

The Special Criminal Court for the Central African Republic

Progress Report on United Nations engagement

9 July 2018

Background on the establishment of the SCC

1. The Special Criminal Court for the Central African Republic (SCC) is a national court that has been established by the authorities of the Central African Republic (CAR) in 2015 for a five-year renewable mandate, with the assistance of the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) and the United Nations Development Programme (UNDP).

2. The primary purpose of the SCC is to bring to justice perpetrators of serious violations of international humanitarian law and international human rights law that have been committed in CAR since 2003, including genocide, crimes against humanity and war crimes. In 2015, the Security Council reiterated the “urgent and imperative need” to hold accountable all perpetrators of violations of international humanitarian law and human rights violations and abuses, irrespective of their status or political affiliation, and that some of those acts may amount to crimes under the Rome Statute of the International Criminal Court (ICC), to which the CAR is a State party.¹ Through its prosecutions, the SCC will combat the prevailing cycle of impunity and injustice that has characterized, and continues to drive, the conflict in CAR.

3. The SCC, as a specialized criminal jurisdiction, also contributes to the extension of State authority in CAR by building trust and confidence in the criminal justice system and offsetting deficiencies in the ordinary justice system, which can be politicized, and lack independence and capacity to deliver effective justice. Through a mix of national and international magistrates and personnel, the SCC will ensure that the investigation, prosecution and adjudication of cases respects international fair trial norms, and thus contribute to judicial reform across the national criminal justice sector. Lastly, the SCC will actively interact with the population and ensure the effective participation of victims and witnesses in the judicial process.

4. The SCC’s key objectives contribute to a strategic approach to building sustainable peace by supporting the restoration of the rule of law and transitional justice, and promoting social cohesion.

Framework of mandated support

5. Since 2015, MINUSCA has been expressly mandated to assist the authorities of CAR with the operationalization of the SCC. MINUSCA is also mandated to provide technical assistance and capacity building for the CAR authorities to facilitate the SCC’s functioning, in particular in the areas of investigations, arrests, detention, criminal and forensic analysis, evidence collection and storage, recruitment and selection of personnel, and the establishment of a legal aid system, as appropriate. MINUSCA will also provide security for magistrates, and to take measures to enhance the security of victims and witnesses as conditions allow, in line with CAR’s international human rights obligations,

¹ United Nations Security Council resolution 2217 (2015), 28 April 2015.

magistrates are appointed to the SCC by the President of CAR after a publicly-announced competitive selection process and on the recommendation of the Special Representative of the Secretary-General of MINUSCA. The selection process is based on nominations of qualified magistrates who are proposed for secondment to the SCC by interested Member States. National magistrates equally participate in a publicly-announced competitive selection process, in which MINUSCA and UNDP participate as observers, and are officially nominated by the President of CAR.

12. Since 2017, the President of CAR has appointed a number of individuals to key posts in the Office of the Prosecutor, the Investigative Chamber, the Pre-Trial Chamber, and the Special Unit for Judicial Police, as necessary for the first phase of operationalization of the Court.

- *Magistrates*

13. The Special Prosecutor of the SCC is an international position, currently filled by Mr. Toussaint Muntazini Mukimapa (Democratic Republic of the Congo). The Deputy Special Prosecutor is a national position currently filled by Mr. Alain Ouaby-Bekaï. The Substitute Special Prosecutor is an international position and is currently filled by Mr. Dieudonné Detchou (Canada). The Substitute Deputy Special Prosecutor is also a national position, currently filled by Mr. Alain Tolmo.

14. The Investigative Chamber of the SCC comprises two national investigative magistrates, Mr. Michel Ngokpou and Mr. Patience Guerengbo, and two international investigative magistrates, Ms. Adélaïde Dembélé (Burkina Faso) and Ms. Emmanuelle Ducos (France).

15. The Pre-Trial Chamber of the SCC currently comprises two international magistrates who have been nominated and are awaiting deployment to CAR, namely Mr. Koffi Afande (Togo) and Ms. Bernadette Houndekandji (Benin), and a national magistrate for this Chamber is under recruitment following the passing of the magistrate initially appointed to this position.

16. As per the phased approach, additional national and international personnel will be recruited in 2019 to progressively bring SCC staffing to full strength, including a third national and international investigating judge to create a third division of the Investigative Chamber; as well as one national and two international members for the Appeals Chamber. Six national judges and three international trial judges will also be appointed at a later stage, once investigations are sufficiently advanced.

- *Other key positions*

17. The Chief Registrar of the SCC is a national position and is currently filled by Mr. Dieudonné Selego. The Deputy Registrar position is an international position and recruitment is ongoing, after two initial recruitment rounds failed to yield suitable candidates.

18. The work of the SCC is supported by 20 national Judicial Police Officers who serve with the SCC's Special Judicial Police Unit and have received dedicated training organized by MINUSCA and UNDP on criminal investigation techniques. Six United Nations Police Officers from MINUSCA will provide mentoring support to the national officers.

19. In addition, MINUSCA and UNDP provide ongoing assistance in recruiting experts for important support posts for the SCC, including for the office of victim and witness protection, legal aid and victim representation before the SCC.

Member States. The Netherlands, the United States of America, and France have provided additional funding for the SCC, and in-kind contributions have been made by Benin, Burkina Faso, Canada, the Democratic Republic of the Congo, France and Togo through seconding their magistrates on a paid basis. Morocco has also supported training activities for SCC personnel and chairs the Member State Reference Group for support to the SCC.

26. However, there is a critical need to secure sustainable funding to allow the SCC to accelerate its substantive work without the pressure of financial disruption. The SCC's estimated budgetary needs for the next five years (2018-2022) amounts to US\$ 61.3 million:

- For 2018, the budget is estimated at US\$ 10.7 million, of which US\$ 4.6 million is funded by MINUSCA, US\$ 1.0 million is expected to be contributed through the Ezingo fund (the Central African Republic Multi-Partner Trust Fund) and US\$ 2.3 million has been pledged by the European Union, leaving approximately US\$ 2.8 million to be raised as a matter of urgency.
- In 2019, the Appeals Chamber and a third division within the Pre-Trial Investigation Chamber will be established, as foreseen by the Law establishing the SCC. The 2019 budget is estimated at US\$ 13.3 million, which is currently unfunded. The Trial Chamber will be established once investigations are sufficiently advanced.
- For 2020, 2021 and 2022, the budget is estimated at US\$ 12.4 million annually, which is as yet, unfunded.

27. Additional Member State support is greatly needed for the sustainable delivery of the SCC's operations over the next five years, to ensure that key peacekeeping and peacebuilding aims of the SCC can be realized.

Challenges

28. The CAR authorities and the United Nations will face a number of challenges in supporting the ongoing work of the SCC:

- Securing sustainable funding for the SCC to safeguard gains already made and ensure continuity of the SCC's work and personnel;
- Managing the expectations with the national population of CAR, civil society, victims of serious crimes and the international community. Following on from the Bangui Forum in 2015, the desire for justice for the many serious crimes committed against civilians in CAR since 2003 has remained a consistent theme and demand from many elements of CAR society. The SCC is expected to deliver major decisions with a far-reaching impact on past violations of human rights, committed by those most responsible for these crimes from across different population groups in CAR;
- Ensuring that international support to the SCC contributes to strengthening the national justice sector and improved capacity of national personnel to deliver justice services well beyond the lifespan of the SCC;
- Reconciling the SCC's work of pursuing criminal accountability with wider transitional justice processes underway in CAR and avoiding politicization of its work.

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