

Situation in the Democratic Republic of the Congo

ICC-PIDS-CIS-DRC-03-011/15_Eng

The Prosecutor v. Germain Katanga

Updated: 25 March 2015

ICC-01/04-01/07

Germain Katanga

Found guilty on 7 March 2014 of one count of crime against humanity and 4 counts of war crimes committed on 24 February 2003 during the attack on the village of Bogoro (DRC). Sentenced on 23 May 2014 to a total of 12 years' imprisonment. The judgment is final as parties have discontinued their appeals. Decisions on possible reparations to victims to be rendered later. In ICC custody.



Date of birth: 28 April 1978

Place of birth: Mambassa in the Ituri district, eastern province of the Democratic Republic of the Congo (DRC)

Nationality: Congolese

Ethnicity: Partly of Ngiti origin

Current situation: Held at the Detention Centre in The Hague

Warrant of arrest: Issued under seal on 2 July 2007 | Unsealed on 18 October 2007

Transfer to The Hague: 17 October 2007

Joinder of the cases against Germain Katanga and Mathieu Ngudjolo Chui: 10 March 2008

Confirmation of charges hearing: From 27 June to 16 July 2008

Decision on confirmation of charges: 26 September 2008

Opening of the trial: 24 November 2009

Closing Statements: From 15 to 23 May 2012

Severing of the charges against Germain Katanga and Mathieu Ngudjolo Chui: 21 November 2012

Opening of the trial: 24 November 2009

Closing Statements: 15 to 23 May 2012

Conviction: 7 March 2014

Sentence: 23 May 2014

Charges

On 7 March 2014, Trial Chamber II of the ICC ruling in the majority, with Judge Christine Van den Wyngaert dissenting, rendered its judgment in the case *The Prosecutor v. Germain Katanga*.

Trial Chamber II found Germain Katanga guilty, as an accessory, within the meaning of article 25(3)(d) of the Rome Statute, of one count of crime against humanity (murder) and four counts of war crimes (murder, attacking a civilian population, destruction of property and pillaging) committed on 24 February 2003 during the attack on the village of Bogoro, in the Ituri district of the DRC.

The Chamber found that it had been established beyond reasonable doubt that Germain Katanga had made a significant contribution to the commission of the crimes by the Ngiti militia, which was acting with a common purpose, by assisting its members to plan the operation against Bogoro. The Chamber found that Germain Katanga acted in the knowledge of the criminal common plan devised by the militia to target the predominantly Hema population of Bogoro. The crimes of murder, attacking civilians, destroying property and pillaging were part of the common plan.

The Chamber found that Mr Katanga was the intermediary of choice between the weapons and ammunition suppliers and those who physically committed the crimes using those munitions in Bogoro. He contributed to reinforcing the strike capability of the Ngiti militia who carried out the crimes committed in Bogoro on 24 February 2003. He also contributed, by virtue of his position in Aveba – the only place in the collectivité with an airport which could accommodate aircraft transporting weapons – to equipping the militia and enabling it to operate in an organised and efficient manner. His involvement allowed the militia to avail itself of logistical means which it did not possess enabling it to secure military superiority over its adversary. However, the Chamber dismissed the mode of liability,

as principal perpetrator, applied to Germain Katanga, since it was not proven beyond reasonable doubt that in respect of the collectivité he had the material ability to give orders or to ensure their implementation, or that he had the authority to punish camp commanders.

RE-CHARACTERISATION OF THE MODE OF LIABILITY

The Chamber changed the characterisation of the mode of liability against Mr Katanga – who had initially been charged as principal perpetrator – on the basis of article 25(3)(d) of the Rome Statute, which defines being an accessory as contributing “[i]n any other way [...] to the commission [...] of [...] a crime by a group of persons acting with a common purpose”. Germain Katanga was found guilty, as an accessory within the meaning of article 25(3)(d) of the Rome Statute, of the crimes of murder constituting a crime against humanity and a war crime and the crimes of directing an attack against the civilian population as such or against individual civilians not taking direct part in hostilities, destroying the enemy’s property and pillaging constituting war crimes.

OTHER CHARGES

The Trial Chamber acquitted Germain Katanga of rape and sexual slavery as a crime against humanity and the war crimes of using children under the age of fifteen years to participate actively in hostilities, sexual slavery, and rape.

The Chamber found that there was evidence beyond reasonable doubt that the crimes of rape and sexual slavery were committed. Regarding the crime of using child soldiers, it found that there were children within the Ngiti militia and among the combatants who were in Bogoro on the day of the attack. However, the Chamber concluded that the evidence presented in support of the accused’s guilt did not satisfy it beyond reasonable doubt of the accused’s responsibility for these crimes.

SENTENCE

On 23 May 2014, Trial Chamber II, ruling in the majority with Judge Christine Van den Wyngaert dissenting, **sentenced** Germain Katanga to a total of 12 years’ imprisonment. The time spent in detention at the ICC – between 18 September 2007 and 23 May 2014 – will be deducted from his sentence.

NEXT STEPS

On 25 June 2014, the Defence for Germain Katanga and the Office of the Prosecutor discontinued their appeals against the judgment in the Katanga case. The judgment is now final.

Decisions on victim reparations will be rendered later.

Background on the trial

REFERRAL TO THE COURT

The Democratic Republic of the Congo ratified the Rome Statute of the International Criminal Court on 11 April 2002. On 3 March 2004, the Government of the DRC referred the situation (all events within the jurisdiction of the Court) on its territory since the entry into force of the Rome Statute on 1 July 2002. After preliminary analysis, the Prosecutor initiated an investigation on 21 June 2004. Investigations are ongoing in relation to the situation in the DRC.

PROCEEDINGS

Mr Katanga was transferred to the Detention Centre in The Hague, the Netherlands, on 17 October 2007. A confirmation hearing was held from 27 June to 16 July 2008 before Pre-Trial Chamber I and on 26 September 2008, the judges of Pre-Trial Chamber I confirmed charges of war crimes and crimes against humanity against Germain Katanga and Mathieu Ngudjolo Chui.

The trial commenced on 24 November 2009, and the parties and participants delivered their closing statements from 15 to 23 May 2012.

In the course of 265 days of hearings, Trial Chamber II heard 25 witnesses and expert witnesses called by the Prosecution, 28 called by the defence teams for Germain Katanga and Mathieu Ngudjolo Chui (whose case was joined to Mr Katanga’s during the trial and severed on 21 November 2012) and two called by the legal representatives of the victims. The Chamber also called two further experts to testify.

In addition, Germain Katanga also chose to testify under oath as a witness.

Trial Chamber II issued 409 written orders and decisions and 168 oral decisions. The parties and participants submitted more than 3,300 applications to the Chamber.

SEVERING OF THE CHARGES AND VERDICT

While the case against Germain Katanga was initially joined to the case against Mathieu Ngudjolo Chui, Trial Chamber II decided to sever the charges against Mathieu Ngudjolo Chui and Germain Katanga on 21 November 2012. The verdict in the case against Mathieu Ngudjolo Chui was pronounced on 18 December 2012.

The verdict in the case against Germain Katanga was pronounced on 7 March 2014.

LEGAL ASSISTANCE

On 22 February 2008, the Registrar provisionally found Germain Katanga indigent subject to verification by the Court of the information found in his request. The Court is bearing the cost of his defence.

PARTICIPATION OF VICTIMS

The judges granted 366 victims the right to participate in the proceedings, represented by their legal counsels. They have expressed their position on matters heard before the Chamber and were authorised to examine witnesses on specific issues.

Composition of Trial Chamber II

Judge Marc Perrin de Brichambaut, Presiding Judge
Judge Olga Herrera Carbuca
Judge Peter Kovacs

Representation of the Office of the Prosecutor

Fatou Bensouda, Prosecutor
James Stewart, Deputy Prosecutor
Eric MacDonald, Senior Trial Lawyer

Defence Counsel for Germain Katanga

David Hooper
Andreas O'Shea

Defence Counsel for Mathieu Ngudjolo Chui

Jean-Pierre Kilenda Kakengi Basila
Jean-Pierre Fofé Djofia Malewa

Legal Representatives of the Victims

Fidel Nsita Luvengika