

Situation in the Democratic Republic of the Congo

ICC-PIDS-CIS-DRC2-06-006/15\_Eng

***The Prosecutor v. Mathieu Ngudjolo Chui***

Updated: 27 February 2015

ICC-01/04-02/12

## Mathieu Ngudjolo Chui

Acquitted on 18 December 2012 of three counts of crimes against humanity and seven counts of war crimes. Released from ICC custody on 21 December 2012. Acquittal confirmed by Appeals Chamber on 27 February 2015.



**Date of birth:** 8 October 1970

**Place of birth:** Bunia in Ituri District, eastern province of the Democratic Republic of the Congo (DRC)

**Nationality:** Congolese

**Ethnicity:** Lendu

**Current situation:** Acquitted and released from ICC custody

**Warrant of arrest:** Issued under seal on 6 July 2007 | Unsealed on 7 February 2008

**Transfer to The Hague:** 7 February 2008

**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:** 15 to 23 May 2012

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

**Verdict of acquittal:** 18 December 2012

**Release from ICC custody:** 21 December 2012

**Appeal of the Prosecutor:** 20 December 2012

**Appeals Judgment:** 27 February 2015

## Charges

Mathieu Ngudjolo Chui was accused of committing, through other persons, within the meaning of article 25(3)(a) of the Rome Statute:

- Three crimes against humanity: Murder under article 7(1)(a) of the Statute; sexual slavery and rape under article 7(1)(g) of the Statute.
- Seven war crimes: Using children under the age of 15 to take active part in hostilities under article 8 (2)(b)(xxvi) of the Statute; deliberately directing an attack on a civilian population as such or against individual civilians or against individual civilians not taking direct part in hostilities under article 8(2)(b)(i); wilful killing under article 8(2)(a)(i) of the Statute; destruction of property under article 8(2)(b)(xiii) of the Statute; pillaging under article 8(2)(b)(xvi) of the Statute; sexual slavery and rape under article 8(2)(b)(xxii) of the Statute.

According to the Office of the Prosecutor, these crimes were allegedly committed during an attack against the Bogoro village on 24 February 2003.

On 18 December 2012, Trial Chamber II acquitted Mathieu Ngudjolo Chui of the charges of war crimes and crimes against humanity and ordered his immediate release. The Prosecution has appealed the verdict on 20 December 2012. The acquittal was confirmed by the Appeals Chamber on 27 February 2015.

## Main judicial developments

### 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.

### ARREST WARRANTS AND SURRENDER TO THE COURT

Following his initial investigation into crimes allegedly committed in the district of Ituri since 1 July 2002, the Prosecutor filed an application for the issuance of a warrant of arrest for Mathieu Ngudjolo Chui on 25 June 2007.

On 6 July 2007, the Chamber issued an arrest warrant for Mathieu Ngudjolo Chui.

On 6 February 2008, Mathieu Ngudjolo Chui was arrested, surrendered by the Congolese authorities and transferred to the seat of the Court in The Hague the following day. He made his first appearance before the Chamber on 11 February 2008.

On 10 March 2008, Pre-Trial Chamber I issued a decision joining the cases against Germain Katanga and Mathieu Ngudjolo Chui.

### LEGAL ASSISTANCE

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

### CONFIRMATION OF CHARGES AND COMMITTAL FOR TRIAL

A confirmation hearing was held from 27 June to 16 July 2008 before Pre-Trial Chamber I.

On 26 September 2008, the judges of Pre-Trial Chamber I confirmed charges of war crimes and crimes against humanity against Mathieu Ngudjolo Chui and sent the case to trial.

On 31 August 2009, Trial Chamber II decided to postpone the commencement of the trial to 24 November 2009. The trial was initially scheduled to start on 24 September 2009.

### TRIAL

The trial in the case against Germain Katanga and Mathieu Ngudjolo Chui started on 24 November 2009 and closing statements from trial participants were heard from 15 to 23 May 2012.

Over the course of 239 hearings, the Chamber heard 24 witnesses and experts called by the Office of the Prosecutor, 28 witnesses and experts called by the two Defence teams and two witnesses called by the legal representatives of the victims participating in the proceedings. The Chamber also called two other experts to testify. The judges ensured the respect of the rights guaranteed by the Rome Statute to each of the parties, including the right to cross-examine witnesses.

The Trial Chamber issued 130 oral decisions and 457 written decisions. The parties and participants before the Chamber exchanged more than 3,300 filings.

### PARTICIPATION OF VICTIMS

The judges granted 366 victims the right to participate in the proceedings in the case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, 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.

## SEVERING OF THE CHARGES

On 21 November 2012, Trial Chamber II decided to sever the charges against Mathieu Ngudjolo Chui and Germain Katanga. The verdict in the case against Germain Katanga will be delivered at a later stage as the Judges are currently examining a possible legal modification of the mode of liability with which the accused is charged.

## VERDICT AND RELEASE

On 18 December 2012, Trial Chamber II acquitted Mathieu Ngudjolo Chui of the charges of war crimes and crimes against humanity and ordered his immediate release.

On 21 December 2012, Mathieu Ngudjolo Chui was released from ICC custody.

## APPEAL

On 20 December 2012, the Office of the Prosecutor appealed the verdict.

On 27 February 2015, the Appeals Chamber, by majority, rejected the three grounds of the Prosecutor's appeal and confirmed Trial Chamber II's [decision](#) acquitting Mathieu Ngudjolo Chui of charges of crimes against humanity and war crimes.

---

### Composition of Trial Chamber II

Judge Bruno Cotte, Presiding Judge  
Judge Fatoumata Dembele Diarra  
Judge Christine Van den Wyngaert

### Composition of the Appeals Chamber

Judge Sanji Mmasenono Monageng, Presiding Judge on this appeal  
Judge Sang-Hyun Song  
Judge Cuno Tarfusser  
Judge Erkki Kourula  
Judge Ekaterina Trendafilova

### Representation of the Office of the Prosecutor

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

### Defence Counsel for Mathieu Ngudjolo Chui

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

### Legal Representatives of the Victims

Fidel Nsita Luvengika  
Jean-Louis Gilissen