



KATANGA / NGUDJOLO CHUI

INFORMAL WEEKLY SUMMARY

24 - 28 OCTOBER 2011

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| Situation Case | Democratic Republic of Congo 01/04-01/07 The Prosecutor vs. Germain Katanga and Mathieu Ngudjolo Chui | <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). |
| Hearing: Chamber: | Trial Proceedings Judge Bruno Cotte (Presiding Judge), Judge Fatoumata Dembele Diarra, Judge Christine van den Wyngaert | <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). |
| 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; | Alleged crimes: <u>Germain Katanga and Mathieu Ngudjolo Chui</u> allegedly jointly committed, through other persons: <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. |
| Participants | 365 victims represented by Legal Representatives for Victims: Mr. Fidel Nsita Luvengika and Mr. Jean-Louis Gilissen | |
| Start of Trial: | 24 November 2009 | |

This week one witness gave his testimony.
Mr. Mathieu Ngudjolo gave testimony in his own defence.

24, 25 & 26 October, 2011
No hearings.

27 October, 2011
The Defence of Mr. Ngudjolo commenced its examination-in-chief.

Before the commencement of the examination in chief of Mr. Ngudjolo, Presiding Judge Cotte stated that the testimony of Mr. Ngudjolo should be finished by the 28th of November. The Presiding Judge also informed the parties that the fixing of the deadline for the written submissions will depend on the decision of the Chamber to go on a field visit in Ituri.

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

- **Mr. Ngudjolo's personal education:** Mr. Ngudjolo stated that after he had

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dropped out from secondary school he attended a two-year course to become a first-aid nurse with the Red Cross followed by a period of study at the ITM¹ in Bunia. Mr. Ngudjolo asserted that he also went through some practical training at the Bunia hospital and at Zumbe Health Center.

On behalf of the OTP Mr. Mc Donald objected that the certificates provided by the Defence with regard to Mr. Ngudjolo's education have been produced recently and should not be given any probative value. Presiding Judge Cotte answered that their probative value will be examined by the Chamber in due course.

The Defence of Mr. Ngudjolo continued its examination in chief:

- **Mr. Ngudjolo's position:** Mr. Ngudjolo testified that he has undertaken different occupations such as civil guard, first-aid nurse, community health officer and, finally, colonel and operational trainer for the army just before his arrest on the 6th of February 2008.
- **Mr. Ngudjolo's movement during the relevant period²:** Mr. Ngudjolo testified that he was in Bunia for his training as nurse when the disturbances started. He moved to the Ezekerie Groupement on the 14th of August 2002 and remained there until 6 March 2003.
- **2nd Congo War³ in 1999:** Mr. Ngudjolo asserted that the war started in 1999 and mainly concerned the concessions accorded to the Chief of Alurus Mr. Uguaro; this provoked armed reactions amongst the various communities.
- **The security situation in Ituri during the relevant period:** The situation in Ituri started to become unstable during the spring of 2002 when the UPDF⁴ allegedly started to target Lendu communities. Mr. Ngudjolo then claimed that he left Bunia on the 9th of August 2002. Allegedly, many civilians were spilling into the streets in order to flee the Hema to avoid further harassment.
- **8th August 2002:** Mr Ngudjolo stated that on the night of August 8th 2002, a group of people carrying weapons allegedly chased him out of his house in Bunia. He escaped through the forest and reached the headquarters of Governor Lopondo⁵ which had also been attacked by the UPDF and the UPC⁶. Mr. Ngudjolo claimed that he fled with Governor Lopondo and a group of locals reaching Songolo and then finally Zumbe where he met many refugees from Bunia.
- **Uganda as occupying power in Ituri:** Mr. Ngudjolo testified that during the relevant period the authority of the DRC government over Ituri no longer existed. Mr. Ngudjolo alleged that the Ugandan Government, which wanted to drive out President Kabila, was the only effective authority over the territory as it was present in all the five districts of Ituri.
- **Resistance to the UPDF:** Allegedly the UPDF forces did everything they wanted in Ituri: allegedly looting, pillaging and harassing the civilian population. Mr. Ngudjolo explained that this was the reason why many rebel armed forces (including the

¹ ITM: Technical Medicine Institute.

² Relevant period': it 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 March 2003.

³ The 2nd Congo war mainly took place in Eastern Congo, involving different rebel groups: the UPDF and the Rwandan armed forces

⁴ Uganda National Armed Forces.

⁵ Governor of the Ituri region, Molondo Lopondo. 'The Fall of Governor Lopondo', commonly referred to in the trial, took place on the 6th of August 2002 when he was chased out of Bunia by the UPC and UPDF.

⁶ Union des Patriotes Congolais, a militia composed almost exclusively of ethnic Hema.

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Hema) started to fight back the occupant power.

- **Agreement between UPC and Lendu:** On 6th March 2002 the UPDF and the UPC allegedly signed an agreement in order to expel Lendu and Ngiti groups from the areas in which they were lawfully residing.
- **Defence structure in the Bedu Ezekerie Groupement:** Mr. Ngudjolo testified that once the UPDF attacks had started, his Groupement reacted by establishing a Committee of young people in charge of self-defence. Mr. Ngudjolo explained that only adults who were 18 years of age could become part of the Self-Defence Committee as the elders and the children had to hide and be protected.
- **Military camps in the Bedu Ezekerie Groupement:** Mr. Ngudjolo testified that in his Groupement, there were no military camps nor soldiers, but only civilians taking up weapons to defend themselves. Mr. Ngudjolo then denied the presence of child soldiers in Zumbe.

28 October, 2011

The Defence of Mr. Ngudjolo continued his examination in chief.

During the examination-in-chief by his Defence Team, Mr. Ngudjolo testified on:

- **Geographical Position of Zumbe:** Mr. Ngudjolo stated that the village of Zumbe is situated upon a hill on the way to Bunia and it is quite visible from the air. He thus claimed that any ARTEMIS⁷ or MONUC⁸ air vehicles could have noticed the presence of military training camps in the area but no photographic evidence was provided in this regard.
- **Mr. Ngudjolo's activity as nurse:** Mr. Ngudjolo denied the allegation that during the relevant period he was appointed as the Supreme Commander of the FNI⁹ in Zumbe. He claimed that at the time he worked as a nurse after he had contributed to set up the Kambutso Health Center in his Groupement.
- **Mr. Ngudjolo's location and activity on 24th February 2003¹⁰:** Mr. Ngudjolo stated that on the 24th February 2003 he was at the Kambutso Health Centre helping a woman who was giving birth and that he stayed at the Centre from 5am until late in the evening. Allegedly, he heard gun shots and shelling coming from Bogoro but did not know what actually was going on there.
- **Means of Communications in the Bedu Ezekerie Groupement:** Mr. Ngudjolo claimed that during the relevant period only local means of communications such as horns and drums had been used in the Bedu Ezekerie Groupement. There were no radio nor mobile phone networks. Mr. Ngudjolo then denied that he was a customer of Thuraya Telephone Company at the time.
- **The FNI:** Mr. Ngudjolo denied that he was a Commander of the FNI during the relevant period. He alleged that FNI was not present in the Bedu Ezekerie Groupement and that he learnt about FNI only on 18th of March 2003 when he met in Bunia with FNI President Floribert who asked him to become involved in the FNI.

⁷ Operation ARTEMIS: was a short-term EU military mission to the DRC launched on the 12th June 2003.

⁸ MONUC: United Nations peacekeeping operation in the Congo established with resolution 1291/2000 by the UN Security Council.

⁹ FNI: *Front des Nationalistes et Intégrationnistes*, a militia originally created to help the Kinshasa government to regain control over Ituri, of which Mathieu Ngudjolo Chui became the alleged leader.

¹⁰ 24th February 2003: is the date of an extensive attack on Bogoro which forms the main charge against the two accused.

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- **The alliance between the FRPI and the FNI:** Mr. Ngudjolo stated that an alliance between the two groups was established in March 2003. On 22nd March 2003 he was appointed as Deputy Chief in charge of the operations but he did not carry out any military operation because the two armed groups had been rapidly integrated into the FARDC¹¹ at the end of March.
- **Meeting with Mr. Katanga:** Mr. Ngudjolo stated that he had met Mr. Katanga for the first time on 8th March 2003 in Deli. Mr. Ngudjolo then claimed that they did not have the opportunity to work together as the alliance between the two autonomous structures was difficult to manage in concrete terms.
- **Military ranking in the DRC:** Mr. Ngudjolo claimed that it normally takes 20 or 30 years to achieve the rank of colonel within the DRC armed forces but that many people during the war gave themselves ranks that they did not actually possess. Mr. Ngudjolo then further stated that he could join the DRC army with the same rank he possessed in his previous military career and this is the reason why he joined the DRC forces as colonel. At the time of the Ceasefire Agreement¹² he was not yet a colonel as he signed the document as 'representative of the Lendu people'.
- **Mr. Ngudjolo's relationship with Boba Boba¹³:** Mr. Ngudjolo stated that he knew Boba Boba but that he had never worked with him, since Boba Boba was not involved in any medical training. Mr. Ngudjolo then categorically denied the Prosecutor's allegation that he had sent Boba Boba to Mr. Katanga in order to negotiate the attack on Bogoro.
- **RCD-KML¹⁴ an EMOI¹⁵:** Mr. Ngudjolo stated that the RCD-KML was a rebel movement which started in August 1998 opposing the DRC Government in Ituri and claimed that the President of that movement was Governor Loponde. Allegedly the movement possessed a wing called EMOI.
- **Lack of interest in attacking Bogoro:** Mr. Ngudjolo explained that people from Zumbe did not participate to the Bogoro attack as they had more interests in focusing on Bunia for business reasons. He then claimed that the towns of Zumbe and Bogoro were assigned to different tribes during the de-colonization period in the 1960s and thus there was no reason for the community of Zumbe to take possession of a territory belonging to another community.
- **Authorisation to visit Bogoro:** Mr. Ngudjolo categorically rejected the allegation of Prosecution Witness 3 (a protected OTP witness who alleged that Mr. Ngudjolo signed the cease-fire agreement in front of her) that he was the person who granted the authorisations to visit Bogoro during March 2003. Mr. Ngudjolo reiterated the fact that as a nurse and an ordinary citizen he could not in any way challenge the authority of the UPDF which was the occupying power at the time.

¹¹ 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.

¹² It is the agreement signed in Bunia on 22 March 2003 between all the rebel armed forces in Ituri

¹³ Boba Boba: Alleged FNI Local Commander in Ladile, in the Bedu Ezekere Groupement.

¹⁴ RCD-K/ML: Rassemblement congolais pour la démocratie - Mouvement de libération: Until 2002 it was the movement that claimed to be the political and administrative authority throughout Ituri and northern NorthKivu with headquarters in Bunia. The group was forced out of Bunia in August 2002 (usually mentioned at the hearings as "the fall of Governor Loponde").

¹⁵ EMOI: allegedly Kinshasa-originated military headquarters structure based in Beni and tasked with the mission to regain control over Ituri.

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