



COALITION FOR THE
INTERNATIONAL CRIMINAL COURT



KATANGA / NGUDJOLO CHUI
INFORMAL WEEKLY SUMMARY
23 - 27 AUGUST 2010

Situation Case Democratic Republic of Congo
01/04-01/07
The Prosecutor vs. Germain Katanga and Mathieu Ngudjolo Chui

Hearing: Chamber: Trial Proceedings
Judge Bruno Cotte (Presiding Judge), Judge Fatoumata Dembele Diarra, Judge Christine van den Wyngaert

Parties: 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;

Participants 363 victims represented by Legal Representatives for Victims: Mr. Fidel Nsita Luvengika and Mr. Jean-Louis Gilissen

Start of Trial: 24 November 2009

Germain Katanga: born 1978 in Mambassa, Ituri district, Eastern Province; National of the DRC; Alleged commander of the *Force de résistance patriotique en Ituri* (FRPI).

Mathieu Ngudjolo Chui: born 1970 in Bunia, Ituri district, Eastern Province; National of the DRC; Alleged former leader of the *Front des nationalistes et intégrationnistes* (FNI).

Alleged crimes:

Germain Katanga and Mathieu Ngudjolo Chui allegedly jointly committed, through other persons:

- **Crimes against humanity:** Murder, sexual slavery and rape;
- **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.

The Katanga/Ngudjolo trial resumed after the summer recess on 23 August 2010. In the week of 23-27 August, **Witness 30 (16th OTP witness)** testified under protective measures. He is currently under the Court's protection programme. Due to his occupation, he was called as a contextual witness. After the examination-in chief by the OTP, the Legal Representatives of Victims and the Defence questioned the witness. The examination of the parties was partly based on video footage shown to the witness. (the witness had already appeared before another Chamber of the Court, ie in the Lubanga trial).

23 August 2010

The Chamber started with the following procedural issues:

- **Expenses:** before the judicial recess the Defence team for Mr. Katanga requested information on the amount of money spent on witnesses and intermediaries. In the past this information has been provided by the OTP. The VWU has proven to be more reticent. The Chamber consulted with the Unit: Mr. Dubuisson, Director of Court Services, will appear in Court next week on this matter;
- **Follow-up on status conference 9 July 2010:**
 - **OTP:** recalled the remaining hours for direct examination: 50 hours for the remaining 9 witnesses which, according to the OTP, will be

This is a very informal summary. Please note we were unable to verify the spelling of some of the persons and locations mentioned. Please do not forward without prior consent from CICC staff.

sufficient. The final list of witnesses should be indicated in September. It is confirmed that Witness 166 will appear. The Court will be informed about the witnesses to be recalled and the themes of the examination of the remaining witnesses.

- *Legal Representative of Victims:* Mr. Luvengika already has an idea as to the victims to be called to testify but this still has to be confirmed. Mr. Gilissen already informed the Court that he has no witnesses to call.
- *Defence:* A response to the OTP filing of 19 July 2010 still has to be filed and the teams will reflect on calling common witnesses.

The OTP planned to examine Witness 30 based on 29 video clips and already disclosed the necessary materials. The Defence team for Mr. Ngudjolo Chui challenged several of the excerpts claiming the extracts were not relevant and had no bearing on the actual facts of the case:

24 August 2010

The Chamber ruled that the 17 extracts would be admitted into evidence. They would allow the Chamber to better understand and assess the conflict in Ituri. The evidentiary weight will be determined by the Chamber afterwards.

Examination in Chief of Witness 30 by the OTP

OTP Witness 30 started to testify. Plagued by translation - sound quality, inaudible speakers - and technical problems, the first five extracts were shown and discussed. Questions of an identifying nature were asked in private session. In public the witness gave more information on what could be seen. The material, shown without sound, revolved around several events:

- 4 April 2003: Meeting Ituri Pacification Commission (IPC)
Four extracts of the same event were shown, which had to do with the Ituri Pacification Commission which the witness attended from the beginning to the end of the ceremony. All the ethnic groups in Ituri were gathered together here. All armed groups sat down to negotiate together. The witness among others recognised a representative who spoke on behalf of the UPC as well as Mr. Ngudjolo Chui in the audience.
- 3 May 2003: City centre Bunia (1)
Did anything happen on that day? The witness replied the he did not remember anything specific. Things were happening in Bunia. At a certain moment there were troubles, people sought shelter elsewhere, shooting. There were military groups present in the centre of Bunia.

25 August 2010

Continuation of Examination in Chief of Witness 30 by the OTP

Ms. Luping from the OTP started with the presentation of the extracts which would be discussed in the following session.

- 3 May 2003: City centre Bunia (2)
Four extracts were presented in one block for contextual purposes. The witness described further: groups of Lendu people - combatants - were coming back after an attack. The footage depicts their return from a Hema neighbourhood, "Muzipella", in Bunia. The witness stated that the attack took place a few days after the departure of the Ugandans. He was asked to identify several people.
- 6 May 2003: Soldiers in Bunia
Three extracts concerned the departure of groups of soldiers. The witness explained that they were UPDF soldiers returning home to Uganda. They were based at the airport and some in Bunia. Here they took the "Yambiyaya" road through Bogoro on their way to Kasenyi and further to Uganda.
- 13 May 2003: the consequences of an attack in Bunia
One extract was shown: men, women, children and babies - dead bodies and survivors - as a result of an attack at a house somewhere in Bunia.

26 August 2010

Witness 30: Examination in Chief by the OTP; Examination by LRV; Cross-examination by the Defence

Examination in Chief by the OTP:

Ms. Luping from the OTP returned to the footage which had been shown last:

- 13 May 2003: the consequences of an attack in Bunia
The event depicted took place in a sub-region of Bunia. Here killing had taken place at the home of a man, Mr. Pelerin, of Hema origin who currently resides in Kampala. The persons - survivors and dead bodies - who appeared in the footage all had family ties to the man and they were there in order to seek refuge. A young woman called "Lulu" explained what happened that day.
- Group of soldiers talking
The extract shown was a group of soldiers in a room talking. The witness explained that they were UPC soldiers, coming from Bogoro where they were chased earlier the same day. They were waiting in the office of President Thomas Lubanga. The commanders came to give a report.

The remaining extracts would not be shown and the OTP had no further questions.

Examination by Legal Representatives of Victims

Mr. Gilissen, on behalf of the participating child soldiers, only had a few questions relating to a limited period: end of 2002-first part of 2003. Specifically, the presence or rather existence of young individuals below the age of 15 in the different armed groups which the witness came across:

- The witness said he did note the presence of child soldiers in different groups, specifically the 4 groups best known in Ituri which he identified as: UPC, FAPC, PUSIC, Lendu combatants. In all of the groups were child soldiers;
- His qualification of a child soldier: anyone carrying a weapon under the age of 17. He stated, however, that he saw children under the age of 15 (10, 12, 15) and they were carrying weapons (fire-arms, knives, machetes, axes);
- He further stated that there were female child soldiers present in all the armed groups: within the UPC far more in comparison with other groups;
- He confirmed that as a general term used by civilians and military officials alike, child soldiers were called “Kadogo”.

Mr. Luvengika, on behalf of the other participating victims, had no questions.

The Chamber at this point had no questions to put to the witness.

Cross-examination by the Defence

Mr. O’Shea started his cross-examination on behalf of Mr. Katanga. Due to the identifying nature of the questions and possible answers most of the session was held in private. He did, however, question the witness on the work of a certain Mr. X who filmed crime scenes upon request of the UPC or at his own initiative. In addition, the witness was asked about the speaker in the first extract of the meeting of the Ituri Pacification Commission, who was a representative of the UPC.

27 August 2010

Cross-examination of Witness 30 by the Defence

Defence Counsel Mr. O’Shea, concluding his cross-examination, started out by returning to Mr. X and the opportunity he might have had to film attacks by the UPC in November and December 2002. Afterwards, Mr. O’Shea’s questions concentrated on the video extracts that were already presented. Witness 30 then provided the following additional information:

- The function of an elder is like a spokesman for the population, a mouth piece. In Bunia and surroundings there was a correlation between ethnicity and geographical location. Each territory had its own ethnicity and each ethnic group lives in a delimited geographical zone with well-known borders.
- 4 April 2003: IPC Conference

The Conference of the Ituri Pacification Commission did not take place on one single day. Elders were present and armed groups were represented as well as the Congolese and Ugandan government.

- 3 May 2003: City centre Bunia
Attacks on “Muzipella”, which was located outside the Bunia city centre, occurred regularly.
- 6 May 2003: Soldiers in Bunia
The Ugandan soldiers did not leave on the same day. UPC and UPDF were fighting against each other. The UPC was driven out. Afterwards UPDF soldiers continued to live in Bunia, but they left subsequently. Bunia was left at its own device. Mr. X had filmed the Ugandans marching in after 6 March 2003. The witness himself had seen UPDF soldiers, armed with heavy weapons, tanks.
- 13 May 2003: the consequences of an attack in Bunia
One of the survivors, the son of the owner of the house, was armed. The witness stated that this was because he was a UPC soldier. The killings took place before 13 May 2003, but he could not be more specific. The survivors would be the ones to tell the exact date. The UPC retook control of Bunia on 12 May 2003. Lendu groups attacked and eventually MONUC established a buffer zone between the UPC and the Lendu combatants in Bunia.