

Central African Republic/Incidents of Violence Against Humanitarian Organizations

This case discusses several incidents of violence against humanitarian organisations and personnel that occurred during 2023 in the Central African Republic.

Acknowledgments

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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. RESOLUTION 2709 (2023) OF THE SECURITY COUNCIL

[Source: United Nations Security Council, “Resolution 2709 (2023) Adopted by the Security Council at its 9476th meeting, on 15 November 2023”, 15 November 2023, available at <https://digitallibrary.un.org/record/4027716?ln=en&v=pdf>]

Resolution 2709 (2023)

Adopted by the Security Council at its 9476th meeting, on 15 November 2023

The Security Council,

[...]

Recalling that the CAR authorities have the primary responsibility to protect all populations in the CAR, including from international crimes, *recognising* the persistent security challenge threatening civilians, also *underlining* the progress made to restore State authority in all parts of the country, including MINUSCA's assistance, to overcome the threats posed by armed groups,

[...]

Recalling the signing of the Political Agreement on Peace and Reconciliation in the CAR by the CAR authorities and fourteen armed groups in Bangui on 6 February 2019 (“the APPR”), after the peace talks that took place in Khartoum, Sudan, within the framework of the African Initiative for Peace and Reconciliation in the CAR and under the auspices of the African Union (AU), stressing its centrality and the need for further progress in its implementation, and reaffirming that implementation of the APPR remains the only mechanism for achieving lasting peace and stability in the CAR and the only framework for dialogue with armed groups that have renounced violence, welcoming the dissolution, disarmament and demobilization of six armed groups and of the wings of two other armed groups out of fourteen signatories of the Political Agreement,

Condemning in the strongest terms violations of the APPR and violence perpetrated by all parties to the conflict, particularly armed groups, throughout the country, including through the increased use of explosive ordnance, violence aiming at obstructing the electoral process, incitement to violence and hatred targeting specifically persons belonging to certain ethnic and religious communities resulting in deaths, injuries and displacements, violations of international humanitarian law and human rights violations and abuses, including those committed against children and those involving conflict-related sexual violence,

Underlining that ongoing violence by armed groups operating in the CAR continues to pose a threat to the security situation and political stability in the country, *condemning* in this regard all attacks on civilians, peacekeepers, UN personnel, national security and defence forces, and humanitarian actors, *urging* all armed groups to cease immediately all forms of violence and *all* those signatories to the APPR to respect their commitments in full,

Taking note of the 2022 MINUSCA annual report to the Security Council on violations and abuses of human rights and violations of international humanitarian law committed in the CAR,

Stressing the urgent and imperative need to end impunity in the CAR, noting the ongoing work of the Special Criminal Court, *welcoming* the first final judgement of the appeals chamber of the Special Criminal Court for crimes against humanity and war crimes, and *calling on* the CAR authorities to swiftly investigate allegations of crimes and to bring to justice perpetrators of violations of international humanitarian law and of violations and abuses of human rights,

[...]

Expressing serious concern about the dire and deteriorating humanitarian situation in the CAR, and the consequences of the security situation on humanitarian access, *expressing concern* about the impact of the crisis in the Sudan and the violence in southern Chad on the humanitarian and security situation, particularly in the border area, *condemning* in the strongest terms attacks by armed groups against civilian population,

humanitarian and medical personnel and obstruction to humanitarian access, and *emphasising* the current humanitarian needs of more than half of the population of the country, including civilians under threat from violence, as well as the alarming situation of IDPs and refugees, *recognising* the increasing threat resulting from the use of explosive ordnance by armed groups and its impact on civilians, including children, as well as peacekeepers, humanitarian personnel and CAR defence and security forces, and *welcoming* the collaboration between MINUSCA, UN agencies, the African Union, the World Bank, technical and financial partners of the CAR and NGOs to support development and humanitarian efforts in the CAR,

Recalling the UN guiding principles of humanitarian emergency assistance and humanitarian principles of humanity, neutrality, impartiality and independence,

[...]

Acting under Chapter VII of the Charter of the United Nations,

Political process, including the implementation of the APPR, and extension of State authority

[...]

3. *Demands* that all forms of violence against civilians, United Nations peacekeepers and humanitarian personnel, destabilising activities, incitement to hatred and violence, disinformation campaigns including through social media, restrictions on freedom of movement and obstruction of the electoral process cease immediately and that armed groups lay down their arms and permanently disband in line with their commitments under the APPR;

4. Strongly condemns all violations of international humanitarian law committed in the CAR, including attacks on the civilian population, MINUSCA peacekeepers and humanitarian actors, as well as human rights abuses and genderbased violence, recalls that individuals or entities that undermine peace and stability in the CAR could be listed for targeted measures pursuant to resolution 2693 (2023), and expresses its readiness to consider such measures for individuals or entities that violate the ceasefire;

[...]

13. Expresses serious concerns about repeated allegations of violations of international human rights law and international humanitarian law by some elements of the CAR defence and security forces, welcomes the measures announced by the Government of the CAR to hold accountable those responsible for such violations, including the work of the Special Criminal Court, and calls on international partners to insist on respect for international human rights law, international humanitarian law and international refugee law and accountability as a necessary condition when partnering with the CAR defence and security forces;

[...]

Humanitarian access and humanitarian appeal

25. Demands that all parties, including armed groups, allow and facilitate, in accordance with relevant provisions of international law and consistent with the humanitarian principles, the full, safe, rapid, immediate and unhindered access for the timely delivery of humanitarian assistance to populations in need, in particular to internally displaced persons, returnees and refugees;

26. Further demands that all parties respect and protect all medical personnel and humanitarian personnel exclusively engaged in medical duties, their means of transport and equipment, as well as hospitals and other medical facilities;

[...]

28. *Calls on* Member States and international and regional organisations to respond swiftly to the humanitarian needs identified in the humanitarian response plan through increased contributions and to ensure that all pledges are honoured in full and in a timely manner;

[...]

B. PROTECTING CIVILIANS AND HEALTH FACILITIES IN THE CENTRAL AFRICAN REPUBLIC

[Source: Office of the Humanitarian Coordinator in the Central African Republic, "Protecting civilians and health facilities in the Central African Republic", 25 May 2023, available at <https://reliefweb.int/report/central-african-republic/protecting-civilians-and-health-facilities-central-african-republic>]

Bangui, 25 May 2023 - The civilian population continues to be the victim of armed violence in the Central African Republic (CAR). Since the beginning of this year, 57 incidents against humanitarian workers or their property have been recorded, while 17 health facilities have been the target of armed attacks and looting. The Humanitarian Coordinator in the Central African Republic, Mohamed Ag Ayoya, strongly condemns these acts of violence, threatening patients lives and humanitarian access to people in need.

Regular attacks on humanitarian staff could in some cases force organizations to suspend activities to protect their teams in a context when more than 3.4 million people are in need of humanitarian assistance and protection. 2.4 million are targeted by the 2023 Humanitarian Response Plan (HRP), which aims to provide vital assistance to the most vulnerable.

On Wednesday 24 May, the driver of a contractor serving the humanitarian community in CAR was killed when the team he was driving was attacked on the Birao - AmDafock road. Three civilians onboard including one NGO staff, a contractor and their driver were on their way back from a mission to set up tents for a health centre in Am-Dafock. The town is currently home to more than 13,000 people, including Sudanese asylum seekers and returnees from the Central African Republic. The two passengers were released, while the driver was held and later killed.

"These acts constitute a flagrant violation of international humanitarian law (IHL), which establishes the protection of civilians and humanitarian workers. Medical facilities and humanitarian workers must always be protected by all parties to the conflict", said Mohamed Ag Ayoya.

According to World Health Organisation monitoring data, between January and May 2023, 17 attacks against health facilities were recorded in CAR, one medical staff was killed, and 10 health workers injured. "I call on all stakeholders to put the interests of the CAR people above their differences", said the Humanitarian Coordinator. "I also invite them to respect and ensure respect for IHL by their elements", he added.

The Central African Republic remains one of the most challenging places for humanitarian workers. In 2023, the number of incidents recorded per month continue to rise. Upholding IHL will protect civilians and humanitarian workers.

[...]

C. OVERVIEW OF INCIDENTS AFFECTING HUMANITARIAN WORKERS (JANUARY - DECEMBER 2023)

[Source: Office of the Humanitarian Coordinator, 3 January 2024, available at <https://www.unocha.org/publications/report/central-african-republic/central-african-republic-overview-incident-affecting-humanitarian-workers-january-december-2023>]

In December 2023, 14 incidents affected humanitarian personnel and assets in CAR. An increase of one incident compared to the previous month. The Ouaka and Haute-Kotto prefectures were the most affected with respectively 3 and 2 incidents reported. This month's incidents included 4 cases of robbery, 3 cases of verbal threats, 2 cases of interference, 2 cases of detention followed by release, 2 cases of harassment and 1 case of physical assault.

Robberies in Ouham, Haute-Kotto and Vakaga, administrative impediments at certain legal barriers, and interference by some community leaders and beneficiaries testify to the difficult context in which humanitarian actors work in CAR.

At the same time, Civilians continue to be victims of armed tensions and violence in the Central African Republic.

D. CENTRAL AFRICAN REPUBLIC, EMERGENCY RESPONSE

[Source: Office of the Humanitarian Coordinator, 13 October 2023, available at:
<https://reports.unocha.org/en/country/car/card/5M6tuL1hGy/>]

Meeting humanitarian needs in isolated areas

The civilian population in the Central African Republic (CAR) continues to pay a heavy price, in a country ravaged by conflict and subsequent violence for over a decade. Located in the south-east of the Haute-Kotto prefecture, the sub-prefecture of Yalinga, with an estimated population of 10,650 remains one of the most vulnerable and isolated in the country. Yalinga is very difficult to access, where roads exist, and the cellular network does not cover this city located nearly 600 km from Bangui, the capital. Access to basic services such as water and healthcare is very poor, while food insecurity is among the most severe in the country. Most of its residents are spontaneous returnees, having been displaced for years following atrocities committed by armed groups.

Major obstacles to humanitarian access

[...]

[...] Humanitarian organizations are also affected by robberies and kidnapping attempts when they try to help the most vulnerable. This was the case in December 2022, when staff from a Non-Governmental Organization on a mission to install a vaccine conservation system in a health center in the Yalinga region were held hostages by armed men, before being released following negotiations with local authorities. In 2021, a private transporter working for an NGO was robbed, and three months' worth of medicines for the Yalinga Health Center were taken by armed men. The presence of armed groups since 2020 and insecurity have made humanitarian activities and multi-sector assessment missions by road impossible, leading to the temporary withdrawal of humanitarian organizations until April 2023.

[...]

DISCUSSION

I. Classification of the Situation and Applicable Law

1.
 - a. How would you classify the situation in the CAR in 2023? (GCs I-IV, Art. 3; P II, Art. 1)
 - b. Does the plurality of non-state actors affect the classification of the situation? Why? Is the same legal regime applicable to all actors? (GCs I-IV, Art. 3; P II, Art. 1)
 - c. Considering that a peace agreement was concluded in 2019, does this constitute a new armed conflict, or is it the continuation of the previous one? Does a peace agreement automatically put an end to an armed conflict? Does it affect the applicable law?

II. Humanitarian assistance

2. What are the provisions relating to humanitarian assistance applicable to the situation in the Central African Republic? Are all parties bound by the same obligations? (GCs I-IV, Art. 3; PII, Art. 18; CIHL, Rule 55) What rules of International Human Rights Law may be relevant to complement International Humanitarian Law rules in this respect?
3. What are the main differences with the rules relating to humanitarian assistance during international armed conflicts? (GC IV, Arts 23 and 55; PI, Arts 69 and 70; CIHL, Rule 55)
4. Are civilians and fighters, or combatants, hors de combat entitled to the same rules regarding the delivery of humanitarian assistance?
5. Where can the obligation to respect and to ensure respect for International Humanitarian Law may be found? (GC I-IV, Art. 1) What are, in particular, the obligations of neighbouring countries?
6. Does the fact that some humanitarian organisations had to temporarily withdraw until April 2023 violate IHL?
7. Is impeding access to humanitarian organisations a war crime? (Rome Statute, Art. 8 (2) (a) (xxv))
8. What is principled humanitarian action? Are humanitarian principles encompassed in International Humanitarian Law? If not, where may they be found?

III. Protection of humanitarian relief goods and personnel

9. Are humanitarian relief personnel entitled to special protection? (PII, Art. 4; PII, Art. 13) Does their protection vary depending on the classification of the conflict? (PI, Art. 71(2); CIHL, Rule 31)
10. Are objects used for humanitarian relief protected under International Humanitarian Law? (CIHL, Rule 32) Is the protection different if they are used for a health mission? (PII, Art. 11)