



Coalition for the International Criminal Court

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GUILTY VERDICT DELIVERED IN FIRST ICC TRIAL

Thomas Lubanga Dyilo Found Guilty of War Crimes Committed in the Democratic Republic of Congo in 2002-2003

The Hague—Trial Chamber I of the International Criminal Court (ICC)—the world's first permanent international court to prosecute war crimes, crimes against humanity and genocide—today delivered a guilty verdict in the Court's first landmark trial, *The Prosecutor Vs. Thomas Lubanga Dyilo*. Lubanga's defense, however, has the right to appeal today's decision.

Thomas Lubanga, a national of the Democratic Republic of Congo (DRC), was found guilty of having committed the war crimes of enlisting and conscripting children under the age of 15 years and using them to participate actively in hostilities in the DRC between September 2002 and August 2003.

Sentencing is to take place on another date so that any additional evidence or information that might impact upon its duration can be taken into consideration by the judges. The time that Lubanga has already served in detention will also be taken into account.

In its decision, the Chamber re-characterized the nature of the conflict in the DRC in 2002-2003, holding that it was an internal armed conflict rather than an international one, as ICC Pre-Trial Chamber I had originally decided in 2007. The Chamber also found that the Office of the Prosecutor (OTP) should not have delegated its investigative responsibilities to intermediaries—people who facilitated contact or provided a link between the OTP and witnesses in the case—a circumstance which had led to some evidence being unreliable.

“Depending on whether an appeal is made and on its outcome, today’s decision should be remembered as a critical turning point in the fight against impunity for the most serious crimes known to humankind,” said William R. Pace, Convenor of the Coalition for the International Criminal Court—a global network of more than 2,500 civil society organizations in 150 countries advocating for a fair, effective and independent ICC and improved access to justice for victims of genocide, war crimes and crimes against humanity. “The horrendous and repeated instances of violence of the past century, not least against those most vulnerable in society, have necessitated the establishment of an international criminal court, and the Coalition has been working for many years towards this moment when justice has finally been delivered to some of the victims of these grave crimes through the ICC,” Pace added. “Moreover, the continued prosecution of the crime of using child soldiers—of which this case forms a vital part—is having a real impact on government policy worldwide.”

Thomas Lubanga has been detained since 17 March 2006. Two successive suspensions of the proceedings contributed to delays in the trial, which lasted twice as long as the first cases at the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda. However, proceedings in the second and third ICC trials are advancing at a faster pace.

“While delays in the Lubanga proceedings have greatly frustrated all participants—not least the victims involved—we should use this opportunity to reflect on the lessons learned from these proceedings so that the difficulties encountered during the course of this trial will serve to improve the expediency of those to follow and will someday bring about an end to the era of impunity,” said Pace.

The Lubanga trial is a milestone for the Rome Statute—the ICC’s founding treaty—which entered into force only ten years ago. The Lubanga case is one of the few international criminal cases in history to charge an individual with acts of enlistment and conscription of child soldiers. As such, the trial has done much to highlight the gravity of the crime of using child soldiers and has helped to bring the issue into international focus. During the proceedings, ten former child soldiers testified, as did a number of expert witnesses.

The trial is also noteworthy as the first instance of victim participation in an international criminal trial, with a total of 129 victims authorized by judges to participate through seven legal representatives. Reparations to victims for harms suffered may now be ordered by the ICC judges, which would be another groundbreaking first in international criminal jurisdictions.

"The DRC Coalition for the ICC warmly welcomes today's conviction of Thomas Lubanga Dyilo," said André Kito, coordinator of the DRC Coalition for the ICC. "Victims and civil society in the DRC are celebrating the victory of justice and the promotion of human dignity," he stated. "Our national coalition congratulates the Congolese government on its willingness and cooperation with the ICC, as demonstrated through the referral of the DRC situation and the subsequent transfer of Lubanga to the Court," Kito added. "Recalling that all victims have an equal right to justice for harms suffered, we encourage the government to maintain its commitment to and cooperation with the Court by implementing the outstanding ICC arrest warrant for Bosco Ntaganda, as well as enhancing the complementarity of the Rome Statute system at the national level."

Some 5.4 million people have died in the DRC since August 1998, making the conflict one of the world's deadliest since World War II. For many years, victims and civil society in the DRC have demanded accountability. The opening of the Lubanga trial was considered a huge step forward for justice, but there is still a long way to go until peace is achieved in the country. The Lubanga trial, along with the ICC's involvement in the country in general, has sent a strong signal to future criminals and armed groups in the DRC that impunity will no longer be tolerated.

Background: As the leader of the Union of Congolese Patriots and the commander-in-chief of its military wing, the Forces Patriotiques pour la Libération du Congo, Thomas Lubanga was charged with having committed the war crimes of enlisting and conscripting children under the age of 15 years and using them to participate actively in hostilities in Ituri, a district in the eastern province of the DRC, between September 2002 and August 2003.

Lubanga was the first person charged in the DRC situation as well as the Court's first detainee. He was surrendered and transferred to the Court on 17 March 2006, following the issuance of an ICC arrest warrant under seal on 10 February 2006. His trial started on 26 January 2009. Trial Chamber I had been deliberating on the applicable law and on evidence submitted during the trial since the presentation of closing statements on 25 and 26 August 2011.

The ICC is the world's first permanent international court to prosecute war crimes, crimes against humanity, and genocide. 120 states have joined the Rome Statute, the Court's founding treaty. Central to the Court's mandate is the principle of complementarity, which holds that the Court will only intervene if national legal systems are unwilling or unable to investigate and prosecute perpetrators of genocide, crimes against humanity, and war crimes. There are currently seven active investigations before the Court: the Central African Republic; the Democratic Republic of the Congo; Côte d'Ivoire; Darfur, the Sudan; Uganda; Kenya and Libya. The ICC has publicly issued 20 arrest warrants and nine summonses to appear. The ICC prosecutor has also made public that it is conducting preliminary examinations in eight situations on four continents: Afghanistan, Colombia, Georgia, Guinea, Honduras, Republic of Korea, Nigeria and Palestine.

The Coalition for the International Criminal Court is a global network of civil society organizations in 150 countries working in partnership to strengthen international cooperation with the ICC; ensure that the Court is fair, effective and independent; make justice both visible and universal; and advance stronger national laws that deliver justice

to victims of war crimes, crimes against humanity and genocide. For more information, visit: www.coalitionfortheicc.org

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