



KATANGA / NGUDJOLO CHUI

INFORMAL WEEKLY SUMMARY

15 - 19 AUGUST 2011

<p>Situation Case</p>	<p>Democratic Republic of Congo 01/04-01/07 The Prosecutor vs. Germain Katanga and Mathieu Ngudjolo Chui</p>	<p><u>Germain Katanga</u>: born 1978 in Mambassa, Ituri district, Eastern Province; National of the DRC; Alleged commander of the Force de résistance patriotique en Ituri (FRPI).</p>
<p>Hearing: Chamber:</p>	<p>Trial Proceedings Judge Bruno Cotte (Presiding Judge), Judge Fatoumata Dembele Diarra, Judge Christine van den Wyngaert</p>	<p><u>Mathieu Ngudjolo Chui</u>: born 1970 in Bunia, Ituri district, Eastern Province; National of the DRC; Alleged former leader of the Front des nationalistes et intégrationnistes (FNI).</p>
<p>Parties:</p>	<p>OTP: Mr Eric McDonald, Mr Garcia, Ms Dianne Luping, Mr Gilles Dutertre and team; Defence Mr Katanga: Mr. David Hooper, Mr. Andreas O'Shea and team; Defence Mr Ngudjolo: Mr. Jean-Pierre Kilenda Kakengi Basila, and team;</p>	<p>Alleged crimes: <u>Germain Katanga and Mathieu Ngudjolo Chui</u> allegedly jointly committed, through other persons:</p> <ul style="list-style-type: none"> o Crimes against humanity: Murder, sexual slavery and rape; o War crimes: Using children under the age of 15 to take active part in hostilities; deliberately directing an attack on a civilian population as such or against individual civilians not taking direct part in hostilities; willful killing; destruction of property; pillaging; sexual slavery; rape.
<p>Participants</p>	<p>365 victims represented by Legal Representatives for Victims: Mr. Fidel Nsita Luvengika and Mr. Jean-Louis Gilissen</p>	
<p>Start of Trial:</p>	<p>24 November 2009</p>	

This week three witnesses gave their testimony.
Witness 44, (1st witness for the Defence of Mathieu Ngudjolo), who testified with protective measures, worked as a nurse in Kambutso between 2002 and 2003.
Witness 55, (2nd witness for the Defence of Mathieu Ngudjolo), who testified with protective measures, was working at the Kambutso health centre between 2002 and 2003.
Witness 66, (3rd witness for the Defence of Mathieu Ngudjolo), who testified with protective measures, was working as the Secretary of Mgbabu Emmanuel, Chief of the Bedu Ezekerie Groupement.

15 August, 2011
 Witness 44 was sworn in. The Defence of Mr. Ngudjolo started and concluded its examination-in-chief.

During its examination-in-chief by the Defence of Mr. Ngudjolo, the witness provided insight on:

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- **His training as a nurse in Bunia and Kambutso from 2001 to 2003:** The witness gave evidence about his initial nurse-training in Bunia with Mr. Ngudjolo, their moving to Kambutso from Bunia in 2002 because of disorder, and the role played by Mr. Ngudjolo as instructor. The witness further stated that he didn't know whether Mr. Ngudjolo was doing something else apart from teaching.
- **The situation in the Bedu-Ezekerie Groupement¹:** The witness stated that he was in Bedu-Ezekerie from 2002 to 2003 and that the head of the Groupement at the time was a man called Mgbu Emmanuel commonly referred as 'Manu'. The witness also stated that he didn't know about any military camps or child soldiers in the area.
- **Attacks in the Bedu-Ezekerie Groupement:** The witness gave evidence on the intense fighting in Bedu-Ezekerie during 2002-2003 coming from Bogoro, Kaseni, Mandro, Bunia. The witness stated he didn't know the groups which were leading those attacks. Allegedly some people were killed, houses were burnt down and property was looted.
- **The attack on Bogoro:** The witness testified on the attack on Bogoro on 24 February 2003. He stated it was around 4-5 am while he was working at Kambutso hospital. At approximately 7 or 8 am the witness' duties passed his to Mr. Ngudjolo. The witness further stated he could not know whether Ngudjolo was involved in something different from the work in the hospital but to his knowledge Mr. Ngudjolo was not connected with any military activity nor was there a military organization set up in Kambutso at the time.

16 August, 2011

The Prosecution started and concluded its cross-examination of witness 44. Witness 55 sworn in. The Defence of Mr. Ngudjolo started and concluded its examination-in-chief.

During his cross-examination by the Prosecution, witness 44 provided insight on:

- **Witness 44's relationship with Mr. Ngudjolo:** The witness testified that he met Ngudjolo at the training course, that Ngudjolo is not a member of his family and that he didn't know Ngudjolo was part of the Congolese army under the authority of President Mobutu.
- **Security situation in the Groupement and alleged crimes:** The witness did not know about the fight in Nyankunde of 5 September 2002 nor about the existence of organized groups such as the UPC². The witness stated he had known of the existence of tensions between the Lendu and Hema ethnic groups and of fighting in general but he didn't remember precise dates or events. The witness stated that he was aware of alleged looting of food and abducting women but he did not take part in those events.
- **Ngudjolo and military activities:** The witness asserted that to his knowledge Mr. Ngudjolo was not involved in any military activities during the 'relevant period' of 2002-2003³. He stated he did not remember when exactly Mr. Ngudjolo went from

¹ An area in Ituri where, at the time of the conflict in 2002-2003, the majority of Lendus were concentrated, included Mr. Ngudjolo.

² UPC: Union des Patriotes Congolais, a militia composed almost exclusively of ethnic Hema.

³ 'Relevant period': is the period which is relevant to the case as related to the facts and events on which the charge against the two accused is focused. The period goes from around August 2002 to April 2003.

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being a nurse to undertaking military activities and he knew only that in 2003 he left Kambutso to go to Bunia and never returned.

- **Knowledge of the attack on Bogoro:** The witness denied that someone had told him the exact date of the battle of Bogoro, asserting that he learnt about it from the radio and the news. The witness further stated that he was approached to give testimony in The Hague, that he had met with Mr. Lopa Koli⁴ on several occasions but that he had not talked with Ngudjolo since he was detained.
- **Ngudjolo as a combatant but not a soldier:** The witness stated that in 2002 and 2003 Mr Ngudjolo was a combatant but not a soldier. The witness further explained that the term 'combatant' represented a person who defended himself while a soldier was under the command of someone else.

Witness 55 sworn in. During its examination-in-chief by the Defence of Mr. Ngudjolo, the witness provided insight on:

- **His relationship with Ngudjolo:** The witness stated he knew Ngudjolo very well as they both were children in Ezekerie in 1975 but they were not relatives.
- **The situation in Ituri in 2002-03:** The witness stated that he moved from Bunia to Zumbe when hostilities started. Zumbe was allegedly attacked several times by the UPDF⁵ and the UPC. Allegedly people were killed and houses were burnt down. The inhabitants of Zumbe defended themselves with rudimentary weapons and a 'Structure-Committee'⁶ was set up.
- **Movement of Ngudjolo:** The witness stated that at the time of the hostilities Mr. Ngudjolo was a student at ITEM⁷ in Bunia. The witness and Mr. Ngudjolo fled together, and once in Zumbe, Mr. Ngudjolo sent him an invitation to participate in a meeting on the 18th September 2002⁸. At the meeting it was decided to set up another health centre in Kambutso and the witness was appointed as chairman of the new centre. The decision was taken by Ngudjolo.

17 August, 2011

The Defence of Mr. Ngudjolo completed its examination-in-chief of witness 55, and the Prosecution began its cross-examination.

During the examination-in-chief by the Defence of Mr. Ngudjolo, the witness provided insight on:

- **The meeting of 22 September 2002:** The witness stated that Mr. Ngudjolo organized the meeting in order to set up a new health centre in Kambutso and the chiefs of various localities in the area were present. The witness was shown a document related to the meeting and he stated that the drafter was Mr.

⁴ Lopa Koli: Investigator from the Ngudjolo's Defence Team.

⁵ UPDF: Uganda National Armed Forces.

⁶ Structure Committee: also known as 'Base Committee', it represented the overall structure in which was organized the Bedu Ezekerie Groupement in the years 2002-03. It was organized in 5 committees: administrative, drafting, self-defence, health and management.

⁷ ITEM: Medical Technical Institute.

⁸ As the witness subsequently admitted during the cross-examination by the Prosecutor, the exact date of the meeting was not the 18th of September as the witness had previously stated but the 22nd of September as it appeared in a written report exhibited by the Defence.

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Ngudjolo and that it was the first time he had seen that document.

- **The security situation:** Without giving any more specific details, the witness referred to a battle led by Bosco Ntaganda⁹ in which people from Zumbe had to flee and hide in the bush. Allegedly houses were burnt and people died. The witness testified that during the relevant period there was no planned counter-strategy of the Groupement to respond to the attacks launched by the UPC.
- **Mr. Ngudjolo at the hospital during the attack on Bogoro:** The witness testified that fighting took place in Bogoro on 24 February 2003. He stated he was working at the health station in Kambutso early in the morning and that the first person he had seen arrive at work was Ngudjolo. The witness then went to a hill from 9am to around 10am to see what was happening in Bogoro and when he came back Mr. Ngudjolo was still there. The witness denied that Ngudjolo took part in the attack on Bogoro.
- **Mr. Ngudjolo and the FNI¹⁰:** The witness stated that he knew about the existence of the FNI but that FNI was not present in Bedu-Ezekerie in 2002-03 nor that Mr. Ngudjolo was its supreme commander.
- **The APC¹¹:** The witness testified that the APC was present in Zumbe during the relevant period.

The prosecution started its cross-examination of witness 55:

- **Meeting of 22nd September 2002:** The witness confirmed that the meeting for the establishment of a new health centre in Kambutso took place on the 22th and not on the 18th of September 2002 as he has previously stated.

18 August, 2011

The Prosecutor continued its cross-examination of witness 55.

During the cross-examination by the Prosecutor the witness provided insight on:

- **Self-defence groups in the Bedu-Ezekerie Groupement:** The witness stated that there were no self-defence groups organized in Kambusto and Bedu-Ezekerie.
- **The preparatory meeting for the establishment of the Kambutso health centre:** According to the witness, although the village of Kambutso was surrounded by the UPC forces the people of Kambutso still got medicine and food supplies, in particular a NGO called 'Medere' supplied the village with medicine.
- **Attack on Nyankunde:** The witness stated that he did not know about the attack in NyaNkunde of September 2002 and that Ngudjolo was a colonel in the FARDC¹² armed force at the time of his arrest.
- **The attack on Bogoro:** The witness stated that he could remember the date of the attack very well as it was one of the major events which took place in that

⁹ Bosco Ntaganda: Military Chief of the National Congress for the Defence of the People (CNDP), an armed militia group operating in the North Kivu Province of the DRC. Mr. Ntaganda is wanted by the ICC for war crimes since 22 August 2006.

¹⁰ FNI: *Front des Nationalistes et Intégrationnistes*, a militia originally created to help the Kinshasa government to regain control over Ituri.

¹¹ APC: *Armée du Peuple Congolais*, was the armed forces of the RCD-K/ML (Congolese Rally for Democracy - Liberation Movement) which until 2002 claimed to be the political and administrative authority throughout Ituri and North Kivu province.

¹² FARDC: The Armed Forces of the Democratic Republic of Congo. The Force has been rebuilt as part of the peace process which followed the end of the Second Congo War in 2003.

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particular area. The witness confirmed that he met Ngudjolo at the hospital on that day. The witness witnessed part of the village of Bogoro destroyed when he passed through the village in May 2004. On that occasion the witness had to go through some security check-points established by the FRPI¹³ but he couldn't say if it was FRPI which had attacked Bogoro.

- **His position as witness:** The witness stated that he had never spoken with Ngudjolo's brother Deo Lochubo about the case. He further gave insight on how he became witness, stating that he was first approached by 'Ms. Maryse'¹⁴ from the Defence and then by the investigator Lopa Koli but he ensured that he didn't discuss the case with them.

19 August, 2011

The Defence of Mr. Ngudjolo started its examination-in-chief of witness 66.

During the examination-in-chief by the Defence of Mr. Ngudjolo, the witness testified on:

- **Committees in the Bedu-Ezekerie Groupement:** The witness stated that during the period between August 2002 and March 2003 he was working as the Secretary of Mgabou Emmanuel, the chief of the Groupement. According to the witness the 'Self-Defence Committee' was composed of young people and was only involved in self-defence and was not involved in any attacks.
- **Mr. Ngudjolo as a nurse:** The witness stated that during the relevant period Mr. Ngudjolo was part of the Health Committee as a nurse and did not take part to the attack of Bogoro.
- **The security situation in Bedu-Ezekerie in 2002-03:** The witness stated that there were military camps in the Bedu-Ezekerie groupement but they were not organized structures. The witness denied the existence of child soldiers in the groupement, alleging that young people were considered as 'combatants' not as 'soldiers'. According to the witness, UPC forces backed by the UPDF were controlling Bogoro, Bunia and Mandro and the Congolese Government was totally absent.

¹³ Ituri Patriotic Resistance Force, a militia comprised of mostly ethnic Ngiti.

¹⁴ Ms. Maryse Alié: Counsel for the Defence of Mathieu Ngudjolo Chui.

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