

Central African Republic, Peace Agreement and the End of the Armed Conflict

INTRODUCTORY TEXT: After years of fighting, in February 2019, 14 armed groups and the government of the Central African Republic signed another peace agreement. This case discusses the effects of the peace agreement on the application of IHL, the end of the armed conflict and the consequences of the nomination of former leaders of militias to government positions.

Case prepared by Mr. David Wenk, student at the University of Geneva, under the supervision of Professor Marco Sassòli and Mr. Pavle Kilibarda, research assistant, both at the University of Geneva.

N.B. As per the disclaimer, neither the ICRC nor the authors can be identified with the opinions expressed in the Cases and Documents. Some cases even come to solutions that clearly violate IHL. They are nevertheless worthy of discussion, if only to raise a challenge to display more humanity in armed conflicts. **Similarly, in some of the texts used in the case studies, the facts may not always be proven;** nevertheless, they have been selected because they highlight interesting IHL issues and are thus published for didactic purposes.

A. Political Agreement for Peace and Reconciliation in the Central African Republic of the 6 February 2019

[Source: UN Security Council, Letter dated 14 February 2019 from the Secretary-General addressed to the President of the Security Council, 15 February 2019, UN Doc. S/2019/145, available at: <https://reliefweb.int/report/central-african-republic/political-agreeme...>]

[...]

I. Principles for a lasting settlement of the conflict

Article 1:

The Parties reiterate their commitments to the following principles:

[...]

(f) Rejection of violence as a form of political expression and the use of dialogue and consultation to resolve differences;

[...]

(i) Combating corruption and impunity.

[...]

II. Government commitments

Article 4:

The Government undertakes:

(a) In consultation with the National Assembly and the Monitoring Mechanism provided for in this Agreement, to take appropriate steps aimed at eradicating the root causes of the political and security crisis affecting the Central African Republic, and strengthen good governance, inclusiveness and affirmative action at all levels of government.

[...]

III. Commitments of the armed groups

Article 5:

For their part, the armed groups undertake:

(a) To respect the legitimacy of the country's democratic institutions, the constitutional order, and the territorial integrity and unity of the State of the Central African Republic.

(b) To renounce the recourse to weapons and violence as a means of making any claim, whether political, social or economic, and thus put an immediate, complete and irrevocable end to all hostilities and forms of violence between them and against State officials, the defence and security forces, United Nations staff and all other humanitarian actors, as well as the abuses committed against civilian populations, herders and farmers throughout the country. [...]

[...]

(d) By mutual agreement of the Parties and the partners, to proceed with the complete dissolution of armed groups throughout the country [...].

[...]

IV. Specific issues

Disarmament, demobilization, reintegration and repatriation

[...]

Justice and national reconciliation

Article 7:

The Parties, while rejecting any idea of impunity and recognizing the principle of presumption of innocence, acknowledge the painful consequences and the wounds left by grave crimes on all citizens and communities in the Central African Republic.

[...]

Transitional security arrangements

[...]

Democratic foundations

[...]

Article 19:

The Parties agree to abstain from any attempt to access or retain power by force, in accordance with the relevant provisions of the Constitution of the Central African Republic and the Constitutive Act of the African Union.

[...]

Annex I

Implementation of the cessation of hostilities and temporary security arrangements

1. In accordance with the provisions of the present Agreement, the armed groups commit themselves, upon signature of the Agreement, to the immediate, complete and irrevocable cessation of hostilities and any act of violence, including against the State authorities, as well as any abuses against civilian populations, herders and farmers, throughout the country. In this regard, the Parties, especially the armed groups in respect of their forces, upon signature of the Agreement, commit to solemnly issue a public and unconditional order on the cessation of hostilities, and to promote the values of respect and the protection of human rights throughout the country, with a view to ending all hostile acts and any other form of violence, impasse and sabotage.

[...]

B. HRW, Central African Republic: Don't Reward Warlords

[Source: Human Rights Watch, 'Central African Republic: Don't Reward Warlords', 24 April 2019, available at: <https://www.hrw.org/news/2019/04/24/central-african-republic-dont-reward-warlords>]

[1] Prosecutors in the Central African Republic should investigate militia leaders recently awarded government positions.

[2] On March 24, a presidential decree named the armed groups leaders Ali Darassa, leader of the Union for Peace in the Central African Republic (Unité pour la paix en Centrafrique, UPC), Mahamat Al Khatim, leader of the Central African Patriotic Movement (Mouvement patriotique pour la Centrafrique, MPC), and Sidiki Abass (also known as Bi Sidi Souleymane), commander of a group called Return, Reclamation, Rehabilitation, or 3R, as special military advisers to the prime minister's office. All three have led armed groups responsible for widespread atrocities in recent years, including war crimes and possible crimes against humanity. These posts were granted as a concession to the armed groups under a peace accord signed in February 2019 in Khartoum, Sudan.

[3] "Ali Darassa's appointment as a military adviser for the area where his men may have committed war crimes should not be used to give him immunity from investigation into the UPC's abuses," said Lewis Mudge, Central Africa director at Human Rights Watch. "Against this backdrop, senior United Nations and African Union officials should make clear to all the victims of UPC abuses that there can be no lasting peace without justice for those heinous crimes."

[4] [...] Human Rights Watch has documented serious abuses by the UPC since 2014, when the group took control of the town of Bambari, in the center of the country, including targeted killings of civilians, extrajudicial

executions, attacks on displacement camps, and rape.

[5] Fighters under Al Khatim's command have committed war crimes, including attacks on civilians, since 2015 when his group, which controls territory in the center of the country, was created. He was named military adviser for special mixed units in the center north zone.

[6] Abass's 3R group has killed civilians, raped, and caused large-scale displacement in the northwest zone since 2015. Abass was named military adviser to special mixed units in the northwest zone.

[7] The appointments were made in line with a peace accord, negotiated by the AU during 18 months of talks with 14 armed groups and the central government, often while the groups continued their brutal attacks on civilians. The accord seeks to "definitively eliminate" the causes of the conflict and promote national reconciliation and calls for some fighters from armed groups to be incorporated into "special mixed security units," which would also include members of the country's national security forces. Armed group leaders promised to end "all hostilities and forms of violence."

[...]

[8] Activists and victims have expressed deep concern that the agreement will be used to sideline justice for past crimes.

[...]

[9] The current crisis began in late 2012, when mainly Muslim Seleka rebels ousted President François Bozizé and seized power through a campaign of violence and terror. In response, anti-balaka groups were formed and began carrying out reprisal attacks on Muslim civilians in mid-2013.

[...]

C. Le Figaro, L'accord de paix en Centrafrique « n'accorde pas l'amnistie »

[Source: *Le Figaro*, 'L'accord de paix en Centrafrique "n'accorde pas l'amnistie"' [Our translation], 26 April 2019, available at: <https://www.lefigaro.fr/flash-actu/l-accord-de-paix-en-centrafrique-n-accorde-pas-l-amnistie-selon-la-presidence-20190426>]

[1] In response to criticism of the appointment of several warlords to government posts, the office of the president of the Central African Republic has issued a statement that the peace agreement reached with armed groups in Khartoum in February was subject to the constitution and did not grant "amnesty" to anyone.

[2] The peace agreement “does not grant amnesty and attaches importance to the fight against impunity”, said the statement, issued on Thursday evening. “The agreements are in no way international treaties. They are, on the contrary, subject to the country’s constitution.” The statement went on to underscore the “exceptional” and “transitory” context of this type of agreement. On 24 March, several leaders of armed groups, who control a large part of the country, were appointed under the terms of the agreement to act as special military advisers to the prime minister’s office.

[...]

[3] [...] The Khartoum agreement, supported by all the country’s partners and developed by the African Union since 2017, is the eighth agreement to have been signed since the crisis began, which was sparked by the overthrow of President François Bozizé in March 2013. [...]

D. Amnesty International, CAR: Killings, sexual violence and displacements continue de spite peace agreement

[Source: Amnesty International, ‘CAR: Killings, sexual violence and displacements continue despite peace agreement’, 4 February 2020, available at: <https://www.amnesty.org/en/latest/news/2020/02/car-killings-sexual-violence-and-displacements/>]

[...]

[1] “One year after the peace agreement was signed, violence against civilians has not stopped. Various armed groups continued to commit serious abuses against civilians, including killings and sexual violence. The number of victims continues to grow, while victims of serious human rights violations and abuses committed before the peace agreement was signed still wait for justice.”

[...]

[2] One year ago, on 6 February 2019, the CAR government and 14 opposition armed groups signed a political agreement in Khartoum for peace and reconciliation, with the aim of ending a conflict that has seen serious violations and abuses of international human rights since December 2012.

[3] Despite the signature of this peace agreement, various armed groups continued to commit serious abuses against civilians, including unlawful killings and sexual violence. More than 30 people were killed on 25 December in PK5 neighbourhood of Bangui. On 26 January 2020, 11,000 were displaced because of clashes between armed groups in the eastern town of Bria.

[...]

DISCUSSION

1. (*Document B*) How do you classify the conflict in the Central African Republic with the available information? What rules of IHL apply in this context? (GC I-IV, Art. 3; PII, Art. 1)
2. (*Document A*) What is the effect of the February 2019 peace agreement between the parties? Does it necessarily imply the end of the conflict? The end of application of IHL? Which provisions of IHL would continue to apply even if the conflict was deemed to be over? (P II, Art. 2(2))
 - a. (*Document D*) What about the violence happening e.g. in Bria or in Bangui? Does this constitute a new armed conflict or is it a continuation of the old one?
 - b. If we take that the 2019 Agreement is the seventh of its kind signed over the course of 8 years, this may imply a lack of effectiveness of such agreements. If the effect of such an Agreement is not to end the conflict, what other consequences could it have?
3. (*Document C*) Is the peace agreement governed by and binding under international law or domestic law?
4. (*Documents A, B & C*) The question of amnesties is not mentioned in the February 2019 peace agreement. However, as of the conclusion of the Agreement, some of the militia leaders have been named to government positions. Per Central African law, there is no immunity for government officials, and the government insists that the nominations have not had the effect of amnesties or conferring immunity. (PII, Art. 6 (5); CIHL, Rule 159)
 - a. What is the role of amnesties in the aftermath of an armed conflict in general and in this situation in particular? Does IHL require or recommend that amnesties be given at the end of an armed conflict? What acts may be the subject of an amnesty? Do amnesties only cover crimes under domestic law or do they also extend to international law? Can a State give amnesty to rebels for war crimes? What if this is the only way to achieve a peace agreement? (P II, Art. 6 (5); CIHL Rule 159)
 - b. Is there a notion of immunities from criminal punishment under IHL? Does IHL foresee that certain categories of individuals shall be excepted from the application of the criminal law of the belligerent parties? If so, what is the scope of these immunities? Are these immunities functional or personal? Do they apply in both international armed conflicts (IACs) and non-international armed conflicts (NIACs)? (P I, Art. 43 (2)).

c. Does nominating militia leaders to government positions following a peace agreement amount to giving them amnesty? Would it have been any different if it had been found that they had really committed war crimes as alleged in Document B? If this were the case, would a national immunity or amnesty change anything? May the Central African Republic even be in violation of IHL in appointing these militia leaders to these government positions?

© International Committee of the Red Cross