

The German version of the verdict is authoritative.

**Bundesstrafgericht**

**Tribunal pénal fédéral**

**Tribunale penale federale**

**Tribunal penal federal**



Reference: SK.2023.23

## **Judgement of 15 May 2024 Criminal Chamber**

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Panel

Federal Criminal Court Judges Alberto Fabbri, president  
Martin Stupf and Joséphine Contu Albrizio  
Law clerk Fiona Kruppenacher

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Parties

**OFFICE OF THE ATTORNEY GENERAL**, represented by  
the Federal Attorney Sabrina Beyeler,

**and**

as private claimants:

1. **B.**, represented by Caroline Renold, attorney,
2. **C.**, represented by Caroline Renold, attorney,
3. **D.**, represented by Caroline Renold, attorney,
4. **E.**, represented by Annina Mullis, attorney,
5. **F.**, represented by Annina Mullis, attorney,
6. **G.**, represented by Annina Mullis, attorney,
7. **H.**, represented by Fanny de Weck, attorney,

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8. I., represented by Fanny de Weck, attorney,
9. **Community of heirs of J.**, represented by Stephanie Motz, attorney,
10. **K.**, represented by Nina Burri, attorney,

v.

**Ousman SONKO**, Gambian national, currently in preventive detention, regional prison U., represented by duty defense lawyer Philippe Currat, attorney,

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Cause

Murder, *subsidiarily* intentional homicide, in the further alternative intentional homicide as a crime against humanity; multiple counts of serious assaults, subsidiarily multiple counts of torture as crime against humanity; multiple counts of endangering life, multiple counts of coercion, multiple counts of rape, *subsidiarily* multiple counts of violation of sexual rights by rape as a crime against humanity; multiple counts of aggravated false imprisonment, subsidiarily multiple counts of false imprisonment as a crime against humanity; multiple counts of intentional homicide as a crime against humanity, *subsidiarily* intentional failure as a superior to prevent homicide; multiple counts of torture as a crime against humanity, *subsidiarily* multiple counts of intentional failure as a superior to prevent torture; multiple counts of false imprisonment as a crime against humanity, *subsidiarily* multiple counts of intentional failure as a superior to prevent false imprisonment.

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**The Criminal Chamber finds:**

**I.**

1. The proceedings against Ousman Sonko are abandoned as regards the charges of
  - 1.1. multiple counts of rape (art. 190 para. 1 Swiss Criminal Code (SCC)[old]) etc. to the detriment of G. (paragraph 1.5.2 of the indictment);
  - 1.2. rape (art. 190 para. 1 SCC[old]) etc. to the detriment of C. (paragraph 1.5.3.5 of the indictment).
2. Ousman Sonko guilty
  - 2.1. of multiple counts of intentional homicide as a crime against humanity (art. 264a para. 1 let. a SCC) of L., M. and N.;
  - 2.2. of multiple counts of false imprisonment as a crime against humanity (art. 264a para. 1 let. d SCC) to the detriment of B., C., D., E. and F.;
  - 2.3. of multiple counts of torture as a crime against humanity (art. 264a para. 1 let. f SCC) to the detriment of B., C., D., E., F., N., J., O., H., I. and P.
3.
  - 3.1. Ousman Sonko is sentenced to a custodial sentence of 20 years.
  - 3.2. The time served in police, pre-trial and preventive detention before the date of judgement of a total of 2667 days will be taken into account in the execution of the sentence.
4.
  - 4.1. Ousman Sonko is expelled from the country for the duration of 12 years.
  - 4.2. The court orders registration of the expulsion (entry ban and exclusion order) in the Schengen Information System.
5. Execution of the sentence is assigned to the Canton of Berne.

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## II.

Ousman Sonko is obliged to pay the private claimants the following amounts in compensation for pain and suffering:

1. G. CHF 35,000.-- plus 5% interest from 8 July 2007;
2. B. CHF 8,950.-- plus 5% interest from 20 April 2006;
3. C. CHF 9,950.-- plus 5% interest from 1 December 2006;
4. D. CHF 31,900.-- plus 5% interest from 20 April 2006;
5. E. CHF 62,200.-- plus 5% interest from 21 April 2006;
6. F. CHF 6,150.-- plus 5% interest from 21 April 2006;
7. K. CHF 35,000.-- plus 5% interest from 15 April 2016;
8. Community of heirs of J. CHF 9,366.70 plus 5% interest from 17 September 2016;
9. H. CHF 10,200.-- plus 5% interest from 17 September 2016;
10. I. CHF 11,033.30 plus 5% interest from 17 September 2016.

## III.

1. The money in cash seized from Ousman Sonko in the total amount of CHF 14,413.30, deposited in the account of the Office of the Attorney General at the Federal Finance Administration, reference account n° 1 BA SV.17.0026, is forfeited.
2. The amount in cash forfeited according to paragraph 1 above is allocated to the private claimants to cover their civil claims according to paragraph II above in proportion to their claims:
  - 2.1. G. CHF 2,295.60;

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- 2.2. B. CHF 587.--;
- 2.3. C. CHF 652.60;
- 2.4. D. CHF 2,092.30;
- 2.5. E. CHF 4,079.70;
- 2.6. F. CHF 403.40;
- 2.7. K. CHF 2,295.60;
- 2.8. Community of heirs J. CHF 614.40;
- 2.9. H. CHF 669.--;
- 2.10. I. CHF 723.70.

3.

- 3.1. The objects seized with the seized object IDs 11611, 11613, 11625, 11626, 11628, 11629, 11630, 11634, 11635, 11636, 11637, 11638, 11639, 11640, 11645, 11649, 11650, 11651, 11652 and 11653 (Annex 3 of the Indictment of 5 July 2023) will be returned to Ousman Sonko.
- 3.2. Any other object seized will remain in the files as evidence.

**IV.**

- 1. The procedural costs amount to CHF 889,445.30 in total (fees for the preliminary proceedings: CHF 100,000.--; expenses preliminary and main proceedings, including compensation to private claimants according to para. VII. 1.: CHF 729,445.30; court fee: CHF 60,000.--). CHF 844,973.-- of these costs are imposed on Ousman Sonko.
- 2. The remainder is taken over by the public treasury.

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**V.**

1. It is noted that the fees in the amount of CHF 1,633.87 (incl. VAT) of Ousman Sonko's duty defense lawyer, Marc Wollmann, have been paid in full by the Confederation.
2. The fees in the amount of CHF 1,097,118.40 (incl. VAT), minus the payments already made, of Ousman Sonko's duty defense lawyer, Philippe Currat, are paid by the Confederation.
3. Ousman Sonko is obliged to compensate the Confederation for the fees paid to his duty defense lawyers as soon as his economic situation permits.

**VI.**

Ousman Sonko is not granted neither damages nor compensation for pain and suffering.

**VII.**

1. The private claimants hereinafter listed are entitled to compensation for their necessary expenditures in the following amounts:
  - 1.1. G. CHF 1,188.40;
  - 1.2. B. CHF 439.30;
  - 1.3. C. CHF 1,235.50;
  - 1.4. D. CHF 592.10;
  - 1.5. E. CHF 1,138.--;
  - 1.6. F. CHF 2,766.40;
  - 1.7. H. CHF 2,472.30;
  - 1.8. I. CHF 1,089.70.

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2. Compensations according to para. 1.1. – 1.8. above are paid by the Confederation. Ousman Sonko is obliged to reimburse the Confederation for it.
3. K. is not awarded any compensation for her expenses.
4. The claim for compensation by the community of heirs of J. is dismissed as it was withdrawn.

## **VIII.**

### **1.**

- 1.1. For the free legal representation of J., H., I. and K., the Confederation pays attorney Eva Schmid fees in the amount of CHF 163,026.50 (incl. VAT), minus payments already made.
- 1.2. For the free legal representation of K., the Confederation pays attorney Fabio Burgener fees in the amount of CHF 25,001.20 (incl. VAT), minus payments already made.
- 1.3. For the free legal representation of E. and F., the Confederation pays attorney Julia Roder fees in the amount of CHF 88,545.50 (incl. VAT), minus payments already made.
- 1.4. For the free legal representation of G., E. and F., the Confederation pays attorney Annina Mullis fees in the amount of CHF 212,565.30 (incl. VAT), minus payments already made.
- 1.5. For the free legal representation of B., C. and D., the Confederation pays attorney Caroline Renold fees in the amount of CHF 384'089.80 (incl. VAT), minus payments already made.
- 1.6. For the free legal representation of J. and the community of heirs of J., the Confederation pays attorney Stephanie Motz fees in the amount of CHF 160,847.40 (incl. VAT), minus payments already made.
- 1.7. For the free legal representation of H. and I., the Confederation pays attorney Fanny de Weck fees in the amount of CHF 194,218.50 (incl. VAT), minus payments already made.

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- 1.8. For the free legal representation of K., the Confederation pays attorney Nina Burri fees in the amount of CHF 164,340.50 (incl. VAT), minus payments already made.
  - 1.9. It is noted that the fees in the amount of CHF 12,842.35 (incl. VAT) of attorney Alain Langenegger for the free legal representation of witness Q. have been paid in full by the Confederation.
2. Ousman Sonko is obliged to reimburse the Confederation for the fees paid to the free legal representatives according to para. 1.1. – 1.9. as soon as his economic situation permits.

## **IX.**

The request made by Ousman Sonko, to conduct an investigation into the conditions of his detention and to establish its unlawfulness, is dismissed.

Notice of this judgement is given during the main hearing and the president states the grounds for the judgement orally. The parties present are provided with the conclusions of the judgment; the absent parties will be notified in writing.

In the name of the Criminal Chamber  
of the Federal Criminal Court

The president

The law clerk



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The conclusions of this judgment are communicated to:

- Regional prison U.

Once this judgement becomes effective, copies of the conclusions are served on:

- Office for the Execution of Sentences and Measures of the Canton of Berne
- Office of Migration of the Canton of Berne (art. 82 Ordinance on Admission, Period of Stay and Employment [ASEO])
- Judgement Enforcement unit of the Office of the Attorney General
- Finances unit of the Office of the Attorney General

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A written statement of the grounds is served at a later point in time.

#### **Instructions on legal remedies**

The court dispenses with a written statement of the grounds if it states the grounds for the judgment orally; and it does not impose a custodial sentence of more than two years, indefinite incarceration under article 64 SCC, treatment in terms of article 59 SCC or, in the case of suspended sanctions to be revoked simultaneously, a deprivation of liberty of more than two years (art. 82 para. 1 CrimPC). The court shall provide the parties retrospectively with a written judgment stating the grounds if a party requests the same **within 10 days** of service of the conclusions or a party files an appeal (art. 82 para. 2 CrimPC).

#### **Appeal to the Higher Appeals Chamber of the Federal Criminal Court**

Notice of appeal may be given against judgements of the Criminal Chamber of the Federal Criminal Court which conclude the proceedings in their entirety or in part, as well as against separate subsequent court decisions and against separate forfeiture decisions **within 10 days** of notification to the Criminal Chamber of the Federal Criminal Court, orally or in writing (art. 399 para. 1 in conjunction with art. 398 para. 1 CrimPC; art. 38a Federal Act on the Organization of Federal Criminal Justice Authorities (CJAA)).

The judgement may be appealed on all its points comprehensively. An appeal may contest an infringement of the law, including exceeding and abusing discretionary powers, the denial of justice and unjustified delay; an incomplete or incorrect assessment of the circumstances of the case; a decision that is inequitable (art. 398 para. 2 and 3 CrimPC).

If the appeal is limited to civil matters, the judgment of the Criminal Chamber shall only be reviewed to the extent permitted by the civil procedure law applicable at the place of jurisdiction (art. 398 para. 5 CrimPC).

The party that has given notice of intention to appeal shall file a written appeal petition with the Higher Appeals Chamber of the Federal Criminal Court **within 20 days** of receiving the written judgment stating the grounds. In the petition, he or she must indicate whether he or she is contesting the judgment in its entirety or only in part, which changes to the judgment issued by the court of first instance judgment it is requesting; and what requests for further evidence to be taken it is making. If a person is only contesting part of the judgment, he or she must indicate in the appeal petition which parts the appeal is limited to in definite (art. 399 para. 3 and 4 CrimPC).

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#### **Appeal to the Lower Appeals Chamber of the Federal Criminal Court**

An objection is admissible against the rulings and the procedural acts of the Criminal Chamber of the Federal Criminal Court as a court of first instance, with the exception of decisions directing proceedings, **within 10 days** of notification in writing and with a statement of grounds before the Lower Appeals Chamber of the Federal Criminal Court (art. 393 para. 1 let. b and art. 396 para. 1 CrimPC; art. 37 para. 1 CJAA).

An objection may contest an infringement of the law, including exceeding and abusing discretionary powers, the denial of justice and unjustified delay; an incomplete or incorrect assessment of the circumstances of the case; a decision that is inequitable (art. 393 para. 2 CrimPC).

#### **Legal remedies available to the duty defense lawyer and to the defense lawyer of choice**

Against the decision on fees, the duty defence lawyer may use the legal remedy available against the final judgement (art. 135 para. 3 CrimPC).

#### **Compliance with time limits**

Submissions must be delivered on the day of expiry of the time limit at the latest to the criminal justice authority or handed over for delivery to SwissPost, a Swiss diplomatic or consular representation or, in the case of persons in custody, the governor of the institution (art. 91 para. 2 CrimPC).