



COMBINED FACTSHEET

Situation in the Democratic Republic of the Congo

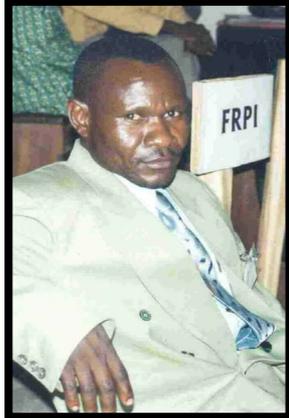
Germain Katanga and Mathieu Ngudjolo Chui

7 February 2008



PROFILES

Mathieu NGUDJOLO CHUI



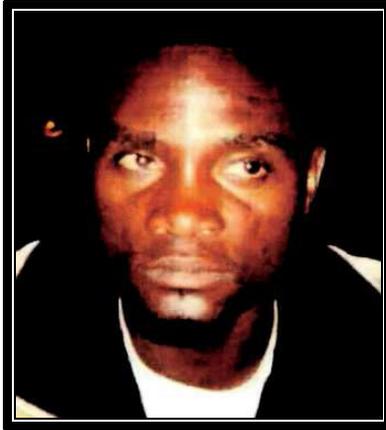
Name: NGUDJOLO CHUI, Mathieu
Sex: Male
Age: Approx. 37 years old
Location of Birth: Bunia, grew up in Katonie close to Bogoro
Nationality: Congolese
Languages spoken: Lingala, French, Swahili, Kilendu
Family: Married, father of two children.

Relevant Background Information

- 2002 – 2003
 - Until August 2002 : nurse in Bunia;
 - August 2002 : following the UPC (*Union des Patriotes Congolais*) take-over of Bunia, became militia commander of Lendu troops based in and around Zumbe, *groupement* Ezekere;
 - March/April 2003 : one of the three top leaders of the allied FNI-FRPI (*Front des Nationalistes et Intégrationnistes - Front de Résistance Patriotique d'Ituri*) army, after FNI and FRPI groups settled in Bunia ;
 - 2003 : known as Chief of Staff, FRPI.
- 2003 – 2004
 - 23 October 2003 : apprehended in Bunia, by a MONUC battalion (United Nations Mission in the Democratic Republic of Congo), and surrendered to the DRC authorities following accusations in connection with the murder of another political-armed group member ;
 - June 2004 : charged before, and acquitted by, the *Tribunal de Grande Instance* in Bunia; decision appealed by the Bunia prosecutor ;
 - December 2004 : released.
- 2005
 - June 2005 : alleged founding member of another rebel group, the MRC (*Mouvement révolutionnaire congolais*) ;
 - September 2005 : National arrest warrant against him in connection with his role within the MRC;
 - November 2005 : global travel ban and freezing of his assets imposed pursuant to UNSC Resolution 1596.
- 2006 - 2007
 - August 2006 : signed a peace deal as MRC President with the Government of the DRC, and agreed, pursuant to the arrangement with the DRC authorities, to send his troops for demobilisation;
 - December 2006 – present day: appointed Colonel in the FARDC (*Forces Armées de la République Démocratique du Congo*), based in Bunia;
 - As of Friday 2 November 2007 : in Kinshasa for senior officer training.



Germain KATANGA



Name: KATANGA, Germain, a.k.a. "Simba"
Sex: Male
Age: 29 (Born 28 April 1978)
Location of Birth: Mambasa, Ituri
Nationality: Congolese
Languages spoken: Swahili (Kingwana), Lingala, French
Family: Married, father of two children

in relation to an attack against MONUC (United Nations Mission in the Democratic Republic of Congo) peacekeepers in Ituri on 25 February 2005 in which 9 peacekeepers were killed;

- Early March 2005: sent to the CPRK detention centre in Kinshasa (*Centre de Détention et Rééducation de Kinshasa*) where he remained detained until his surrender to the ICC on 18 October 2007.

Relevant Background Information

1. 2003 – 2004:
 - Early 2003: emerged as the top commander of the FRPI (*Front de Résistance Patriotique d'Ituri*);
 - Late 2003: assumed the title of President of the FRPI;
 - 11 December 2004: appointed to the rank of General in the FARDC (*Forces Armées de la République Démocratique du Congo*);
2. 2004 – 2005:
 - Early March 2005: arrested by the DRC authorities, together with 8 other militiamen from various Ituri armed groups,



BACKGROUND INFORMATION SHEETS

Mathieu NGUDJOLO CHUI

BACKGROUND

- In sealed documents submitted to the ICC judges on 22 June 2007, the Office of the Prosecutor (OTP) presented evidence against Mathieu Ngudjolo Chui, former senior commander of the *Front des Nationalistes et Intégrationnistes* (FNI) and the *Force de Résistance Patriotique en Ituri* (FRPI) in the Democratic Republic of the Congo (DRC), charging him with three counts of crimes against humanity and six counts of war crimes.
- The Court's Pre-Trial Chamber I issued a sealed arrest warrant on 6 July 2007.
- Today, 7 February 2008, Mathieu Ngudjolo was surrendered to the Court by the DRC authorities and transferred to the ICC detention centre in The Hague.
- A hearing to confirm the charges will be scheduled by Pre-Trial Chamber I
- In early 2003, Mr. Ngudjolo emerged as one of the top commander of a group which began calling itself the FNI. He was later named as one of the top three leaders of the allied FNI-FRPI forces. Later in 2003, he referred to himself as the chief of staff of the FRPI. In December 2006, after a reported peace agreement with the DRC authorities, he was appointed to the rank of Colonel in the regular FARDC (*Forces Armées de la République Démocratique du Congo*).
- Following the notification of the ICC arrest warrant to the DRC authorities, Mathieu Ngudjolo was arrested by the DRC authorities on 6 February 2008, presented to a DRC Prosecutor and transferred to the ICC detention centre in The Hague (Netherlands).

- Mr. Ngudjolo is the third person surrendered by the DRC authorities to the ICC.
- He is the second person charged in connection with the OTP's investigation into crimes allegedly committed by leaders of the FNI-FRPI armed groups in the district of Ituri. While Germain Katanga was taken from the Kinshasa detention centre, where he was already in the custody of the DRC authorities like Thomas Lubanga Dyilo before him, Mathieu Ngudjolo Chui was arrested in Kinshasa on the basis of the ICC arrest warrant.
- The first suspect in this investigation, Germain Katanga, was surrendered to the Court on 18 October 2007, and faces charges of crimes against humanity and war crimes, in relation to the attack on the civilian population of Bogoro village on 24 February 2003.
- Mr. Ngudjolo is accused by the OTP of having ordered the attack on Bogoro village together with Germain Katanga and thus of being criminally responsible for crimes carried out by the allied forces under their command.
- The Court's first case in the DRC is against the former leader of another Ituri armed group active over the same period of time: Thomas Lubanga Dyilo, leader of the UPC-FPLC. Mr. Lubanga was surrendered to the Court in March 2006 and formally charged by the Prosecutor in August 2006 for the war crimes of enlisting and conscripting children under the age of 15 and using them to participate actively in hostilities in Ituri.
- The Court's Pre-Trial Chamber I confirmed the charges against Mr. Lubanga on 29 January 2007. He will be the first person to stand trial at the ICC. The trial of Mr.

Lubanga is scheduled to start on 31 March 2008.

THE CONTEXT

- The DRC has been a State Party since it ratified the Rome Statute on 11 April 2002. The ICC has had jurisdiction in the DRC since the entry into force of the Rome Statute on 1 July 2002.
- The OTP received numerous communications concerning alleged crimes from non-governmental organisations (NGOs) and international organisations, as well as other sources.
- In September 2003 the Prosecutor announced that he had selected the Ituri district as his first priority to investigate.
- In March 2004 the DRC Government referred the situation on all of its territory to the Prosecutor.
- The OTP opened its investigation into crimes committed in the DRC in June 2004.
- Following his second investigation into crimes allegedly committed in the Ituri district since 1 July 2002, the Prosecutor concluded that there are reasonable grounds to believe that Mathieu Ngudjolo Chui is criminally responsible for the commission of crimes against humanity and war crimes in Ituri in early 2003.
- The DRC is still engulfed in violence. There are reports of forced displacement of people, sexual violence, killings and continued recruitment and use of child soldiers.
- Between January 2002 and December 2003, more than 8,000 civilians died and more than half a million people were reportedly displaced from their homes in Ituri as a consequence of the conflict.
- The OTP intends to open a third case in the DRC situation in the near future and is looking at various possibilities, including allegations of massive sexual violence, forced displacements and killings in the

Kivus. Other options include the case of officials, whether from the DRC or from other countries, having financed and organized militia. It will not be the last investigation in the DRC.

THE CRIMES

- The OTP alleges that Mathieu Ngudjolo is responsible for murders, inhumane acts and sexual enslavement committed at Bogoro village, constituting crimes against humanity and war crimes, and for cruel treatment at Bogoro village, constituting a war crime. The Prosecution's evidence will also show that Mr. Ngudjolo committed the war crime of using children to participate actively in hostilities, the war crime of launching an attack against the civilian population of Bogoro village and the war crime of pillaging the village of Bogoro.
- Civilians were allegedly the target of massive crimes in the course of the conflict in the Ituri district of the DRC between the allied FNI-FRPI forces of Mathieu Ngudjolo and Germain Katanga and other armed militia groups.
- The OTP alleges that Mathieu Ngudjolo and Germain Katanga ordered an attack on the civilian population of Bogoro village on the morning of 24 February 2003 and are criminally responsible for the murders, inhumane acts, cruel treatment, use of children in hostilities, sexual enslavement, and pillaging which were carried out by the allied forces under their command.
- The Prosecutor alleges that Mathieu Ngudjolo ordered fighters under his command, comprising hundreds of armed adults and child combatants, to "wipe out" Bogoro, with the objective of taking over and occupying the village, which at the time was held by the UPC (*Union des Patriotes Congolais*). Hundreds of villagers died in the attack, and the civilian population was forced to flee.



BACKGROUND

- In sealed documents submitted to the ICC judges on 22 June 2007, the Office of the Prosecutor (OTP) presented evidence against Germain Katanga, former senior commander of the *Force de Résistance Patriotique en Ituri* (FRPI) in the Democratic Republic of the Congo (DRC), charging him with three counts of crimes against humanity and six counts of war crimes.
- Pre-Trial Chamber I issued an arrest warrant on 2 July 2007.
- On 18 October 2007, Germain Katanga was surrendered to the Court and transferred to the ICC detention centre in The Hague.
- The confirmation of charges hearing, initially scheduled to start on 28 February 2008, was postponed by Pre-Trial Chamber I on 30 January to a yet undetermined new date.
- In early 2003, Mr. Katanga emerged as the top commander of a group which began calling itself the FRPI. Later in 2003, he assumed the title of FRPI President. On 11 December 2004, he was appointed to the rank of General in the FARDC (*Forces Armées de la République Démocratique du Congo*).
- He was arrested by the DRC authorities in early March 2005, together with 8 other militiamen from various Ituri armed groups, in relation to an attack against MONUC peacekeepers in Ituri on 25 February 2005 in which 9 peacekeepers were killed. He was sent to the CPRK detention centre (*Centre de Détention et Rééducation de Kinshasa*) in Kinshasa.
- The surrender of Mr. Katanga to the Court took place in connection with the OTP's second investigation in the DRC, related to crimes allegedly committed in the district of

Ituri. He was the second person from the DRC to be in custody at the ICC.

- The Court's first case is against the former leader of another Ituri armed group active over the same period of time: Thomas Lubanga Dyilo, leader of the UPC-FPLC. Mr. Lubanga was surrendered to the Court in March 2006 and formally charged by the Prosecutor in August 2006 for the war crimes of enlisting and conscripting children under the age of 15 and using them to participate actively in hostilities in Ituri.
- The Court's Pre-Trial Chamber I confirmed the charges against Mr. Lubanga on 29 January 2007. He will be the first person to stand trial at the ICC. The trial of Mr. Lubanga is scheduled to start on 31 March 2008.

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concluded there are reasonable grounds to believe that Mr. Germain Katanga is criminally responsible for the commission of crimes against humanity and war crimes in Ituri in early 2003.

- The DRC is still engulfed in violence. There are reports of forced displacement of people, sexual violence, killings and continued recruitment and use of child soldiers.
- Between January 2002 and December 2003, more than 8,000 civilians died and more than half a million people were reportedly displaced from their homes in Ituri as a consequence of the conflict.
- The OTP intends to open a third case in the DRC situation in the near future and is looking at various possibilities, including allegations of massive sexual violence, forced displacements and killings in the Kivus. Other options include the case of officials, whether from the DRC or from other countries, having financed and organized militia. It will not be the last investigation in the DRC.

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- Civilians were allegedly the target of massive crimes in the course of the conflict in the Ituri district of the DRC between the FRPI (*Front de Résistance Patriotique d'Ituri*)

forces of Germain Katanga and other armed militia groups.

- Germain Katanga allegedly ordered an attack on the civilian population of Bogoro village on the morning of 24 February 2003 and is allegedly criminally responsible for the murders, inhumane acts, cruel treatment, use of children in hostilities, sexual enslavement, and pillaging which were carried out by the forces under his command.
- The Prosecutor alleges that Germain Katanga ordered fighters under his command, comprising hundreds of armed adults and child combatants, to "wipe out" Bogoro, with the objective of taking over and occupying the village, which at the time was held by the UPC (*Union des Patriotes Congolais*). Hundreds of villagers died in the attack, and the civilian population was forced to flee.



SUMMARY OF THE CASES

Prosecutor's Application for Warrants of Arrest under Article 58 Against Mathieu Ngudjolo Chui and Germain Katanga

I. The Application

In June 2004 the Prosecutor opened an investigation into crimes committed in the Democratic Republic of the Congo, with a special focus on crimes committed in the Ituri region since 1 July 2002. The Court's first case concerned the leader of an Ituri armed group, Thomas Lubanga Dyilo. He was surrendered to the Court in March 2006 and formally charged by the Prosecutor in August 2006.¹ The second case concerned crimes committed in Ituri in early 2003.

The Prosecution concluded that there are reasonable grounds to believe that Germain Katanga, former leader of the *Force de Résistance Patriotique in Ituri* ("FRPI") and Mathieu Ngudjolo Chui one of the top leaders of the *Front des Nationalistes et Intégrationnistes* ("FNI"), bear criminal responsibility for ordering crimes against humanity and war crimes in the village of Bogoro in the district of Ituri in early 2003.

In two separate parts, on 22 June 2007 and 25 June 2007 respectively, and pursuant to Article 58 of the Rome Statute, the Prosecution applied to Pre-Trial Chamber I for the issuance of warrants of arrest ("the Application") against Germain Katanga and Mathieu Ngudjolo.

The crimes alleged by the Prosecution were perpetrated during an attack upon the village of Bogoro on 24 February 2003.

II. Scope of the Investigation

Since the start of the investigation, the Prosecution has collected statements and evidence during numerous missions conducted in several countries. Throughout the investigation, the Prosecutor has examined incriminating and exonerating facts in an independent and impartial manner.

For the purpose of the Application, the Prosecution has relied primarily on: (i) statements taken from witnesses; (ii) statements taken from additional victims; (iii) statements taken from members of groups active in Ituri in 2002 and 2003 including from the FNI and FRPI; (iv) documents provided by a variety of sources, including the United Nations Mission in the Democratic Republic of the Congo ("MONUC"), DRC civilian and military prosecuting authorities, national and international non-governmental organizations (NGOs), and private entities.

Throughout the investigation the Prosecution monitored the security of victims and witnesses and implemented protective measures. The Prosecution and the Victims and Witness Unit of the Registry will continue to monitor and assess the risks to victims and witnesses.

¹ Thomas Lubanga Dyilo was charged for the crimes of enlisting and conscripting children under the age of 15 and using them to participate actively in armed hostilities in Ituri.



Consistent with the requirements of Article 58 (2) (d) of the Statute, the Prosecution furnished in the Application “a summary of the evidence” sufficient to establish “reasonable grounds to believe” that Germain Katanga and Mathieu Ngudjolo have committed crimes within the jurisdiction of the Court, namely war crimes and crimes against humanity.

a. The Context: The Armed Conflict in Ituri in 2002 and 2003

Ituri is a district of the Province Orientale of the DRC, bordering Uganda to the East, and Sudan to the North. Ituri is an area of the DRC rich in natural resources, and the desire to control these resources has been integral in promoting conflict in the region, implicating also armed forces of neighboring countries such as Uganda. There are about 20 ethnic groups, the largest of which are the Alur, the Bira, the Hema, and the Lendu and its southern sub-tribe, the Ngiti.

The crimes alleged in the Application arise from the attack on Bogoro village on 24 February 2003. The attack was perpetrated in the context of an armed conflict between the armed groups of FNI/FRPI on the one side and the *Union des Patriotes Congolais* (“UPC”) on the other, as well as between and amongst other groups. While the former groups predominantly consist of Lendu and Ngiti fighters, the latter group includes in great majority Hema combatants.

After the UPC attacked and took the city of Bunia, capital of the district of Ituri, on 6 August 2002, during which non-Hema civilians were targeted and killed, the Lendu and Ngiti began organizing themselves into armed resistance groups and started to challenge the UPC.

The attack on the village of Bogoro led by Katanga and Ngudjolo was part of a plan by FNI/FRPI, to attack predominantly Hema villages in Ituri in preparation to retake Bunia from the UPC. On 6 March 2003 the Lendu and Ngiti alliance managed to drive the UPC from Bunia, with the help of the Ugandan armed forces.

While Bogoro hosted a UPC military camp at the time of the attack, Germain Katanga and Mathieu Ngudjolo ordered fighters under their command, comprising hundreds of armed adult and child combatants, to “wipe out” Bogoro, with the objective of taking and occupying the town. Hundreds of civilians were massacred during the attack, civilians residences were looted and destroyed and women and girls raped. Those who survived were forced to flee.

b. The Personal Responsibility of Germain Katanga and Mathieu Ngudjolo

Both, Germain Katanga and Mathieu Ngudjolo became well known and highly placed military leaders between two key events in the conflict in Ituri: the fall of the city of Bunia to the UPC, on or about 9 August 2002, and its recapture by the FNI and FRPI about seven months later on or about 6 March 2003. Both groups were formed between the two conflicts in Bunia.

In February 2003, Katanga and Ngudjolo planned the attack on Bogoro and combined their FRPI and FNI fighter to perpetrate the attack. The Prosecution alleges that this attack and the crimes committed during the attack occurred in the context of a widespread or systematic attack against a civilian population, within the meaning of Article 7(1), crimes against humanity. In fact, the armed groups later known as the FNI and the FRPI were responsible for perpetrating at least 10 attacks from January 2001 to January 2004, in which civilians were targeted and killed in significant numbers.

In September 2002, Katanga emerged as the leader of Ngiti combatants, whereas, shortly after, Ngudjolo had become the commander of the Lendu fighters based further north, in the area of Zumbe. By the time of the Bogoro attack, both leaders had the authority and power, to select the targets of attacks, to plan and organize the strategy of attacks, and to order, along with others, attacks. The attack on Bogoro, which actually occurred pursuant to an organized plan, exemplifies the authority and power of Katanga and Ngudjolo.

Both groups, the FRPI and the FNI, included child soldier under the age of fifteen in their ranks. Katanga and Ngudjolo both used child soldiers under the age of 15 during the attack on Bogoro. A large number of children in FRPI and FNI camps, who were also visibly very young, were militarily trained under the orders of Katanga and Ngudjolo.

Both militia leaders were charged by the Prosecutor with using children to participate actively in hostilities during the Bogoro attack constituting war crimes.²

On the early morning of 24 February 2003, Bogoro was attacked by hundreds of FRPI and FNI fighters armed with semi-automatic weapons and rocket propelled grenades as well as *armes blanches*. Civilians awakened to gunfire and fled when they saw that armed combatants - whom they identified by their features and language as Lendu and Ngiti men, women, and children - were attacking the entire village. The groups of FNI and FRPI combatants encircled the village converged towards the centre on a killing spree, creating mayhem amongst the targeted civilian population.

Germain Katanga and Mathieu Ngudjolo were charged with the war crime³ of attack against the civilian population. The Prosecution furthermore charged both with inhumane acts at Bogoro village constituting crimes against humanity⁴, namely intentionally inflicting serious injuries upon its civilian residents, and with cruel treatment constituting war crimes⁵ namely by detaining civilians, menacing them with weapons, and imprisoning them.

Dozens of men, women, and children who fled to a school located inside the UPC compound in Bogoro were massacred by gunfire and machete blows. Soldiers and civilians who fled from the camp were chased down and killed. The attackers shot or killed by machete blows civilians in their houses and killed other residents by setting their houses on fire.

² Articles 8(2)(e)(vii) and 25(3)(b) of the ICC Statute.

³ Articles 8(2)(e)(i) and 25(3)(b) of the ICC Statute.

⁴ Articles 7(1)(k) and 25(3)(b) of the ICC Statute.

⁵ Articles 8(2)(c)(i) and 25(3)(b) of the ICC Statute.

The Prosecution alleges that more than 200 civilians were killed during the attack and charged Katanga and Ngudjolo with murders at Bogoro village constituting crimes against humanity⁶ and war crimes⁷.

After the UPC was defeated within a few hours after the attack began, Katanga and Ngudjolo met in the centre of Bogoro to celebrate their victory while the pillaging of civilian houses was ongoing. Katanga and Ngudjolo were thus also charged with the war crime of pillaging.⁸

It was a common practice in the military camps of the FRPI and the FNI to forcefully keep women serving as sex slaves to the fighters. These women typically had been abducted during attacks or from villages or areas surrounding the camps. The abhorrence of the FRPI fighter for the Hema led them usually to abduct other Ngiti women or women who had falsely told their abductor that they were Hema. The women detained in these prisons were repeatedly raped by soldiers and commanders alike. The fate reserved to captured women was widely known.

Some women, who were captured at Bogoro and spared by hiding their ethnicity, were taken to FNI and FRPI camps, after being undressed or raped upon their capture. Once there, they were sometimes given as a "wife" to their captors or kept in the camp's prison.

Katanga and Ngudjolo have both been charged with sexual enslavement constituting crimes against humanity⁹ and war crimes¹⁰.

Both, Katanga and Ngudjolo admitted in different circumstances having organized the attack upon Bogoro, sometimes justifying the attack as a military operation in order to dislocate UPC military forces.

⁶ Articles 7(1)(a) and 25(3)(b) of the ICC Statute.

⁷ Articles 8(2)(c)(i) and 25(3)(b) of the ICC Statute.

⁸ Articles 8(2)(e)(v) and 25(3)(b) of the ICC Statute.

⁹ Articles 7(1)(g) and 25(3)(b) of the ICC Statute.

¹⁰ Articles 8(2)(e)(vi) and 25(3)(b) of the ICC Statute.