

ASIA-PACIFIC MOOT COURT NATIONAL ROUNDS

2017

PROSECUTOR V. GERARD VANDE

BEFORE THE INTERNATIONAL CRIMINAL COURT AT THE HAGUE

INSTRUCTIONS

1. *The hearing takes place pursuant to Article 61 of the ICC Statute (confirmation of charges). At this stage, the Prosecutor has to “support each charge with sufficient evidence to establish substantial grounds to believe that the person committed the crime charged.”*
2. *The case is entirely fictional. Teams should confine themselves to the facts supplied. Neither the Prosecution nor the Defence may introduce new facts. The Moot Problem includes all the facts supported by the evidence that has been presented before the Court. Facts should not be contested. Teams may nonetheless draw reasonable inferences from the evidence produced. They may also question the credibility or weight of the evidence.*
3. *Teams should set forth legal arguments and not limit themselves to answering yes or no. Submissions will be evaluated on their: (i) organisation, structure and analysis of the*

Central Command acted as the supreme mi

FKA expelled the Boubhan government officials and set up its own local authorities and social services.

Alleged Involvement of Hakova in Kouka

10. Hakova has been sympathetic to the Ombrian population in Kouka since its independence. In fact, many Hakovans claimed Kouka as belonging to Hakova due to historic connections between the two territories.
11. The Hakovan government denied any link between itself and the FKA. However, according to two Toukanovan state-owned news agencies, the Toukanovan Press Agency and the Voice of Toukanov, the HDA had been transferring weapons to the FKA through the cross-border corridor close to Teria since 23 June 2014. The Boubhans still living in FKA-occupied parts of Kouka were quoted by the two agencies to have identified the Hakova military uniform insignia on dozens of trucks and tanks. Several correspondents from Reuters and the AFP present at the FKA controlled area also reported that they had witnessed repeated manoeuvres by the HDA at the Hakova-Toukanov border, including the deployment of hundreds of tanks and thousands of men towards the border. They have also highlighted the fact that young men and women from Kouka frequently crossed the border and received military training in Hakova.
12. Overtaken by the rapid development of events, President Arlet convened an emergency meeting of the Toukanovan Central Command on 30 August 2014, during which he instructed General Gerard Vande to regain control of the whole Kouka province and to crush the Ombrian terrorists by all means. After the meeting, General Vande declared in front of the cameras: "I'll find the FKA terrorists, confront them and destroy them wherever they are. All persons associated with the FKA are equally terrorists who shall be eliminated to protect Toukanov and the Boubha religion. If anyone dares to interfere with our fight against terrorism, we will return fire in the name of our religion."

Lannister Enterprises and the Armed Convoy

13. General Vande, albeit a military commander, is extremely well-known in the Toukanovan political, business and academic circles. In peacetime, he taught military strategy at several military colleges in Ziton. He also possessed 19% of the shares in Lannister Enterprises, one of the biggest transport companies in Toukanov. Through his close friend Mr. Lannister, who owned 55% of the shares in Lannister Enterprises, he had extensive connections in the transportation industry. General Vande was also renowned as a true believer of Boubha. Every year, he donated one third of his income to the National Boubha Centre, which is dedicated to the development of the Boubha religion and the preservation

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15. In an exclusive interview in the Wall Street Journal dated 15 October 2014, Mr. Lannister announced that “Despite recent attacks against Lannister Enterprises’ trucks, we will continue our business with clients in the FKA-controlled areas of Kouka, not only to uphold the integrity of our company, but more importantly to guarantee sufficient food, water and medical supplies for our Boubhan brothers and sisters in the conflict zones. Thanks to General Vande, the TAF has agreed to protect our trucks. We hope that the Ombrians and the FKA can make way for our humanitarian convoy.”
16. On 10 November 2014, a convoy of Lannister Enterprises’ trucks set off to Biro with a TAF task force consisting of two armoured vehicles with .50 calibre machine guns and a platoon of TAF soldiers. Before departure, the leader of the task force received a direct order from General Vande instructing him to protect the convoy with all necessary means. As soon as the convoy entered the FKA controlled area, they were forced to stop by roadblocks. Shortly after, more than 200 local Ombrians approached the convoy, attempting to rob the trucks as usual. Some unarmed Ombrians tried to grab the weapons from the TAF soldiers as well. The TAF soldiers, outnumbered by the Ombrians, fired warning shots with the intention to disperse the crowd. However, following these warning shots, shots were fired at the convoy from the middle of the crowd, killing a TAF soldier and a truck driver. The TAF soldiers immediately returned fire. The armoured vehicles also opened fire while the Ombrians fled the scene. The convoy subsequently retreated to the TAF-controlled area. In the aftermath of the incident, the TAF operational report showed that 10 TAF soldiers and 3 drivers from Lannister Enterprises were killed. It was reported by local media that some 110 Ombrian civilians died during the incident, with 30 injured.

Mutiny within the TAF and Alleged Sex Abuses

17. In January 2015, according to Toukanovan Press Agency, dozens of lower-ranking officers and hundreds of soldiers, who were radical Boubhans, mutinied against the higher-ranking officers of TAF arguing that the officers were not vigorous enough to defend the territorial integrity of their motherland, and that the widespread corruption among the higher-ranking officers seriously undermined the TAF’s capability in carrying out effective military offensives. In a public statement, the leaders of this revolt pledged their allegiance to General Vande and demanded that the TAF engage with the HDA directly and if necessary, across the border, in order to respond to Hakova’s support of the FKA. The mutiny ended in March 2015 after General Vande visited the military camps where the insubordinate troops were based. During his visit, General Vande promoted several leaders of the mutiny on the spot and announced his decision to establish a special unit within the TAF—the “Boubha Guards”, consisting mainly of the participants of this mutiny and reporting directly to the Toukanovan Central Command and General Vande himself. He also declared that new military strategies will be carried out to fight against terrorism and protect the territorial integrity of Toukanov.
18. After the mutiny, investigative journalists of the Guardian reported

religion from our country for good.” Two days after the lecture, he was condemned for inciting religious hatred by the governing council of the University. In fact, shortly after the policies were implemented all over Toukanov, the relatively moderate Boubhans in the country had started to voice their concern for possible human rights violations.

24. After the publication of the Commission’s report, the international pressure began to build up on Toukanov. On 6 November 2015, the UN Security Council passed a resolution condemning the violations of international humanitarian law and abuses of human rights by the TAF and the Toukanovan government, and imposed economic sanctions on Toukanov. In face of these sanctions, the discontent within the moderate Boubhan community in Toukanov grew.

The Nessuno Leaks and Impeachment of President Arlet

25. On 28 November 2015, shocking stories broke out in the Washington Post. An employee of the Toukanov Intelligence Bureau (TIB), under the pseudonym Mr. Nessuno, disclosed thousands of confidential documents which pointed

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30. The Pre-trial Chamber I of the ICC now holds a hearing to determine whether to confirm the following charges on which the Prosecutor intends to seek trial.

Charges

General GERARD VANDE is charged with:

Count One – With respect to the incident on 10 November 2014, the attack from the convoy, on the basis of individual criminal responsibility for ordering, soliciting or inducing the commission of (Article 25 (3)(b)):

- the war crime of intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities under Article 8(2)(e)(i).

Count Two – With respect to the rapes and sexual abuses within the TAF troops deployed to Kouka province,

on the basis of command responsibility (Article 28 (a)):

- the war crime of rape under Article 8(2)(e)(vi).

Count Three – With respect to the treatment of Ombrian residents in Kouka under Operation Blanc from March to October 2015,