



COALITION FOR THE  
INTERNATIONAL CRIMINAL COURT

KATANGA / NGUDJOLO CHUI  
INFORMAL WEEKLY SUMMARY  
7 - 11 JUNE 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: Mr. David Hooper, Mr. 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:

- 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.

**Testimony by:**

- o **Witness 279** (15<sup>th</sup> OTP witness); under protective measures

**7 June 2010**

Procedural issues; Cross-examination Defence resumed (in private session)

**Witness 279**, a young man in his early twenties belonging to the Ngiti, continued to testify. Before the witness was brought in, several procedural issues were discussed, among others the filing of a motion by the Defence team concerning the high frequency of closed sessions. The Chamber encouraged input from all parties on the question how to best balance protection concerns and the principle of public proceedings.

**Cross-examination Defence (Mr. Hooper):**

The witness was asked to confirm his earlier statement in Court about the amount of time spent in the militia: 1 month and a few weeks. Further questions were put to him in private session.

**8 June 2010**

Cross-examination by the Defence continued

Mr. Hooper's line of questioning revolved around the witness' date of birth, his capture, his contact with the OTP and the Intermediary 143 (also involved in the Lubanga case):

- Different years of birth were produced during the trial. Several documents were therefore presented to the witness. The objective in this regard was to establish his minority at the time he was forcibly taken to Zumbe camp;
- Doubts were raised as to the position of the witness within his family because he initially had had difficulty identifying his younger sister;
- The witness stated that a person came to find children who had done their military service;
- He explained that he and his family fled the village where they had been living for years because of the war in Bunia;
- The Defence claimed that the witness was never part of the militia and that he had never been in Bogoro. Was his statement false? The witness replied that he testified to tell the truth.
- The witness did not want to answer further questions because it had been stated that everything he had said was a lie. In the end the witness however confirmed that he had been part of the militia.

#### 9 June 2010

Cross-examination by the Defence continued

On several occasions during the session Mr. Hooper read aloud certain parts of the first statement made to the investigators of the OTP in order to get a confirmation from the witness. Discrepancies remained.

The questions concerned the time spent in the militia, the first time the witness went to Zumbe hill together with his family as well as the meeting with the Prosecutor and Mr. Katanga:

- The witness reconfirmed that he was in the militia for a month and a few weeks;
- He explained that at the time he and his family fled, there was war in Bunia;
- He said he remembered the interview with the OTP but not the exact times;
- He explained he did not mention his earlier stay at Zumbe, because he was not asked;
- He left the militia when the Ugandans left Bunia, but he no longer remembered the exact date; In his earlier statement, he had stated he remembered the date he left the militia because he wrote it on the wall at home;
- He maintained that Chief Ngudjolo was the commander of the camp;
- He was asked about Mr. Katanga: while he was guarding a position along the road, Katanga and his men came on foot, stopped briefly to greet and went on their way to Zumbe camp; In his earlier statement the witness had said that he was on his way to his position when he met Katanga;

**10 June 2010**

Cross-examination by the Defence continued

Mr. Hooper, finishing his cross-examination, returned to the meeting which took place in the school afterwards and what the witness himself had done during the attack:

- The statement made during the interview with the OTP investigators was again used to ask the witness about certain differences in comparison with his testimony in Court. It concerned among other things the issue of women: he initially did not think women were abducted and raped but in Court he remembered seeing two Hema girls being taken into the bush.

Prof. Fofé started his cross-examination in private session. Further questions put to the witness centred on the first stay at Zumbe with his family, his knowledge about the FNI and the period when he was forcibly taken to Zumbe. This, in order to further clarify these subjects which came up during the cross-examination by Mr. Hooper:

- The year or date of the first visit and their return could not be produced or confirmed by the witness; Prof. Fofé indicated that based on the known facts of the war in Bunia they should have fled in August 2002 when the UPC took over and returned in March 2003 when the UPC left;
- FNI: the witness explained that all he knows about the FNI is what he witnessed himself;
- Abduction: he stated he did not remember the date when asked about the day the militia came and took him away;
- Several discrepancies existed in various statements made and the witness was asked to justify, but did not respond; he remembered making the statement to the OTP however;
- Route to Zumbe from the village: Prof. Fofé requested the witness if he could make a sketch, but he replied that he was not able to.

**11 June 2010**

Cross-examination by the Defence finished; Attitude of the witness; Re-examination

Cross-examination by the Defence

Prof. Fofé resumed his cross-examination with several photographs of certain places and asked the witness if he knew the locations presented to him. This was done in order to clarify the itinerary from village to Zumbe and from Zumbe to Bogoro. Some were correctly identified and questions followed:

*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 explained that various roads lead to Zumbe; and said it was difficult to estimate the exact distance of the route they had taken;
- He was asked if he maintained that he was taken to Zumbe camp and received military training; He remained silent;
- Judge Cotte intervened - as he had done on earlier occasions during the cross-examination by the Defence when the witness did not respond:
  - Eventually the witness confirmed the account he had given;
  - Dates are difficult but it was important to know how much time passed between the return to his village and his capture: the witness had forgotten;
- He further stated that he had forgotten the date, year of the attack of Bogoro; Judge Cotte asked the witness to please make an effort to respond;
- He remained silent after further questions about his military training.

#### Attitude witness

The OTP raised concern about the quality of the witness' testimony due to possible tiredness. The attitude of the witness was discussed:

- The Defence took the position that it was not tiredness, but a refusal to answer the questions. Its only concern here was clarification. The LRV was of the view that the witness was not the same as before, had a different attitude;
- The Chamber indicated it was not qualified to assess the position of the witness; It could only observe the witness and be patient to allow him to reflect. It was not a case of physical tiredness but mental fatigue. The pace of the questions however is slow enough. In consultation with the VWU: the hearing has been lasting longer than the witness had expected; therefore, before the cross-examination by Prof. Fofé was finished the witness was reminded to answer rapidly. The remaining questions of Prof. Fofé concerned combat techniques, military training and more details about the Bogoro attack.

Re-examination by the OTP, Mr. Garcia had several topics to discuss with the witness:

- The electoral card: the witness said he got the card to protect himself from FARDC soldiers (troops were present in their village); he did not know what happened to people who did not have one but they were stopped at check points;
- The photographs of his family: how did he feel? The witness explained that he felt uncomfortable and sad - he had not seen his sister for a long time; He further stated that it could put the person being shown in the picture at risk; This explained his earlier hesitation to identify the people in the photographs; he started sobbing and could not continue for a while;
- As to the reason for keeping silent or being unable to answer questions: he said when that happened he had no answer to give.

The LRV had no further questions. The Defence neither, but indicated that they would file an application to initiate proceedings against the witness.

INFORMAL SUMMARY

*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.*