

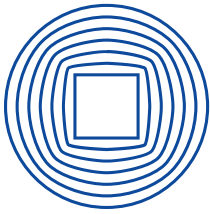


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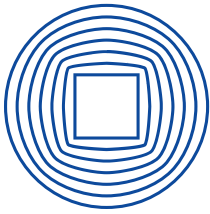
# Nuremberg Moot Court 2026

Case



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## Introduction

This is a fictional case before the International Criminal Court (“ICC”). Pursuant to the Rules of the Nuremberg Moot Court 2026, participating teams will represent both (1) the Office of the Prosecutor (“OTP”) and (2) the Defence.

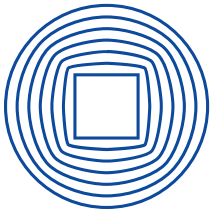
Participating teams shall prepare two written memoranda and plead before ICC Pre-Trial Chamber I (“PTC I”). The written submissions and respective pleadings shall follow the agenda for the PTC I hearing and address all the issues relevant to the case below.

Written memoranda must be submitted by 7 April 2026, 11.59 pm CEST. The oral rounds will be held on site in Nuremberg, Germany between 22 and 25 July 2026.

## The Prosecutor v. Adrian Xaba

### Procedural History

- 1) On 3 March 2022, the State of Meruvia, a State Party to the Rome Statute, referred the Situation on its territory between January 2021 and February 2022 to the OTP pursuant to Article 14 of the Statute. After a preliminary analysis, the Prosecutor opened an investigation into the situation in Meruvia’s Northern Kivara region on 11 June 2022.
- 2) Following an initial investigation into crimes allegedly committed in the Northern Kivara region between January 2021 and February 2022, the Prosecution filed an application for the issuance of a warrant of arrest for Adrian Xaba on 12 July 2023.
- 3) On 25 July 2023, PTC I issued the warrant of arrest for Mr Xaba pursuant to Article 58(1) and (2) of the Statute.
- 4) On 3 November 2023, Mr Xaba voluntarily surrendered to the Court and was transferred to the ICC Detention Centre. On 7 November 2023, he made his first appearance before the Chamber pursuant to Article 60(1) of the Statute.
- 5) On 4 January 2024, the Prosecutor filed the Document Containing the Charges (“DCC”), together with the List of Evidence. The charges allege that Mr Xaba is a co-perpetrator of the war crimes of conscription or enlistment of children under the age of 15 into armed groups or forces, or using them to participate actively in hostilities, within the meaning of Article 8(2)(e)(vii) of the Statute.
- 6) On 12 January 2024, the Defence filed a written submission on two issues pursuant to Rule 121(9) of the Rules of Procedure and Evidence:
  - (i) The Defence submitted that there are no substantial grounds to believe that Mr Xaba acted as a co-perpetrator in the commission of the alleged war crimes under Article 8(2)(e)(vii) of the Statute and that the Chamber should therefore decline to confirm the charges.
  - (ii) The Defence further contended that several statements included in the Prosecution’s List of Evidence had originally been obtained by the Meruvian National Intelligence Bureau (“NIB”) while the individuals were detained *incommunicado*, without legal assistance and under coercive conditions. It submitted that these statements were obtained in violation of internationally recognised human rights and should therefore be excluded pursuant to Article 69(7) of the Statute.
- 7) Both issues remain for determination by PTC I during the confirmation of charges hearing, which has been scheduled to take place from 22 to 25 July 2026.

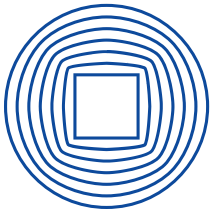


## Facts

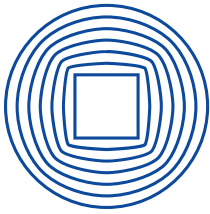
- 8) The State of Meruvia is a unitary country with a population of approximately 18 million. Its northern most region, Northern Kivara, is largely rural and characterised by mountainous terrain, dense forests and widely dispersed settlements. The region is home to several ethnic communities who share linguistic and cultural traditions distinct from other parts of Meruvia. Northern Kivara's geography makes transportation and administrative access more challenging than in other regions and many communities live in remote areas connected by limited road networks.
- 9) Between January 2021 and February 2022, the Northern Kivara region experienced intense instability and violence. Long-standing tensions between the central government and ethnic communities in Northern Kivara deepened during this period. Members of these communities claimed that government policies had neglected the region for years, resulting in limited political representation, insufficient public investment and restricted access to economic opportunities. Northern Kivara remained among the least developed regions of Meruvia, with limited schools, healthcare facilities and employment options. Community members also expressed concern over restrictions on peaceful demonstrations and community meetings, alongside reports of arbitrary arrests, house searches and the use of force by the Meruvian Defence Forces ("MDF").
- 10) Dissatisfaction and frustration among community members escalated into large-scale clashes following the emergence of the Kivara People's Defence Movement ("KPDM"), an armed group that declared itself committed to defending the rights and autonomy of the Kivara population. KPDM carried out several attacks that resulted in significant losses to infrastructure and military resources used by the MDF. During this period, State authority weakened substantially and several districts came under the *de facto* control of KPDM. The MDF repeatedly conducted operations to regain control, leading to sustained confrontations characterised by ambushes, exchanges of fire and the establishment of KPDM checkpoints along major routes.
- 11) KPDM operated through a number of local units across Northern Kivara. In certain areas, the group maintained a visible presence for extended periods, including roadblocks on main and secondary routes, fixed positions near key junctions and encampments in forested or hilly terrain. Local residents in some districts reported that KPDM fighters patrolled regularly, imposed informal rules on movement during certain hours and, in some places, collected "contributions" in the form of food, money or goods. In other areas, KPDM's presence was more sporadic, with units entering and leaving without establishing sustained territorial control.
- 12) KPDM exhibited some indications of internal organisation, although the extent and consistency of its structure remain unclear. Certain accounts refer to individuals acting as coordinators and to geographically defined "sectors" in parts of Northern Kivara that were at times overseen by senior members, but the scope and authority of such roles are not well documented. Other information suggests that KPDM often operated less as a centralised entity and more as a loose association of village-based groups that shared common grievances yet acted largely autonomously. Reports from local officials and limited-access field missions describe instances in which messages characterised as "orders" were transmitted by radio or couriers, while also noting situations in which local commanders appeared to make decisions independently and without clear connection to any overarching command structure.



- 13) Berne Jumba, who had previously worked for the MDF but was later dismissed from his position due to his ethnic background, played a significant role in the early stages of KPDM's mobilisation and coordination. He was reportedly involved in taking important policy decisions and overseeing their implementation. Over time, decision-making authority within KPDM became more decentralised as other community leaders joined the group and became actively engaged in operational matters.
- 14) Public communications attributed to KPDM identified Adrian Xaba as a prominent figure associated with the group during this period. He was known to have close ties with Berne Jumba and both played active roles in coordinating KPDM activities. From February to July 2021, Mr Xaba reportedly served as KPDM's "coordinator", with responsibilities that included organising meetings, maintaining contact with local commanders and facilitating recruitment activities. During that time, local residents in different parts of Northern Kivara saw him at community meetings, public gatherings or locations under KPDM influence. He was seen participating in recruitment visits across multiple villages, including Maliko, Ruvenga, Tandora and Lumbara. Documents later recovered during MDF operations contained references to him in relation to activities described as "coordination", "recruitment" and "meetings with sector heads".
- 15) In early 2021, KPDM launched a mobilisation campaign encouraging community members, particularly boys and young men, to join the group. During a public gathering in Kivara Town, Adrian Xaba delivered a speech urging "all able Kivarians" to join KPDM and support its efforts. Mr Xaba and KPDM members were also reported to have visited households, distributed leaflets and repeatedly asked families to send their sons to take part in KPDM's activities. Families reported that even households with children aged between 13 and 14 were urged to send their sons.
- 16) Throughout 2021, observers reported the presence of young individuals in areas under KPDM control. These individuals were seen near checkpoints, within encampments or moving alongside armed groups. In several villages, including Maliko, Ruvenga and Tandora, families reported that boys from their households left their homes after Mr Xaba and other KPDM members visited their communities. Several families informed the local police that their sons, aged between 13 and 14, had not returned home and stated that they believed the boys had been recruited by KPDM.
- 17) A Humanitarian Response Mission (HRM) conducted by the International Relief Consortium (IRC) in Northern Kivara reported similar observations during limited-access visits carried out between May and July 2021. In its field observation report, the HRM recorded instances of children who appeared to be under the age of 15 accompanying armed groups along rural footpaths, assisting at checkpoints and carrying supplies within temporary encampments. The report stated that some residents described boys "as young as 13-14" being approached by KPDM members for recruitment. The HRM also noted that KPDM's organisational structure appeared uneven across locations, with "local groups showing varying degrees of coordination and autonomy", and that the broader security environment remained volatile.



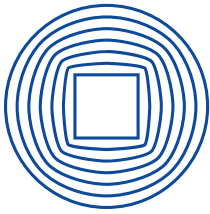
- 18) A major incident occurred in August 2021, when an MDF convoy was ambushed near Mount Vutura. Forty-five MDF personnel were killed and many others injured. After the attack, two injured individuals wearing KPDM insignia were found near the ambush site and taken to a local medical post for treatment. Medical staff noted that both exhibited physical characteristics suggesting they were under 15 years old. Their families later confirmed that one was 13 and the other was 14. The families were from the village of Tandora. Residents from nearby settlements stated that, in the days before the ambush, children had been seen moving with armed groups in the surrounding area and carrying weapons.
- 19) Elsewhere, persons believed to be associated with KPDM were observed performing drills or carrying out logistical tasks. Some of these individuals appeared physically young. At certain checkpoints, boys were seen assisting with activities such as carrying supplies or relaying messages. Around the same time, a local newspaper published a report titled “Concerns Grow Over KPDM’s Use of Children”, criticising KPDM for involving children in its operations.
- 20) Three individuals later identified as former KPDM members, i.e. P-143, P-167 and P-204, were apprehended during counter-insurgency operations conducted by Meruvian authorities. Their initial interviews were conducted by the NIB while they were held in detention. The records contain accounts of conditions in KPDM-controlled areas and descriptions of individuals present at camps or involved in activities during the conflict. The interview records were subsequently forwarded to the competent national authorities. These interviews took place before the detainees had access to legal counsel and in the absence of judicial oversight. NIB officials stated that the initial questioning was undertaken urgently for national security purposes, following their standard intelligence-gathering procedures. Under the Meruvian Criminal Procedure Code, however, the interrogation of detained persons is regulated as follows:
- Article 42 – Interrogation of Persons in Detention*
- 1. Persons held in detention may be interrogated by law-enforcement authorities or intelligence services, provided that they are informed, prior to questioning, of the allegations against them and of their rights under this Code, including the right to remain silent and the right to consult with legal counsel.*
  - 2. Where a detainee requests the presence of legal counsel, the interrogation shall be postponed until counsel is available, unless the delay would pose a substantial and immediate risk to public security.*
  - 3. Any use of force, threats, or coercion during an interrogation shall render the resulting statements inadmissible.*
- 21) Shortly after these interviews, while the authorities were transporting the detainees between two security facilities, the convoy was ambushed on a secondary road near the village of Lumbara. According to MDF officials, the tactics used in the attack were consistent with previous KPDM operations and the ambush was attributed to KPDM fighters. Several MDF officers were injured during the exchange of fire and all three detainees managed to escape amidst the chaos.



- 22) A few weeks after the escape, an unverified post circulated on a local social media platform, purportedly authored by one of the escaped detainees. The post claimed that the individual had been “forced to answer questions” during NIB interrogation. Meruvian authorities stated that they could not authenticate the origin or reliability of the post and that no further information regarding the whereabouts of the escaped individuals was available.
- 23) KPDM continued to call for broad mobilisation of youth in Northern Kivara. Community members reported that boys and young men were regularly seen in KPDM-held areas during this period. Some returned intermittently to visit their families; others did not. Several families whose sons did not return organised demonstrations to protest against the KPDM. In response, the KPDM issued a public statement containing the following passage:
- “The Kivara People’s Defence Movement does not permit the recruitment of children. Any instances in which younger individuals may have joined our ranks are the result of uncertainty regarding age, as many communities lack formal documentation.”*
- 24) By December 2021 and January 2022, MDF operations regained control over several areas previously held by the KPDM. As MDF forces increased their presence in Northern Kivara and disrupted several of KPDM’s supply routes, KPDM’s operational capacity weakened considerably. MDF forces raided multiple locations reportedly under KPDM’s control, resulting in armed confrontations, casualties and the dispersal of KPDM fighters. Some KPDM leaders, including Berne Jumba, died during these confrontations.
- 25) Following Mr Jumba’s death, Adrian Xaba continued performing his core functions within KPDM. However, as MDF operations intensified and the group faced shrinking manpower and resources, Mr Xaba was reportedly unable to sustain these activities. By the end of February 2022, he left Northern Kivara. He later appeared in a neighbouring state, where he initiated contact with officials to arrange his voluntary surrender to the ICC. He was transferred to The Hague in November 2023.

## Agenda for Pre-Trial Chamber I

- 26) The established agenda for PTC I’s hearing is as follows:
- (i) Whether there are substantial grounds to believe that the war crimes under Article 8(2)(e)(vii) of the Statute, namely conscripting or enlisting children under the age of 15 into armed groups or forces, or using them to participate actively in hostilities, were committed by an organised armed group in the context of a non-international armed conflict.
  - (ii) Whether there are substantial grounds to believe that Mr Xaba is criminally responsible as a co-perpetrator for these war crimes within the meaning of Article 25(3)(a) of the Statute.
  - (iii) Whether certain statements included in the Prosecution’s List of Evidence should be excluded under Article 69(7) of the Statute on the basis that they were allegedly obtained by national authorities while the detainees were held *incommunicado* and under coercive conditions.



## Evidence Exhibits

### Exhibit 1 – Local Newspaper Excerpt

#### **Meruvia Daily Chronicle**

2 September 2021

#### **Concerns Grow Over KPDM's Use of Children**

Reports from several communities in Northern Kivara have raised concerns about the presence of children in areas under the control of the Kivara People's Defence Movement (KPDM). Residents of Maliko, Ruvenga and Tandora stated that boys from their households left home after KPDM members visited their villages earlier this year. Several families informed the local police that their children, aged between 13 and 14, had not returned home.

Humanitarian workers travelling along the Maliko–Ruvenga route told the Chronicle that they had seen “young-looking boys” stationed at checkpoints operated by KPDM. According to their accounts, some boys appeared to be carrying supplies, delivering messages or accompanying armed men on foot patrols. One aid worker reported seeing “two boys, possibly aged between 12 and 14, helping to transport equipment” near an informal training site in the Vutura foothills.

Residents from settlements near Mount Vutura reported that children were seen moving with armed groups in the days before the 24 August ambush on an MDF convoy. Medical staff who treated two injured individuals found near the scene said they appeared “very young”. Family members later identified them as 13 and 14 years old.

Community representatives have expressed growing concern about the issue, noting that many families are increasingly worried about the safety and well-being of their children. KPDM, however, has denied any deliberate recruitment of children. Authorities state that they are continuing to monitor the situation and have urged communities to exercise caution. No official figures are available on how many children may be involved.

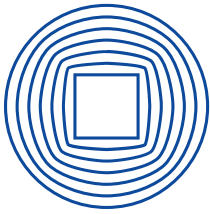
### Exhibit 2 – Excerpts from the Humanitarian Response Mission (HRM) Report (May–July 2021)

#### **Observation on KPDM's organisational structure**

“The mission observed that KPDM's organisational structure appeared uneven across different parts of Northern Kivara. In some areas, the group displayed signs of coordination, such as the existence of designated checkpoints and identifiable individuals issuing instructions. In other areas, armed groups seemed to operate with considerable autonomy, with local commanders making decisions independently and without clear linkage to a broader command structure.”

#### **Observation on the participation of children**

“Team members observed several individuals who appeared to be under the age of 15 in or near locations used by KPDM. These included boys assisting armed men by carrying containers, transporting supplies or relaying messages. In one encampment, the team saw two boys, estimated to be between 13 and 14, wearing clothing similar to that of KPDM fighters.”



#### **Interviews with local residents**

"Multiple residents of Tandora and Maliko reported that their children, aged approximately 13–14, left their homes after KPDM members visited their communities as part of the group's recruitment efforts. Families generally lacked formal documentation establishing exact ages."

#### **Interviews with former KPDM members**

"According to two individuals who stated they had previously been associated with KPDM, local commanders varied in authority and did not always act on the basis of formal orders. They reported that, in many instances, decisions appeared to be taken by whoever held influence at the time rather than by reference to an established command structure."

#### **Limitations**

"Due to security restrictions and limited access to certain areas, the mission did not conduct a full assessment of KPDM's internal structure. Observations are based on visual assessments, interviews with residents and short site visits."

### **Exhibit 3 – Excerpts from NIB Interview Records (P-143, P-167, P-204)**

#### **P-143 – Excerpt from Interview Record No. NIB-12/2021**

"I first saw boys joining KPDM earlier this year. Some looked very young, maybe twelve or thirteen. But no one asked their exact age. If someone looked strong enough, they stayed."

"Before the attack near Mount Vutura, there were three boys who stayed in our sector camp. They carried small bags and sometimes delivered messages between the checkpoints."

"I saw Adrian Xaba once in the camp, maybe around May. He spoke with the sector head, telling everyone that more volunteers were needed."

#### **P-167 – Excerpt from Interview Record No. NIB-15/2021**

"KPDM people came to our village and told all families to send someone to help. Some families sent their sons who were not even grown. I remember two boys who said they were fourteen. They stayed for a few weeks before moving with a bigger unit."

"Before the Vutura ambush, they gathered everyone who could walk fast. I saw at least three boys with the group that left the camp that night. They were carrying rounds of ammunition in small backpacks."

"I once heard Mr Jumba and Mr Xaba discussing which sectors needed more people. They didn't talk to us directly."

#### **P-204 – Excerpt from Interview Record No. NIB-19/2021**

"In the beginning, KPDM was like a community defence group. Later, people from other villages joined. People came and left frequently, and the leadership changed often. It was not always clear who was in charge."

"Orders were coming from different people. Sometimes sector leaders gave instructions, other times it was a senior member who had joined earlier."

"For the Mount Vutura operation, I didn't go. But I knew that some young boys went with the fighters. They were told to carry backpacks and weapons."

Contact Addresses

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