity recognises different categories of this crime. Notably, Article 153(12) recognises the category of 'other inhumane acts', which is intended to cover inhumane conduct which, although not falling within any of the conduct specifically identified as constituting crimes against humanity, has 'inflicted great suffering or serious injury to body or to the physical or mental health of its victims'.

52. The Trial Chamber concluded that the treatment of the victims prior to their execution constituted inhuman acts amounting to a crime against humanity.

53. The Appeals Chamber considers that the acts which, according to the Trial Chamber, constitute 'inhuman acts' undoubtedly caused suffering to the victims. They showed blatant disregard by the defendants for their victims, who found themselves at their mercy.

54. However, the Appeals Chamber considers that a distinction must be made between the events that took place in Lemouna and those in Koundjili. With regard to the events in Lemouna,

it is clear from the Trial Chamber's factual findings that the victims who were ultimately killed were tied up with ropes, causing them pain. They were immobilised for a considerable period in an extremely distressing situation, facing armed and threatening men. The Appeals Chamber considers that, taken as a whole, the behaviour at Lemouna constitutes other inhumane acts.

55. As for the events in Koundjili, the acts that the Trial Chamber qualified as crimes against humanity of 'other inhuman acts' were committed in the context of the murders of the same victims, which were perpetrated immediately afterwards. These acts do not require a separate conviction; the particularly cruel circumstances of a murder can be taken into account in determining the appropriate sentence.

56. The Appeals Chamber notes that the same events in Koundjili which, according to the Trial Chamber, constituted the crime against humanity of other inhumane acts, also formed the factual basis for the conviction of the war crime of outrages upon personal dignity. The conviction for the war crime of outrages upon personal dignity relating to the events at Koundjili should therefore be quashed.

C. Grounds of appeal alleging errors of law and fact concerning the modes of responsibility

57. The defence raises numerous arguments alleging errors of law and fact relating to the modes of liability retained by the Trial Chamber against the defendants. The Appeals Chamber notes that one part of these arguments relates to the modes of liability set out in Article 55 of the Organic Law (SCC), while the other part relates solely to Issa Sallet's liability as a military commander under Article 57 of the Organic Law (SCC) for the rapes committed in Koundjili.

1. Criminal responsibility based on article 55 of the Organic Law (CPS)

58. In the operative part of the impugned judgment, the Trial Chamber found the three defendants guilty of murder and outrages upon personal dignity constituting war crimes and murder and inhuman acts constituting crimes against humanity committed in Lemouna, as 'perpetrators', based on articles 55-a and 55-b of the Organic Law (SCC); Issa Sallet was also found guilty of these charges for the events in Koundjili.

59. The defence argues that the conclusions of the Trial Chamber are erroneous.

60. After a thorough analysis of the legal framework applicable to the SCC, which corresponds to the legal framework at the International Criminal Court, and the relevant international case law, the Appeals Chamber finds several errors in the Trial Chamber's reasoning.

61. However, for the reasons detailed in the judgment, the Appeals Chamber considers that the three accused are responsible for the crimes committed in Lemouna as co-perpetrators. Issa Sallet

is also responsible as co-perpetrator for the crime against humanity and war crime of murder committed in Koundjili.

2. *Responsibility of Issa Sallet as military commander for the rape of six women in Koundjili*

62. The Trial Chamber found Issa Sallet guilty, in his capacity of military commander within the meaning of Article 57 of the Organic Law (SCC), of the rapes committed on six women by his subordinates constituting a crime against humanity and a war crime. On appeal, Issa Sallet does not contest the fact that six women were raped in Koundjili on 21 May 2019. However, he raises numerous arguments to maintain that he was wrongly convicted of the rapes.

63. However, the Appeals Chamber does not consider these arguments to be well-founded, for the reasons set out in its judgment.

D. *Grounds of appeal concerning the determination of the sentences*

64. The last aspect of the appeals concerns the sentencing of the accused.

1. *Alleged violation of the principle of legality of the sentence*

65. The defence alleges a breach of the principle of the legality because the Trial Chamber did not, before determining the overall sentence, set out a sentence for each count of the charges.

66. The Appeals Chamber dismisses this argument because the Code of Criminal Procedure stipulates that if a person is convicted of more than one felony or misdemeanour, only the heaviest penalty will be imposed.

2. *Insufficient consideration of aggravating circumstances*

67. The Trial Chamber considered as aggravating circumstances against the three defendants ‘the fact that they have never expressed any regret for the crimes they committed, nor any compassion for the victims’ and that ‘at the beginning of the trial, they asked for forgiveness but without acknowledging their responsibility, even moral responsibility’. The Trial Chamber also found that none of the defendants had collaborated in establishing the truth.

68. The defence submits that the Trial Chamber’s analysis of the aggravating circumstances was superficial.

69. The Appeals Chamber considers that the Trial Chamber’s analysis of aggravating circumstances is tainted by an error of law. In view of the accused’s right to remain silent, their non-cooperation cannot be taken into account as an aggravating circumstance.

3. Insufficient consideration of mitigating circumstances

70. Issa Sallet and Ousman Yaouba argue that the reasons for the sentences imposed are insufficient because of the Trial Chamber's cursory consideration of mitigating circumstances.

71. The Appeals Chamber notes that trial chambers have broad discretion to determine the weight to be given to mitigating circumstances. The Appeals Chamber observes, however, that the reasoning explaining what weight the Trial Chamber gave to the mitigating circumstances it had identified is insufficient. The Appeals Chamber therefore accepts the ground of appeal alleging insufficient consideration of mitigating circumstances.

4. Disproportionality of the sentence

72. Issa Sallet maintains that the life sentence imposed on him is 'extremely disproportionate'.

73. The Appeals Chamber notes that the Trial Chamber makes no reference in the impugned judgment to the principle of proportionality of sentences.

74. The Appeals Chamber recalls that, according to Article 59-2 of the Organic Law (SCC), the maximum sentence pronounced by the SCC will be life imprisonment. By applying the maximum penalty - life imprisonment - to Issa Sallet, even though it had recognised the existence of mitigating circumstances, and without giving any specific reasons to explain the extreme severity of this sentence, the Appeals Chamber considers that the sentence imposed on Issa Sallet by the Trial Chamber was disproportionate.

V. Determination of the sentence by the Appeals Chamber

75. The Appeals Chamber recalls, firstly, that it has reversed the conviction at first instance of Issa Sallet for the crime against humanity of other inhumane acts and the war crime of outrages upon personal dignity in relation to the events in Koundjili. Secondly, it had identified errors in sentencing relating to the consideration of aggravating and mitigating circumstances, and thirdly, it has considered the sentence imposed on Issa Sallet to be disproportionate.

76. In these circumstances, it is the responsibility of the Appeals Chamber to determine the appropriate sentence for the three accused. As the Special Prosecutor's appeal is inadmissible, the Appeals Chamber will not modify the sentences imposed on the three accused to their detriment.

A. Issa Sallet

77. The crimes for which Issa Sallet was found guilty are crimes committed against human beings and are extremely serious.

78. The attack on Koundjili and Lemouna was part of a widespread and systematic attack undertaken since 2015.
79. The number of victims was high. The victims were in no way involved in the hostilities waged by the 3R group. The victims of the murders were sometimes killed after a long period of anguish and agony prior to their execution. Some of the victims were particularly vulnerable.
80. As to Issa Sallet's role and contribution to the commission of the crimes, the Appeals Chamber notes that he was the head of the group of the elements of the 3R group sent to Lemouna and Koundjili on 21 May 2019. Arriving at the entrance to Lemouna, Issa Sallet decided to split the group in two, going ahead with the first group to Koundjili and ordering the second group to proceed to attack Lemouna. He entrusted control of the second group to Ousman Yaouba. These facts show that Issa Sallet played a central role in the events that took place in Koundjili and Lemouna.
81. The Appeals Chamber recalls that his participation in the crimes (other than the rapes) was that of a co-perpetrator (Article 55-a of the Organic Law (CPS)). He is therefore considered to have 'committed' all these crimes. As for the rapes, Issa Sallet is guilty on the basis of command responsibility (article 57 of the Organic Law (CPS)).
82. It is clear that Issa Sallet was acting on orders received following the meeting that took place on the night of 20 to 21 May 2019 at Kouï (De-Gaulle) between the 3R officers on duty and Sidiki Abass, the head of the 3R group. The decision to attack Koundjili and Lemouna was taken at this meeting, which Issa Sallet did not attend. There is no indication that Issa Sallet would have carried out the attack on the two villages in the absence of an order from the head of the 3R group, or that he would have had the capacity to do so without the authorisation of his superiors.
83. The above factors indicate that the crimes of which Issa Sallet was found guilty are very serious; nevertheless, his culpability is slightly tempered by the fact that he acted on the basis of an order he had received.
84. The Appeals Chamber has also analysed Issa Sallet's personal situation. However, it attaches little relevance to this in determining the sentence.
85. The Appeals Chamber notes the absence of aggravating or mitigating circumstances.
86. The Appeals Chamber recalls that the maximum sentence it can impose on Issa Sallet is life imprisonment.
87. Having considered the gravity of his crimes, his personal situation and the question of mitigating and aggravating circumstances, the Appeals Chamber finds that a severe sentence must

be imposed. However, given that the seriousness of the crime is slightly tempered by the factors mentioned above, it is not appropriate to impose the maximum sentence.

B. Ousman Yaouba

88. Ousman Yaouba is guilty of the crimes committed in Lemouna.

89. As to the seriousness of these crimes, the Appeals Chamber refers to its reasoning concerning the sentence imposed on Issa Sallet.

90. As to the role and contribution of Ousman Yaouba in the commission of the crimes, the Appeals Chamber notes that he was designated by the commander of the Létélé base as Issa Sallet's deputy for the conduct of the mission and that Issa Sallet entrusted him with the control of the group going to Lemouna when Issa Sallet decided to split the group in two. Once in Lemouna, this group led the men of the village to a meeting under a mango tree, where they were assembled by Ousman Yaouba. He was also present when the villagers were shot under the mango tree, even though the Trial Chamber was unable to establish that he fired the shots himself. These facts show that Ousman Yaouba played an important role in the events that took place in Lemouna.

91. The Appeals Chamber recalled that his participation in the crimes was that of a co-perpetrator (Article 55-a of the Organic Law (SCC)). He is therefore considered to have 'committed' all these crimes in Lemouna.

92. As in the case of Issa Sallet, it is clear that Ousman Yaouba was acting under orders.

93. The above factors indicate that the crimes of which Ousman Yaouba was found guilty are very serious; nevertheless, his culpability is slightly tempered by the fact that he acted on the basis of an order he had received.

94. The Appeals Chamber has also examined Ousman Yaouba's personal situation. However, it attached little relevance to this in determining the sentence.

95. The Appeals Chamber notes the absence of aggravating or mitigating circumstances.

96. The maximum sentence that the Appeals Chamber can impose on Ousman Yaouba is that of twenty years' imprisonment, the sentence imposed by the Trial Chamber. Having considered the gravity of his crimes, his personal situation as well as the question of aggravating and mitigating circumstances, the Appeals Chamber finds that a significant sentence must be imposed.

C. Mahamat Tahir

97. Mahamat Tahir is guilty of the crimes committed in Lemouna.

98. As to the seriousness of these crimes, the Appeals Chamber refers to its reasoning concerning the sentence imposed on Issa Sallet.

99. As to the role and contribution of Mahamat Tahir in the commission of the crimes, the Appeals Chamber recalls that he was the deputy commander of the base in Kouï (De-Gaulle). Together with his troops, he reached the base in Létélé in the morning of 21 May 2019, where he transmitted the orders from the headquarters in Kouï (De-Gaulle). He grouped the villagers of Lemouna under the mango tree and was present when they were tied up. He was also present when the villagers were shot, though the Trial Chamber was unable to establish that he had fired shots himself.

100. The Appeals Chamber recalled that his participation in the crimes was that of a co-perpetrator (Article 55-a of the Organic Law (SCC)). He is therefore considered to have ‘committed’ all these crimes in Lemouna.

101. As in the case of Issa Sallet, it is clear that Mahamat Tahir was acting under orders.

102. The above factors indicate that the crimes of which Mahamat Tahir was found guilty are very serious; nevertheless, his culpability is slightly tempered by the fact that he acted on the basis of an order he had received.

103. The Appeals Chamber has also examined Mahamat Tahir’s personal situation. However, it attached little relevance to this in determining the sentence.

104. The Appeals Chamber notes the absence of aggravating or mitigating circumstances.

105. The Appeals Chamber recalls that the maximum sentence that it can impose on Mahamat Tahir is that of twenty years’ imprisonment, the sentence imposed by the Trial Chamber. Having considered the gravity of his crimes, his personal situation as well as the question of aggravating and mitigating circumstances, the Appeals Chamber finds that a significant sentence must be imposed.

D. Deduction of time spent in detention pending trial

106. The three accused were arrested for the crimes that are the subject of the present case on 24 May 2019. They have been in detention since.

107. As provided for by the law, the time they have already spent in detention will be deducted from their sentences.

108. This brings the summary of the Appeals Chamber’s judgment to an end. I shall now to proceed to read out its operative part. The accused are asked to stand up.

DISPOSITIVE PART

For these reasons, having deliberated in conformity with the law, the Appeals Chamber, ruling in public, in the presence of all parties and as court of last instance,

As a preliminary matter:

REJECTS the Special Prosecutor's request for authorisation to present additional evidence on appeal;

As to the admissibility:

DECLARES the Special Prosecutor's appeal inadmissible,

DECLARES the appeals of the accused admissible.

As to the merits:

AMENDS the impugned judgment and:

1. **DECLARES MOOT** the counts concerning the alleged responsibility of **Ousman YAOUBA** and **Mahamat TAHIR** for the events in Koundjili on 21 May 2019.
2. **ACQUITTS Issa SALLET ADOUM alias BOZIZÉ** of the crime against humanity of other inhumane acts (article 153(12) of the Penal Code) and of the war crime of committing outrages upon personal dignity (article 156 of the Penal Code read with article 3(1)(c) common to the Geneva Conventions) as concerns the events in Koundjili on 21 May 2019;
3. **DECLARES Issa SALLET ADOUM alias BOZIZÉ GUILTY**, as co-perpetrator (article 55(1) of the Organic Law (SCC)), of the crime against humanity of murder (article 153(1) of the Penal Code) and the war crime of murder (article 156 of the Penal Code read with article 3(1)(a) of common to the Geneva Conventions) that occurred in Lemouna and Koundjili on 21 May 2019, including attempted murder in respect of the crimes in Lemouna only (article 55-f of the Organic Law (SCC));
4. **DECLARES Issa SALLET ADOUM alias BOZIZÉ GUILTY**, as military commander (article 57 of the Organic Law (SCC)), of the crime against humanity of rape (article 153(9) of the Penal Code) and the war crime of rape (article 156 of the Penal Code read with article 3(1)(c) common to the Geneva Conventions and article 4(2)(e) of Additional Protocol II), committed by his subordinates in Koundjili on 21 May 2019;

5. **DECLARES Issa SALLET ADOUM alias BOZIZÉ GUILTY**, as co-perpetrator (article 55(1) of the Organic Law (SCC)), of the crime against humanity of other inhumane acts (article 153(12) of the Penal Code) and of the war crime of committing outrages upon personal dignity (article 156 of the Penal Code read with article 3(1)(c) common to the Geneva Conventions) that occurred in Lemouna on 21 May 2019;
6. **DECLARES Ousman YAOUBA GUILTY**, as co-perpetrator (article 55(1) of the Organic Law (SCC)), of the crime against humanity of murder (article 153(1) of the Penal Code) and the war crime of murder (article 156 of the Penal Code read with article 3(1)(a) of common to the Geneva Conventions) that occurred in Lemouna on 21 May 2019, including attempted murder (article 55-f of the Organic Law (SCC));
7. **DECLARES Ousman YAOUBA GUILTY**, as co-perpetrator (article 55(1) of the Organic Law (SCC)), of the crime against humanity of other inhumane acts (article 153(12) of the Penal Code) and of the war crime of committing outrages upon personal dignity (article 156 of the Penal Code read with article 3(1)(c) common to the Geneva Conventions) that occurred in Lemouna on 21 May 2019;
8. **DECLARES Mahamat TAHIR GUILTY**, as co-perpetrator (article 55(1) of the Organic Law (SCC)), of the crime against humanity of murder (article 153(1) of the Penal Code) and the war crime of murder (article 156 of the Penal Code read with article 3(1)(a) of common to the Geneva Conventions) that occurred in Lemouna on 21 May 2019, including attempted murder in respect of the crimes (article 55-f of the Organic Law (SCC));
9. **DECLARES Mahamat TAHIR GUILTY**, as co-perpetrator (article 55(1) of the Organic Law (SCC)), of the crime against humanity of other inhumane acts (article 153(12) of the Penal Code) and of the war crime of committing outrages upon personal dignity (article 156 of the Penal Code read with article 3(1)(c) common to the Geneva Conventions) that occurred in Lemouna on 21 May 2019;

SENTENCES, for the crimes for which they were declared guilty:

Issa SALLET ADOUM alias BOZIZÉ to a prison sentence of thirty (30) years.

Ousman YAOUBA to a prison sentence of twenty (20) years.

Mahamat TAHIR to a prison sentence of twenty (20) years;

DECLARES that the time spent in detention since their arrest on 24 May 2019 will be deduced from the sentence imposed on the accused;

ORDERS the confiscation of the seized objects;

RESERVES the decision on the costs.
