



ECCHR - Status Report February 2014

FDLR-Leadership Trial in Stuttgart

The trial of two Rwandan leaders of the *Forces Démocratiques de Libération du Rwanda* (FDLR) began on 4 May 2011 at the Higher Regional Court in Stuttgart. The defendants, Ignace Murwanashyaka and Straton Musoni, are accused of war crimes and crimes against humanity in the eastern region of the Democratic Republic of the Congo during 2008 and 2009. ECCHR has been monitoring these proceedings, the first trial to be taken under the German Code of Crimes against International Law (Völkerstrafgesetzbuch – VStGB), a law that entered into force in 2002 and allows for the prosecution of war crimes and crimes against humanity by German courts. ECCHR has previously published two interim reports on the trial's progress in [February 2012](#) and [November 2012](#). This third report provides an overview of the main events in the trial between the 112nd (Nov 2012) and 200th (Dec 2013) day of proceedings. The notable features of this trial period include the first statements from defendant Musoni, the dropping of three of the original charges and the hearing of witness testimony from victims from the Democratic Republic of the Congo.

Defense of the accused Straton Musoni

In August 2013 accused Straton Musoni made a statement on the charges facing him. In the indictment of 8 December 2010 he is accused of failing, as political/military leader of the FDLR, to prevent the crimes of the militias in the Democratic Republic of the Congo. It is alleged that Musoni, together with the second defendant, ordered and directed the FDLR's strategy and tactics from Germany via satellite phone, email, radio and the internet.

In his pleadings Musoni disputed the substance of these accusations. He denies that as Vice President of the FDLR he had influence on the military division of the organization. Musoni claims that from his base in Germany he was responsible for the FDLR's political mobilization, diplomacy and finances, and that he did not maintain contact with all sections of the organization in the Democratic Republic of the Congo. He also expressly distanced himself from the crimes that were committed.

Dropping of charges of rape, enslavement and the recruitment of child soldiers

On the 188th day of proceedings the court provisionally dropped three of the charges at the request of the prosecution authorities. The dropped charges included two individual charges of rape and enslavement and one accusation of the recruitment of child soldiers. The prosecution authorities felt that the sentences for these charges would be relatively insignificant compared to the overall sentence for the remaining charges and that hearing evidence from the victims of these particular crimes would “significantly burden and potentially personally endanger” the victims. The striking of these three points means that the charge of recruitment of child soldiers will now be excluded entirely from the proceedings.

The court has also indicated that in its view at this stage in the hearings it is questionable whether the accused Murwanashyaka did in fact exert sufficient influence over the behavior of fighters in eastern Democratic Republic of the Congo. Yet as long as the accused believed this to be the case, he could still be charged with *attempt*. If the accused is convicted, this point could lead to a reduction in sentence. The court also suggested limiting the prosecution of the second accused Straton Musoni to the charge of being a ringleader or member of a foreign terrorist organization.

What this shows is that on the basis of the evidence heard to date the court feels that the charges listed in the original indictment may not be the most appropriate charges for the accused. This assessment is however only a preliminary one and the court’s view may change over the course of the proceedings right up until judgment is handed down.

In camera testimony from affected individuals

Individuals affected by the crimes are not present in the courtroom but instead give evidence from the region via video link. A German lawyer is present with them to offer witness support. The court excluded the public from the courtroom for the duration of this testimony. The court justified the exclusion of the public on the basis that the witnesses’ rights to safety and security had to be protected. Because the sessions were held privately, ECCHR is not in a position to report on how these hearings were carried out. The initial hearings had to be suspended in late 2012 due to tensions in the region. Some of the hearings were discontinued at the request of the witnesses as the giving of evidence proved to be extremely burdensome. The credibility of the evidence given by the witnesses was repeatedly called into question by the defense. This was evident from the subsequent statements by the prosecution and the defense given after the proceedings had again been opened to the public.



Further suspected FDLR members go on trial in Düsseldorf

On 15 November 2013, new proceedings relating to the FDLR were launched at the Higher Regional Court of Düsseldorf. The three defendants are accused of being members of the FDLR and thus of being “members of a terrorist organization abroad”. It is alleged that they founded their own FDLR cell in Germany following the arrest in May 2011 of the two defendants in the Stuttgart trial. The cell is said to have set up in order to create and disseminate press releases from the FDLR denying or justifying the crimes committed in eastern Congo. It is also alleged that one of the accused provided Ignace Murwanashyaka with money despite the fact that the latter’s bank accounts had been frozen due to European Union sanctions. It is claimed that the leftover money was to be used to finance telephone calls to FDLR fighters. Further investigations are currently underway concerning eleven individuals suspected of supporting the FDLR.

Outlook

Dates for the continuation of the main proceedings have been set until May 2014. There are plans for further witness evidence to be heard, which makes it impossible to predict when the court will hand down its judgment. Once this decision have been given, appeals will likely be launched and the case will move to the Federal Court, meaning that it will be some time before a final assessment of the case can be made. The first instance decision of the Stuttgart court will however allow initial conclusions to be drawn on procedural questions as well as on the conduct of the investigations, the treatment of those affected by sexual violence in conflict and the impact of the German proceedings in the affected regions.