



COALITION FOR THE
INTERNATIONAL CRIMINAL COURT

KATANGA / NGUDJOLO CHUI
INFORMAL WEEKLY SUMMARY
30 AUGUST - 3 SEPTEMBER 2010



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

During this week's hearing, the cross-examination of OTP Witness 30 by the Defence continued. Witness 30 testified under protective measures and as a 'contextual witness'. The Defence relied on video footage and the witness' earlier statements. (Before the cross-examination and following a request from the Defence, Mr. Dubuisson from the Registry presented information about the costs the ICC spends on certain witnesses and intermediaries)

30 August 2010

Presentation Mr. Dubuisson, Director of Court Services; Cross-examination of Witness 30 by the Defence

-Before the cross-examination of Witness 30 started, Mr. Dubuisson from the Registry made a presentation:

The Defence team for Mr. Katanga had requested information about the costs the ICC spends on (certain) witnesses and intermediaries. Therefore, Mr. Dubuisson, explained the average costs for a witness who testifies. He stressed that various parameters come into play for each witness.

-Cross-examination of Witness 30 by the Defence

On behalf of Mr. Ngujolo, Prof. Fofé started to cross-examine OTP Witness 30.

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.

Several of the OTP video extracts which had already been shown, were presented. The witness was asked to identify persons of different armed groups, the majority of which he did not recognise or knew.

Prof. Fofé planned to present new video extracts in combination with the witness' written version of the statement he made to the OTP in 2006 as well as several press-communicés taken from the UPC website (now longer online).

This was subject to an objection by the OTP. In the OTP's view, the witness was not the appropriate person to comment. There was no inherent correlation between the witness and the video footage. OTP Witness 30 had neither been a member of the UPC nor was he a historical or political analyst.

Defence Counsel Prof. Fofé explained that the documents would make it possible to better understand the socio-political context of the Bogoro attack.

The Chamber stated that the documents could be used.

In preparation of the video extracts, Prof. Fofé started by reading out parts of the 2006 witness' statement in private session. The Chamber requested Prof. Fofé to explain the objective afterwards.

The first three extracts were shown to the witness: a UPC press conference was held where Mr. Lubanga reported about a meeting in Dar-es-Salaam between the UPC, the government of DR Congo and Uganda. The questions about the footage were asked in private session.

31 August 2010

Continued Cross-examination of Witness 30 by the Defence

The Chamber started out by stressing that the subjects of the questions must be relevant and linked to what the witness had seen or heard.

Defence Counsel Prof. Fofé indicated that a close link existed: in the paragraphs of the statement the witness explained the event, date, context and key figures present which is presented via the video footage. The relevance of the information which the Defence seeks to be admitted into evidence concerns the political, historical context in which the Bogoro attack of 23 February 2003 took place; the issues at stake; the key players and the question: who had an interest in dislodging the UPC?

In his cross-examination of Witness 30, Prof. Fofé returned to the footage shown the day before.

Each time before an extract would be shown, the relevant parts of the witness' written statement given earlier to the OTP in 2006 would be read out. Several press-communicés of 1 February 2003 taken from the UPC website were read after the presentation of the extract. The witness indicated that he had never seen the latter documents before. On one occasion the witness indicated his reservations to

comment. The Chamber expressed its concern about the probative value of the replies of the witness on questions about the communiqués since the witness did not always have the appropriate knowledge.

The extracts, together with the reading of the 2006 witness' statement, were further discussed mainly in private session. In total, seven video extracts were presented this way by the Defence. The remaining extracts depicted the following events:

- 23 January 2003: a rally in a hall in Bunia
The population of Bunia was invited to give its opinion to a UPDF (Ugandan) General, identified as Salim Salé. The meeting was organised to talk about the Ugandan presence in the region. The population wanted the Ugandan troops to go home. Two extracts were shown: General Salim Salé spoke on behalf of the UPDF and another speaker was a lady who was part of a group of Mothers of Ituri who did not understand the fighting. They had written a Memorandum.
- One extract was shown of an event which would be followed up in the next session: a meeting between MONUC and the UPC on 24 February 2003.

1 September 2010

Continued Cross-examination of Witness 30 by the Defence

Before the cross-examination of Witness 30 could continue, a lengthy procedural debate took place in closed session. Defence Counsel Prof. Fofé indicated that the video extracts themselves were sufficient. The press-communicés therefore, would be used at a later point in time with other witnesses. He then turned to the remaining extracts in combination with the 2003 witness' statement:

- 24 February 2003: meeting between MONUC and the UPC
A meeting between MONUC and the UPC took place. The pacification process in Ituri and the establishment of the Commission on the Pacification of Ituri were discussed among others. The witness was requested to identify the persons in the video-excerpt. He identified the various speakers as belonging to the UPC and MONUC. The witness said that Thomas Lubanga was also present.
- 11 January 2003: gathering UPC and Ituri population
A long excerpt was shown of a gathering in the city stadium of Bunia. The person addressing the population was identified by the witness as Thomas Lubanga. They came to give information on the latest developments: the Pretoria meeting where the UPC was not represented during the negotiations and the signing of an agreement with the RCD-Goma. This video-footage will be discussed next week.

2 and 3 September 2010: No hearings