



## ***THE CASE OF THE PROSECUTOR V. BOSCO NTAGANDA AT THE INTERNATIONAL CRIMINAL COURT***

Bosco Ntaganda is wanted by the International Criminal Court (ICC) for alleged war crimes, namely the enlistment, conscription and active participation in hostilities of children under the age of fifteen, committed from July 2002 to December 2003 in the Ituri district of the Democratic Republic of the Congo (DRC). He is still at large.

### Who is Bosco Ntaganda?

Ntaganda was at the time deputy chief of the general staff of the Forces Patriotiques pour la Libération du Congo (FPLC), the military wing of the Union des Patriotes Congolais (UPC). It is alleged that he played an important role in committing such crimes because he had authority over the FPLC training camp commanders and used his authority to actively implement the policy adopted at a higher level of the UPC. It is also alleged that Ntaganda frequently visited the training camps where the children were trained to become FPLC soldiers and that he took part directly in attacks in which FPLC soldiers under the age of fifteen actively participated.

Ntaganda is a Tutsi Congolese national born in 1973. In the 1990s, he fought with the Rwandan Patriotic Army in Rwanda to overthrow the Rwandan Hutu-led regime in 1994. He then became the deputy chief of the general staff of the FPLC. In January 2005, DRC authorities tried to appoint Ntaganda to the position of general in the newly established Congolese army in an attempt to end the conflict in Ituri, but Ntaganda refused the offer. In 2006, Ntaganda left the FPLC because of differences within the UPC and joined Laurent Nkunda's Congrès National pour la Défense du Peuple (CNDP) as military chief of staff.

Evidence suggests that in his capacity as deputy chief of the general staff of the FPLC Ntaganda was involved in serious human rights abuses, including massacres. In August 2002, for instance, combatants under his command allegedly surrounded the town of Sangolo and slaughtered Lendu and Ngiti civilians with firearms, machetes and spears. In addition, from August 2002 to March 2003, Ntaganda participated in the hunt, arrest and torture of hundreds of Lendu civilians in Bunia.<sup>1</sup>

### The Arrest Warrant

Ntaganda is the fourth Congolese rebel leader wanted by the ICC for war crimes, after Thomas Lubanga Dyilo, Germain Katanga and Mathieu Ngudjolo Chui, who are all currently in ICC custody. He is the second person charged by the ICC in relation to crimes allegedly committed by leaders of the FPLC; the first suspect being his former associate Thomas Lubanga Dyilo, founder and leader of the UPC.

The Court issued an arrest warrant for Ntaganda in 2006 but kept it under seal to prevent the risk of him fleeing or obstructing the work of the Court. The circumstances which led to the sealing changed and thus the arrest warrant was made public on April 28, 2008. The Prosecution and the Registry agreed that unsealing the arrest warrant would not endanger the witnesses of the cases because further protective measures have been taken. It

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<sup>1</sup> *Ituri: Covered in Blood, Ethnically Targeted Violence in Northeastern DR Congo*, Human Rights Watch, Vol. 15, No. 11 (A), July 2003, <http://www.hrw.org/reports/2003/ituri0703/>.





is possible that Ntaganda became aware of the warrant against him. In addition, the warrant has been notified to the DRC authorities for about a year yet they have not been able to arrest him because the CNDP has been protecting him. Finally, unsealing the warrant may foster support to the DRC authorities to implement the request for arrest and surrender from its regional and international partners.

## Ntaganda Still at Large

Despite the arrest warrant, Ntaganda is still at large. The ICC does not have its own police force and is thus calling on the relevant authorities in the DRC and neighboring countries to arrest him and transfer him to the Court.

Ntaganda has been the military chief of staff for the CNDP acting in North Kivu since 2006. The CNDP is alleged to have committed serious war crimes, including the recruitment of child soldiers, killings of civilians, and sexual crimes of unspeakable cruelty.<sup>2</sup>

On January 23, 2008, the DRC government signed a peace agreement in Goma, North Kivu, with 22 armed groups, including the CNDP. In signing the peace agreement, the parties agreed to respect international humanitarian and human rights law.<sup>3</sup> Many Congolese, especially those in the North Kivu province, fear that the arrest warrant against Ntaganda will hamper the fragile peace currently being enjoyed as a result of the peace deal.<sup>4</sup> Human Rights Watch's senior researcher Anneke Van Woudenberg stated that CNDP leader Laurent Nkunda must deliver Ntaganda to the Court if in fact he is committed to the peace agreement.

However, Nkunda has made it clear that he will not hand over his military chief of staff. He said that before he would cooperate with the ICC, the Court would have to provide him with evidence on the involvement of Ntaganda in the crimes alleged so that he could personally verify the evidence. Nkunda considers that Ntaganda is a "small fish" and that he should not have been charged with war crimes. He argues that when Ntaganda was deputy chief of the general staff of the FPLC, Ntaganda took orders from General Floribert Kisembo (chief of staff) who is now a top commander of the DRC army in Maniema province.<sup>5</sup>

## Background on the Conflict in the DRC

In 1997 Laurent Kabila, backed by Rwandan and Ugandan troops, overthrew then-President Mobutu Sésé Seko of Zaire (now DRC) and declared himself as president. The Second Congo War quickly followed in August 1998 when Congolese rebels backed by Rwandan troops tried to depose Kabila in favor of their own liberation movement. The war officially ended when the Transitional Government of the DRC took power in July 2003 but violence continues to ravage the country. Factions continue to carry out serious human rights abuses in

<sup>2</sup> *DR Congo: Suspected War Criminal Wanted: International Court Unseals Arrest Warrant Against Bosco Ntaganda*, Human Rights Watch London/Brussels, April 29, 2008, <http://www.hrw.org/english/docs/2008/04/29/congo18670.htm>.

<sup>3</sup> *Thousands of Congolese Cling to Hope that Goma Peace Agreement Ends Suffering*, BBS News, April 23, 2008, <http://bbsnews.net/article.php/20080423085626463>.

<sup>4</sup> *DRC Rebels Condemn Government Over ICC Warrant*, Voice of America, April 30, 2008, <http://www.voanews.com/english/archive/2008-04/2008-04-30-voa2.cfm?CFID=1988277&CFTOKEN=38584684>.

<sup>5</sup> *Nkunda Rebuffs ICC Over Indictree*, Institute For War & Peace Reporting, June 16, 2008.





pursuit of their policies. In March 2004, the DRC led by President Joseph Kabila referred its situation to the ICC, which has jurisdiction over crimes committed in the country since July 1, 2002.

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