

Thomas Lubanga Dyilo and Germain Katanga transferred to the DRC to serve their sentences of imprisonment

The Presidency of the International Criminal Court (ICC) for the first time has designated the Democratic Republic of Congo (DRC) on 8 December 2015 to enforce the sentences of Thomas Lubanga Dyilo and Germain Katanga; they will be transferred today the the 19th of December 2015 to DRC pursuant to Article 103 of the Rome Statute. This move is precipitated due to the request from Mr. Lubanga and Mr. Katanga to serve their sentence in their home country, however, the Court notes that the standard applicable at the international level must be observed.¹

Mr Lubanga like Mr. Dusko Tadić in the ICTY was the first person to be sentenced by the ICC, he was jailed for 14 years of imprisonment by Trial Chamber I on 10 July 2012 for war crimes by conscripting and enlisting children under the age of 15 years and using them to actively participate in hostilities during the civil war², he eventually appealed this sentence and on 1 December 2014, the Appeals Chamber confirmed the conviction and upheld the sentence with commutation of sentence spent in the ICC's custody, that is from 16 March 2006 when he was held by the ICC.³

¹ ICC, <https://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/pr1181.aspx>, [Access date, 19 December 2015].

² Pietro SULLO, *Lubanga Case*, Max Planck Encyclopedia of Public International Law (MPEPIL), Oxford Public International Law, April 2014, para. 3. (allegedly enlist and conscript children from 1 September 2002 to 13 August 2003); *Prosecutor v. Thomas Lubanga Dyilo*, Case No. ICC-01/04-01/06-2901, Decision on Sentence pursuant to Article 76 of the Statute, (10 July 2012), p. 41, Available at: <<https://www.icc-cpi.int/iccdocs/doc/doc1438370.pdf>>, [Access date, 19 Dec. 15]. ("Judge Odio Benito dissented with the majority on the decision to impose the sentence of crimes of enlistment, conscription and participate actively in hostilities"); *Prosecutor v. Germain Katanga*, Case No. ICC-01/04-01/07-3615, Decision on the Review Concerning Reduction of Sentence of Mr. Germain Katanga, 13 November 2015, para. 1. Available at: <<https://www.icc-cpi.int/iccdocs/doc/doc2145522.pdf>>, [Access date, 21 December 2015]. (Katanga is also charged for using children under 15 years as bodyguard or escort); *Prosecutor v. Germain Katanga*, Case No. ICC-01/04-01/07-3436, Judgment Pursuant to Article 74 of the Statute, (7 March 2014), para. 1074 – 1078. Available at: <<https://www.icc-cpi.int/iccdocs/doc/doc1963464.pdf>>, [Access date, 24 December 2015].

³ ICC, <https://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/pr1181.aspx>, [Access date, 19 December 2015].

Germain Katanga former Brigadier General in the Forces Armées de la République Democratique du Congo⁴, was found guilty for crimes committed on 24 February 2003 during the attack of Bogoro in Ituri District.⁵

Mr. Katanga was sentenced for 12 years imprisonment for his role during the conflict, however, on November 3, 2015 a panel of three appeals judges granted his request for early release which is due on 18 January 2016.⁶ It is important to note that Germain Katanga did not as oppose to Lubanga appeal his judgment. It is also necessary to indicate that Lubanga's appeal for reduction of his sentence was dismiss.⁷ They will be transferred to DRC where their remaining sentence will be enforced.

⁴ *Prosecutor v. Germain Katanga*, Case No. ICC-01/04-01/07-3436, Judgment Pursuant to Article 74 of the Statute, (7 March 2014), para. 6, Available at: < <https://www.icc-cpi.int/iccdocs/doc/doc1963464.pdf> >,[Access date, 21 December 2015].

⁵ He was also charge for using child soldiers as bodyguard and escort.

⁶ International Justice Monitor, <<http://www.ijmonitor.org/2015/11/germain-katanga-granted-early-releasegermain-katanga-granted-early-release/>>, [Access date, 24 December 2015].

⁷ International Justice Monitor, <<http://www.ijmonitor.org/2015/09/les-juges-refusent-de-reduire-la-peine-de-m-lubanga-prononcee-par-la-cpi/>>,[Access date, 24 December 2015].