



**Cour
Pénale
Internationale**

**International
Criminal
Court**

ICC-PIJS-CIS-DRC-01-004/09_Eng
Updated : 23 September 2009

Case Information Sheet

Situation in the Democratic Republic of the Congo

The Prosecutor

v.

Thomas Lubanga Dyilo

Case No. ICC-01/04-01/06



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Date of birth	29 December, 1960
Place of birth	Jiba, Utcha sector, Djugu Territory, district of Ituri, Orientale Province, Democratic Republic of the Congo
Nationality	Congolese
Ethnicity	Hema
Family	Son of Mr Mathias Njabu and Ms Rosalie Nyango; married to Ms Matchosi and father of six children
Current status	Detained at the International Criminal Court's Detention Centre in The Hague
Warrant of arrest	Issued under seal on 10 February, 2006 Unsealed on 17 March, 2006
Transferred to The Hague	17 March, 2006
Decision on the confirmation of charges:	29 January, 2007
Commencement of trial	26 January, 2009
Counts	Mr Lubanga is allegedly responsible, as co-perpetrator, of war crimes consisting of: <ul style="list-style-type: none">• Enlisting and conscripting of children under the age of 15 years into the <i>Forces patriotiques pour la libération du Congo</i> [Patriotic Forces for the Liberation of Congo] (FPLC) and using them to participate actively in hostilities in the context of an international armed conflict from early September, 2002 to 2 June, 2003 (punishable under article 8(2)(b)(xxvi) of the Rome Statute);• Enlisting and conscripting children under the age of 15 years into the FPLC and using them to participate actively in hostilities in the context of an armed conflict not of an international character from 2 June, 2003 to 13 August, 2003 (punishable under article 8(2)(e)(vii) of the Rome Statute).

Alleged crimes (non-exhaustive list)

Pre-Trial Chamber I is of the opinion that there are substantial grounds to believe that:

- In the summer of 1999, tensions developed as a result of disputes over the allocation of land in Ituri and the appropriation of natural resources. During the second half of 2002, there was renewed violence in various parts of the district. An armed conflict took place from July, 2002 to December, 2003, with the involvement of different armed groups and neighbouring States.

- Mr Lubanga is the alleged founder of the *Union des patriotes congolais* [Union of Congolese Patriots] (UPC) and president of the group since it was founded in September, 2000, and was the alleged former Commander-in-Chief of its military wing, the *Forces patriotiques pour la libération du Congo* (FPLC) from September, 2002 until at least late 2003.
- In 2002, the FPLC reportedly took control of the town of Bunia and certain parts of Ituri.
- From July, 2002 to December, 2003, the FPLC allegedly forcibly recruited groups of children in several localities in Ituri. These forcible recruitments were allegedly carried out by FPLC commanders and, on at least one occasion, Thomas Lubanga Dyilo himself allegedly took part in the conscription of a group of children, some of whom were under the age of 15 years.
- Other children under the age of 15 years allegedly "voluntarily" joined the FPLC or were made available to it by their parents, particularly after calls for mobilisation directed at the Hema population or, for some of them, out of a desire for revenge after the loss of a close relative allegedly killed by the militias which were fighting the FPLC. The FPLC allegedly accepted them, thus implementing an enlistment policy.
- Following their recruitment, the children were allegedly taken to FPLC training camps (in Bule, Centrale, Mandro, Rwampara, Bogoro, Sota and Irumu), where they allegedly received military training which began the day after their arrival in the camp and could last up to two months, during which they were subjected to rigorous and strict discipline, including lengthy and exhausting physical exercise which lasted all day, as well as being forced to sing aggressive military songs. They also underwent firearms training, and at the end of their training, the children were often given a military uniform, a firearm and ammunitions. The FPLC commanders then made them fight on the front line.
- Children under the age of 15 years allegedly participated actively in hostilities, specifically in Libi and Mbau in October, 2002, in Largu in early 2003, in Lipri and Bogoro in February/March, 2003 and in Bunia in May, 2003. During the fighting, these children reportedly used their weapons; some of them reportedly had to kill, and many recruits, including minors under the age of 15 years, lost their lives in combat.
- Children under the age of 15 years were also reportedly used as bodyguards by the FPLC commanders and Thomas Lubanga Dyilo allegedly personally used them.
- Through the positions he allegedly held as UPC president and commander-in-chief of the FPLC, Mr Thomas Lubanga Dyilo is believed to have had *de facto* ultimate control over the adoption and implementation of UPC and FPLC policies and practices, including enlisting and conscripting of children under the age of 15 years into the FPLC and using them to participate actively in hostilities.

Key judicial developments

Referral

The Democratic Republic of the Congo (DRC) ratified the Rome Statute, the founding instrument of the International Criminal Court, on 11 April, 2002. On 3 March, 2004, the Government of the DRC referred to the Court the situation (the events falling under the Court's jurisdiction) on its territory since the entry into force of the Rome Statute on 1 July, 2002.

After a preliminary analysis, the Prosecutor initiated an investigation on 21 June, 2004.

Besides Thomas Lubanga, two persons have been transferred to the Court with respect to the situation: Germain Katanga and Mathieu Ngudjolo Chui. A warrant of arrest has also been issued against a third person, Bosco Ntaganda, but it is yet to be executed.

Investigations are ongoing with respect to the situation in the DRC.


Warrants of arrest and surrender to the Court

Following his initial investigation into crimes allegedly committed in Ituri District since 1 July, 2002, the Prosecution filed an application for the issuance of a warrant of arrest for Thomas Lubanga Dyilo on 13 January, 2006.

On 10 February, 2006, Pre-Trial Chamber I issued a warrant of arrest under seal for Mr Lubanga.

On 17 March, 2006, the Congolese authorities surrendered Mr Lubanga, who was then detained at the *Centre pénitentiaire et de rééducation de Kinshasa* [Kinshasa Penitentiary and Re-education Centre], to the International Criminal Court. He was then transferred to the Court's Detention Centre in The Hague. The warrant was unsealed on 17 March, 2006.

On 20 March, 2006, Mr Lubanga made his first appearance before the Court. At this hearing, the Chamber verified Thomas Lubanga Dyilo's identity and ensured that he had been informed of the crimes which he was alleged to



have committed and of his rights before the Court.

Legal assistance and legal representation

On 31 March, 2006, the Registrar provisionally found Thomas Lubanga Dyilo indigent, pending verification by the Court of the information contained in his application. The cost of his defence is therefore borne by the Court under the legal assistance scheme.

On 20 February, 2007, Counsel for the Defence, Mr Jean Flamme, filed a confidential application with Pre-Trial Chamber I for leave to withdraw from the case for personal reasons. By decision of 21 February, 2007, Pre Trial Chamber I granted him leave to withdraw.

On 4 May, 2007, pursuant to decisions of the Appeals Chamber and Pre Trial Chamber I, the Registrar appointed two duty counsel, Mr Emmanuel Altit and Ms Annick Mongo, to represent Thomas Lubanga Dyilo solely in appellate proceedings concerning the decision on the confirmation of charges.

Following an application filed by Thomas Lubanga on 3 May, 2007, on 14 June, 2007, the Registrar issued a decision granting additional resources to the Defence for the trial phase. The Registrar renewed the investigations budget, which had been exhausted by the previous counsel, and provided an additional legal assistant at P2 level to the Defence team, as well as other measures to facilitate the work of Mr Lubanga's defence team.

On 20 June, 2007, Thomas Lubanga appointed Catherine Mabilie as his counsel. On 21 June, 2007, Ms Mabilie accepted her appointment. Since then, she has been Lead Counsel for the Defence representing Thomas Lubanga before the Court.

Confirmation of charges and committal for trial

The confirmation hearing was held at the seat of the Court in The Hague from 9 to 28 November, 2006.

On 29 January, 2007, the judges of the Pre-Trial Chamber confirmed the charges against Mr Lubanga and found that there was sufficient evidence to establish substantial grounds to believe that, in the context of an international armed conflict from early September, 2002 to 2 June, 2003 and in the context of a conflict not of an international character from 2 June, 2003 to 13 August, 2003, Mr Lubanga was responsible, as a co-perpetrator, on charges of enlisting and conscripting children under the age of 15 years into the FPLC and using them to participate actively in hostilities.

Following the confirmation of the charges, on 6 March, 2007, the Presidency constituted Trial Chamber I and referred the case of *The Prosecutor v. Thomas Lubanga Dyilo* to it for the conduct of the subsequent phase of the proceedings: the trial.

Stay and resumption of the proceedings

On 13 June, 2008, Trial Chamber I decided to stay proceedings against Mr Lubanga Dyilo. According to Trial Chamber I, it was impossible for the trial to be fair since the Prosecutor had not disclosed to the Defence, or made available to the judges, important potentially exculpatory evidence. The Prosecutor had obtained the evidence in question on a confidential basis from several sources, including the UN, and these sources had refused to disclose it to the Defence and, in most cases, to the Trial Chamber. Accordingly, Trial Chamber I ordered Mr Lubanga Dyilo's unconditional release on 2 July, 2008. That decision was not executed, as a result of the suspensive effect of the appeal filed by the Prosecutor.

On 21 October, 2008, the Appeals Chamber decided to uphold the decision to stay the proceedings, but reversed the decision to release Mr Lubanga Dyilo, and remanded the case to the Trial Chamber for a new determination, taking into account the new position of the sources of the documents in question, who had agreed that the documents be submitted to the judges.

On 18 November, 2008, Trial Chamber I lifted the stay of the proceedings against Mr Lubanga Dyilo, considering that the reasons for the suspension had "fallen away".

The trial before Trial Chamber I commenced on 26 January, 2009.

The Prosecution concluded the presentation of its case on 14 July. Over 22 weeks, during 74 days of hearings, the Chamber heard 28 witnesses called by the Office of the Prosecutor, including three experts. The Chamber also called two other experts to testify. The Defence team cross-examined all the witnesses presented by the OTP.

Participation of victims

The judges have granted 103 persons the status of victim authorised to participate in the case of *The Prosecutor v. Thomas Lubanga Dyilo*.

Outreach activities

- The Court has been carrying out information and outreach activities in the DRC since mid 2004. These activities track the progress of the judicial proceedings.
- As a matter of priority, the Court's activities are focused on grassroots outreach in Kinshasa and with respect to the most affected communities in Kinshasa, Ituri, including the organisation of town-hall meetings.
- Face-to-face meetings and interactive radio programmes are used to explain the ICC's mission, developments in ongoing cases and victims' rights before the Court. Outreach staff organise meetings and listening clubs in Kinshasa and Ituri with target groups and leaders. Town hall meetings have been held in villages of Ituri, during which videos and summaries of the hearings are projected in order to interact with the public and encourage their participation through lively debates. The meetings are an opportunity to answer questions and address the concerns of the most affected communities.
- Short plays are also used during the outreach activities.
- Co-ordination with local partners and interlocutors enables the Court to enhance its activities and increase their impact.

Key figures

- Number of participating victims: 103
- Number of Prosecution witnesses: 28 including three experts
- Number of experts called by the Chamber: 2
- Number of Defence witnesses: currently unknown
- Number of witnesses granted procedural protective measures: 25
- Number of documents and applications disclosed: 4,908

Trial Chamber I

Judge Adrian Fulford, Presiding Judge
Judge Elizabeth Odio Benito
Judge René Blattmann

Office of the Prosecutor

Luis Moreno-Ocampo, Prosecutor
Fatou Bensouda, Deputy Prosecutor, Lead Counsel
Sara Criscitelli
Manoj Sachdeva
Nicole Samson
Julieta Solano McCausland
Olivia Struyven

Counsel for the Defence

Catherine Mabile, Principal Counsel
Jean-Marie Biju-Duval
Marc Desalliers

Legal Representatives of the Victims

Franck Mulenda, Luc Walleyen, Jean Chrysostome Mulamba, Hervé Diakiese
Carine Bapita Buyangandu, Joseph Keta Orwinyo, Paul Kabongo Tshibangu
Office of Public Counsel for Victims: Paolina Massidda, Principal Counsel and Sarah Pellet