

Katanga Sentenced to 12 Years by ICC

The Prosecutor vs. Germain Katanga

23 May 2014

Today, a majority of Trial Chamber II of the International Criminal Court (ICC) sentenced Germain Katanga (Katanga) to 12 years' imprisonment, in the second sentencing judgement issued by the International Criminal Court (ICC). The Chamber also ordered that the six years and eight months already spent in ICC detention, since 18 September 2007, are to be deducted from his sentence.

'The sentence handed down by the Trial Chamber today is unexpectedly lenient when considering the serious crimes for which Mr Katanga was convicted', said Brigid Inder, Executive Director of the Women's Initiatives for Gender Justice.

'Katanga was convicted of war crimes and crimes against humanity including murder. The Judges have previously noted that based on the evidence in this case at least 60 people were killed in the Bogoro attack. In addition, destruction of property and pillaging were also widely committed. It is difficult to reconcile a 12 year sentence as reflecting the gravity and scale of these crimes, their ongoing impact on the Bogoro victims or Katanga's level of responsibility', said Inder.

During the sentencing hearing held on 6 May, the Prosecution requested that the Trial Chamber sentence Katanga to between 22-25 years.

'The judges also gave him credit for the six and a half years already served in detention during the legal process. In effect, Katanga will serve just over 5 more years for the Bogoro massacre', Ms Inder said.

'In determining Katanga's sentence, the Chamber appears to have taken into account a number of mitigating factors. They seemed particularly moved by the fact that Katanga is a father of six young children. They also noted Katanga's contribution to protecting his own community during hostilities unlike some of the other commanders within his militia group who terrorized members of their own ethnic group. In particular, the judges stated that Katanga's positive contribution to the demobilization of child soldiers from his militia group, where he was the ultimate commander, should be taken into account in the sentencing decision. It seems somewhat perverse that Katanga's contribution to the demobilization of children illegally enlisted and conscripted into his militia group could contribute to a reduction in his sentence', Inder said.

'Having been acquitted of the crime of the use of children in hostilities, we did not expect that the issue of child soldiers would necessarily feature as an aggravating factor. However, we are stunned that his role in demobilizing children illegally in his militia and under his command was considered a mitigating factor and contributed to a lighter sentence', said Brigid Inder.

'Overall, the sentencing decision seems to demonstrate an imbalance in the level of empathy extended to Katanga as compared to the victims of his crimes', said Ms Inder.



The Chamber noted the devastating impact of the attack on the Bogoro community including the loss of schools and education opportunities. In the decision the judges stated that many families still suffered because of the damage done during the attack and that some continued to live with physical disabilities, psychological trauma or both.

‘Although the Chamber did note some of the harm caused by the attack, in our view, today’s decision did not fully address the harm suffered by victims and their families nor the cruelty and calculated nature of the attack. Victims of this attack were hunted down. Many tried to flee and hid in the bush where they were sought out by militia combatants and killed or raped and enslaved in militia camps. The combatants went from house to house and killed those they found. One of the female witnesses of rape and sexual slavery testified that she was hiding under her bed with her daughters when the combatants found her, stripped her of her blouse and skirt, killed her daughters and forced her to take them to the armoury of another militia camp nearby’, said Brigid Inder.

‘People in the village were captured and forced to carry the looted goods for the combatants. One of the female witnesses testified that she was captured, forced to carry looted goods in suitcases and later raped. The sentence does not appear to reflect the intentional harm and suffering inflicted in this attack’, said Inder.

Katanga was convicted on 7 March 2014, Judge Van den Wyngaert dissenting, as an accessory for the war crimes of directing an attack against a civilian population, pillaging, and destruction of property, as well as for murder as a war crime and a crime against humanity.¹ Katanga was unanimously acquitted as an accessory to rape and sexual slavery as war crimes and crimes against humanity. He was also acquitted of the war crime of using child soldiers.² On 9 April 2014, the Prosecution appealed Katanga’s acquittal for the sexual violence charges, indicating its intention to request the Appeals Chamber to reverse or amend the Trial Judgement and/or order a partial new trial before a different Chamber.³

In sentencing Katanga to 12 years’ imprisonment, the Trial Chamber outlined the gravity of the crimes for which he was convicted and noted the issues raised by the Prosecution regarding the extent of the crimes, which were committed with particular violence and cruelty; the discriminatory nature of the attack; the vulnerability of the victims; the current situation in Bogoro and the harm suffered by the victims and their family members; and Katanga’s degree of participation and intent. The Chamber did not take into account any aggravating factors.

Judge Van den Wyngaert issued a dissenting opinion to the decision.

At the sentencing hearing, the Chamber indicated that a different bench would be constituted for the reparations proceedings.

Case background

Katanga was tried jointly with Mathieu Ngudjolo Chui (Ngudjolo), constituting the Court’s second trial, as well as the second case, after the Lubanga case, arising from the DRC

¹ ICC-01/04-01/07-3436, p 709-710.

² ICC-01/04-01/07-3436, p 710.

³ ICC-01/04-01/07-3462, paras 3-4.



Situation.⁴ It was the first case in which crimes of sexual violence, including rape and sexual slavery, had been charged. During the trial, the case centred on Katanga and Ngudjolo's alleged indirect co-perpetration in orchestrating an attack on the village of Bogoro in the region of Ituri on 24 February 2003, as commanders of the Ngiti combatants from Walendu-Bindi and the Lendu combatants from Bedu-Ezekere, respectively.⁵ On 21 November 2012, the majority of Trial Chamber II severed the case against Katanga and Ngudjolo and notified the parties of a potential recharacterisation of the mode of liability with which Katanga was charged.⁶ On 18 December 2012, the Chamber acquitted Ngudjolo of all charges.⁷

For further comments, please contact the Women's Initiatives for Gender Justice:

+31(0)70 302 9911 or +31(0)6 203 87 184

For more information about this case please see:

- The first Special Issue of the Legal Eye on the ICC on the Katanga judgement, available at: <http://www.iccwomen.org/WI-LegalEye5-14/LegalEye5-14.html>
- The statement by the Women's Initiatives for Gender Justice on the conviction of Katanga, 7 March 2014, available at: http://www.iccwomen.org/news/berichtdetail.php?we_objectID=215
- *Gender Report Card 2013*, p 92-104, available at: <http://www.iccwomen.org/documents/Gender-Report-Card-on-the-ICC-2013.pdf>
- *Gender Report Card 2012*, p 240-242, available at: <http://www.iccwomen.org/documents/Gender-Report-Card-on-the-ICC-2012.pdf>;
- *Gender Report Card 2011*, p 225-234, available at: <http://www.iccwomen.org/documents/Gender-Report-Card-on-the-International-Criminal-Court-2011.pdf>;
- *Gender Report Card 2010*,⁸ p 160-178, available at: http://www.iccwomen.org/news/docs/GRC10-WEB-11-10-v4_Final-version-Dec.pdf;

⁴ The cases were joined on 10 March 2008. ICC-01/04-01/07-257.

⁵ The Prosecution had charged and the Pre-Trial Chamber had confirmed that at the time of the attack, Katanga and Ngudjolo were the alleged commanders of the *Force de résistance patriotique en Ituri* (FRPI) and the *Front de nationalistes et intégrationnistes* (FNI), respectively.

⁶ ICC-01/04-01/07-3319. In this decision, the majority of Trial Chamber II (Judge Van den Wyngaert dissenting) notified the parties and participants, pursuant to Regulation 55 of the Regulations of the Court, of a potential recharacterisation of the facts underlying the form of criminal responsibility with which Katanga was charged, from indirect co-perpetration pursuant to Article 25(3)(a) of the Statute to accessory liability under Article 25(3)(d).

⁷ ICC-01/04-02/12-3-tENG, p 197.

⁸ For a description of the Prosecution's opening statements in this case, see *Gender Report Card 2010*, p 161, available at http://www.iccwomen.org/news/docs/GRC10-WEB-11-10-v4_Final-version-Dec.pdf.



- *Gender Report Card 2009*, p 93-140, available at:
http://www.iccwomen.org/news/docs/GRC09_web-2-10.pdf;
- *Gender Report Card 2008*, p 52-91, available at:
http://www.iccwomen.org/news/docs/GRC08_web4-09_v3.pdf;
- For further discussion of the decisions and filings regarding the use of Regulation 55 in the Katanga case, see *Modes of Liability: A review of the International Criminal Court's current jurisprudence and practice*, Women's Initiatives for Gender Justice Expert Paper, November 2013, p 116- 130, available at:
<http://www.iccwomen.org/documents/Modes-of-Liability.pdf>;
- Read more about the trial judgement acquitting Mathieu Ngudjolo Chui in the Women's Initiatives' series of Special Issues of the Legal Eye on the ICC. First Special Issue available at: <http://www.iccwomen.org/news/docs/WI-LegalEye2-13-FULL/LegalEye2-13.html>; Second Special Issue available at: <http://www.iccwomen.org/news/docs/WI-LegalEye4-13-FULL/LegalEye4-13.html>; Third Special Issue available at: <http://www.iccwomen.org/news/docs/WI-LegalEye1-14/LegalEye1-14.html>
- Read the statement by the Women's Initiatives for Gender Justice on the opening of the trial against Katanga and Ngudjolo, 23 November 2009, available at:
<http://www.iccwomen.org/news/docs/Katanga-Statement.pdf>

