



KATANGA / NGUDJOLO CHUI

INFORMAL WEEKLY SUMMARY

7 - 11 NOVEMBER 2011

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 Chui gave testimony in his own defence.

7 November, 2011
No hearing.

8 November, 2011
The Defence of Mr. Katanga questioned the witness. The Prosecution began its cross-examination.

During questions posed by the Defence of Mr. Katanga, Mr. Ngudjolo provided insight on:

- **The night of the attack on Bogoro¹**: Mr. Ngudjolo stated that Mr. Katanga did not spend the night before the attack on Bogoro in his house as they did not know each

¹ Attack on Bogoro: The attack of 24th February 2003 which forms basis of the main charge against the two accused.

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other at the time.

- **Meeting in Dele with Mr. Katanga:** Mr. Ngudjolo claimed that the first time he met with Mr. Katanga was in Dele on 8th March 2003. A meeting was to take place at the entrance of the UPDF² Camp in the presence of Captain Koka of the APC³, Captain Kisa of the UPDF and other soldiers. However the meeting did not ultimately occur.

During its cross-examination by the Prosecution, Mr. Ngudjolo testified on:

- **Mr. Ngudjolo's participation in the battle of Goma:** Mr. Ngudjolo stated that he took part in the battle of Goma in October 1996 as military nurse within the army of President Mobutu. Allegedly he did not spend more than a week at the front.
- **Mr. Ngudjolo's movements between 2003 and 2007:** Mr. Ngudjolo stated that between 2003 and 2007 he went to Beni on two occasions (the first being at the end of May 2003, the second in August 2003) and he also went to Uganda on two occasions (first in April 2003 and for the second time in June 2005 in order to submit a memorandum as part of a delegation on behalf of the MRC⁴).
- **MRC founding document:** Mr. Ngudjolo claimed that he and another twelve people signed the founding document of the MRC, including Mr. Diedone Mbouna who was the resource person of Mr. Lubanga. Mr Ngudjolo stated that he spoke with Mr. Mbouna approximately five times between 2008 and 2009 when he was at the ICC detention centre.
- **Kambutso Health Centre workers:** Mr. Ngudjolo testified that Mr. Likpa Ngure, who had previously testified before the Court, was a community health worker who was working at the Kambutso Health Centre during the relevant period⁵.
- **Mr. Ngudjolo's rank in the FRPI-FNI⁶ alliance:** Mr. Ngudjolo asserted that he was appointed by Commander Floribert as the deputy-chief-of-staff in charge of operations of the FRPI-FNI alliance. This was because Mr. Floribert knew him and because of his training within the civil guard.
- **Not chief of the FNI:** Mr. Ngudjolo categorically denied the allegation that he was appointed by Commander Floribert amongst various experienced commanders (such as Mr. Katanga) because he was the Chief of the FNI combatants in the Bedu Ezekere Groupement.
- **Mr. Ngudjolo's detention:** Mr. Ngudjolo explained that in October 2003 he was detained by MONUC forces.
- **Military structure within the FNI-FRPI alliance:** Mr. Ngudjolo claimed that the FRPI was the armed wing of the FRPI-FNI alliance. The FRPI had its base in Walendu Bindi and its leadership in Beni. Mr. Ngudjolo then explained that he was not be able to assess whether the military structure was functioning properly, as the Alliance did not last for long, due to the proposal of Commander Kisemba to integrate all the

² UPDF: Uganda National Armed Forces.

³ *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.

⁴ MRC: Congolese Revolutionary Movement; rebel armed force operating in Ituri.

⁵ 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 concerns around August 2002 to March 2003.

⁶ FRPI-FNI: Alliance made up of two militia groups - FNI: *Front des Nationalistes et Intégrationnistes*, a militia originally created to help the Kinshasa government to regain control over Ituri. *Forces de Résistance Patriotique d'Ituri*: a Beni-based armed militia and political party in the Ituri Province of northeastern Democratic Republic of the Congo, of which Germain Katanga was the alleged commander.

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commanders of the various rebel armed militias which were fighting in Ituri (UPC, FRPI, FNI amongst others) in the national armed forces in May 2003.

- **Combatants in the Bedu-Ezekere Groupement:** Mr. Ngudjolo stated that during the spring of 2003, while some of the young people from the self-defence group were integrated in the FRPI-FNI alliance, others remained under the supervision of the Base Committee⁷.
- **Boba Boba:** Mr. Ngudjolo stated that Boba Boba attended the same training as he had in 1994-96, with the Civil Guard, and participated in the battle of Goma with the rank of corporal. Allegedly Boba Boba used to define himself as a colonel during the relevant period.

9 November, 2011

The Prosecution continued its cross-examination.

During cross-examination by the Prosecution, Mr. Ngudjolo provided insight on:

- **Relationship with Dr. Adirodo:** Dr. Adirodo was the Chief Medical Officer in the Bunia area and member of the RCD-K/ML⁸. Mr. Ngudjolo stated that he never discussed the politics of Ituri with him.
- **Definition of a child:** Mr. Ngudjolo stated that 'childhood' continues until the age of 18.
- **8th August 2002:** Mr. Ngudjolo alleged that on the evening of 8th August 2002, a group of Hema chased him out of his house in Bunia. His house was allegedly destroyed and looted. Mr. Ngudjolo testified that he then sought refuge in Zumbe.
- **Lack of interest in attacking Bogoro:** Mr. Ngudjolo explained that the population of the Ezekere Groupement did not participate in the Bogoro attack as Bogoro was not considered of strategic importance.
- **UPC⁹ attacking villages in Bedu Ezekere Groupement:** Mr. Ngudjolo asserted that the UPC settled in the Bedu Ezekere Groupement for 48 hours on the 15th and 16th October 2002. He testified that he had run away on the 15th October 2002 and returned on the 16th in the afternoon, after the UPC had left. Mr. Ngudjolo alleged that the UPC were responsible for the deaths of many people.
- **Chief Manu:** Mr. Ngudjolo testified that Chief Manu (Chief of the Bedu Ezekere Groupement) travelled from Zumbe to Aveba in October 2002. Allegedly, Chief Manu returned in December 2002 with munitions he had got in Aveba. According to Mr. Ngudjolo, there were no other missions to Aveba to get munitions.
- **Agreement of secession of hostilities¹⁰:** Mr. Ngudjolo claimed that he was not yet a colonel when he signed the agreement as 'representative of the Lendu people'. Mr. Ngudjolo stated that his signing of the Secession Agreement was a chance occurrence because a person was missing who was to represent the Lendu community. As Mr. Ngudjolo was interested in peace, he agreed to sign the

⁷ An administrative authority composed of elders which ruled the Bedu Ezekere Groupement during the relevant period.

⁸ 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 North Kivu with its headquarters in Bunia. The group was forced out of Bunia in August 2002 (usually mentioned in the hearings as "the fall of Governor Lopondo").

⁹ Union des Patriotes Congolais, a militia composed almost exclusively of ethnic Hema

¹⁰ This is the agreement signed in Bunia on 22 March 2003 between all the rebel armed forces in Ituri.

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agreement.

- **No armed forces within the Ezekere groupement:** Mr. Ngudjolo asserted that there were no armed forces within the Ezekere groupement and if there would have been, they would have been identified as such by MONUC¹¹.
- **Member of FNI-FRPI alliance:** Mr. Ngudjolo joined the alliance on 22 March 2003. On 14 April 2003, he signed a Document of the Commission of Pacification in Ituri on behalf of the Alliance.
- **No Child soldiers in the FNI-FRPI Alliance:** Mr. Ngudjolo alleged that the 'phenomenon' of child soldiers was brought to the DRC by Joseph Kabila. He asserted that he personally never used child soldiers in Ituri.

After this statement, the OTP showed a picture of a child holding a weapon and it was alleged that this picture was taken in the presence of Mr. Ngudjolo. Mr. Ngudjolo stated that he should not be convicted for a photograph that he does not recognise.

- **Battle in Bunia on 6 March 2003:** Mr. Ngudjolo testified that on 6th March 2003, he witnessed a battle between the UPC and the UPDF in Bunia. The battle ended with the UPC leaving the village. Mr. Ngudjolo asserted that he did not take part in this battle.

10 November, 2011

The Prosecution continued its cross-examination of Mr. Ngudjolo.

During cross-examination by the Prosecution, Mr. Ngudjolo provided insight on:

- **Mr. Ngudjolo's trip to Beni and the battles of Tchomia and Kasenyi:** Mr. Ngudjolo denied the allegations of the Prosecution that he went to Beni on 30th May 2003 only to avoid responsibility for the attacks on Tchomia and Kasenyi. Mr. Ngudjolo claimed that he did not know about people from Zumbe participating in the massacres of Tchomia (31st May) and Kaseni (11th June) where many civilians were killed and abducted, as he was travelling to Beni at that time. Mr. Ngudjolo then stated that at the time he did not have any power over commanders such as Cobra and Dark as the FNI was not a properly organized armed group.
- **The attack on Tchomia of 15 July 2003:** Mr. Ngudjolo claimed that after the attack a meeting took place within the Consultative Committee of the Armed Groups (CCGA) on the 26th July 2003. Allegedly, Commander Floribert, Chief Kaba and various APC commanders were present. Mr. Ngudjolo stated that, during the meeting, Chief Kaba referred to an attack conducted by the FNI in Tchomia and Mr. Ngudjolo was subsequently sent to Tchomia and Kasenyi with UN helicopters in order to secure the release of hostages.
- **FNI not culpable for Tchomia attack:** Mr. Ngudjolo testified that, once he had reached Tchomia, he discovered that it was not the FNI which had launched the attacks. Mr. Ngudjolo then claimed that he could not give any more details in order not to incriminate Mr. Katanga.
- **Joint declaration of 26th July 2003:** Mr. Ngudjolo asserted that he could not have signed the joint declaration for peace and reconciliation together with Chief Kawa,

¹¹ MONUC: United Nations peacekeeping operation in the Congo established with resolution 1291/2000 by the UN Security Council.

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as Commander Floribert, who was the President of Mr. Ngudjolo's political and military structure, was also present.

- **No witness to alleged rapes and sexual assaults:** Mr. Ngudjolo claimed that he had never witnessed to a rape or to an episode of sexual assault during the relevant period.
- **The attack of Nyakunde:** Mr. Ngudjolo stated that he knew of an attack on Nyakunde, on 5th September 2002, in which many civilians were killed and the hospital was destroyed. Mr. Ngudjolo alleged that, after the attack took place, the APC occupied the town and looted extensively but that he did not know whether Lendu fighters and in particular Baati de Zumbe had been involved. Mr. Ngudjolo encouraged the Prosecutor to start an investigation into that attack.
- **The attack on Bogoro of 9th January 2001:** Mr. Ngudjolo denied the allegation that combatants from Bedu-Ezekere had participated in the attack, as his Groupement did not have the sufficient military capability to attack the UPDF.
- **APC forces:** Mr. Ngudjolo denied the allegation that the APC received support from specific tribes in Ituri and claimed that every ethnic group including the Hema was represented in that militia.
- **The attack on Bogoro of 24th February 2003:** Mr. Ngudjolo stated that he knew that civilians were killed during the assault but that he did not have the evidence to determine how many civilian casualties had occurred. Mr. Ngudjolo then claimed that when he went to Bogoro, one month after the attack, he saw many houses destroyed, doors broken and nothing inside but that he could not speculate whether people from Bedu-Ezekere were involved in the looting.
- **The attack on Mandro of 4th March 2003:** Mr. Ngudjolo asserted that the UPDF and the FRPI participated in the attack on Mandro against the UPC. Mr. Ngudjolo then claimed that he had no personal interest in attacking that area and that he did not know whether people from his Groupement were involved in the attack as he was not amongst those who participated.
- **Video presentation of the meeting with General Kayura of 7th March 2003:** The Prosecutor played a video concerning a peace and reconciliation meeting held by General Kayura with all the most important commanders of the region in which Mr. Ngudjolo was present and where he gave detailed information about UPC forces. Mr. Ngudjolo stated that the first meeting he had with General Kayura was in the morning of that same day and it was not filmed. Mr. Ngudjolo then confirmed that he was not member of any armed groups at the time and denied the allegation that he was the commander in charge of the combatants of Bedu Ezekere as there were no organised armed groups in Bedu-Ezekere during the relevant period.
- **Meeting with Anneke van Woudenberg from HRW:** Mr. Ngudjolo denied the allegation that he met Ms. Van Woudenberg in February 2004 during his detention in Bunia after he was arrested by the UN in October 2003, and he denied that he revealed to her that he was integrated in the militia in August 2002.
- **Mr. Ngudjolo's trip to Kampala:** Mr. Ngudjolo stated that he went to Kampala in 2005 as part of a delegation on behalf of the MRC in order to present a memorandum related to a joint declaration of Ituri and North Kivu representatives signed in Bunia in June 2005. Once the delegation had arrived in Kamapla, he and the other representatives of the delegation were put into jail, then considered 'persona non grata' and sent back to the DRC. Mr. Ngudjolo stated that during that trip he did not meet with witness P12.

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11 November, 2011

The Prosecution completed its cross-examination of Mr. Ngudjolo, the LRV and the Chamber posed their questions and the two defence teams re-examined the witness.

During cross-examination by the Prosecution, Mr. Ngudjolo provided details on:

- **Video presentation of a speech by Commander Dark:** Mr. Ngudjolo stated that the UPDF were still the occupying force of Bogoro on 30th march 2003.
- **Video presentation of Mr. Ngudjolo's announcement in Bunia on 13th March 2003:** Mr. Ngudjolo denied the allegation that he was the person in charge of controlling the security of travellers and of granting the authorisation to enter in Bogoro at the time.
- **Meeting with Sonia Bakar:** Mr. Ngudjolo claimed that he had never met with Ms. Sonia Bakar from MONUC and that he had never told her about his involvement in the attacks of Bogoro and Mandro of February and March 2003. Mr. Ngudjolo then alleged that the information she contained in her UN report were was not correct.

During questioning by Maitre Gilissen for the LRV, Mr. Ngudjolo testified on:

- **Definition of child soldiers:** Mr. Ngudjolo stated that in his view a child soldier is a person under 18 years of age who has been enrolled in a military force after receiving military training. Mr. Ngudjolo then stated that a civilian who is carrying a weapon remains a civilian if he has not received any military training and that it is important to distinguish between organised militia groups and self-defence structures made up of civilians whose unique aim is to defend themselves.
- **Child soldiers in the FRPI-FNI alliance and in Bedu Ezekere:** Mr. Ngudjolo claimed that it is often difficult to distinguish a child from an adult in his region as tribes such as the Lendu have individuals which are extremely small and similar to pygmys. Mr. Ngudjolo stated then that he could not testify about child soldiers in the FRPI-FNI Alliance and in the Bedu-Ezekere Groupement, as he was arrested during the period when the de-mobilization process took place in Zumbe.
- **Ituri Pacification Commission and child soldiers:** Mr. Ngudjolo stated that, although the Commission reported about child soldiers as being a serious and widespread phenomenon in Ituri, it is important to distinguish between armed groups and communities. Mr Ngudjolo testified that he had never seen a child soldier in his community. Mr. Ngudjolo then claimed that, as he was not involved in the de-mobilization program launched by MONUC, he did not know precisely about the presence of child soldiers in the different armed groups.

During questioning by Maitre Luvengika (LRV), Mr. Ngudjolo provided insight on:

- **Interest in attacking Bogoro:** Mr. Ngudjolo stated that the reason why many people from his groupement were born in Bogoro was because up to 1997 the only hospital in the area was in Bogoro. Mr. Ngudjolo testified that there were no ties between people from Bedu Ezekere and Bogoro, and thus there was no interest for them to attack the village.
- **Mr. Ngudjolo's visit to Bogoro on 28th March 2003:** Mr. Ngudjolo stated that when he went to Bogoro after the attack he met with Commander Dark but he did not ask him questions about the attack. Mr. Ngudjolo alleged that he could see that many

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houses had been burnt and doors broken, but that he could not state with certainty whether there had been looting carried out.

- **Hostages:** Mr. Ngudjolo claimed that he did everything he could to release hostages detained in Bogoro after the attack, but that he did not know what finally happened to them.

During questioning by Presiding Judge Cotte, Mr. Ngudjolo testified on:

- **The Hema-Lendu conflict:** Mr. Ngudjolo stated that relations between the Hema and Lendu communities were generally peaceful and conflicts were related to land disputes in some specific areas.
- **Health community workers and self-defence group:** Mr. Ngudjolo stated that Baati de Zumbe had never been a member of the self-defence group in his community and, in general, health community workers could not be involved in self-defence activities.
- **UPDF's involvement in the Bogoro attack:** Mr. Ngudjolo claimed that an agreement was signed between the Governments of the DRC and Uganda in order to cease violence in Ituri, and as a result of the agreement, the attack on Bogoro was carefully planned and implemented. Mr. Ngudjolo alleged that without the support of the UPDF the attack of Bogoro would have never taken place.
- **Training in the civil guard:** Mr. Ngudjolo asserted that during time with the civil guard in 1994, he had received standard police training along with courses in military regulations.
- **Mr. Ngudjolo's position as deputy chief of staff in charge of the operations:** Mr. Ngudjolo claimed that Mr. Floribert appointed him in the operational section rather than the administrative section of the FRPI-FNI Alliance, because of his knowledge of military structures as a result of his training within the civil guard.
- **Agreement of Cessation of hostilities of 5th March 2003:** Mr. Ngudjolo stated that he signed the agreement as the 'Lendu representative' in lieu of Chief Manu, because Chief Manu was not present at the meeting.

During questioning by Maitre O'Shea for the Katanga Defence Team, Mr. Ngudjolo provided insight on:

- **Radio CANDIP:** Mr. Ngudjolo stated that the only news he received of the attack on Bogoro was broadcasted by Radio CANDIP which, at the time, was controlled by the UPC.
- **UPDF in Bogoro:** Mr. Ngudjolo testified that an entire company of the UPDF remained in Bogoro until the 7th May 2003.

During re-examination by his Defence Team, Mr. Ngudjolo provided insight on:

- **FARDC¹² Decree of appointment of commanders from the various armed groups in Ituri:** Mr. Ngudjolo recognised the names of commanders belonging to different armed forces operating in Ituri on the decree of appointment stating who had been appointed as FARDC commanders. Mr. Ngudjolo then stated that he was not on the decree because he was not satisfied with the rank he had received and he was only appointed in the FARDC army later on.

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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- **The battle of Bunia of 6th March 2003:** Mr. Ngudjolo claimed that the forces which were involved in the battle were from the UPC, led by Commander Kisémbó and by Bosco Ntaganda on one side, and UPDF headed by commander Kayura on the other side.

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