



OUSMAN SONKO, FORMER MINISTER OF THE INTERIOR FOR THE GAMBIA, WILL SOON BE TRIED IN SWITZERLAND

Questions and answers

1. Who is Ousman Sonko and what are the criminal charges against him?

Ousman Sonko is a 54-year-old Gambian citizen. He was a member of the Gambian army, later appointed to the position of commander of the presidential guard. Sonko subsequently served as inspector general of police, before being appointed minister of the Interior by former dictator Yahya Jammeh in November 2006. He held this position until September 2016, when he was removed from office and fled The Gambia.

Ousman Sonko is being accused in Switzerland for his participation in crimes against humanity under the form of murders, acts of rape, acts of torture – including physical and sexual violence – and illegal deprivation of arbitrary detentions between 2000 and 2016.

Ousman Sonko's trial will be the second in history to address crimes committed in The Gambia under the dictatorship of Yahya Jammeh based on the principle of universal jurisdiction. It follows the trial in Germany of Bai Lowe, which opened on April 25, 2022 and is currently ongoing. Bai Lowe is also charged with crimes against humanity, committed while he was a member of the "Junglers," a commando corps created by Yahya Jammeh the worst crimes of the regime.

2. Why will the trial of Ousman Sonko take place in Switzerland ?

In January 2017, TRIAL International received information that Ousman Sonko had requested asylum in Switzerland and that he was on the territory. The organization promptly alerted the prosecuting authorities, who arrested him. The Swiss authorities are competent to prosecute Ousman Sonko on the basis of universal jurisdiction, a principle which allows the prosecution of perpetrators of international crimes (see Q. 3 below), despite having no connection to the location of prosecution other than their presence on the Swiss territory.

Ousman Sonko has been in Swiss custody since his arrest in January 2017.

3. What is universal jurisdiction?

Universal jurisdiction is a legal principle that allows states to investigate and prosecute individuals suspected of having committed international crimes (genocide, crimes against humanity, war crimes, torture and enforced disappearances), regardless of where the crimes were committed and regardless of the nationality of the suspect(s) or victim(s).

Universal jurisdiction cases are playing an increasingly important role in international efforts to hold perpetrators of atrocities accountable and to bring justice to victims. These cases also



help to deter the commission of future crimes and send a powerful message that perpetrators of human rights abuses will not find a safe haven anywhere in the world.

TRIAL International and its partners publish an annual [Universal Jurisdiction Annual Review](#) (UJAR), which highlights key developments in cases brought before national courts around the world on the basis of this principle. The 2023 edition of the UJAR includes more than 65 cases concerning international crimes.

Many countries are currently investigating and prosecuting international crimes in the Democratic Republic of Congo, Iraq, Liberia, Rwanda, Syria and Ukraine.

In 2021, the Swiss Federal Criminal Court found Alieu Kosiah guilty of war crimes and sentenced him to 20 years in prison. This was the first conviction in Switzerland of a Liberian national for crimes committed during the Liberian civil wars and the first trial for this type of crime before the Swiss Federal Criminal Court, based on universal jurisdiction. The case is currently under appeal.

4. What was happening in The Gambia during the time period in which Ousman Sonko is alleged to have committed crimes?

During his 22-year dictatorship in The Gambia, former President Yahya Jammeh instituted a policy of systemically oppressing any real or perceived opponents of his regime. In particular, the government targeted journalists, human rights defenders, lawyers, student movement leaders, religious leaders, members of the political opposition, judicial officials, members of the lesbian, gay bisexual and transgender (LGBT) communities, and members of the security forces who were considered to be threats. The worst violations acts were committed against these individuals, including torture, extrajudicial killings, enforced disappearances, and sexual violence.

Many of these violations came to light during the hearings of The Gambia's Truth, Reconciliation and Reparations Commission (TRRC), which was established in 2018 in an effort to shed light on the abuses committed by the Jammeh regime. A total of 393 people, including victims, former government officials and members of various security forces, testified during the 871 days of public hearings.

The findings in the TRRC's final report, released in late 2021, highlighted not only Yahya Jammeh's responsibility for numerous abuses, but also that of his most loyal allies, in particular Ousman Sonko.

5. Who are the victims of the alleged crimes of Ousman Sonko?

Ten victims were named as plaintiffs against Ousman Sonko in the Swiss proceeding. Among them a victim of sexual violence, victims of torture in the form of bodily harm and sexual violence, victims of arbitrary detention, and the relative of a victim who died in detention.



Many of these persons were subjected to abuses simply because they were suspected of being involved in coup d'état attempts against Jammeh or because they spoke out against the dictatorial government of Yahya Jammeh by participating in the political opposition.

The victims are all represented by lawyers and are parties to the proceeding in which they have an essential role, particularly in relation to their direct testimonies. They have the right to consult the file, to propose investigative acts, and to ask questions to the witnesses and to the accused.

6. Could Yahya Jammeh, or other senior officials, be prosecuted for serious crimes committed in The Gambia?

In its findings, the TRRC highlighted that Yahya Jammeh and other senior regime officials had allegedly committed crimes against humanity and recommended the prosecution of many of them.

The trials of Ousman Sonko in Switzerland and Bai Lowe in Germany will shed light on the political context in which massive violations were committed in The Gambia. In the case of Ousman Sonko, the trial will more specifically reveal his role as former presidential guard commander, Inspector General of Police and Minister of the Interior in the commission of these violations.

These trials may be a crucial step in ensuring that Yahya Jammeh and other implicated individuals are tried, in a fair and credible process, in The Gambia or, if necessary, in other jurisdictions:

Yahya Jammeh has been in exile in Equatorial Guinea since 2017 where he fled after having lost the presidential election.

The "Jammeh2Justice Campaign" was formed in The Gambia after the dictator's departure, with the aim of pressuring national and international bodies to open trials related to crimes committed in The Gambia over the course of 20 years and to have the individuals responsible for those atrocities face justice.

The TRRC briefly considered whether prosecutions should be held in The Gambia. It ultimately rejected this idea of a purely national judicial response due to deficiencies in The Gambia's current judicial system, capacity and infrastructure, and, instead, recommended the creation of an "internationalized" Court.

The government of The Gambia reviewed the TRRC's recommendations, and published a subsequent "white paper" on May 25th, 2022. In this document, the government took a position on all recommendations set forth by the TRRC, and detailed the steps that should be taken for implementation. The government accepted all of the TRRC's recommendations regarding prosecutions, including the prosecution of former President Jammeh and Ousman Sonko. The government also announced its intention of establishing a "hybrid" Court, anchored by a treaty



signed under the aegis of the Economic Community of West African States (ECOWAS) as well as a specialized judicial unit within the Gambia's judicial system designed to prosecute human rights abuses and violations. This special unit will be based in The Gambia, but may possibly hold hearings in other countries depending on the particular needs of each case.

7. Are any other individuals being prosecuted under universal jurisdiction for crimes committed in The Gambia during the Jammeh era?

Ousman Sonko is not the first individual to be prosecuted outside of The Gambia for crimes committed in this country during the Jammeh era.

The trial of Bai Lowe in Germany is mentioned in the answer to Question 1 above.

Another alleged Jungler, Michael Correa, was indicted in the United States in June 2020 and placed in pre-trial detention. He is accused of having tortured detainees following a failed coup attempt in The Gambia in 2006. TRIAL International hopes that a trial in the USA will soon take place.

8. How many cases related to international crimes have been opened in Switzerland?

The latest Annual Report of the Office of the Attorney General of Switzerland concerning 2021, reported 15 ongoing criminal investigations into crimes violating international criminal law (genocide, crimes against humanity, and war crimes).

Since the entry into force, in 2011, of the provisions implementing the Rome statute into Swiss law, only one trial related to international crimes has been held before the Federal Criminal Court (FCC), that of Alieu Kosiah in 2020-21, which is currently under appeal.

Ousman Sonko's trial will hence be the second to open before the FCC concerning these types of crimes. After Hissène Habré, who was convicted in 2016 in Senegal on the basis of universal jurisdiction, Ousman Sonko will be the highest dignitary ever judged in the world in application of this principle.

The Swiss tribunals might be seized to judge a former minister from another country in the coming months.

9. How long is the trial of Ousman Sonko expected to last and what are the possible outcomes?

It will be up to the federal judges to organize the trial hearing session. Currently, length and dates of the trial are to be determined. If convicted, Ousman Sonko could face life imprisonment. Judgments rendered by the FCC can be appealed, first to the Higher Appeals Chamber of the FCC, and, subsequently, to the Federal Supreme Court in Lausanne.



10. How accessible will the trial be to the public, journalists and affected communities in The Gambia?

In accordance with the principle of a public trial, which plays a fundamental role in a democratic society by promoting transparency in the justice process and thus contributing to public confidence in the judicial system, the trial of Ousman Sonko will be accessible to the public, within the limits of the available courtroom space. However, the trial will be conducted in German and a public translation will not be provided, making it potentially inhibiting accessibility for non-German speakers.

In this regard, TRIAL International reminds the Swiss authorities of the enthusiasm that has been observed during the TRRC sessions and that there is a great hope for justice in the Gambia. Additionally, this trial will play an important role in the current transitional justice efforts undertaken in The Gambia. Therefore, the authorities should consider offering an interpretation service during the hearing, which would further contribute to the transparency of justice and the right to information in relation to those interested and/or directly affected.

The Gambian victims involved in the proceedings will be present during the trial, but it is also crucial that the larger Gambian population is able to receive information regarding the proceedings and the final verdict. To this end, TRIAL International has activated its network of journalists in The Gambia who will relay key developments in the trial and will be able to spread the information to the most remote communities, especially through local radio stations which broadcast the news in local dialects.

It is also envisaged that Gambian journalists will travel to Switzerland to report on the trial themselves.

11. What role did TRIAL International play in this case?

Alerted to the presence of Ousman Sonko in Switzerland, TRIAL International filed a criminal complaint against Ousman Sonko with the Bernese prosecution authorities in January 2017. They arrested the suspect the next day in application of the UN Convention against Torture, the Swiss Criminal Code and the Swiss Criminal Procedure Code. They interviewed the defendant and decided to place him in pre-trial detention on January 28th, 2017. Quickly suspected of having been involved in crimes against humanity, which is a federal offense, the OAG took over the case from the Bernese authorities for further investigations.

Throughout the investigation, TRIAL International has offered logistical support to the victims to facilitate their travel to Switzerland and their participation in Swiss hearings. Psychological support has also been offered to the victims who felt the need prior and after their hearing in order to minimize further trauma as a result of having to revisit the painful events they have experienced through their testimonies.