

## Q&A

### Proceedings against Roger Lumbala

#### **1. Who is Roger Lumbala? What charges does he face?**

Roger Lumbala is a Congolese national and former leader of the non-state armed group the Congolese Rally for National Democracy (RCD-N). The RCD-N operated in the eastern Democratic Republic of the Congo (DRC) from 2000 to 2003. Lumbala also held the post of Minister of Commerce of the Congolese government between 2003 and 2005.

On 6 November 2023, Lumbala was indicted on charges of complicity in crimes against humanity committed in the DRC, including murder, torture, rape, pillage and enslavement, inclusive of sexual slavery, as well as conspiring to commit crimes against humanity. The RCD-N and its allies allegedly committed these atrocities during a military operation called “Erasing the Board” in the provinces of North Kivu and Ituri. Lumbala allegedly ordered and supplied the RCD-N troops to violently attack the civilian population as part of the operation’s aim to take control of resource-rich areas in the eastern part of the DRC.

#### **2. What was operation “Erasing the Board”?**

In the context of the Second Congo War (1998-2003), in the last months of 2002, the RCD-N and allied armed groups carried out a campaign of systematic attacks against the civilian population residing in the two provinces of Ituri and North Kivu.

The operation was designed to grant the RCD-N control of areas held by the rival group Congolese Rally for Democracy-Liberation Movement (RCD-ML), particularly the town of Mambasa and the resource-rich region of Beni-Butembo. The RCD-N named the operation “Erasing the Board” because the *modus operandi* of its troops was to attack the civilian population and destroy everything of value to them.

The [United Nations Special Investigation Team](#), which was deployed to the DRC in the aftermath of the campaign “Erasing the Board”, concluded that the campaign represented “a new scale of violence characterized by premeditated operations using looting, rape and summary execution as tools of warfare”. In October 2002 alone, the UN reported a total of 173 killings in just 17 days. Additional documented incidents include the widespread rape of women and girls, dozens of cases of cruel and inhuman treatment, forced labor and enforced disappearances, and the systematic looting of social structures in the area.

#### **3. Who are the victims of Lumbala’s alleged crimes?**

While the precise number of victims of operation “Erasing the Board” remains unknown, entire villages, communities, and families living in the area were subjected to egregious abuses with devastating consequences.

No one was spared. Men, women, and children of all ages were targeted, especially members of specific ethnic groups and indigenous people’s communities. Many of the attacks aimed at taking revenge against the ethnic minority Nande and the indigenous Bambuti people, both perceived as supporting the RCD-ML authorities. Many young men were enslaved to forcibly carry the loot.

One of the thousands of victims of the events [recounts](#): “It was in the night around 8 p.m. when people began to fall asleep. Once they were sure the village was asleep, they attacked and started to shoot and kill. It was dark and the moon was not shining that night. They started shooting at all those who tried to escape. One ran this way, they shot him. Another ran that way, they shot her – even the women. They captured the young children, gathered them and held them until daylight. Then they put some of them

in a mortar and pounded them to death. They destroyed the huts and set them on fire. The people were also burnt.”

#### **4. Why is Lumbala on trial in France?**

Lumbala is a Congolese citizen who arrived in France in the 1990s to seek asylum. After his voluntary return to the DRC, French authorities stripped him of his refugee status and later reported him to the prosecutor in 2016, due to serious concerns that he was involved in the commission of international crimes. That year, French authorities launched a preliminary investigation against him.

Lumbala was arrested in Paris in 2020 and a judicial investigation into his alleged crimes was launched at the beginning of 2021.

Lumbala’s indictment confirms that he will be tried in France for crimes against humanity under [universal jurisdiction](#). This legal principle allows for the investigation and prosecution of certain crimes no matter where they were committed and irrespective of the nationality of the victims or suspects, provided the suspect is resident in France. This extraterritorial reach is justified by the gravity of the crimes in question. Genocide, war crimes, and crimes against humanity are so serious that they are considered an attack on the international community.

In that regard, French courts have previously tried international crimes in France. In 2014, for the first time, French courts tried a former Rwandan army captain for crimes against humanity perpetrated in the context of the Rwandan Genocide (1994). More recently, on 2 November 2022, the French Criminal Court convicted former Liberian warlord Kunti Kamara of complicity in crimes against humanity, including torture committed during the Liberian Civil War (1989 - 1996). The first trial regarding crimes against humanity committed in Syria is expected to be held in France in the spring of 2024. Since 2001, French courts have issued a dozen convictions against perpetrators — including some *in absentia* — of international crimes under universal jurisdiction laws.

#### **5. What happened during the investigation?**

The French investigating judge heard testimony, including eyewitnesses, insider witnesses, and victims, including survivors of sexual and gender-based violence. The judge also heard Lumbala’s account. Relevant open-source information, including relevant reports and contextual and legal documentation from NGOs, the UN and the International Criminal Court (ICC) were admitted as evidence in the case file.

This evidence was crucial to the French judge who could not conduct interviews in the DRC. The provinces of North Kivu and Ituri — where the crimes occurred — have been under siege by the Congolese government since May 2021, owing to the presence of multiple armed groups in the area.

#### **6. What is the role of NGOs in these proceedings?**

TRIAL International, Minority Rights Group International, the Clooney Foundation for Justice, and Justice Plus have been admitted as civil parties to the case. Under the French code of criminal procedure, organizations with a mandate to fight crimes against humanity can apply for civil party status in such proceedings.

In our capacity as civil parties, we are automatically granted access to the case file and given a number of procedural rights, such as the right to request that judges investigate specific lines of inquiry, and to be kept informed of investigative developments. As a result, we were better informed on the case and able to submit stronger legal arguments and more relevant evidence.

Our NGOs have also supported survivors who wished to share their accounts and become civil parties themselves. For example, we provided logistical and psychological support to minimize the chance of survivors being retraumatized when recounting the events to the French authorities.

In total, more than 30 victims have been admitted as civil parties to the case.

**7. When will the trial take place? How long will it last? Will it be public?**

On 6 November 2023, investigating judges found that there is enough evidence to send Lumbala to trial for alleged complicity in murder, torture, rape, pillage and enslavement, inclusive of sexual slavery, as crimes against humanity, as well as conspiring to commit crimes against humanity. It decided to seize the Court of Assizes to determine whether Lumbala is guilty. The defense can appeal this indictment.

The trial before the French Criminal Court is scheduled to begin sometime in 2025. The court would be composed of both professional judges and a jury. The trial would last several weeks and would be open to the public.

**8. If Lumbala is convicted, what sentence can we expect? Can we expect reparations for victims?**

If convicted, Lumbala will face life imprisonment. This sentence is set out in Articles 212-1 and 121-6 of the French Criminal Code.

The court will then decide whether victims are entitled to financial reparations in a separate hearing.

**9. Shouldn't crimes committed on Congolese territory be prosecuted in the DRC itself?**

Ideally, justice is local and trials and other accountability proceedings should take place as close as possible to where the crimes were committed, to have the most meaningful impact on those affected by the crimes. However, local prosecutions are not always possible due to insecurity, lack of capacity or resources, political will and other factors.

In recent years, Congolese courts have made important strides in investigating and prosecuting graves crimes committed in the DRC by [militia leaders](#) and the [Congolese army](#) in the last decade, but total impunity remains for crimes committed in earlier conflicts. So far, they have not addressed crimes committed during the Second Congo War (1998-2003), despite the fact that those crimes resulted in more than one million deaths and were thoroughly documented, including by the [2010 UN DRC Mapping Report](#).

The only resulting cases were before the ICC, where in the last ten years, several Congolese militia leaders were tried and two were convicted. Thomas Lubanga Diylo, leader of the Union des Patriotes Congolais (UPC) was convicted of war crimes in 2012. Germain Katanga, commander of the Forces de Résistance Patriotique en Ituri (FRPI), was convicted of both war crimes and crimes against humanity in 2014.

Given that no concrete justice avenue exists in DRC for victims of the crimes committed by the RCD-N, in this context, universal jurisdiction proceedings outside of the DRC constitute the only effective possibility for survivors to tell their stories and seek justice and reparations.