



COALITION FOR THE INTERNATIONAL CRIMINAL COURT
ICC TRIAL SUMMARY

Reference: Katanga_TCII_05/05/14

Case Name:

Katanga

Situation Country:

DRC

Chamber:

Trial Chamber II

Date: 05/05/14

Type of Proceedings: Sentencing Hearings

Parties and Participants Present:

- Presiding Judge: Judge Bruno Cotte

- Office of the Prosecutor:

Fatou Bensouda

Eric MacDonald

- Defence:

David Hooper

- Accused Present:

Germain Katanga

- LRV:

Fidel Nsita Luvengika

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Morning Session

Witness Name/Number: Kisembo Byaruhanga Salomon
Appearing For: Prosecution
Protective Measures Provided:
Witness Details: Chief of Bogoro Village

Testimony Details

Prosecution Examination

Effect of Bogoro attack on the community:

The witness explained that the attack on the Bogoro Village in February 2003, resulted in many widows, orphans, and physically and psychologically affected people. The witness stated that these people have received no support from the government and that they are still traumatised by the attack. The people live in fear of the Cobra Militia that is still active in the area. The witness stated that while there are some NGOs that are helping the orphans, there are not enough resources and so most are left to fend for themselves. The witness explained that as a result of their painful memories and prevailing fear, a lot of people have moved away from the village.

Financial impact of Bogoro attack:

The witness explained that following the attack most people lost their primary source of livelihood, which was cattle rearing. The witness explained that cows cost around \$200-\$500 and hence, most people cannot afford to replace what they lost during the attack. The witness also explained that there is no proper infrastructure in the area and that very few facilities have been rebuilt. Finally, the witness emphasised that the main consequence of the attack was increased poverty in the area.

LRV Examination

Duties of the Bogoro Community Leader:

The witness stated that his duties, as the leader of the Bogoro village community, are to serve the people and act as their representative.

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Witness Name/Number: D-2401
Appearing For: Defence
Protective Measures Provided:

Testimony Details

Defence Examination

Demobilisation of child soldiers:

The witness stated that he was assigned to participate in the child soldier demobilisation process in the Aveba camp in the Walendu Bindi Collectivite. The witness stated that during his 5 month period at the Aveba camp, he interacted many times with Mr. Katanga, who was stationed at the nearby Bureau of the Aveba Combatants Camp. The witness stated that Mr. Katanga had actively participated in the demobilisation process and by doing so, had set an example for other militia leaders who subsequently also participated. The witness stated that Mr. Katanga frequently visited the site, made arrangements, dealt with problems, encouraged those who were hesitant and helped to raise awareness.

Demobilisation of child soldiers of different ethnic groups:

The witness stated that Mr. Katanga was a man of peace. He explained that Mr. Katanga would actively participate in the demobilisation of combatants belonging to various other ethnicities, like Hema and Pygmy. The witness also explained that Mr. Katanga was pleasant and friendly with everyone, including the locals.

LRV Examination

Demobilisation of Hema combatants:

The witness confirmed that Mr. Katanga called a meeting and declared that Hema combatants could also participate in the proceedings.

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Witness Name/Number: D-2404
Appearing For: Defence
Protective Measures Provided:

Testimony Details

Defence Examination

Meetings with Mr. Katanga:

The witness stated that he was not related to Mr. Katanga and that he first met Mr. Katanga on 7 March 2003, in Dele, a village in the DRC. The witness stated that the meeting was after the war between the UPC forces and the Ugandan Army and that he was introduced to Mr. Katanga since he was a community leader of the Bindi locality in Bunia. The witness stated that Mr. Katanga seemed pleased to have met him.

The witness stated that his second meeting with Mr. Katanga was in Aveba, when he had been sent to help rescue the employees of an NGO who had been arrested and detained by the Cobra Militia between 16 and 17 March 2003. The witness explained that before going to negotiate with the militia to release the NGO employees, he requested the assistance of Mr. Katanga. The witness stated that Mr. Katanga did all he could to persuade the militia to release the NGO workers and, that finally after three days they were released.

The witness explained that his final meeting with Mr. Katanga took place in April 2003 during the peace gathering organised by the Commission for Peace in Ituri. Since the witness was a community leader, he was given the opportunity to meet Mr. Katanga. The witness stated that Mr. Katanga's aim was for all of Ituri to be united. The witness also stated that Mr. Katanga had a positive impact on other militia leaders and helped end tensions in the area.

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Afternoon Session

Submission Details

Prosecutor (Fatou Bensouda) Statement:

The Prosecution stated that the sentence to be served by Mr. Katanga must be proportionate to the gravity of the crimes committed. The sentence must be serious and effective. The sentence must publically reprimand criminal conduct and demonstrate the Court's commitment to end impunity. It must also be an acknowledgment of the harm caused, as a result of the Bogoro attack, to the victims and community.

Therefore, the Prosecution requested a sentence of 22-25 years.

OTP (Eric MacDonald) Statement:

The Prosecution stated that Mr. Katanga's contribution of firepower was essential to the Bogoro attack. The Prosecution also briefly discussed the relevance of aggravating and mitigating circumstances in sentencing decisions. In the discussion of aggravating circumstances, the Prosecution mentioned the fact that Mr. Katanga acted within his official capacity as the Chief Leader of the FRPI, the vulnerability and defencelessness of the victims and the economic destruction of the area. In the discussion of mitigating circumstances, the Prosecution explained that Mr. Katanga was an educated and respected member of the community and, that he had served as an interlocutor.

The Prosecution also emphasised that there is no hierarchy in the modes of liability, each has the same consequences. Hence, just because Mr. Katanga was convicted as an accessory does not mean he should get a lesser sentence. The Prosecution elaborated that in other national jurisdictions, pre-meditated murder could lead to life sentences with or without the possibility of parole.

Therefore, the Prosecution submitted that a sentence of 22-25 years is a fair and reasonable application of the law, mindful of the criteria of aggravating and mitigating circumstances.

The Prosecution also mentioned that while some might feel this is too serious a sentence, others may feel it is too lenient.

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Submission Details

Judicial Interventions:

The Presiding Judge, Judge Bruno Cotte, asked the Prosecution certain legal and factual questions.

Legal:

The answers to the legal questions would be provided the following day.

1. Should Aggravating Circumstances be proven beyond reasonable belief?
2. Must there be a link to the crimes confirmed?

Factual:

1. When considering mitigating circumstances, what is the relevance of Katanga's role in the demobilisation of child soldiers?

OTP (Mac Donald) answer: The demobilisation process in which Katanga participated, took place a year and a half after the end of the Bogoro attack once he had been appointed to the national army. The demobilisation must be evaluated based on Katanga's intention for participating and the context within which it took place.

2. When considering mitigating circumstances, what is the relevance of Katanga's behaviour/cooperation within the framework of the ICC proceedings?

OTP (Mac Donald) answer: Katanga's conduct has been what is normally expected; nothing exceptional.

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Summary

The Sentencing Hearing for Mr. Katanga commenced on 5 May 2014.

During the hearing, one Prosecution witness, who is the leader of the Bogoro community, testified that the adverse impact of the 24 February 2003 attack on the Bogoro village is still felt within the community. The witness stated that increased poverty was the main consequence of the attack.

Two Defence witnesses, D-2401 and D-2404, also testified. The Defence witnesses described Katanga's role in the demobilisation of child soldiers, rescue of abducted NGO employees and the peace process.

The Prosecutor called for a sentence appropriate to the impact of the crimes committed and hence, recommended a sentence of 22 to 25 years. Eric MacDonald, Office of the Prosecution, explained that Mr. Katanga should not get a lesser sentence because he was convicted as an accessory and not a direct perpetrator because there is no hierarchy in the modes of liability.

Next Hearing Date: 06/05/14

Private/Closed Sessions: N/A

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