



## *Prosecutor v. Agon Megor of Ibbin*

Pre-Trial Chamber VI of the International Criminal Court (ICC) renders this decision on the application of the Prosecution to confirm the charges against Defendant Agon Megor of Ibbin, who is accused of aiding and abetting war crimes and crimes against humanity in Quarth.

Para. 1. The Office of the U.N. High Commissioner had previously investigated the government of Quarth's deadly campaign against suspected drug traffickers. In 2017, the Office reported that roughly 2,000 people suspected of being involved in the illegal drug trade had been slain since the Quarth government launched its bloody "war on drugs" the previous year. We concluded that such summary executions violated human rights norms and international law and urged the government of Quarth to bring the practice to an immediate halt. Now, the Quarth government has turned its attention to another criminal element - piracy.

Para. 2.



Valyeron said she requested Megor's help in extinguishing the Tyvosh pirates before the

6. The Office of the Prosecutor informed the Pre-Trial Chamber that on 15 January 2021 an article appeared at page A-2 of the *Quarth News and Observer*, written by the paper's Associate Editor, Juran Martel, titled "Rogor Costane Retracts Drone Attack Story." The relevant text is reproduced below.

Back in October, *News and Observer* reporter Rogor Costane recounted an extraordinary conversation he had with Reena Valyeron, Commander of the Quarth Homeland Security Force. Now, Costane says it was all a misunderstanding and exaggeration. Yesterday morning, he told the paper's editorial staff that "Valyeron and I were both drinking that night, and I let my imagination get away from me. I do not stand by the accuracy of the 13 October story, and retract it."

This surprising retraction comes while the International Criminal Court in The Hague has launched an investigation into the October drone attacks, based in part on the contents of Costane's article. Meanwhile, the *News and Observer* learned that Costane, who has no means other than a modest journalist salary, was seen yesterday afternoon purchasing a 2021 Porsche 911 at an auto-dealership in Hightown. He paid in full in cash. That car has a (US) \$92,000 price tag. Today, Con66 (a0)4 (00)-5 ( )0 0 nBT7T0 12 .442 Tf2c 45 612 79PpenBTnded fr internal inquiry as to whether he may have accepted a bribe to retract the drone story. Meanwhile, multiple sources have confirmed that his source, Ree4 (00)a Valyeron, resigned f



[1] First, the ICC lacks jurisdiction. The Court lacks temporal and personal jurisdiction over the alleged acts of Agon Megor under Article 24(1) of the Statute. Moreover, the allegations do not meet the *mens rea* or *actus reus* requirements for aiding and abetting under Article 25(3)(c) of the Statute. Finally, the alleged acts do not constitute war crimes or crimes against humanity under Article 7 and Article 8 of the Statute.

[2] Second, the case is inadmissible. The alleged number of innocent victims is too small to meet the ICC's gravity requirement of Article 17(1)(d) of the Statute, and the child pirates do not count as innocent victims.

[3] Third, there is insufficient evidence. Given that the journalist disavowed the contents of the 13 October 2020 newspaper article, there is insufficient evidence to establish substantial grounds to believe that Agon Megor committed the crimes charged, as required by Article 61(7)(b) of the Statute.

[4] Fourth, if the case were to proceed, there is no justification for the appointment of a separate Victims' Representative for juvenile pirates or for non-pirate victims under Article 68(3) of the Statute and Rules 89 and 90.

- ▼ Denies the prosecution's motion to confirm the charges against Agon Megor of Ibbin.
- ▼ Denies appointment of a separate Legal Representative of Victims for future proceedings related to this case.
- ▼ Orders the Registrar to notify the parties and participants of this decision.



I would have granted the Prosecution's motion to confirm charges, and I therefore dissent from the Decision of the Pre-Trial Chamber and urge the Chamber to certify the case for interlocutory appeal. Specifically, I would have held:

First, that the ICC has temporal and personal jurisdiction over Agon Megor under Article 24 of its Statute because the aiding and abetting culminated when the drones he provided were used in October 2020, two months after the entry into force of the Rome Treaty for Ibbin.

Second, that the alleged facts, particularly those indicating that Megor knew Quarth planned to use the drones against civilians, juveniles and protected sites, do meet the *mens rea* and *actus reus* requirements of Article 25(3)(c) of the ICC Statute.

Third, that the piratical and governmental actions leading up to the October raids did not meet the armed conflict threshold for application of the laws of war as noted in Articles 8(2)(d) and 8(2)(f) of the Statute; consequently, the use of force in the October raids could only be lawful if justified under peacetime human rights law. As such, the targeting of all

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