



COALITION FOR THE
INTERNATIONAL CRIMINAL COURT

KATANGA / NGUDJOLO
INFORMAL WEEKLY SUMMARY
24 - 28 MAY 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: David Hooper, 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.

Testimony by:

- **Witness 279** (15th OTP witness); under protective measures

24 May 2010

No hearing

25 May 2010

Examination-in-Chief by the OTP resumed

Witness 279, a young man in his early twenties belonging to the Ngiti, continued his testimony. The questions put to the witness by Mr. Garcia from the OTP focussed on certain topics that came up during his earlier testimony:

- He had stated that after the attack a feast took place on Zumbe hill to celebrate the capture of Bogoro. Commanders were present and it lasted for about 6 hours but the witness could not recall if any speeches were made;
- He explained that he became the bodyguard of the wife of one of the Commanders after the attack;
- He explained that the enemies were the UPC soldiers; no Hema were in the FNI group due to the big conflict between the two groups;

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.

- He further stated that hostages (women and children) were taken and killed in the bush when the meeting between Katanga and Ngudjolo in the classroom took place and had no knowledge of this. (The matter was clarified in the next hearing since the Defence indicated that translation from Swahili was incorrect.

26 May 2010

Examination-in-chief OTP finished; Questions from Legal Representatives of Victims (LRVs)

-The OTP (Mr. Garcia) concluded the examination of Witness 279 with questions relating to the two accused and how he got to know them:

- The witness stated that the soldiers in the neighbourhood told him who Mathieu Ngudjolo was and he first met him the day after they were taken to Zombe hill;
- He explained that he saw Germain Katanga on the road while he was guarding a position (other soldiers in the field had already told him).

The remaining questions were put to the witness in private session.

-Questions by Legal Representatives of Victims

Mr. Gillissen's questioning focused on the presence of young children in the Zombe camp and during the Bogoro attack. The witness was asked to elaborate more on:

- The children under the age 15 who were taken on the same day as the witness;
- The conditions under which they were taken;
- The attitude of the parents: they did not have the power to stop the soldiers;
- The people present in the Zombe camp, the composition of the military group and their training, eventual punishment, the "fetish" and the existence of health centres.

27 May 2010

Questions by LRVs; Questions from the Chamber

LRV Mr. Gillissen continued his examination of Witness 279. The questioning centred on several issues connected to the presence of children:

- He explained there was not enough food in the camp, they ate what they could get once a day: corn, beans, potatoes, cassava;
- He stated that the women and children who were taken hostage by the soldiers were civilians living in the village of Bogoro; child soldiers participated in the hostage taking;
- He further stated that the 'fetish' distributed before going into battle, was a product consisting of powder and skin of wild animals which had

to be applied on face and body. The drug affected his mind, made him feel different; it gave him energy and courage. He felt as if the situation was normal, but the realization that it was not came afterwards;

- He escaped with a friend and rejoined his family; he did not find his parents where they used to live but eventually was welcomed back; he was not afraid that the soldiers would be looking for him since his superiors were not aware that he was living in another village;
- He resumed living his life but sometimes he has nightmares or he is distressed when he thinks about the painful events.

LRV Mr. Luvengika had several questions regarding the situation of victims:

- He explained more about the behaviour of the fighters during the attack: when a fighter met a civilian, the latter was killed; When they came across a woman, they raped her (he witnessed one case himself);
- He was asked about the hostages and made clear that they were taken to a bush behind the market place in Bogoro; he did not know if they were buried afterwards;
- As to looting that took place the witness stated that Bogoro was small in scope, the entire village was hit but the looting and destruction was not part of the plan; it was carried out by the soldiers themselves; the booty (cattle, etc.) was taken back to the camp: some went to the commanders, some to the soldiers;

Questions by the Chamber

Judge Cotte questioned Witness 279 on several additional details:

- Living conditions in the camp: they slept in straw huts on grass, mats or a bed;
- The medicine ('fetish) made and distributed before the soldiers went to battle by the 'doctors'; the witness said that they were persons inhabited by a spirit who guided them and had the power to say if one could go and fight or not;
- The attack on Bogoro: the group was a mixture of the youngest fighters and adults; the enemy combatants were dressed both in civilian clothing and military uniforms.

28 May 2010

Cross-examination by the Defence

The questioning of Witness 279 by the Defence (Mr. Hooper) revolved around certain new elements that came up during the testimony of the witness. Specifically, attention was paid to the occasions when the witness saw Mr. Katanga as well as the 'fetish' in use prior to the battle:

- The witness explained that he saw Mr. Katanga on three occasions: the first time he saw him on his way to Zumbe camp, the second time was in Bogoro and the third time was in the village (pointed out by a relative);
- He stated that the 'fetish' was used for fighting; he only applied it before the attack on Bogoro; the smearing of the product had drugged the witness; he confirmed that he had limited knowledge about the further use of 'fetishes' in a more general manner;
- He further stated that it was true that the use of the 'fetish' came with certain instructions: one should fight and observe the Ten Commandments; the witness could not confirm if rape was prohibited in all circumstances as one of the Ngiti custom (the Ngiti being the ethnic group to which he belonged)

The Defence wanted to know more about the witness in private session. Additional questions referred to the time spent in the militia and the UPC:

- He was in Zumbe camp for one month and a few weeks; He fled a few weeks after the attack on Bogoro and spent about three weeks and a few days in the camp before the attack;
- He confirmed that he heard about Governor Loponde (Bunia) being chased out by the UPC, which then took over and started to target and kill Ngiti. UPC soldiers passed by the road where the witness and his family were living and they were afraid but they did not flee.
- He stated that after he rejoined his family, he took up his studies but did not have the means to continue, they stayed about 8 months and then returned to the locality where they were living before.

The cross-examination continued in private session.
The following week there will be no hearings.