

Situation in Democratic Republic of the Congo

*The Prosecutor v. Mathieu Ngudjolo Chui*

ICC-01/04-02/12

ICC-PIDS-Q&A-DRC-06-01/15\_Eng

Updated: 27 February 2015

## Judgment on the appeal against the acquittal of Mathieu Ngudjolo Chui

### WHAT WAS DECIDED BY THE JUDGES OF THE APPEALS CHAMBER REGARDING THE ACQUITTAL OF MR NGUDJOLO CHUI?

The Appeals Chamber of the International Criminal Court (ICC) rejected the Prosecutor's appeal and confirmed Trial Chamber II's decision of 18 December 2012 acquitting Mathieu Ngudjolo Chui from charges of crimes against humanity and war crimes.

### WHY DID THE JUDGES CONFIRM MR NGUDJOLO CHUI'S ACQUITTAL?

The Appeals Chamber confirmed the acquittal decision after considering whether the Trial Chamber had committed any factual, legal or procedural errors.

The Appeals Chamber found that Trial Chamber II had correctly applied the standard of proof set out in the Rome Statute which states that an accused can be found guilty only if the evidence establishes his guilt "beyond reasonable doubt", and that its findings and assessment of the evidence were not unreasonable. It also found that Trial Chamber II took into account the entirety of the evidence submitted by the Prosecutor and assessed its credibility in a reasonable way. Although the Appeals Chamber found that the Trial Chamber made procedural errors by denying the Prosecutor full access to Registry reports in relation to questions regarding the credibility of certain witnesses, the Chamber decided that that these errors did not materially affect the outcome of the acquittal decision.

### IN THIS APPEAL, JUDGES EKATERINA TRENDAFILOVA AND CUNO TARFUSSER ADOPTED A JOINT DISSENTING OPINION. WHAT IS A DISSENTING OPINION?

In the absence of consensus, a Chamber may adopt its decision by majority. A judge who does not agree with the majority can attach a dissenting, or partially dissenting, opinion. A dissenting opinion lays out the position of the dissenting judge, but has no legal authority as such.

Regarding the judgement on the appeal against the acquittal of Mathieu Ngudjolo Chui, Judges Ekaterina Trendafilova and Cuno Tarfusser adopted a joint dissenting opinion. They found that the Appeals Chamber should have amended or reversed the Trial Chamber's Decision and ordered a new trial before a different Chamber. However the judgement was adopted by 3 of the 5 Appeals Judges, thus confirming the Trial Chamber's Decision.

### WILL MR NGUDJOLO BE DETAINED FOLLOWING THIS DECISION?

No. Mr Ngudjolo will not be detained by the ICC since his acquittal is confirmed.

Mathieu Ngudjolo Chui was released from ICC custody on 21 December 2012, following his acquittal. According to the Rome Statute, the accused shall be released immediately in case of an acquittal.

### WHAT WILL HAPPEN FOR THE VICTIMS IN THIS CASE?

The Court will continue to protect witnesses, victims or any person who may be at risk due to their interaction with the Court.

Because Mr Ngudjolo Chui was acquitted, no reparations will be ordered by the judges in this case.

The Trust Fund for Victims is supporting a number of programmes of assistance to victims in Ituri, reaching thousands of the most vulnerable and marginalized victims in the region.

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### CAN TODAY'S DECISION HAVE AN EFFECT ON THE PROCEEDINGS IN THE GERMAIN KATANGA CASE?

No. The cases against Mr Katanga and Mr Ngudjolo Chui are now completely separate. Germain Katanga was found guilty 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 and sentenced to a total of 12 years' imprisonment. 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 in the Katanga case is now final. Decisions on possible reparations to victims will be made in due course and today's judgment does not have any impact on this process.

### WHY DO ICC TRIALS LAST LONGER THAN NATIONAL TRIALS?

There are several reasons for the length of the proceedings before the ICC.

Firstly, cases before the ICC are complex because of the nature of the crimes falling within its jurisdiction.

Secondly, the Seat of the ICC is far removed from the scene of the crimes and the country of residence of the witnesses. This poses logistical challenges which lengthen the proceedings.

Also, translation and interpretation are a constant feature of the ICC's work. The working languages of the ICC are English and French. Documents must be translated into a language the Accused person understands. During the trial, simultaneous interpretation into several languages is sometimes required depending on the language used by the witnesses.

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

Nevertheless, the ICC must ensure that trials are fair and impartial, and the judges guarantee that the procedure doesn't suffer from any unjustified delay.