



COALITION FOR THE  
INTERNATIONAL CRIMINAL COURT

KATANGA / NGUDJOLO CHUI  
INFORMAL WEEKLY SUMMARY

4 - 8 OCTOBER 2010



<b>Situation Case</b>	Democratic Republic of Congo 01/04-01/07 <b>The Prosecutor vs. Germain Katanga and Mathieu Ngudjolo Chui</b>	<u>Germain Katanga</u> : born 1978 in Mambassa, Ituri district, Eastern Province; National of the DRC; Alleged commander of the <i>Force de résistance patriotique en Ituri</i> (FRPI).
<b>Hearing: Chamber:</b>	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 <i>Front des nationalistes et intégrationnistes</i> (FNI).
<b>Parties:</b>	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;	<b>Alleged crimes:</b> <u>Germain Katanga and Mathieu Ngudjolo Chui</u> allegedly jointly committed, through other persons:
<b>Participants</b>	363 victims represented by Legal Representatives for Victims: Mr. Fidel Nsita Luvengika and Mr. Jean-Louis Gilissen	<ul style="list-style-type: none"><li>○ <b>Crimes against humanity:</b> Murder, sexual slavery and rape;</li><li>○ <b>War crimes:</b> 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.</li></ul>
<b>Start of Trial:</b>	24 November 2009	

This week, Senior Trial Lawyer Eric MacDonald finished his examination-in-chief of OTP Witness P12. Witness P12 is a protected witness (with a pseudonym and face and voice distortion). He seemed to be a political actor active around the time of the Bogoro attacks who participated in several meetings between the warring parties. The two legal representatives of victims, Me Luvengika and Me Gilissen, had the opportunity to ask the Witness certain questions. Finally, the Katanga Defence Team, led by David Hooper, began their cross-examination of Witness P12.

**4 October 2010:** No hearing today.

**5 October 2010:** No hearing today.

**6 October 2010:** Remarks by Presiding Judge Cotte on the status of certain victims' applications - Prosecution finishes its examination-in-chief of OTP Witness P12 - LRV's Mr. Gilissen and Mr. Luvengika asks their questions.

**The hearing opened with a few remarks by Chambers.** The Presiding Judge Cotte gave some precisions on a certain number of victims' applications whom had not obtained formal victim status and the possibility to participate in the proceedings. Judge Cotte referred to confidential filings by the Registry. The Chambers ordered the

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reclassification of a certain filings, which should be able to satisfy the previous requests from Legal Representative of Victims, Me Luvengika.

The Chambers reminded Me Luvengika that, should he wish to have the two exculpatory witnesses discovered a few weeks ago testify before the Court, he must make his request as soon as possible.

**Chambers then turned to Prosecution to pursue the examination-in-chief of OTP Witness P12**, a political actor active around the time of the Bogoro attacks who participated in several meetings between the warring parties.

Professor Fofé of the Ngudjolo Chui Defence Team addressed the Court. Professor Fofé wanted to inform the Chamber of the Prosecutor's late disclosure of a certain number of documents that were submitted to the OTP by Witness P12, and on which P12 commented in his testimony.

Prosecution explained that they had not communicated these documents because they considered them to be irrelevant, containing vague and unrelated documents such as PUSIC's founding act, etc. Defence Counsel Professor Fofé noted that it is not up to OTP to decide for everyone what is and what is not relevant, Judge Cotte asked the Defence team to organize themselves in order to study the documents, and clearly expressed his reticence at losing more time.

**Prosecutor then continued and ended his examination-in-chief of Witness P12.** The questions focused on the Bogoro attack and the events leading up to it. The Prosecutor asked questions regarding Katanga's ascension as a leader of Ngitis, how P12 met Katanga and the relationship he forged with him, his different meetings with him, etc. P12 claimed that Katanga was quite happy with the Bogoro attack he led and his "faits d'armes", as it marked the first Lendu/Ngiti clear military victory over the Hema.

Another interesting point was that P12 claimed that Ngudjolo Chui had shown remorse a year later for the Bogoro attack, and was apparently heard saying that he regretted having attacked ethnic Hema, rather than "ideological" Hema.

**Me Gillisen, the LRV for child-soldiers, then proceeded to question OTP witness P12.** He asked general questions about the phenomenon of child-soldiers in Ituri, where the phenomenon came from, when it started to appear, etc. Questions also covered issues such as the child-soldiers' future, or how it was considered at the time, who fed and took care of them, etc.

**Me Luvengika, the other LRV representative, then questioned the witness as well.** Questions were raised as to the inter-ethnicity aspect of the conflict pertaining to the Bogoro attack, and other questions directly relating to Bogoro during and after the attack.

**7 October 2010:** Chambers asked OTP Witness P12 a few questions, and the Katanga Defence Team, represented by Mr. David Hooper, began their cross-examination.

The hearing started with 20 minutes of questioning from Chambers. The Bench asked for clarifications of information previously given during the testimony: on PUSIC, FIPI, the relationship between Katanga and Ngudjolo Chui, the role of traditional chieftains, the relationship with other ethnic groups present in Ituri, and the motivations behind the Bogoro attack.

The Katanga Defence Team, represented by Mr. Hooper, then proceeded with their cross-examination. Hooper seemed to try to destabilize the witness by confronting him with different dates and interpretations of the events P12 had testified on. P12 resisted rather well, not letting himself be impressed or influenced by David Hooper's interrogation. Hooper continued to interrogate him on the role of several individuals. There were also questions relating to the creation of FRPI, etc. Further questions referred to the topic of child-soldiers, focusing on PUSIC and UPC's armed militias. Finally, as the Defence was interrogating P12 on how he became a Witness for the Prosecution, Hooper commented that on the 120 hours of interrogation OTP had with P12 a few years ago, 30 hours had 'mysteriously' disappeared.

**8 October 2010:** David Hooper of the Katanga Defence Team continued his cross-examination of Witness P12.

The Katanga Defence Team continued their cross-examination of Witness P12 for the whole duration of the hearing.

David Hooper asked questions relating to "*les sages*", or the traditional leaders of the Ngiti, but quickly moved on to questions about P12's past, especially his professional activities, and the companies he appeared to have worked for. While asking these questions, the name **Salim Saleh (the brother of Ugandan President Museveni)** came up several times, as well as **Jean-Pierre Bemba's** name. The Defence counsel attempted to link Witness P12 to **minerals- and weapons-trafficking** by trying to tie him to different companies and leaders who worked in such trafficking.

Questions regarding his relation with an unnamed ICC OTP investigator came up, as David Hooper attempted to show that it was unusual for a witness to be interrogated by a single investigator at the time (Eric MacDonald objected). Defence Counsel implied that the interview conducted by this specific OTP investigator (approx. 30 minutes of interview) is the one that mysteriously disappeared (see above).

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