



## **Statement of Deputy Prosecutor Fatou Bensouda Press Briefing 8 November 2006**

Ladies and gentlemen, thank you for joining us at this press briefing on the Confirmation of Charges Hearing in the case the Prosecutor v. Thomas Lubanga Dyilo.

Tomorrow Thomas Lubanga Dyilo will appear before the pre-trial judges for a confirmation hearing to determine whether he will become the first individual tried before the International Criminal Court.

### **Background**

- On 28 August 2006, the Office of the Prosecutor filed the document containing the charges against Thomas Lubanga Dyilo, charging him with enlisting and conscripting children under the age of 15 years and using them to participate actively in hostilities. The alleged acts occurred between 1 July 2002 and 31 December 2003 in the Ituri district of the Democratic Republic of the Congo (DRC).
- At the time relevant to these charges, Mr. Lubanga Dyilo was the President of the Union des Patriotes Congolais (UPC) and the Commander-in-Chief of its military wing, the Forces Patriotiques pour la Liberation du Congo (FPLC), one of the most dangerous militias in Ituri.
- During the second half of 2002 and throughout 2003, the FPLC repeatedly conducted large-scale military operations in Ituri, predominantly against the Lendu militia forces and Lendu civilians.

- Since the transfer and initial appearance of Mr. Lubanga Dyilo in March of this year, there have been multiple hearings on procedural aspects of the case, including issues concerning the disclosure of evidence, protection of witnesses and victim participation.
- The hearing commencing tomorrow will mark the first time that the judges determine whether there is sufficient evidence to establish substantial grounds to believe that he committed the crimes charged.

### **The Charges**

- According to our evidence, Thomas Lubanga Dyilo controlled and coordinated a deliberate plan to enlist and conscript children systematically and in large numbers, including children under the age of 15, and even as young as 10, and that he executed the plan, jointly with his subordinate FPLC commanders.
- We allege that Mr. Lubanga Dyilo provided the organizational, infrastructural and logistical framework for the implementation of the plan by:
  - Guaranteeing the continuity of the UPC and the FPLC by securing their financial means, thereby making it possible for the FPLC to recruit children and set up FPLC military camps in which children were trained; and
  - Negotiating the provision of weapons and other military equipment, including equipment that could be used by children in hostilities.
- Furthermore, we allege that Mr. Lubanga Dyilo lent his authority to the common goal in a number of ways:
  - Including, encouraging families to provide their children to the FPLC; and using children as his own bodyguards; and
  - Repeatedly inspecting various FPLC training camps to encourage children and prepare them for combat.
- It should be noted that Mr. Lubanga Dyilo has denied the charges.

## **The Confirmation Hearing**

- The judges will now turn to the specific evidence contained in the charging document and presented by the Prosecutor in court to determine whether there are substantial grounds to believe that Mr. Lubanga Dyilo committed these charges.
- At this hearing, the Prosecutor will use various documents including first-hand testimonies from victims and witnesses to support the charges against Mr. Lubanga Dyilo. The indictment refers to six individual cases of enlistment, conscription and subsequent active participation in hostilities of children under the age of 15, which are reflective of the experiences of the large number of children under FPLC command. The Prosecutor will examine one witness, whose name is not public at this stage.
- During the hearing, the Defence will have the opportunity to challenge the charges brought against Mr. Lubanga Dyilo.
- In addition [as the Registry has indicated] two legal representatives of the victims have been authorised by the Pre-Trial Chamber to present opening and closing arguments.
- The Pre-trial chamber has 60 days from the end of the hearing to deliver its decision.

## **Significance of the case**

- Today marks the first step in a process to determine whether Thomas Lubanga Dyilo is guilty of the war crime of conscripting children under the age of 15 and using them to participate actively in hostilities.
- It is our hope that this judicial processes will demonstrate that there will not be impunity for those most responsible for the crimes committed in the DRC.
  - Today, the DRC is reportedly one of the countries with the largest number of child soldiers in the world. Estimates suggest that as many as 30,000 children were associated with armed groups at the height of the war.

→ According to the UN there are as many as 300,000 child soldiers presently fighting in armies and militias worldwide.

- If the judges confirm the charges and the case against Thomas Lubanga Dyilo proceeds to trial, it will be the first time any individual will face charges before an international criminal tribunal solely on the basis of these crimes against children.

## **Conclusion**

- I would like to conclude by noting that regardless of the outcome of the proceedings, this case will expose the destructiveness of forcing children to fight adult wars.
- I'm pleased to answer some questions you might have.