

Once Again in Belgium: Prosecuting a Colonial Crime – The Assassination of Patrice Lumumba

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In December 2024, a Belgian Court of Appeal recognised the civil liability of the Belgian State for a colonial crime committed in the Belgian Congo between 1948 and 1953. In the [Métis case](#), as already addressed by [scholars](#), the Court held that the Belgian policy of systematically removing children born to a Black mother and a white father from their families amounted to a crime against humanity. Less than fifteen months later, Belgian courts once again addressed a major colonial crime, this time in criminal proceedings: the assassination of Patrice Lumumba.



On 17 March 2026, a Belgian pre-trial chamber [authorized](#) the trial of a former Belgian consular officer for three war crimes—unlawful transfer and confinement, wilfully depriving a protected person of the right to a fair and regular trial, as well as humiliating and degrading treatment—relating to the arrest and transfer of Mr Patrice Lumumba to the Province of Katanga in late 1960 and beginning 1961.

Historical background and colonial context

Lumumba became the first Prime Minister of the Republic of Congo upon independence from Belgium on 30 June 1960, with Joseph Kasa-Vubu as President. Independence, however, was immediately followed by severe instability. On 10 July 1960, Belgium launched intensive military operations in the Congo, officially to protect its nationals, following a mutiny within the Belgian colonial *Force Publique*, still commanded by Belgian officers. Following UN pressure, Belgian troops formally withdrew on 31 August 1960, with UN forces already taking over. Meanwhile, Katanga, together with other provinces, proclaimed its secession from the Congo on 11 July 1960 under the leadership of Moïse Tshombe.

Lumumba promoted [a fully sovereign Congo](#), sought to sever colonial ties with Belgium, and pursued closer relations with the USSR to counter secessionist movements. Belgium perceived him as a threat and provided extensive support to his opponents in two ways. First, Belgium [supported secessionist provinces](#), including Katanga, by supplying military equipment and advisers, and by failing to remove hundreds of former members of the Belgian colonial *Force Publique* from Katanga.

Some of those members had been incorporated in the Katanga's army, the Katangese gendarmery. Second, from mid-August 1960, Belgium regained some influence over Congolese leaders — especially Kasa-Vubu and Joseph-Désiré Mobutu — who had distanced themselves from Lumumba, and exerted pressure on them to dismiss Lumumba and later to arrest him.

On 10 October 1960, Lumumba was confined to his residence, which was encircled by Mobutu's troops. While attempting to escape in early December, he was arrested and detained for several weeks before being transferred to his worst enemies, the Katangese secessionists, where he was executed on 17 January 1961 — together with two of his former ministers. Although the execution took place after the formal end of Belgian colonial rule, historical evidence situates the assassination within a clear colonial framework.

From historical responsibility to criminal proceedings

Belgium's criminal investigation into these events was triggered by two developments: the [public interview](#) of a Belgian police officer involved in the dismemberment of Lumumba's body, from the early 2000s, and the work of Belgian researcher [Ludo De Witte](#), published in 2000, who concluded that Belgium had played an active role in Lumumba's assassination. A [parliamentary commission](#) of inquiry established in response concluded in 2001 that Belgium bore only moral responsibility.

In 2011, the Lumumba family lodged a criminal complaint. Judicial investigations were authorised by the [Chambre des mises en accusation in 2012](#). In June 2025, the Federal Prosecutor sought the prosecution of the only remaining suspect, focusing not on the assassination itself but on Lumumba's detention and transfer to Katanga. The *Chambre du conseil* granted that request in March 2026.

War crimes and the existence of an international armed conflict

The prosecution rests on the classification of the alleged acts as war crimes — an essential qualification, as it alone enables prosecution decades later, without succumbing to the statute of limitations. However, under the international law applicable in 1960, war crimes were could only occur in international armed conflicts.

Relying on Article [136quater of the Belgian Criminal Code](#) and the 1949 Geneva Conventions (applicable to Congo at the time), the *Chambre du conseil* recalled that an international armed conflict undeniably existed between Belgium and the Congo from 10 July to 31 August 1960. While it expressed doubt as to the international character of the conflict thereafter, it considered that this doubt warranted referral to trial, given a series of elements it lists, including Belgium's support to Katanga.

However, it refrained from carrying out a legal analysis of these elements, reserving that task for the trial judge.

On the merits, it will be necessary to determine the period during which an international armed conflict may have been ongoing. In this regard, it is not required that such a conflict was *still* ongoing at the time of Lumumba's transfer to Katanga and his assassination in January 1961. It suffices that an international armed conflict existed at the time of his detention, which corresponds to the date on which he was confined to his residence on 10 October 1960. Under the [Geneva Conventions](#), persons detained in connection with an armed conflict continue to benefit from their protection until their release, even after the end of the armed conflict.

Contemporary [authors](#) have argued that the Congolese conflict was non-international in nature. They rely in particular on [doctrine](#) and statements made by various actors at the time — including the UN [Security Council](#) and [Secretary General](#) as well as the [ICRC](#) — that described the Congolese violence as a civil war. However, these characterisations were not judicial determinations. Moreover, they did not involve a detailed examination of all relevant circumstances at the time, in particular on 10 October 1960. The same applies to the characterisation later put forward by the [ICTY](#), which merely cited the Congolese situation as an example of internal armed conflict. Taken together, these qualifications result in an undifferentiated characterization of the post-independence period. This is notably evidenced by the fact that they do not distinguish between the period prior to the withdrawal of Belgian forces — during which an international armed conflict between Belgium and the Congo undeniably existed — and the period following 31 August 1960.

Several arguments support the possible existence of an international armed conflict at the time of Lumumba's detention due to the assistance provided by Belgium to Katanga, which continued throughout the hostilities that opposed Katanga and the Congolese army from the proclamation of Katanga's independence until its defeat in January 1963:

- **Attribution to Belgium of the acts of the Katangese gendarmery and, more broadly, of Belgians supporting Katanga:** at the time, international law relied on a relatively vague criterion for attributing conduct of individuals or groups of individuals to a State, namely whether those individuals or groups acted "[on behalf of](#)" the State;
- **Application of the overall control test:** nothing precludes the view that the now-established overall control test was already applicable at the time, given that this criterion derives from a (admittedly controversial) interpretation by the [ICTY](#), originally based on Articles 4, 2) of the Third Geneva Convention of 1949;

- **Continuation of the international armed conflict initiated in July 1960 between Belgium and the Congolese army:** pursuant to Article 6 of the Fourth Geneva Convention, an armed conflict ends only at the “general close of military operations” and not merely with the cessation of active hostilities. While Belgian troops officially withdrew on 31 August 1960, Belgian military personnel remained in Katanga thereafter.

In addition, the international character of the conflict could also be derived from the United Nations’ intervention in the confrontation between Katanga and the Congolese central authorities in support of the latter. Under the approach to the law applicable at the time, such intervention may have sufficed to internationalise the conflict, given the exclusively international nature of the UN, regardless of whether it confronted a State or an armed group. This approach is supported by early [doctrinal writings](#) on the topic (contrary to contemporary [scholarship](#)) and is echoed in the [ICRC’s reclassification](#) of the Congolese situation as an international armed conflict following clashes between Katangese forces and UN forces. While this assessment formally required the UN to be a party to the armed conflict—and while active hostilities with Katangese forces only began in April 1961—the UN had already, pursuant to a [Security Council resolution of 9 August 1960](#), occupied parts of Katanga against the will of the local authorities. Such occupation is capable of triggering the application of the law of international armed conflict.

Statutory limitations under international law

The prosecution further depends on the non-applicability of statutory limitations. Although Belgium recognised the non-applicability of statutory limitations to war crimes in [1993](#) and ratified the [1974 European Convention](#) on the issue, which took effect in 2003, those instruments apply only to crimes not yet time-barred at their entry into force.

The *Chambre du conseil* nonetheless held that, under customary international law, war crimes were imprescriptible at the time, with subsequent treaties and domestic legislation merely having declaratory value. In support of this view, the Chamber referred to case law of the Belgian Court of Cassation as well as to the decision adopted in the present case in 2012 by the *Chambre des mises en accusation*.

At the international level, the Chamber could also have relied on other sources, including the Nuremberg Statute as the Brussels Court of Appeal had done in the [Métis case](#) with regard to crimes against humanity; the customary rule identified by the [ICRC](#) on this issue; and the case law of the European Court of Human Rights, in particular [Kononov v Latvia](#), concerning the prosecution in 1998 of war crimes committed in 1944. In that judgment, the Court held that international law had never

provided for a limitation period for the prosecution of war crimes, whether under treaties such as the Geneva Conventions or under the statutes of international criminal tribunals.

Individual criminal responsibility and the joint criminal enterprise

The accused, now 93, was a mere consular trainee at the time of the events. Once again, the *Chambre du conseil* considered that there was sufficient doubt on his responsibility to justify committing the accused to trial, on the basis of a series of elements it identified, including the position held by the accused at the time, the large number of telexes he sent and, more generally, the finding of the Belgian parliamentary commission of inquiry that the role of Belgian advisers in the execution of Patrice Lumumba's transfer was decisive.

While responsibility may be examined [under Belgian law](#) through co-perpetration (“corréité”) or complicity, the trial court may also consider the doctrine of joint criminal enterprise. Developed by the [ICTY](#) and applicable at the relevant time — as evidenced by the State practice relied upon by the ICTY to establish its existence. This mode of liability appears particularly relevant in the present case: the accused's acts seem to have been part of a broader project, shared by numerous individuals — including the Belgian political authorities with whom he worked — to neutralise Lumumba, notably through his arrest and, where appropriate, his transfer to Katanga, where it was clear that he would be executed.

Joint criminal enterprise is characterised by the existence of a common criminal purpose pursued by a group of individuals, whether organised or not, to which each contributes in a significant manner, without that contribution needing to be indispensable or “useful”, as required by co-perpetration and complicity [under Belgian law](#), respectively. In this respect, there is evidence both of the intent of Belgian political authorities to arrest Lumumba and transfer him to Katanga — as illustrated by a [telex of 16 January 1961](#) in which the Belgian Minister for African Affairs urged Tshombe to receive Lumumba in Katanga “as soon as possible” — and of the accused's participation in the broader project aimed at overthrowing Lumumba and neutralizing him.

Even though this mode of liability is not expressly provided for under Belgian law, the trial judge could rely on it, as it existed under international law at the relevant time, in the same way as the judge will rely on international law definitions of war crimes to prosecute the accused. A [Belgian jurisdiction](#) already applied this mode of liability in a case concerning crimes against humanity committed in Guatemala at the beginning of the eighties.

Civil society, research and artistic engagement

Faced with this slow pace of justice, it is not surprising that civil society has taken up the case, by inviting academic researchers to conduct studies on the issue and to present their findings through an artistic performance.

The research carried out in this context at [UCLouvain](#), bringing together students, professors, and a stage director, helped to develop a script and to produce a [theatrical play](#) performed on [several occasions](#) in Belgium. The participants in that project shared their experience during the [ESIL Teaching Corner webinar](#) of 7 October 2025.

The play stages a popular tribunal tasked with ruling on the responsibility of the Belgian state. To that end, it retraces, through the deliberations of the tribunal's members, the history of the Congo from the period of Leopold II up to the assassination of Lumumba.

The Lumumba family attended the performances, and the public was able to gain insight into the historical context and the legal and political issues surrounding the assassination, before forming their own views on questions of responsibility.

Conclusion

We may now hope that the judicial proceedings, which have been reactivated, will take over and provide further clarification regarding Lumumba's assassination. This is despite the fact that they do not (yet), unlike the *Métis* case, concern the responsibility of the Belgian state, but rather deal with the criminal responsibility of an individual. In any event, whatever the time that may elapse before the judgment is rendered, and despite the significant challenges rightly emphasized by [scholars](#), the Lumumba case, like the *Métis* case, demonstrates the boldness of the Belgian courts in prosecuting colonial crimes.

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