



***LEX CLIMATICA* MOOT COURT COMPETITION**

2nd edition – 2024-2025

Case study

The Prosecutor
v.
Martin Camilo and Maxime Hardy

* The facts presented in this case study are fictitious. Any resemblance with a real event is purely coincidental. To help the reader understand the text, the following expressions refer to the same entity: State of Kali, Republic of Kali, The Kalian Republic, Kali.

1. The Republic of Kali, located in West Africa, has been an independent state since 17 November 1960. With a population of 46 million, its capital is Alexville. Kali is a state known for its emblematic 900,000-hectare forest called the Tana Forest. Kali's independence was proclaimed after more than 100 (one hundred) years of colonisation by the Kabanga Union (KU). From the 1800s onwards, the KU administered the current territory of Kali, breaking away from the traditional political and social institutions that had previously been in place. Close to the Kali settlement at the time was the Kalahani settlement administered by the Kingdom of Brouss. Before the arrival of the settlers, four ethnic groups (the Wari, the Sahi, the Bamari and the Zaouli) lived together on the "island of three shores" that forms the present-day territories of Kali and Kalahani. The Wari occupied mainly the western and northern shores. The Sahi and Bamari live on the north shore, on the edge of the Three Shores Lake, occupying the Tana Forest. The Zahouli live mainly on the east bank. The four ethnic groups formed a single pre-colonial entity, organised and led by a Zaouli emperor. The Wari are a nomadic group who make their living from cattle rearing and trading. The Sahi are foresters deeply rooted in ancestral rites, living by hunting, gathering and producing their own food in the forest. They form a strong traditional fraternal alliance with the Wari. The Wari and Sahi consider themselves to be brothers and sisters with very close ties. The Bamari are a group of pygmies who, for centuries, maintained conflictual relations with the Sahi, but these were relatively pacified around 1740, although mistrust remains between the two groups. The Bamari occupy the northern part of the Tana Forest, the southern part of which (the largest, around 75%) is occupied by the Sahi. The Zahouli live from agriculture, fishing and the gold trade. Despite differences in culture and way of life, the four groups managed to trade with each other.
2. Around 1800, the arrival of settlers from the KU and the Kingdom of Brouss, and the sudden and aggressive occupation of the area where the four ethnic groups had settled, had a major impact on the pre-existing organisation. To the detriment of the ethnic groups, the territory was split into two large parts, which became colonies. On the one hand, a colonial entity comprising only the Wari; and on the other, another colonial entity comprising the Sahi, the Bamari and the Zahouli. The Kingdom of Brouss and the KU, colonisers of the two newly formed territories, named them Kalahani and Kali respectively. At the end of colonisation and at the dawn of independence, the newly independent states of Kalahani and Kali inherited the borders of colonisation in application of the principle of *uti possidetis iuris*. As a result, the Wari have Kalahani nationality, while the Sahi, Bamari and Zahouli have Kalahani nationality.
3. As the years went by, the two states each integrated the Western culture promoted during colonisation (customs, religion, etc.). However, the Sahi foresters and the Bamari pygmies on both sides continued to preserve their cultures, rites and traditions. Both groups are considered to be "Indigenous people and Communities residing in the Tana Forest" by the African Commission on Human and Peoples' Rights.
4. One particular Sahi tradition is religious in nature. According to that Sahi religious belief, women who suffer a miscarriage are called witches and then, in a sacred ritual before the great Sahi chief, they are subject to fire ordeals until death. The Sahi consider this practice to be part of their culture. Deeply rooted in tradition, the Sahi people also refuse to allow their children to attend schools near the forest. The Kalian authorities have on several occasions attempted talks with the Sahi chiefs to build schools in the forest. Each time, the Sahi have categorically refused, demonstrating their attachment to their sacred values.

The Sahi were the only group whose relations with the colonists had always been conflictual during colonisation. Moreover, they still have not accepted the abrupt separation from their Wari “brothers” imposed by colonisation and its consequences. Their Bamari forest rivals are less conservative. The Bamari chiefs have long accepted the colonial rule. In the current administrative organisation, there are primary schools and a college in the northern part of the Tana Forest occupied by the Bamaris. Thanks to talks between the State and the Bamari chiefs in particular, a high school dedicated exclusively to the Bamari people has been under construction in the northern part of the forest since May 2023. Construction work on the school is due to be completed by the end of May 2025.

5. Despite the hostility of the Sahi, fuelled by a strong need to protect their tradition and “their forest”, the State has customarily paid particular attention to them. The State employs 180 contractual agents to protect the Tana Forest, particularly the southern part where the Sahi live. While some observers believe that this is just a matter of protecting the flora and fauna, in 2016 the Kali Prime Minister said: “This practice of protecting the forest, to which the State has been faithful since independence, is a form of recognition of the legal personality of nature. The protection also applies to the Sahi people, who co-own the forest with the Bamari. The Sahi are kalians in the same way as all other kalians. We have a responsibility to protect them.”
6. In June 2022, presidential elections were held in the Republic of Kali. The main opposition party until then, led by its charismatic leader Martin Camilo, of Zahouli ethnicity, won the election. Martin Camilo was sworn in before the Constitutional Court on 27 June 2022 in accordance with the Kali Constitution. As soon as he was elected, the new President of the Kalian Republic introduced numerous administrative reforms. These reforms were accompanied by the accession and ratification of numerous human rights protection instruments. In August 2022, Kali became a party to the Protocol to the African Charter on Human and Peoples’ Rights establishing an African Court on Human and Peoples’ Rights, and to the Rome Statute establishing the International Criminal Court. At the same time, Kali ratified several other African treaties, including the Maputo Protocol on the Rights of Women in Africa. Martin Camilo thus intends to keep his election promises, namely, to give a predominant place to the women of Kali. The new President of the Republic of Kali is in fact the former head of a well-known non-governmental organisation (NGO) in Kali, which has long called on the State to put an end to the failure to send young girls to school and to the torture of women who suffer miscarriages in the Sahi community. Now head of the Kalian administration, Martin Camilo sent an emissary to the Tana Forest to demand that the Sahi chiefs take all necessary steps to put an end to the harmful practices that Sahi women are victims of. President Camilo’s action continued between August and September 2022, but met with fierce opposition and invective from the Sahi chiefs, who were determined to protect Sahi culture come what may.
7. The Republic of Kali will not be spared by the fragile global economy in 2022. The newly formed Kali government under Martin Camilo has put in place a scheme to make it easier for foreign companies to set up in Kali in order to revive the ailing economy. Global company *Get-Weapons*, which specialises in the sale of conventional and chemical weapons, is coveting the Tana Forest as the site for its new West African subsidiary. The construction of the subsidiary in the coveted Tana area should enable *Get-Weapons* to send a strong signal to its competitors in West Africa. *Get-Weapons* has a branch

dedicated to the sale of arms, and another branch operating in the field of private security. Its CEO, Maxime Hardy, is a former Kabang mercenary who made his fortune through dubious activities. The Kabangese press attributes his success to the illegal sale of minerals in Central Africa and human trafficking in South America. Martin Camilo welcomed the proposal to build the *Get-Weapons* subsidiary in the Tana forest, seeing it as a triple opportunity: to boost the Kalian economy, to scare off the terrorist groups that have been operating in West Africa for several years, and to dislodge the Sahi from most of the Tana forest, relocating them to the area where the Bamari live or to urban areas “for those who wish to do so”. On 1 October 2022, in a State of the Nation address, Martin Camilo declared: “We are going to burn the 75% of the Tana Forest currently occupied by the Sahi. The aim is to raze the area to the ground in order to build a subsidiary of a large and powerful company that will enable our country to restore its image (...) and make a name for itself in the sub-region. Of course, I haven’t forgotten the Sahi people. Some of them will be rehoused in the forest area occupied by the Bamari, in agreement with the Bamari, while others will be relocated to urban areas. It’s high time the Sahi women and girls got out of the machismo hell of the Sahi chiefs. I promised you development through the inclusive participation of women, and this development will take place with Sahi women and girls. The authority of the State must be applied throughout the territory. It should be said that the Tana Forest belongs to the Kali, who are free to use it as they see fit, according to the economic needs of the moment.”

8. The next day, President Camilo’s statement provoked a major demonstration by 180 forest rangers. They denounced the construction project for the *Get-Weapons* subsidiary, which would cause “an enormous destruction of flora and fauna, with damage to the environment and the climate”. The demonstration was violently repressed by the police on the grounds that it had not been authorised by the relevant authorities. On 16 October 2022, a contingent of Kalian soldiers, on the orders of the President of the Republic, entered the Tana Forest (in the southern part) after violating the forest guards present in the vicinity. The contingent encountered strong resistance from Sahi men armed with arrows, machetes and homemade rifles. On the orders of the President of the Republic, Head of the Armed Forces under the Kalian Constitution, the Kalian soldiers retaliated with machine guns and grenade launchers. More powerful and better equipped, the Kalian army gained the military advantage after six hours of fighting. The hostilities resulted in the deaths of 46 members of the Kalian armed forces, approximately 12,000 Sahi men (out of a total community of 12,115) and the arrest of the Sahi Grand Chief, who was immediately charged with “murder and attempted murder of girls and women” under Kalian law. He is in custody awaiting trial. The 114 young boys from the Sahi community who did not take part in the hostilities and who were lucky enough to be spared the collateral damage of the clashes were transferred to an orphanage for those under 15, and to a military camp for those over 15. The 12,700 Sahi girls and women in the community, all of whom were spared, have been transferred, some to the Bamari, and others to a former prison in Alexville that has been rehabilitated to house women in distress.
9. At the end of October 2022, a vast bushfire operation was carried out in three quarters of the Tana Forest previously inhabited by the Sahi. The operation caused the disappearance of 12,000 of the 18,000 animal species that lived in the southern part of the forest before 16 October 2022. This was followed by the start of construction work for the *Get-Weapons* subsidiary. The 180 contractual forest rangers who had been guarding the area of the Tana Forest occupied by the Sahi are now unemployed. Most of the forest guards

are Kalahanians living in Kali and are members of the Wari ethnic group. Their numerous protest demonstrations in the capital have been violently repressed by the police on each occasion. For several months they were subjected to threats at home by police officers, on the orders of their superiors and with the knowledge of the highest state authorities.

10. On 2 January 2023, a group of 230 heavily armed Kalahanians attacked 12 police stations in Alexville. The men then regrouped and stormed a police district where police families were staying. The group was led by Arnaud Faucher, a former Tana Forest ranger. The attack on the police stations and police headquarters left 82 policemen dead. The Kalian reaction was imminent. Elements of the army were sent to the police district to “liberate” it from the enemy. Despite the large numbers of Kalian soldiers, they were unable to gain a military advantage. After three days of intense fighting in favour of the armed group of Kalahanians, the Kali state called in the armed section of *Get-Weapons*. A State-private military company agreement was signed by Martin Camilo on behalf of Kali and Maxime Hardy on behalf of *Get-Weapons*. On 7 January 2023, around a hundred *Get-Weapons* men, assisted by a few Kalian soldiers, attacked the armed Kalahanian group based in the police district. The attack mainly targeted two large strategic buildings where it was known, thanks to intelligence services, that the armed group’s military arsenal was stored. The *Get-Weapons* team used *Tallboy-type* seismic bombs and *MHD* generators. The effect of the bombs effectively ruined the two buildings. After just two hours of fighting, the armed Kalahan group was neutralised. However, all 22 police families who had been taken hostage perished in the attack.
11. On 8 January 2024, one year after the unfortunate events in the Alexville police district, an earthquake measuring 7.2 on the Richter scale struck the Kalian capital, killing 8,000 people and injuring 7,000 others. Such an incident had never before occurred in Kali. An opposition leader in Kali, who is also a Member of Parliament, believes that the earthquake was caused by the seismic weapons used a year earlier. He added that since mid-2023, several Western countries had recalled their ambassadors from Alexville and issued a travel ban against Kali for no specific reason. The doctrine of the opponent and Kali MP is followed by a dozen environmental and climate protection NGOs.
12. On 2 February 2024, at the request of the Office of the Prosecutor, Pre-Trial Chamber XXI of the International Criminal Court issued an arrest warrant for Martin Camilo, current President of Kali, and Maxime Hardy, CEO of *Get-Weapons*, for crimes of genocide, crimes against humanity and war crimes allegedly committed in Kali between October 2022 and January 2023.
13. Despite the absence of the accused, the International Criminal Court Pre-Trial Chamber XXI intends to hold its confirmation of charges hearings in May 2025. Pursuant to Rule 100(1) of the ICC Rules of Procedure and Evidence, the Chamber will exceptionally hold its hearings in a city in West Africa. In its decision to convene the hearing, the Chamber requests the Victims’ Representative (pursuant to Article 68(3) of the Statute) and the defence of Martin Camilo and Maxime Hardy to submit written observations on the charges brought by the Prosecutor:
 - a) **Crimes of genocide:** Murder of members of the Sahi group (article 6-a of the Statute); Serious bodily harm to members of the Sahi group (article 6-b of the Statute); Intentional infliction on the Sahi group of conditions of life calculated to bring about its physical destruction in whole or in part (article 6-c of the Statute); Measures intended to prevent births within the Sahi group (article 6-d of the Statute);

Forced transfer of children of the Sahi group to another group (article 6-e of the Statute).

- b) **Crimes against humanity:** Persecution of the 180 Tana Forest rangers who were deprived of their jobs (articles 7-1-h and 7-2-g of the Statute); Other inhuman acts caused by the destruction of 75% of the Tana Forest (article 7-1-k of the Statute).
- c) **War crime:** Intentionally directing attacks causing widespread, long-term and severe damage to the natural environment in the use of seismic bombs during combat in police headquarters (article 8-2-b-iv of the Statute).

14. In relation to the above, the respective written observations of the Victims' Representative and the Defence must take account of the Prosecutor's observations:

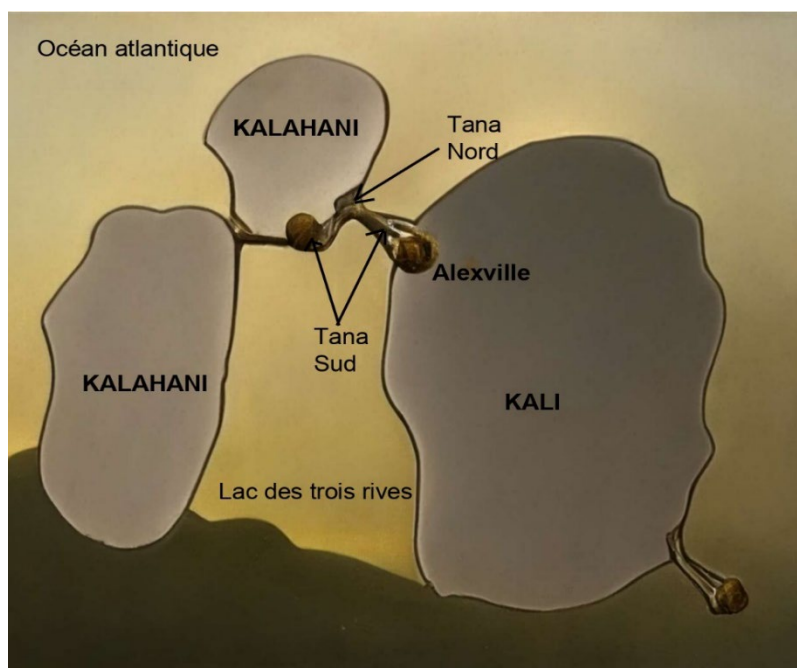
Primarily:

- a) **“The Court has jurisdiction”.**

Then:

- b) **“For the crimes of genocide and crimes against humanity, Martin Camilo is an author and Maxime Hardy an accomplice”.**
 - c) **“For the war crime, Martin Camilo and Maxime Hardy are co-authors”.**
15. The written observations must be submitted to the Chamber no later than 10 February 2025. On the eve of the hearings, Martin Camilo was President of the Kalian Republic and refused to attend the Court. Maxime Hardy was in the KU, a signatory to the Statute (since 12 July 2005, signature not followed by ratification until the eve of the hearings), which refused to hand him over to the Court. In August 2022, Martin Camilo allowed the Kali to ratify the following treaties: The four Geneva Conventions of 1949, the Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water, the Treaty on the Non-Proliferation of Nuclear Weapons, the Treaty on the Limitation of Anti-Ballistic Missile Systems, the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (ENMOD), the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, the Treaty of Pelindaba for the Establishment of a Nuclear-Weapon-Free Zone in Africa, the Arms Trade Treaty with a reservation to Article 6, and the Treaty on the Prohibition of Nuclear Weapons. Under the Kalian Constitution, the State has a presidential system, with the President of the Republic being omnipotent and having extensive powers. His ministers support him in his decision-making.

ANNEX: Map¹



¹ This map, drawn by an amateur, shows the approximative geographical display of the two countries.



Lex Climatica 2025 Moot court competition

Case Study - Answers to questions of clarification

1. The Sahi women, men, girls and boys are doing well but are finding it very difficult to adapt to the new environment in which they find themselves. They all want to live in the forest, in their community, separate from the Bamari. This wish has not been fulfilled by the current authorities in Kali. Official statements by members of the Government and the Head of State show that the State of Kali intends to “educate Sahi men and young boys to respect women's rights” and “integrate all Sahi into the rest of Kali society for true national cohesion”. Pan-African associations for the defence of indigenous peoples’ rights have requested, without success, that the Sahi be relocated to a part of the forest that the Bamari should relinquish to them so that they can live there separately.

2. In his speech on 1 October 2022, Martin Camilo also said:

“We need to educate the Sahi people about the rules governing women's rights. No one is above the law. No person or tribe can violate the values enshrined in international law on the grounds that they are protected by international law because of their cultural identity! I will do everything necessary, including the use of armed force, to put an end to the ordeals suffered by Sahi women every year”

3. The plan to destroy the 75% of the forest occupied by the Sahi people has been supported by Martin Camilo since he was in opposition and when he oversaw an NGO. In public statements as an opposition leader and head of an NGO, he called for the destruction of the forest as the only way to combat femicide among the Sahi ethnic group. Once in power, he used the public media to run a national campaign against what he considers as Sahi machismo. Between June 2022 and October 2022, national public television and radio stations broadcast several messages “inciting hatred against Sahi machismo”

4. A dozen confidential letters from the President of the Republic to the Homeland and Defence Departments, produced between June 2022 and October 2022, explicitly show that the President of the Republic's policy with regard to the disputed part of the Tana Forest was intended not only to “end Sahi machismo”, but also to “abolish the status of contractual forest ranger in the Tana Forest”. In these letters, the President of the Republic clearly states his desire to “end all practices closely or remotely linked to the protection of Sahi machismo”. These confidential letters were published in November 2022 on the social media X and Facebook by an ex-employee of the Presidency, now a refugee in Kalahani.

5. In accordance with the Kalian Constitution, the President of the Republic chairs the Council of Ministers. Numerous press releases and Council of Ministers minutes show that Martin Camilo is well aware of the threats made by police officers against former forest guards. On the eve of the confirmation of charges hearing, Martin Camilo has taken no action to stop these threats.

6. A former forest guard, who was able to move to Kalahani, said in a live video on *Tiktok*:

“Since independence, the State of Kali has been recruiting forest guards from the Wari ethnic group. All the successive regimes in Kali have followed this practice. So, I was recruited because my parents and grandparents had also been recruited. I hoped that later my children would be recruited, but alas, Camilo and Hardy's machines took everything from us. Our families are very attached to the forest, not only because we have this strong professional historical bound with the forest, but also because the plants, trees, animals and the Sahi people that we have always loved and protected lived there. Without this part of the Tana Forest, we no longer have any identity. Camilo and Hardy have taken away our professional identity. What's more, since the forest was destroyed, the police have been threatening us all day long. As I speak, threats are still being made against my colleagues in Alexville”

A victim who survived the earthquake also posted a video on *Tiktok*. With her face blurred, she said:

“I followed everything from the beginning. I resided in the Alexville police district at the beginning of January 2023. My father was a policeman. When Arnaud Faucher's group arrived, there was a confrontation between the armed group on one side and the police on the other. It was during this confrontation that my father was killed. The armed group, which was better equipped, managed to take control of the police district. We had no food from 6 January. On 7 January, when the army and *Get-Weapons* arrived, we hoped that we would finally be free of the enemy and hunger. Of course we were, but at what price? These men bombed the two buildings where the armed group's weapons were stored. It felt like an earthquake. It was frightening! A year later, just when we thought it was all over, here we are having another earthquake, a real one this time! I've been through a lot and I'm still going through a lot. I've lost everything! And the government is doing nothing to help me. I've been registered as a survivor, but since then there's been no follow-up”.

The two individuals each repeated these testimonies to the renowned international NGO *Human Roof Watch*.

7. The government has launched a vast operation to register the earthquake survivors in order to “identify them and compensate them in a concrete and appropriate manner”. On the eve of the Pre-Trial Chamber's confirmation of charges hearing, the registration operation is still underway.

8. Within the international community, the positions of States are nuanced. Some governments state that they will arrest the two accused if they are present on their territory in order to hand them over to the ICC; others have stated that they do not wish to cooperate with the ICC if the individuals are present on their territory.

9. Fearing a huge change in the climate, hundreds of people have decided to leave the capital and settle in the rural areas of Kali.

10. The current Kalian Constitution has been in force since independence. None of its provisions have changed to date. The Constitution is silent on the presence of the Sahi people in the Tana Forest. Furthermore, the Constitution provides in article 17: “The President of the Republic appoints the magistrates. The magistrates are bound by a duty of loyalty towards the State and its Head”.

11. A report by the renowned international NGO *SaveClimate* notes that the destruction of 75% of the Tana Forest and the construction of the *Get-Weapons* subsidiary have led to a “dangerous” increase in harmful CO₂ emissions.

12. The government refuses to publish a carbon footprint. This has been requested by several national NGOs working to combat deforestation and greenhouse gas emissions. These NGOs would like a carbon footprint to be published, particularly for the future manufacture of weapons by *Get-Weapons*, the destruction of 75% of the forest, and the toxic substances released into the air and the ground following the destruction of the two large buildings in the police district.

13. On 3 January 2024, Martin Camilo stated in one of his speeches that his Government would do everything in its power to ensure that by 2035 Kali, through its partnership with *Get-Weapons*, would be able to manufacture “carbon-neutral” military aircraft. Interviewed by a private Kabangese TV channel on 4 January 2024, Maxime Hardy stated that the weapons to be manufactured at Kali via the *Get-Weapons* company are mainly “green” weapons that will generate less and less pollution when used in armed conflicts. He assured the audience that his company would do everything in its power to help tackle the global climate crisis.

14. On 7 January 2023, Martin Camilo and Maxime Hardy expressly agreed to the use of seismic bombs and generators, after consultation with Kalian experts in international humanitarian law. This is set out in the contract signed between the State and the company. At the end of January 2024, the Kalian press, close to the opposition, published the content of the contract that it had cleverly obtained. Since the end of January 2024, this press has been publishing information “from reliable sources” to the effect that experts had advised against the use of seismic bombs and generators in the armed clashes of 7 January 2023. This information is supplemented by screenshots of conversations in a *WhatsApp* group between two experts and the army Chief of Staff:

The first expert: - It's too dangerous, as I told you at our meeting to prepare for the attack. You shouldn't use seismic bombs or generators for such a small-scale confrontation. The armed group is certainly organised, but it can be neutralised with conventional weapons. It is not highly organised.

The second expert: - I can confirm that the group does have heavy weapons, and that according to the intelligence services it is well structured. But it is not so highly organised as to be able to stand up to a State-private military company “coalition”. It is not capable of waging a prolonged armed conflict. There is no need to use seismic bombs and *MHD* generators to neutralise it.

The Army Chief of Staff: - I told you, the order was given by the Head of State. I couldn't convince him not to use the bombs and generators. So, we're going to use them, or I'll lose my job.

15. The members of the group of 230 Kalahanians openly carried weapons and wore clearly identified military uniforms. Rumours claim that the group was supported by the Kalahanian regime.

16. In its arrest warrant (which was issued at the request of the prosecutor), the Pre-Trial Chamber “[...] is and remains convinced that the evidence presented by the Office of the Prosecutor shows that there are reasonable grounds to believe [...]” that the acts of the armed forces [...] and the armed elements of *Get-Weapons* were carried out under the orders of Martin Camilo and Maxime Hardy, and that “[i]n this context, crimes of genocide, crimes against humanity and war crimes [...] were committed”. The Chamber did not consider it useful to rule on the modes of criminal liability at the stage of issuing the arrest warrant.

17. The Chamber's decision to hold the confirmation hearing came approximately 9 months after the arrest warrant was issued, on 2 November 2024. It was on that day that the Chamber set the date for the confirmation hearing for May 2025. In its decision to set the date for the confirmation hearing, the Chamber stated:

“Given the failure of diplomatic attempts to induce Martin Camilo to surrender to the Court, and to induce the Kabanga Union to surrender Maxime Hardy to the Court, the Chamber considers that it has taken all reasonable steps to locate the accused and have them arrested [...].

Having regard to the rejection by the Chamber on 2 March 2024 of the appeal by the State of Kali lodged two weeks after the arrest warrant was issued on the principle of complementarity, on the grounds that its own Courts have the capacity to rule on the case [...] No appeal having been lodged against this rejection [...].

Aware that Martin Camilo's movements outside Kali take place only on the territories of States that have declared that they will not enforce the arrest warrant, and that Maxime Hardy's only movements outside the KU are to Kali [...] the Chamber considers that the chances of the accused being surrendered to the Court are almost non-existent [...] However, in the interests of justice, the Chamber decides [...] that it is appropriate to hold a confirmation hearing, without a first appearance hearing.”

18. In its decision of 2 November 2024, the Chamber designated a collective of counsel for the defence of the accused from the list of counsel submitted by the Court Registry. The collective is made up of lawyers who have undertaken to participate in the proceedings, more concretely to write a brief and orally present their arguments to the chamber. It is not known whether these lawyers communicate with the accused.

19. In its decision of 2 November 2024, the Chamber notified the appointment of legal representatives for the victims. These victims' legal representatives had previously been chosen by a group of three association leaders: the *Association Justice for the Sahi People* (an organisation created by non-Sahi Kalians but for the public interest of the Sahi), the *Association of the Tana Forest guards persecuted*, and the *Association of Kalians victims of the earthquake of the 8th of January*. During a trip to *The Hague*, the three leaders of these victims' associations chose common legal representatives for all the victims of the situation in Kali. These representatives were chosen with the assistance of the ICC Registry, which provided them with a list of counsel. These common legal representatives will therefore act as “Victims' Representatives” throughout the proceedings, on behalf of the following groups of victims: the Sahi victims - the persecuted forest guard victims - the children, parents and relatives of the 7,000 earthquake victims, including the 1,000 survivors.

The three association leaders, fearing persecution in Kali, were able to obtain refugee status in the Netherlands.

20. In the decision of 2 November 2024, the Chamber authorised the "Victims' Representatives" (the lawyers) to draft a brief and to intervene orally at the confirmation of charges hearing in Abidjan.

21. It was in the decision of 2 November 2024 that the Pre-Trial Chamber asked the Legal Representatives of Victims and the Defence to submit written observations on the charges set out by the Prosecutor and mentioned in the first draft of the case study. At this stage of the proceedings, the Chamber has still not considered it useful to rule on the modes of criminal responsibility.

22. Martin Camilo and Maxime Hardy denounced on the social media *X* “an international hate campaign led by the ICC and supported by jealous states”. They continually reiterate their respective decisions not to surrender to the Court. Martin Camilo states that to prove his good faith and his desire "to ensure that justice prevails in all circumstances, Kali will not withdraw from the International Criminal Court". Above all, he states:

“The Kalian justice system is sovereign and has priority over the ICC when it comes to jurisdiction”.



N° ICC-01/25
Date: 31 January 2025

**Cour
Pénale
Internationale**



**International
Criminal
Court**

THE PRELIMINARY CHAMBER XXI

Composed as follows: [...]

SITUATION IN KALI

CASE

THE PROSECUTOR C. MARTIN CAMILO AND MAXIME HARDY

Public

Second Decision on the Prosecution Request for a Confirmation Hearing in the
Absence of the Suspects in *CAMILO* and *HARDY* Case

Decision to be notified, in accordance with regulation 31 of the Regulations of the Court, to the following addresses:

The Office of the Prosecutor

The Defence Council

Victims' legal representatives

[...]

.....

The Registrar

[...].

THE PRELIMINARY CHAMBER XXI (“the Chamber”) of the International Criminal Court, having received the Document containing the charges, the report of some member States of the Assembly of States Parties to the Rome Statute (the “Statute”) that have declared that they will surrender the accused to the Court if they are present in their respective territories, these States having repeatedly attempted through diplomatic channels to convince the accused and their respective States of their immediate surrender to the Court, the Registry’s report on its efforts to inform Martin Camilo and Maxime Hardy of the charges against them, issues a new Decision on the Prosecution’s request a confirmation hearing in the absence of the suspects in the *Camilo and Hardy* case.

Given the exceptional nature of the proceedings, the Chamber will briefly review the facts before recalling the proceedings.

I. The facts

1. The island of the three shores before and after 1960

1. The island of the three shores, located in West Africa, is populated by four ethnic groups: the Wari, the Sahi, the Bamari and the Zahouli. Despite some communication difficulties, these groups live in harmony on the three shores. From 1800 onwards, the Kabanga Union (the UK) and the Kingdom of Brouss colonised the island of the three shores, dividing it into two colonies. The areas inhabited by the Wari, the west bank and almost all of the north bank, became the Broussian colony of Kalahani. The East Bank, inhabited by the Zahuli, and the Tana Forest to the south of the North Bank, inhabited by the Sahi and Bamari, became the UK-administered colony of Kali. In 1960, the two colonies declared their respective independence. The newly formed Republics of Kalahani and Kali retained the borders inherited from colonisation.

2. The town of Alexville

1. Alexville is the capital of Kali, bordering the Republic of Kalahani via the Tana Forest. The Tana Forest (900,000 hectares) is part of Alexville and

belongs to Kali. The forest has a population of around 35,000, made up of members of the Sahi (around 25,000) and Bamari (around 10,000) groups. Members of the Sahi group occupy $\frac{3}{4}$ of the forest, located in the southern part of the forest. The northern $\frac{1}{4}$ of the forest is occupied by the Bamari. The forest as a whole contains a diversity of animals, the most numerous of which (18,000 animal species) are found in the densest part of the forest, in the south. The Sahi, who have occupied this area for centuries, feed exclusively on these animals, gathering and the food resources they produce in the forest.

2. Outside the forest, Alexville is made up of modern buildings and greenery. It is inhabited by a large population of Kali-origin (of Zahouli ethnicity) and foreigners, the majority of whom are Wari Kalahanians. Since Kali's independence, the state has employed 180 forestry officers each year on fixed-term contracts to monitor the Tana forest. The selection process is atypical: recruitment is based on affinity under the connivance of the Kali administration: at the end of their contracts a few years after independence the very first contract workers successfully proposed to the Kali administration that they recruit their offspring. Another peculiarity of the selection process is that the vast majority of forestry agents are Kalahanians of Wari ethnicity. History shows that for many centuries, the Wari and Sahi have formed a strong traditional fraternal alliance. The current difference in nationality between the two ethnic groups is the result of colonisation. It is undoubtedly in this respect that the Kali state has long favoured the recruitment of the majority of Wari as contract forest guards or rangers. The forest rangers' function was created to protect the forest and the Sahi, an indigenous group recognised as such by the African Commission on Human and Peoples' Rights.
3. In the town of Alexville there is a "police quarter" inhabited by police officers and their families. The conduct associated with the charges alleged in this Decision began in the $\frac{3}{4}$ of the Tana forest occupied by the Sahi, and ended in the police neighbourhood inhabited by police officers and their families.
4. On 16 October 2022, a contingent of Kalian soldiers entered the southern part of the Tana forest. The contingent attacked forestry officers posted in the vicinity, but met strong resistance from armed Sahi men. Hostilities broke

out between the soldiers and the Sahi. After six hours of fighting, the Kalian army gained the military advantage. The consequences were heavy: 12,000 Sahi, 46 soldiers and 6,000 animal species perished in the confrontation. The Kalian state transferred the Sahi survivors, against their will, to several different sites: an orphanage and a military camp for the 114 surviving young boys; the 12,700 surviving Sahi girls and women were divided between a former prison and the northern part of the forest inhabited by the Bamari.

5. The apparent reasons for this behaviour on the part of the Kalian administration stem from the desire to build a weapons factory in the entire southern part of the forest. On several occasions, this political will has come up against the firm and systematic refusal of the Sahi and forest rangers. When talks with the Sahis failed to produce any results, the Kalian administration decided to use force on 16 October 2022, as described above. On 30 October 2022, the Kalian authorities carried out a vast bushfire operation in the southern part of the forest formerly inhabited by the Sahis, taking precautions to ensure that the northern part of the forest was not affected. The bush fires caused the disappearance of 12,000 animal species. The government then proceeded to build the plant.
6. The forest rangers no longer have jobs. They regularly organise peaceful demonstrations, which are put down by the police. For several months, they received threats at home from police officers. On 2 January 2023, a former forest ranger, Arnaud Faucher, led a group of 230 heavily armed Kalahanians who attacked 12 police stations in Alexville, before attacking the police district where police officers and their families were staying. These attacks left 82 police officers dead. The 230 armed Kalahanis took up residence in the police headquarters and took many families hostage. The reaction of the Kalahari authorities was imminent. The same day, the state dispatched the army to liberate the police district. On 2, 3 and 4 January 2023, intense fighting broke out between the armed group and the Kalian armed forces. The armed group gained the military advantage and continued to occupy the police district. On 5 and 6 January, hostilities ceased. The defeat of the Kalian army prompted the Kalian authorities to sign a contract with the company *Get-Weapons*. On 7 January 2023, men from *Get-Weapons* accompanied the Kalian army in a new attempt to liberate the police district. The attack

targeted the two large strategic buildings where the armed group's heavy weapons were stored. The men from *Get-Weapons* and the Kalian armed forces used *Tallboy-type* seismic bombs and *MHD* generators in the attack. The effect of the bombs caused the ruin of the two buildings, enabling the State of Kali to liberate the police district after just two hours of fighting. Unfortunately, all the police families taken hostage perished in the confrontation.

7. On 8 January 2024, an earthquake measuring 7.2 on the Richter scale struck Alexville for the very first time. The earthquake killed 8,000 people. A dozen NGOs claimed that the earthquake was due to the use of bombs and generators a year earlier during the liberation of the police district. This event was compounded by the ongoing construction of a weapons factory following the destruction of the southern part of the Tana forest. The international NGO *Saveclimate* notes that the destruction of the southern part of the forest and the ongoing construction of the factory have led to a dangerous increase in harmful CO2 emissions. Fearing enormous climate change ahead, hundreds of people have decided to leave the capital and settle in the rural areas of Kali.

3. *Martin Camilo*

1. Martin Camilo was born on 17 November 1980 in Alexville. He is of Kalian origin, of Zahouli ethnicity, is married and has four children. In 1998, at a very young age, he set up an NGO to combat violence against women. Permitted by Kalian law, he set up a political party in 2010. After several years in opposition, he became President of the Republic of Kali, elected on 7 June 2022 and sworn in on 27 June. On that date, in accordance with Kali law, he resigned from his position as head of an NGO. Martin Camilo holds a doctorate in international public law, having defended his thesis in 2009 at the Public University of Alexville.
2. According to the introduction to the Document of Evidence presented for the purposes of the confirmation hearing, Martin Camilo carried out numerous administrative reforms just a few months after coming to power. On 29 August 2022, Martin Camilo allowed Kali to become a party to several

instruments, including the Rome Statute and environmental and climate protection instruments. Between 29 August and 29 September 2022, Martin Camilo tried unsuccessfully to persuade the Sahi to leave the Tana forest in order to implement his plan to build the factory. On 1 October 2022, he gave a speech in which he stated that he would have to use force to force the sahi to leave the forest.

4. *Maxime Hardy*

1. Maxime Hardy was born on 12 August 1962 in Alexville. He is of Kabangese origin and nationality. At the age of eight he moved to the UK with his parents. According to the evidence presented at the confirmation hearing, Maxime Hardy joined the ranks of the Kabangese army on 7 July 1987, but was soon expelled for indiscipline. He then moved to Central Africa and Latin America before returning to the UK in 2000 to set up *Get-Weapons*. Over the years, *Get-Weapons* has become a multinational company with several subsidiaries in America, Europe and Asia. The multinational has a branch dedicated to the manufacture and sale of weapons, and another specialising in private security. So *Get-Weapons* has the dual status of an arms manufacturing and trading company and a military and private security company.
2. In his quest to dominate the African market, Maxime Hardy convinces Martin Camilo to build a subsidiary of his multinational in Alexville. This subsidiary was in fact the factory being built in Alexville, the construction of which had led to the death and transfer of many Sahis. It was also with the support of Maxime Hardy, through the private military branch of *Get-Weapons*, that the Kalian armed forces succeeded in liberating the police district.

5. *The Prosecution's allegations against Martin Camilo and Maxime Hardy*

1. In the notification of charges document, the Prosecution argued that the two accused are the hierarchical superiors of all those who fought on behalf of the Kalian Army and *Get-Weapons* during the fighting in the southern part of the

forest and during the liberation of the police headquarters.

2. The Prosecution submits that there are reasonable grounds to believe that Martin Camilo is criminally responsible, within the meaning of Articles 25(3)(b) and 25(3)(e) of the Statute, for the crime of genocide for having ordered, solicited and encouraged the murders of members of the Sahi group (Article 6(a) of the Statute - Count 1), the serious attack on the mental integrity of members of the Sahi group (Article 6(b) of the Statute - Count 2), the intentional infliction on the Sahi group of conditions of life calculated to bring about its physical destruction in whole or in part (article 6-c of the Statute - Count 3), measures intended to prevent births within the Sahi group (article 6-d of the Statute - Count 4), and the forced transfer of children from the Sahi group to another group (article 6-e of the Statute - Count 5). The prosecution alleges that Martin Camilo directly and publicly incited others to commit these crimes against the Sahi group during the attack in the forest and in the context of the transfer of members of the group to spaces other than its natural environment.
3. However, the Prosecution acknowledges that it has no direct evidence of the alleged responsibility of Martin Camilo and Maxime Hardy for the crime of genocide, and that, consequently, its allegations of genocide are based exclusively on certain inferences that it believes can be drawn from the facts of the case. The prosecution therefore emphasises that it relies exclusively on deductive evidence to support its allegations of genocide. In particular, it relies on inferences to establish Martin Camilo's special intent or specific intention to destroy, in whole or in part, the Sahi group.
4. The Prosecution maintains, in this regard, that Martin Camilo exercised total control over the Kali State apparatus, in particular the Kalian armed forces, and used this State apparatus to direct a genocidal campaign against the Sahi group. The Prosecution asserts that, under the Kali Constitution, the Kali ministers accompany the President of the Republic in his decisions-making; that in this respect there is reason to refer to "a genocidal intention on the part of the Kali Government" because Martin Camilo shares control of the State apparatus with other political authorities; that, consequently, Martin Camilo's conduct is part of a clear pattern of similar conduct directed against

the Sahi group.

5. The Prosecution asserts that Maxime Hardy acted as an accomplice to this genocidal conduct, within the meaning of Article 25(3)(c) of the Statute. According to the Prosecution, Maxime Hardy facilitated the commission of the crimes of genocide by proposing to Martin Camilo that he build a subsidiary of Get-Weapons in Kali. The prosecution maintains that Maxime Hardy knew that Martin Camilo's plan, should the factory be built, was to destroy the southern part of the forest; that this destruction would lead to the total or partial destruction of the Sahi group. The prosecution considers that it is public knowledge that for several years, and even before Martin Camilo came to power, Martin Camilo had wanted the destruction of the southern part of the Tana forest and the destruction of the Sahi group, whose cultural practices he had always complained about; that since, thanks to Maxime Hardy's proposal, Martin Camilo succeeded in implementing this genocidal plan, Maxime Hardy provided "any other form of assistance" in the commission of the crimes of genocide against the Sahi group.
6. The prosecution further asserted that the crimes against humanity alleged in the charges document were committed in the context of a widespread or systematic attack against the civilian population within the meaning of Article 7(1) of the Statute. According to the prosecution, the 180 forest rangers should be treated as a persecuted group within the meaning of Articles 7(1)(h) and 7(2)(g) of the Statute. It asserts that the persecution of the group of 180 forest guards began on 16 October 2022, the day of the attack on the 180 forest guards and the armed hostilities between the Kalian armed forces and the Sahi, continued with the destruction of the southern part of the Tana forest to which the 180 forest guards are psychologically and professionally attached, and ended with the threats made by police officers against the 180 forest guards. The Prosecution alleges that in carrying out these attacks, the Kalian armed forces and police officers were implementing a policy of targeting the population of the 180 forest guards
7. The Prosecution alleges that throughout this period beginning on 16 October 2022, Martin Camilo knew that the behaviour of the armed forces and police officers was part of a generalised or systematic attack. The Prosecution

alleges that Maxime Hardy was complicit, within the meaning of Article 25(3)(c) of the Statute, in the crime against humanity of persecuting the 180 forest rangers. Furthermore, according to the Prosecution, there are also reasons to believe that Martin Camilo as perpetrator and Maxime Hardy as accomplice are responsible for crimes against humanity of other inhumane acts within the meaning of Article 7(1)(k) of the Statute. The Prosecution considers that it has been proven that the destruction of the southern part of the Tana forest and the construction of the *Get-Weapons* subsidiary have caused and continue to cause damage to the climate. The Prosecution considers that these acts should be qualified as other inhuman acts.

8. Accordingly, the Prosecution accuses Martin Camilo as the perpetrator and Maxime Hardy as an accomplice of having, as part of a widespread or systematic attack, authorised and facilitated the persecution of the 180 forest rangers and of having engaged in conduct as part of that attack aimed at causing “other inhumane acts”. In her view, there is reason to believe that Martin Camilo and Maxime Hardy are responsible for the crimes of persecution of the 180 forest rangers of the Tana Forest (Articles 7(1)(h) and 7(2)(g) of the Statute - Count 6) and for the crimes of other inhumane acts caused by the destruction of 75% of the Tana Forest (Article 7(1)(k) of the Statute - Count 7).
9. Finally, in the notification of charges document, the Prosecution maintains that, under the Kalian Constitution, Martin Camilo is the “Supreme Chief of the Armed Forces”. It asserts that under the Statutes and Internal Regulations of *Get-Weapons*, Maxime Hardy, a former Kabangese mercenary, is the principal leader of *Get-Weapons* and in charge of the armed wing of *Get-Weapons*. The Prosecution asserts that Martin Camilo and Maxime Hardy should therefore be considered as military commanders of the Kalian armed forces and of the private military and security company *Get-Weapons* respectively.
10. The Prosecution asserts that the armed clashes between the Kalian armed forces assisted by armed elements of *Get-Weapons* and Arnaud Faucher’s armed group constituted an armed conflict; that Arnaud Faucher’s armed group, which had been based in the police district since 2 January, controlled

the district and had the hierarchical organisation and capacity to plan and carry out continuous and concerted military operations. The Prosecution submits that Arnaud Faucher's armed group could thus be characterised as an "organised armed group" within the meaning of Additional Protocol II of 1977 to the Geneva Conventions of 1949, or in the worst case scenario within the meaning of Article 3 common to the Geneva Conventions of 1949; that consequently the armed hostilities between such a group and the armed forces and armed elements of *Get-Weapons* constituted an armed conflict. The Prosecution explains that the qualification of armed conflict may be reinforced by the numerous allegations of support from Kalahani to Arnaud Faucher's armed group (this support constitutes the mark that the group is not a lesser group) as well as by the fact that the armed group had a military uniform, a blatant distinctive sign.

11. The Prosecution submits that the alleged war crimes refer to the use of seismic bombs and *MHD* generators. In the Prosecution's view, these war crimes were allegedly committed in the context of, and associated with, the armed conflict, and that it is irrelevant whether the armed conflict is attributed an international character or not. The Prosecution asserts that Count 8 of the indictment, which is presented as a war crime in the charges document, stems from conduct constituting a war crime under Article 8(2)(b)(iv) of the Statute, irrespective of whether or not the conflict was international in character. These crimes, according to the prosecution, were part of a series of similar acts within the State of Kali and within *Get-Weapons* and then within the two entities combined. In the prosecution's view, this conduct constituted intentionally directing attacks that caused widespread, long-term and severe damage to the natural environment. The Prosecution considers that Martin Camilo and Maxime Hardy, as military commanders, were fully aware of the existence of the armed conflict and of the consequences of the misuse of seismic bombs and *MHD* generators on the natural environment; consequently, they must be considered co-perpetrators of the alleged war crimes.
12. The Prosecution ultimately brings the following evidence to the confirmation hearing:

- Evidence by deduction to support genocidal behaviour: the plan to destroy the southern part of the forest nurtured by Camilo for several years, before his accession to power, observed in his public statements; the instrumentalization of the public media and the national campaigns against the Sahi; the messages inciting hatred on national television and radio between June 2022 and October 2022; Confidential letters from the Presidency of the Republic, produced between June 2022 and October 2022, published by an ex-employee of the Presidential Palace; the speech of ¹October 2022; the sending of Sahi girls and women to the Bamari; the transfer of Sahi to places other than their natural environment; the contract (construction of the *Get-Weapons* subsidiary) offered to Martin Camilo by Maxime Hardy.
- Evidence to support crimes against humanity:

For the act of persecution: the plan to destroy the southern part of the forest that Camilo had been nurturing for several years before he came to power, as observed in his public statements; confidential letters from the Presidency of the Republic, produced between June 2022 and October 2022, published by a former employee of the Presidential Palace; the *Tiktok* video of a former forestry guard; the postponement of the latter's testimony by the renowned international NGO *Human Roof Watch*; the contract (construction of the *Get-Weapons* subsidiary) offered to Martin Camilo by Maxime Hardy.

Other inhumane acts include: the request by a number of national NGOs involved in the fight against deforestation and greenhouse gas emissions for the government to publish a carbon footprint, which was never acted upon; the displacement of a number of people to rural areas; a report by the renowned international NGO *SaveClimate*; and the contract (to build the *Get-Weapons* subsidiary) offered to Martin Camilo by Maxime Hardy.

- The evidence in support of the war crime: information from “reliable sources” published in the press; screenshots of conversations in a *WhatsApp* group between two experts and the army Chief of Staff; the

government-private military company contract; the earthquake and its aftermath; the *Tiktok* video of an earthquake survivor; the postponement of the survivor's testimony by the renowned international NGO *Human Roof Watch*.

II. Reminder of the procedure

1. On 20 December 2023, the prosecution filed a two-part application for arrest warrants for Martin Camilo and Maxime Hardy.
2. On 2 February 2024, the Chamber issued an arrest warrant for Martin Camilo and another for Maxime Hardy.
3. From 16 February 2024, for a period of seven months, several member States of the Assembly of States Parties to the Rome Statute regularly tried to persuade the two accused through diplomatic channels to surrender to the Court. None of these attempts were successful.
4. On 18 February 2024, two weeks after the arrest warrant for Martin Camilo was issued, the State of Kali lodged an appeal with the Pre-Trial Chamber, challenging the admissibility of the case before the ICC on the grounds that its own courts had primary jurisdiction.
5. On 2 March 2024, the Chamber rejected the State of Kali's appeal. In the Chamber's view, the State of Kali should have appealed to an ICC Appeals Chamber. Since no appeal was lodged against the Decision of 2 March 2024, the Chamber considers that the State of Kali acknowledges that the case is admissible before the ICC.
6. On 2 November 2024, the Prosecution requested confirmation hearing in the absence of the suspects in the *Camilo and Hardy* case, issued a Decision in which it concluded that Martin Camilo and Maxime Hardy could be qualified as "untraceable" persons within the meaning of article 61-2-b of the Statute and that, in these circumstances, a confirmation hearing should be held in their absence. The Chamber emphasised that it had closely observed the diplomatic attempts to induce Martin Camilo to surrender to the Court, and

to induce the State of Kabang to surrender Maxime Hardy to the Court, and that it could therefore consider that it had taken all reasonable steps to locate the accused and have them arrested, and that in these circumstances there was no need to ask the Registry to take the necessary steps to locate the accused and inform them of the charges against them. The Chamber considered that in the interests of justice it was appropriate to hold a confirmation hearing in the absence of the accused. In the same Decision, the Chamber designated a collective of counsel for the defence of the accused and a collective of legal representatives of the victims from the list of counsel submitted by the Registry of the Court, and authorised them to make written submissions and oral interventions at the confirmation hearing. The Chamber sets the confirmation hearing to begin on 26 May 2025 in Abidjan.

7. On 4 November 2024, the Chamber was publicly questioned by a State, a regular *amicus curiae* of the Court, on the subject of efforts to notify the accused, which are in principle the responsibility of the Registry. The *amicus curiae* considered that even if efforts to convince the accused to come to the Court had been made by States, it was up to the Registry, in compliance with the procedures, to ensure that all measures had been taken to locate the accused and inform them of the charges against them. The *amicus curiae* also added that, in view of the circumstances of the case, it was difficult to claim that the accused were “untraceable” within the meaning of article 61-2-b of the Statute, and therefore to schedule a confirmation hearing in their absence.
8. On 15 November 2024, the Chamber issued a Decision in which it recognised the soundness of some of the *amicus curiae*’s arguments, in particular with regard to the necessary notification and information efforts by the Registry. However, it noted that it continued to consider that the accused could be considered “untraceable” within the meaning of Article 61(2)(b) of the Statute. In the same Decision, the Chamber indicated that although it had not based its previous assertions on the efforts made by the Registry, the dissemination of the arrest warrants for Martin Camilo and Maxime Hardy on the Court’s website and on social networks since the issuance of these warrants by the Registry shows that the Registry has made the notification efforts that fall within its remit. However, it has expressly ordered the Registry to undertake additional notification efforts and related outreach

activities, and has provided again the Registry with a summary of the Document containing the charges.

III. Examination of the question

1. The Chamber recalls that in the Decisions of 2 November 2024 and 15 November 2024, it found that Martin Camilo and Maxime Hardy could be classified as untraceable persons within the meaning article 61(2)(b) of the Statute. In light of the second condition set out in article 61(2)(b) of the Statute and rightly recalled publicly by a regular *amicus curiae* of the Court, the Chamber must, before deciding whether to hold a confirmation hearing in the absence of Martin Camilo and Maxime Hardy, ensure that everything reasonably possible has been done to inform the persons concerned of the charges against them. In this Decision, the Chamber intends to answer the question of whether this condition has been expressly met.
2. The Chamber notes that it can only determine whether this condition has been met once the Registry has had sufficient time to take the necessary and appropriate steps to inform the persons concerned of the charges described in the Document containing the charges. The Chamber notes that measures and activities have been undertaken by the Registry to try to inform Martin Camilo and Maxime Hardy of the charges against them. From 18 November 2024, the Registry made extensive use of social media platforms and the Court's website to conduct large-scale media campaigns aimed at communicating information about the charges against Martin Camilo and Maxime Hardy as widely as possible.
3. The Chamber therefore considers that the Registry's activities, even if they are not directly addressed to Martin Camilo and Maxime Hardy, nevertheless make it possible to bring the existence of these charges to the attention of these persons.
4. The Chamber orders the Registry to use its best endeavours to inform Martin Camilo and Maxime Hardy that a confirmation hearing will be held in their absence on the above-mentioned date. The Registry will proceed as it recently did with the notification of the charges. Although it is only at a later

stage that the Chamber will be able to take a formal decision on the third legal condition set out in Article 61(2)(b) of the Statute (i.e. to inform Martin Camilo and Maxime Hardy that a hearing to confirm the charges against them will begin on the above-mentioned date), the Chamber recalls its conclusion above that the procedure to be followed must do everything reasonably possible provide the suspects with useful information. It is therefore confident that the efforts to be made by the Registry will enable the third condition to be declared fulfilled. Unless the Chamber decides otherwise and issues further instructions, the parties and participants should prepare themselves on the basis that the confirmation hearing will commence on 26 May 2025 in Abidjan.

5. The Chamber emphasises that it is not out of the question for the Defence, in addition to any challenges to jurisdiction, to raise challenges to admissibility pursuant to Article 19 of the Statute and Rule 58 of the Rules of Procedure and Evidence. The Legal Representatives of Victims, if they consider it necessary, may also raise issues of admissibility in addition to jurisdiction. The Chamber extends the date for the submission of written observations from 10 February to 28 February 2025.
6. Finally, the Chamber emphasises that it is not necessary for the parties and the Legal Representatives of Victims, in their written observations, to clarify issues relating to the regularity of the proceedings (whether or not to challenge the decision to hold the hearing in the absence of the accused; whether or not to request an adjournment of the confirmation hearing). The Chamber has already informed the parties and the Legal Representatives of Victims that they will have the opportunity to raise these issues orally at the confirmation hearing in Abidjan.

FOR THESE REASONS, THE CHAMBER

JUDGES that everything reasonably possible has been done to inform Martin Camilo and Maxime Hardy of the charges against them as set out in the Document containing the charges, within the meaning of Article 61(2)(b) of the Statute,

DECIDES that the confirmation hearing, which will be held in the absence of Martin Camilo and Maxime Hardy if they do not appear, will open on 26 May 2025 in Abidjan,

REMINDS the parties and the Legal Representatives of Victims that their written observations must contain developments on the jurisdiction of the ICC, the alleged charges and the modes of liability,

INVITES the parties and the Legal Representatives of Victims to include in their written observations, if they so wish, developments relating to the admissibility of the case before the Court,

INVITES the parties and the Legal Representatives of Victims to file their written observations no later than 28 February 2025,

INVITES the Registry to initiate notification efforts and outreach activities regarding the opening date of the confirmation hearing in accordance with this Decision,

INVITES the Registry to report to it on the matter within four weeks of notification of this Decision.

[Signature].



N° ICC-01/25
Date: 18 March 2025

**Cour
Pénale
Internationale**



**International
Criminal
Court**

THE PRELIMINARY CHAMBER XXI

**SITUATION IN KALI
CASE
*THE PROSECUTOR C. MARTIN CAMILO AND MAXIME HARDY***

Public

Third Decision on the Prosecution's request for a confirmation of charge in the
CAMILO and *HARDY* case

Decision to be notified, in accordance with regulation 31 of the Regulations of the Court, to the following addresses:

The Office of the Prosecutor

The Defence Council

Victims' legal representatives

[...]

.....

The Registrar

[...].

THE PRELIMINARY CHAMBER XXI (“the Chamber”) of the International Criminal Court, having received the Document containing the charges and the Registry’s report on its efforts to inform Martin Camilo and Maxime Hardy of the charges against them, issues a new Decision on the Prosecution’s request for a confirmation hearing in the absence of the suspects in the *Camilo and Hardy* case.

Given the exceptional nature of the proceedings, the Chamber will briefly review the facts before recalling the proceedings.

I. The facts

[...]

The military coup in Kali and the handing over of the two accused to the Court

1. On 28 February 2025, at 23:55 UTC+1, a military coup took place in Kali. The new military authorities handed over Martin Camilo and Maxime Hardy to the court (the latter was on Kali territory at the time of the coup). The two suspects arrived at the court on ¹March 2025.

II. Reminder of the procedure

[...]

12. On 1st March 2025, in view of the new context, and after the accused had been handed over to the Court, the Chamber set a first appearance hearing for 5 March 2025.

13. On 5 March 2025, at the first appearance hearing, the Chamber confirmed the date of the confirmation of charges hearing for 26 May 2025.

14. The Chamber recalls that, in its Decision of 31 January 2025, it ordered the Registry to use its best efforts to inform Martin Camilo and Maxime Hardy that a confirmation of charges hearing would be held in their absence from 26 May 2025. The Registry was to proceed as it did with the notification of the charges. The Chamber indicated that, although it would be some time before it could formally rule on the third legal condition set out in Article 61(2)(b) of the Statute (i.e. to inform Martin Camilo and Maxime Hardy that a confirmation hearing would begin on the aforementioned date), it recalled that it had concluded that the procedure to be followed must do everything reasonably possible to provide the suspects with useful

information. She was confident that efforts would be made by the Registry to enable the third condition to be declared fulfilled. Unless the Chamber decided otherwise and issued further instructions, the Chamber had asked the parties and participants to prepare themselves on the basis that the confirmation of charges hearing would open on 26 May 2025 in Abidjan.

15. The Chamber notes that from 1 February 2025, the Registry proceeded in the same way as for the notification of the charges, to inform Martin Camilo and Maxime Hardy that a confirmation hearing would be held in their absence from 26 May 2025. These information and communication measures were undertaken by the Registry until 1 March 2025, the date on which the two accused were surrendered to the Court and were intended to continue until a later date if the accused had not been surrendered to the Court.

III. Examination of the question

1. The Chamber notes that, in view of the change in circumstances due to the surrender of the accused to the Court on 1 March 2025, it must take all the measures indicated in Article 61 of the Statute and rules 123 and 124 of the Rules of Procedure and Evidence. The Chamber notes that the terms of Article 61 of the Statute applicable to the circumstances of this case are detailed in rules 123 and 124 of the Rules of Procedure and Evidence. In this Decision, the Chamber intends to answer the question of whether all the conditions of rules 123 and 124 of the Rules of Procedure and Evidence have been met.
2. The Chamber states that the condition set out in rule 123-1 of the Rules of Procedure and Evidence has been met: in addition to all the measures taken by the Registry, the accused were directly informed of the charges against them when they were handed over to the Court and at the first appearance hearing.
3. The Chamber considers that the condition set out in rule 123(2) of the Rules of Procedure and Evidence has been met: as the condition is optional, the Chamber did not hold any consultations with the Prosecutor. The Chamber notes that the accused have chosen to be assisted by the same group of lawyers chosen by the Court since the beginning of the proceedings
4. The Chamber considers that the condition set out in rule 123-3 of the Rules of Procedure and Evidence has been met: an arrest warrant was issued for Martin Camilo and Maxime Hardy and was executed within a normal timeframe.

5. The Chamber emphasises that the accused have not waived their right to be present at the confirmation hearing; consequently, it is not necessary to apply rule 124 of the Rules of Procedure and Evidence.

FOR THESE REASONS, THE CHAMBER

JUDGES that everything reasonably possible has been done to inform Martin Camilo and Maxime Hardy of the charges against them as set out in the Document containing the charges, within the meaning of Article 61 of the Statute,

DECIDES that the confirmation of charges hearing, to be held in the presence of Martin Camilo and Maxime Hardy, will open on 26 May 2025 in Abidjan,

FIXES the schedule for the hearing as follows:

Hearing of 26 and 27 May 2025 (first round, to be confirmed) - agenda:

- Jurisdiction: Does the Court have jurisdiction?
- Admissibility: Is the case admissible?

Hearing of 28 May (final round), afternoon - agenda:

- Confirmation of the persecution charges: Should the Chamber confirm the persecution charges against the 180 forest rangers as crimes against humanity?
- Confirmation of charges of other inhumane acts: Should the Chamber confirm the charges of other inhumane acts as crimes against humanity for climate change?
- Confirmation of war crimes charges: Should the Chamber confirm the charges of crimes against the natural environment as war crimes?

INVITES the parties and the Legal Representatives of victims to comply with the attached schedule and program of the hearing.

INVITES the parties and the Legal Representatives of victims to prepare their respective pleadings in accordance with the hearing schedule.

[Signature].

Annex

