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Pursuant to article (30), second paragraph, letter (b) of the Rome Statute, a person is deemed to have acted with intent in relation to consequence or result if he or she “means to cause that consequence or is aware that it will occur in the ordinary course of events”.

The former alternative of article (30), second paragraph letter (b), of the Rome Statute refers to situations where the individual clearly wanted to bring about a criminal result. For example, a person aiming at killing another individual would fall under this alternative.

On the other hand, the latter alternative of article (30), second paragraph, letter (b) of the Rome Statute refers to situations where the person did not clearly want to bring about the criminal result but foresaw it with a certain degree of likelihood.

That being said, it must be underlined that the precise interpretation of the wording “is aware that it will occur in the ordinary course of events” in the second alternative of article (30), second paragraph, letter (b) of the Rome Statute, has raised a major interpretative issue.

According to a first school of thought, intent in relation to consequence or result could be established already in some situations where the person was aware of a risk below the threshold of practical certainty of practical certainty that the result or consequence could have occurred. Let’s think, for example, about a person performing a strike close to a civilians’ settlement, while knowing that the military operation will bring about also civilian casualties with some degree of likelihood.

Notably, the ICC first decision on the confirmation of charges, which was pronounced in *Lubanga* in 2007, has adhered to this first school of thought. In this decision, Pre-Trial Chamber I of the International Criminal Court has opined that the requirements of article (30), second paragraph, letter (b) of the Rome Statute would be satisfied already in situations - I quote from the decision - “in which the suspect (a) is aware of the risk that the objective elements of the crime may result from his or her actions or omissions, and (b) accepts such an outcome by reconciling himself or herself with it or consenting to it (also known as *dolus eventualis*)” [end of the quotation].

The *Lubanga* decision on the confirmation of charges further added that the relevant *dolus eventualis* could be established in two different kinds of scenarios.

Firstly, the relevant *dolus eventualis* will exist in cases where the risk of bringing about the consequence or result was substantial. According to the *Lubanga* decision on the confir-

mation of charges, in this kind of situation the person's acceptance of the crime could be inferred already from his or her decision to carry out the action or omission, despite the awareness of the result in terms of substantial likelihood.

Furthermore, according to the *Lubanga* decision on the confirmation of charges, *dolus eventualis* could be established also in situations of low criminal risk. However, in these situations, for criminal responsibility to be triggered, the person must have clearly or expressly accepted the possibility of course in defense. Hence, according to the *Lubanga* decision on the confirmation of charges put forward a very broad interpretation of the notion of intent under the Rome Statute. After having being endorsed in principle in the *Katanga* decision on the confirmation of charges in 2008, however, this broad interpretation was later abandoned by the International Criminal Court in favour of an alternative understanding.

More precisely, in the *Bemba* decision on the confirmation of charges in 2009, Pre-Trial Chamber II of the International Criminal Court stated that intent under the Rome Statute should only be considered as established if the person was aware that the material elements of the defence would have been the almost inevitable outcome of his or her conduct. The *Bemba* decision affirmed - I quote from it - that "with respect to *dolus eventualis* as the third form of *dolus*, recklessness or any lower form of culpability, the Chamber is of the view that such concepts are not captured by Article (30) of the Statute" [end of the quotation].

The narrower interpretation of intent put forward by Pre-Trial Chamber II in *Bemba* is also shared by numerous commentators. This interpretation is most notably rooted in a literal interpretation of the wording "will occur in the ordinary course of events" pursuant to article (30), second paragraph, letter (b) of the Rome Statute.

After the *Bemba* decision on the confirmation of charges, the interpretation of intent as requiring practical certainty of the crime was endorsed in principle at the trial level, namely in the *Lubanga* trial judgment in 2012, and in the *Katanga* trial judgment in March 2014.

More recently, in December 2014, the *Lubanga* appeal judgment confirmed that under article (30) of the Rome Statute - I quote from the judgment - "the standard for the foreseeability of events is virtual certainty".