

ANNEX 2

Confidential

Appeal by the Public Prosecutor's Office against the "Order for partial dismissal of charges and committal for trial before the *Cour Criminelle*" issued on 16/09/2004 by the Senior Investigating Judge and notified on 17/09/2004 in the proceedings against Ange Félix Patassé *et al.* -

NOTICE OF APPEAL

THE FOLLOWING IS A FAITHFUL EXTRACT FROM THE REGISTER OF APPEALS AND APPLICATIONS FOR REVIEW AND ANNULMENT, HELD AT THE REGISTRY OF THE CRIMINAL DIVISION OF THE *TRIBUNAL DE GRANDE INSTANCE* IN BANGUI, OMBELLA-M'POKO PREFECTURE, CENTRAL AFRICAN REPUBLIC:

DATED 17 SEPTEMBER 2004

On the seventeenth of September two thousand and four

At the registry of the criminal division of the *Tribunal de Grande Instance* of Bangui;

And before us, Mr Jean Paul Mamene ZOUKOYASSON, Registrar, the undersigned;

THERE APPEARED;

The Public Prosecutor's Office, represented by the Deputy Public Prosecutor of the *Tribunal de Grande Instance* of Bangui,

Who formally declared that he was entering an appeal against the "Order for partial dismissal of charges and committal for trial before the *Cour Criminelle*" issued by the Senior Investigating Judge at the *Tribunal de Grande Instance* of Bangui on 16 September 2004 and notified on 17 September 2004 in the proceedings against Ange-Félix Patassé *et al.*;

On grounds which he proposes to put forward before the Indictments Chamber of the Appeals Court of Bangui;

HEREBY DULY NOTED AND RECORDED;

Signed by us together with the party appearing before us on the day, month and year given above;

SIGNED BELOW (ILLEGIBLE);

THIS BEING A CERTIFIED TRUE COPY;

BANGUI, 17 SEPTEMBER 2004;

THE CHIEF REGISTRAR;

[stamped and signed]

FRANÇOIS KAYEMA

BANGUI APPEALS COURT
PRINCIPAL PUBLIC PROSECUTOR'S OFFICE CENTRAL AFRICAN REPUBLIC
Unity - Dignity - Labour

SUBMISSION

The Principal Public Prosecutor of the Bangui
Appeals Court;

Noting the proceedings against:

Ange-Félix Patassé *et al*;

Accused of: premeditated murder, fatal wounding, arbitrary detention and false imprisonment, concealment of bodies, theft, pillaging, malicious wounding, destruction of property, violation of State security, collusion with a foreign power, complicity in acts of premeditated murder, fatal wounding, arbitrary detention and false imprisonment, misappropriation of public funds; complicity in the misappropriation of public funds; forgery of public or private documents and making use thereof; complicity in forgery and use of forged documents.

Considering that it is apparent from the case materials that the only high-ranking officer who had President PATASSÉ's trust was General Ferdinand BOMBAYEKE; that from the arrival of Jean-Pierre MBEMBA's men, commonly referred to as the Banyamulengues, they were placed at General BOMBAYEKE's disposal; that this officer himself conceived the plans of action;

Considering that it follows from the foregoing that Jean-Pierre MBEMBA's men could kill, rape, pillage, illegally detain and wound only on the instructions of General Ferdinand BOMBAYEKE;

Considering that Jean-Pierre MBEMBA's soldiers have been accused of having killed, raped, perpetrated acts of violence, stolen from and illegally detained many citizens, both male and female, of the Central African Republic.

Considering that, under article 38 of the Criminal Code, any person who, by means of gifts, promises,

threats, abuse of authority or power, culpable conspiracy or deception, caused such actions or gave instructions for them to be committed is punishable as an accomplice;

Noting articles 103 et seq. of the Code of Criminal Procedure;

Requests that it may please the Indictments Chamber to commit Ferdinand BOMBAYEKE to the *Cour Criminelle* to be tried there in accordance with the law.

Done at Bangui this 22 OCT 2004

THE PRINCIPAL PUBLIC PROSECUTOR

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Sylvain N'ZAS

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BANGUI APPEALS COURT (23.11.2004/RUF)
PRINCIPAL PUBLIC PROSECUTOR'S OFFICE CENTRAL AFRICAN REPUBLIC
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ADDITIONAL SUBMISSION FOR THE PURPOSES OF
REFERRAL TO THE INDICTMENTS CHAMBER

CASE: PUBLIC PROSECUTOR'S OFFICE and
CENTRAL AFRICAN STATE
VERSUS: PATASSÉ Ange-FÉLIX *ET AL.*

We, Jacob DAMILI SANNY, First Advocate-General of
the Appeals Court of Bangui;

Noting the case file of the proceedings instituted
against Ange Félix PATASSÉ et al.,

Accused of: acts of premeditated murder, fatal
wounding, arbitrary detention and false imprisonment,
concealment of bodies, theft, pillaging, malicious
wounding, destruction of property, violation of State
security, collusion with a foreign power, complicity in
acts of premeditated murder, fatal wounding, arbitrary
detention and false imprisonment, misappropriation of
public funds, complicity in the misappropriation of
public funds, forgery of public or private documents and
making use thereof, complicity in forgery and use of
forged documents; crimes proscribed and punishable under
Articles 38, 167, 168, 169, 174(4), 175, 184, 108 *bis* and
ter of the Criminal Code, etc ...;

Noting the "Order for partial dismissal of charges
and committal for trial before the *Cour Criminelle*"
issued on 16 September 2004 by the Senior Investigating
Judge;

Noting the Appeal lodged by the Public Prosecutor
on 17 September 2004 against said Order closing the
investigation;

Noting the provisions of Article 103 of the Code of
Criminal Procedure.

ADMISSIBILITY OF THE APPEAL

Considering that the Public Prosecutor of the
Tribunal de Grande Instance of Bangui lodged an appeal
against the Order closing the investigation by a notice
registered on 17 September 2004, that is, one day after
the decision was taken.

That it follows that said appeal lodged 24 hours afterwards complies with the time limit of 48 hours stipulated by Article 90 of the Code of Criminal Procedure and is thus formally admissible;

MERITS:

Considering that, upon completion of all investigations undertaken in this case, the Senior Investigating Judge found that the charges should be dismissed in relation to the following persons:

- Jean-Pierre BEMBA, Pierre ANGOA, Gabriel J Edouard KOYAMBONOU, Ferdinand BOMBAYAKE, Martin ZIGUELE, Lionel BEPIO-GAN, Abraham-Pierre MBOKANI, Alain-Serge LIGUELA-MBOUTOU, Jean Chrysante NAINANGUE TENDO, Louis SANCHEZ;

And Ordered that the following persons be committed for trial before the *Cour Criminelle*:

Ange-Félix PATASSÉ, Martin KOUNTAMADJI alias Miskine ABDOULAYE, Paul BARRIL, Victor NDOUBABE, Michel BANGUE TANDET, Lazare DOKOULA, Simon-Pierre KOULOUMBA;

Considering that it is an established rule that proceedings are initiated and supported by the Public Prosecutor's Office, the principal party in criminal proceedings;

Considering that it follows that the appeal lodged by the Public Prosecutor against the aforementioned Order closing the investigation challenges the partial dismissal of charges granted in respect of certain accused persons in this case;

Considering that, in respect of Jean Pierre BEMBA, who supplied the former President Ange-Félix PATASSÉ with large numbers of human resources - the Congolese rebels also called BANYAMULENGUES, who spread devastation over Central African soil during those sad times - complicity in these crimes has been indisputably established in accordance with article 37 of the Criminal Code;

That it is not possible to permit the charges against him to be dismissed;

Considering that the position of General Ferdinand BOMBAYEKE was very strongly denounced in the Principal Public Prosecutor's submissions of 22 October 2004;

That the charges against him should be confirmed;

Considering that Pierre Ango, Gabriel J.E. KOYAMBONOU, Martin ZIGUELE, Lionel BEPIO-GAN and Louis SANCHEZ were in the immediate entourage of the then Head of State, Ange Félix PATASSÉ;

That, in exercising the functions of Minister for Defence, Prime Minister or Advisers to the Presidency, they aided and abetted Ange-Félix PATASSÉ in the acts which brought grief, ruin and humiliation to the CAR, our country;

That, in light of the extreme gravity and complexity of the crimes of which they are accused, only adversarial trial proceedings can help enable the truth to be determined;

That, to that end, these accused persons must be committed for trial before the *Cour Criminelle*;

Considering that the final Prosecution submissions sought the committal of MBOKANI, NAÏNANGUE, LIGUELA MBOUTOU for trial before the *Cour Criminelle* for forgery and making use of forged documents, misappropriation of public funds [DDP] or complicity in the misappropriation of public funds;

Considering that the charges against the principal perpetrators have been confirmed;

That, in light of the complexity and the gravity of the facts, and of the principle that an accessory shares in criminal responsibility, those three accused must be committed for trial before the *Cour Criminelle* to be held accountable for their acts;

FOR THESE REASONS:

May it please the President and judges of the Indictments Chamber;

AS TO FORM

To find that the Appeal by the Public Prosecutor against the Order closing the investigation in this case is admissible;

AS TO SUBSTANCE:

To partially reverse the order of the Senior Investigating Judge of 16 September 2004 in the case against Ange-Félix PATSSÉ and all Others; and

- Making a fresh ruling,
- To order the committal of all of the accused for trial before the *Cour Criminelle*.

Done at Bangui this 23 November 2004

THE FIRST ADVOCATE-GENERAL

[stamped and signed]

JACOB DAMILI SANNY.

BANGUI APPEALS COURT
PRINCIPAL PUBLIC PROSECUTOR'S OFFICE

CENTRAL AFRICAN REPUBLIC
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APPLICATION

The Principal Public Prosecutor of the Bangui Appeals Court;

Noting the proceedings instituted against:

Ange-Félix PATASSÉ *et al.*;

Accused of: collusion with a foreign power, premeditated murder, complicity in premeditated murder, murder, complicity in murder, arbitrary detention and false imprisonment, rape;

Noting articles 8 and 14 of the Rome Statute of the International Criminal Court of 17 July 1998;

Considering that it is apparent from the case materials that, in addition to the misappropriation of public funds, Ange Félix PATASSÉ *et al.* are accused of serious violence to life and person; that the majority of these crimes fall within the jurisdiction of the International Criminal Court.

FOR THESE REASONS

Requests the Indictments Chamber to hold that the offences affecting persons, otherwise known as blood crimes, shall be tried by the International Criminal Court, and the misappropriation of public funds by the *Cour Criminelle* of the Central African Republic.

DONE IN BANGUI this 24 NOV
2004
PRINCIPAL PUBLIC PROSECUTOR

[stamp]

Sylvain N'ZAS.