Mistaking the Tree for the Forest

On the Lumumba Trial and the Limits of Criminal Justice in Addressing Colonial Violence

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28.04.2026 doi: 10.59704/d065657fae1351f6

In 2024, Samy Manga published *La dent de Lumumba*, which he dedicates to "Lumumba, for a free Congo", while immediately recalling a cynical truth: "Every crime against humanity is entirely irreparable." Two years later, after more than a decade of investigation, Étienne Davignon is the only defendant to stand trial before the Belgian criminal court for war crimes related to the assassination of the first prime minister of the newly independent Congo, Patrice Emery Lumumba, and his collaborators Maurice Mpolo and Joseph Okito.

While the decision to bring the case to trial undeniably constitutes an unprecedented judicial moment, it cannot be understood on its own. The *Lumumba* litigation marks a historic step forward in the criminal prosecution of colonial crimes. However, it risks producing the illusion of a legally contained resolution of the colonial past – by individualizing responsibility for a structural crime and offering the Belgian state an opportunity for self-absolution.

A state crime at the heart of international dynamics

The assassination of Patrice Lumumba occurred at a moment of rupture: the independence of the Congo, proclaimed on June 30th, 1960, formally ended decades of Belgian colonial domination and opened a period of profound instability (Goddeeris et al., 2024; Van Reybrouck, 2014). Quickly, the new state was weakened by both internal and external dynamics: the secessions of the regions of Katanga and South Kasai, political rivalries, and foreign interference in the context of the Cold War (Kounda, 2026; Stroobants, 2026).

In this context, Lumumba emerged as a troubling figure. A defender of a unitary state and a staunch opponent of Western imperialism, he became a target to be eliminated for his ex-colonizer state and its allies. His arrest, transfer to Katanga, and execution on January 17, 1961, took place within a set of events involving Congolese, Belgian, and American actors. His assassination reflects an entanglement of political, ideological, and economic interests (Kiesel et al., 2021; Boisbouvier, 2021; Ramondy, 2020).

Early on, Lumumba transcended his role as a political leader to become a mythic figure and a symbol of anti-colonial struggle. His place in the collective imagination partly explains the importance of the litigation and the strong political significance it still carries today (*cf.* Africanews, 2026; Grimonprez, 2024; Verbeeck, 2021; Peck, 1991).

A delayed and fragmented judicial process

The judicial proceedings began in 2011, when the Lumumba family filed a criminal complaint with civil-party status before an investigating judge in Brussels against unknown persons and ten Belgian figures (including political and military figures) for their alleged involvement. To circumvent the obstacle of statutory limitations, the complaint characterized the acts as war crimes (Bergsmo et al., 2020; de Clippele, 2024).

The investigation that followed was marked by its length and fragmentation. For more than a decade, it progressed slowly, punctuated by a few significant developments – seizures of evidence, debates over access to archives, and the symbolic restitution of a tooth attributed to Lumumba (Zian et al., 2023).

A turning point came in 2025, when the federal prosecutor requested that the case be referred to the criminal court. At that stage, only one suspect remained alive: Étienne Davignon, a former Belgian

diplomat. In March 2026, the pre-trial chamber confirmed the referral, extending it to include crimes related to the murders of Maurice Mpolo and Joseph Okito (Tribunal de Premier Instance Bruxelles fr., 17 March 2026, p. 9). The charges, however, do not concern the murders themselves. Rather, he is accused of the unlawful detention and transfer of a prisoner of war, depriving that prisoner of the right to a fair trial, and subjecting him to humiliating and degrading treatment – all classified as war crimes (*Ibid*., §8; Van Eeckhaut et Georis, 2025; Rankin, 2026).

Although limited to a procedural stage, this decision signals a turning point: for the first time, a criminal court may rule on the individual responsibility of a Belgian actor in Lumumba's assassination. A trial could therefore take place in 2027, although the defendant has appealed the referral decision, further prolonging a procedure already exceptional in its duration and complexity.

Between uncertain qualification and contested temporality

This development rests on legal considerations with uncertain parameters. Two central issues run through the proceedings: the qualification of the conflict and the question of temporality.

On the one hand, classifying the acts as war crimes presupposes the existence of an armed conflict. However, the nature of the Congolese conflict of 1960-1961 remains debated. The investigating court adopts a cautious approach: it argues that it cannot exclude that the Congolese conflict can indeed be qualified as an international armed conflict. It does not definitively rule on the matter, leaving this assessment to the trial judge (§§ 2-4).

On the other hand, the issue of limitation periods is central. By arguing that the statutory limitations do not apply to war crimes, as this exception was already recognized as a customary rule at the time of the events, the court follows the reasoning from earlier case law (Bruxelles (Fr.), 2/12/2024, n° 022/AR/262, §§ 66-69). It also refuses to consider the exceptional length of the proceedings to be a violation of the right to be tried within a reasonable time, especially given the complexity of the case (§§ 6-7).

In doing so, the pre-trial chamber confirms its intention to bring the case to trial. The forthcoming proceedings, however, will have to address – as the chamber suggests – issues extending well beyond the usual framework of domestic criminal law. Questions regarding the passage of time and legal qualifications are central to litigations concerning colonial violence (*e.g.* Stahn, 2025; Fouchard, 2024; Lelieur-Fischer, 2004). In their form, these questions can include classic procedural issues (such as limitation periods, non-retroactivity, or intertemporality); but they also extend more broadly to the very conditions of adjudication: the disappearance of perpetrators and victims, the scarcity of evidence, and the gradual transformation of facts into historical rather than judicial objects (Salvioli, 2021; Bergsmo et al., 2020).

The ambiguities of politico-judicial interactions

The *Lumumba* case also highlights complex interactions between the political and judicial domains. Judicial seizure and access to the archives of the 2001 parliamentary commission – tasked with determining the exact circumstances of Patrice Lumumba's assassination – provides a clear example: their use as evidence in the criminal proceedings has raised tensions regarding the principle of separation of powers (Kounda, 2026).

More broadly, that commission – which acknowledged Belgium's "moral responsibility" – illustrates the limits of political mechanisms for addressing the colonial past. Having helped establish certain facts, it was also criticized for its approach, seen as too cautious, or even exculpatory (Van Beurden et al., 2023; Bentley, 2016).

The restitution of Lumumba's tooth in 2022 reveals a similar ambiguity. Initially seized as evidence in the context of a criminal complaint, it was later returned to Lumumba's family. This return was staged as an affair of state, with official ceremonies in Belgium and the Democratic Republic of Congo, media coverage, and the presence of political representatives, blurring the line between judicial process and diplo-

matic performance. Yet it remains first and foremost a judicial act, as underlined by the presence of the Federal Prosecutor and his official address on the occasion (de Clippele, 2024; Zian et al., 2023).

These examples show that the trial does not unfold in a purely judicial space: it is shaped by political logics that influence both its scope and its reception.

A judicial moment: between truth production and structural limits

The decision to refer Étienne Davignon to the criminal court constitutes, in many respects, an unprecedented moment. For the first time, a criminal jurisdiction may rule on the responsibility "of a representative of a former colonial power in the assassination of an African independence leader" (Stroobants, 2026; Jus Cogens & ECCHR, 2026). As such, the decision has been described as "historic" enshrining the idea that "the passage of time cannot erase legal responsibility for the most serious crimes" (Rankin, 2026; Belga, 2026). It thus marks a break with decades of impunity, during which neither individuals nor states were truly held accountable (Jus Cogens & ECCHR, 2026).

However, this judicial moment also calls for caution. First, focusing on a single accused – the last surviving suspect – raises a well-known risk: that of constructing a "scapegoat". Assigning responsibility for a structurally embedded crime to one individual may isolate the event and obscure the broader systemic dynamics that made it possible (Scalia, 2026; Bentley, 2016). The trial could thus be "the tree that hides the forest", detaching Lumumba's assassination from the Belgian colonial matrix – without even considering the potentially devastating consequences of an acquittal.

This risk is heightened by the nature of criminal law itself, which does not produce a complete historical truth but rather a situated judicial truth – necessarily fragmentary more than sixty years after the events (*cf.* Rosoux, 2025). The forthcoming trial will not tell "the history" of Lumumba's assassination but will instead contribute to the co-writing of its collective memory. This does not diminish its importance. Each step toward the trial takes place in a context marked by strong societal expectations to understand the involvement of the Belgian state in these events. Judicial processes could thus counterbalance the hegemonic and historical narrative of the colonial framework. Yet this dynamic remains ambivalent. The decision not to directly prosecute the charge of assassination may generate disappointment, even if the strategy of the plaintiffs aims above all to shed light on the mechanisms of a state crime and the role of the institutions involved.

From the perspective of victims and their descendants, the implications reach far beyond criminal conviction. As members of the Lumumba family have expressed, the proceedings represent both hope – "a further step toward the truth" – and an ordeal, reopening lives shattered by the assassination (Belga, 2026; Kiesel et al., 2021). Their demand is clear: "the truth, spoken aloud, in the open, and recorded in the archives of justice and history" (Jus Cogens & ECCHR, 2026).

Finally, and above all, the Lumumba trial has to be read from Belgium's broader relationship with its colonial past. As several studies have shown, the selective recognition of certain atrocities – such as Lumumba's assassination – can also function as a mechanism of self-limitation, presenting these events as anomalies rather than as direct manifestations of the colonial system (Verleye, 2021; Erpelding, 2021; Bentley, 2016). This logic is explicitly reflected in some political discourses, which distinguish between condemnable "incidents" or "very specific atrocities" and colonialism as a whole (Commission spéciale, 2022). In this perspective, the risk is that the trial may paradoxically contribute to closing the debate by offering a form of state self-absolution without engaging in deeper reflection on the continuities of colonial structures and their enduring effects. The trial should instead serve as a lever – creating a moment conducive to extending the debate beyond the Lumumba case alone, opening a space for negotiation, and bringing the question of a broader settlement back onto the agenda.

Ultimately, the stakes of the trial go beyond the effective condemnation of Étienne Davignon. They lie

in the capacity – or failure – of this judicial moment to generate a broader framework of recognition, responsibility, and reparation. For while the Lumumba trial may constitute an important precedent in the criminal adjudication of colonial crimes, it cannot, on its own, exhaust the political, social, and economic demands that the colonial legacy continues to raise. If Samy Manga calls for an end to all "hypocrisy" regarding the reparation of the irreparable, it is also true, as Baldwin put it, that "[p]eople who shut their eyes to reality simply invite their own destruction, and anyone who insists on remaining in a state on innocence long after that innocence is dead turns himself into a monster".

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SUGGESTED CITATION

Vervoort, Jérémiah Nirina: Mistaking the Tree for the Forest: On the Lumumba Trial and the Limits of Criminal Justice in Addressing Colonial Violence, Verfassungsblog, 28.04.2026, doi: 10.59704/d065657fae1351f6.

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Langzeitarchiviert bei IntRechtDok unter: doi.org/10.17176/20260428-173242-0.