



FACTSHEET

Situation in the Democratic Republic of the
Congo

Sylvestre MUDACUMURA

14 May 2012



PROFILE – Sylvestre MUDACUMURA



Name: MUDACUMURA, Sylvestre
Also known as: “Bernard Mupenzi”, “Mpezi”, “Commandant Pharaon” or “Pharaoh”, “Mudac”, “Mukanda” or “Radja”
Sex: Male
Year of Birth: 1954
Location of Birth: Gatumba sector, Gisenyi prefecture, Rwanda
Nationality: Rwandan
Current Position: Supreme Commander of the Army and President of the High Command of the *Forces Démocratiques pour la Libération du Rwanda – Forces Combattantes Abacunguzi* (FDLR – FOCA)

génocidaires re-grouped within refugee camps in the DRC, organized themselves and launched attacks in Rwanda, with the goal of removing its then new Government by force.

- The FDLR was involved in the two Congo wars, from 1996 until 2003, that caused, directly or indirectly, an estimated 4 million victims. This is the largest single number of conflict-related civilian deaths since the Second World War.
- Since 2002, the FDLR has been committing crimes against civilians. The Security Council has consistently characterized the FDLR as a threat to the peace and security of the Great Lakes region, a cause of regional insecurity and instability and a threat to the local civilian population.
- Sylvestre MUDACUMURA is a member of the FDLR’s Steering Committee and head of the FDLR military wing. As Supreme Commander of the Army and President of its High Command, MUDACUMURA is the highest-ranking military commander in the FDLR. He is subject to UN and EU sanctions.

Relevant Background Information

- Mr. Sylvestre MUDACUMURA is the supreme commander of the FDLR.
- The FDLR is a foreign militia group operating in the eastern Democratic Republic of the Congo (DRC). It emerged from the successive fusion and scissions of Rwandese rebel groups. It includes in its ranks former *génocidaires* that fled to the DRC after the 1994 Rwandan genocide. At that time, some

¹ Source: Photo of MUDACUMURA taken from Rakiya OMAAR’s 1 December 2008 report, “The Leadership of Rwandan Armed Groups Abroad with Armed Groups with a focus on the FDLR and RUD/URANANA”, p103



BACKGROUND INFORMATION SHEET

Sylvestre MUDACUMURA

THE CRIMES

- The OTP holds Mr. Sylvestre MUDACUMURA responsible pursuant to art. 25(3)(a), alternatively art. 25(3)(b) or Article 28(a) for the crimes committed in implementation of the Common Plan:
 - 5 counts of crimes against humanity: murder [7(1)(a)], inhumane acts [7(1)(k)], rape [7(1)(g)], torture [7(1)(f)], and persecution [7(1)(h)];
 - 9 counts of war crimes: attack against a civilian population [8(2)(e)(i)], murder or willful killing [8(2)(c)(i)-1], mutilation [8(2)(c)(i)-2], cruel treatment [8(2)(c)(i)-3], rape [8(2)(e)(vi)], torture [8(2)(c)(i)-4], destruction of property [(8(2)(e)(xii)], pillaging [8(2)(e)(v)], and outrage upon personal dignity [8(2)(c)(ii)].
- The crimes Sylvestre MUDACUMURA is held responsible for by the OTP were committed by the FDLR-FOCA between 20 January 2009 and 31 August 2010, in North and South Kivu Provinces. In January 2009, together with Ignace MURWANASHYAKA, Callixte MBARUSHIMANA and Gaston IYAMUREMYE and other senior FDLR military and political leaders, Sylvestre MUDACUMURA agreed to conduct a widespread and systematic attack against the civilian population of the Kivus and a simultaneous international media campaign designed to extort political concessions for the FDLR in Rwanda.

THE CONTEXT

- The DRC ratified the Rome Statute on 11 April 2002. The ICC has jurisdiction over

crimes committed in the territory of the DRC or by DRC nationals since the entry into force of the Rome Statute on 1 July 2002.

- The OTP received numerous communications concerning alleged ICC crimes from non-governmental organizations and international organizations, as well as other sources.
- In September 2003 the Prosecutor announced that he had identified the crimes committed in the district of Ituri as the then most serious crimes requiring investigation.
- In March 2004 the DRC Government referred the situation in the DRC to the Prosecutor.
- The OTP opened its investigation into crimes committed in the DRC in June 2004.
- Since 2002, millions of people have died in the DRC as a result of the ongoing conflict there. In the first half of 2009 alone, repeated attacks by the FDLR in North and South Kivu killed hundreds of people, driving over 370,000 of them from their homes and into the forests or to other places of refuge. Hundreds of individuals have been raped brutally, often repeatedly, and thousands of houses and other structures have been burnt to the ground.
- In November 2008, the OTP announced the opening of a third case in the DRC situation following allegations of massive sexual violence, forced displacements and killings in the Kivus.
- After the arrest of Callixte MBARUSHIMANA, the OTP has continued its investigations, focusing on other persons who may bear the greatest responsibility for the crimes committed by the FDLR in the Kivus. Together with the arrest of Ignace MURWANASHYAKA and Straton MUSONI in Germany on 17 November 2009 and the

arrest of Mr. Callixte Mbarushimana in France on 11 October 2010, this application is part of a joint judicial effort to stop the crimes and combat impunity in eastern DRC.

COMPLEMENTARITY AT WORK

- The OTP made it clear in its arrest warrant application against Mr. Callixte MBARUSHIMANA that this case was about a group of persons acting with a common purpose (art. 25-3-e) that was composed of the FDLR leadership, including Callixte MBARUSHIMANA, Ignace MURWANASHYAKA and Sylvestre MUDACUMURA at least.
- The proceedings are ongoing in the case against Ignace MURWANASHYAKA before the Stuttgart High Court in Germany. In the Callixte MBARUSHIMANA case before the ICC, the OTP has appealed the decision to not confirm the charges and is waiting for the Appeals Chamber decision. The arrest warrant application against MUDACUMURA is the next logical step in the OTP's effort at putting an end to the cycles of violence and impunity in the Kivus.
- The fact that this case goes beyond the individual(s) sought and arrested on behalf of the ICC is a perfect illustration of the objectives assigned to the Court pursuant to the Rome Statute, i.e. to end impunity for the most serious crimes of concern to the international community as a whole and to contribute to their prevention. To achieve its goal of holding accountable the perpetrators of such crimes, the Statute created an interdependent, mutually reinforcing system of justice with a permanent Court complementary to national criminal jurisdictions.
- With the arrest of other militia leaders on the ground and through efforts to assist DRC judicial authorities in investigating related crimes, the OTP hopes that its case will

contribute further in putting an end to the endemic violence in the Kivus. The OTP further hopes that this can also contribute to DDRRR process.

THE DRC SITUATION AT THE ICC

- Mr. Sylvestre MUDACUMURA is the fifth person prosecuted by the OTP in relation to the DRC situation, and the second one for crimes committed in the Kivu provinces.
- The first case in the DRC relates to war crimes committed by Mr. Thomas LUBANGA DYILO and Mr. Bosco NTAGANDA, leaders of the UPC-FPLC in the District of Ituri, namely enlisting and conscripting children under the age of fifteen years into the FPLC, and using them to participate actively in hostilities in the district of Ituri in the DRC. Mr. Thomas LUBANGA DYILO was recently found guilty of these charges, while the arrest warrant against Mr. Bosco NTAGANDA is still outstanding.
- In the second DRC case regarding crimes committed by leaders of the FNI-FRPI armed groups in the district of Ituri, Mr. Germain KATANGA and Mr. Mathieu NGUDJOLO CHUI have both been surrendered to the Court. They are accused of crimes against humanity and war crimes, in relation to the attack on the civilian population of Bogoro village on 24 February 2003 and their trial began on 24 November 2009. The presentations of the case by the Prosecution and the Defense are over, and the closing oral statements are set for 15 to 23 May 2012.
- The third DRC case concerns the crimes allegedly committed by the FDLR in the Kivus Provinces. After his arrest in France, Callixte MBARUSHIMANA was surrendered to the Court on 25 January 2011. On 16 December 2011, ICC judges declined to confirm the charges against Mr. MBARUSHIMANA and released him from ICC custody on 23 December 2011. The OTP

appealed this decision on 12 March 2012 and the Appeals Chamber has still to make a final determination. The OTP is requesting the arrest of Sylvestre MUDACUMURA in the context of its case against the FDLR leadership.