



July 31, 2006

Mr. Luis Moreno Ocampo
Chief Prosecutor
International Criminal Court
Maanweg 174
2516 AB, The Hague
The Netherlands



Coalition Nationale pour
la Cour Pénale Internationale
(CN-CPI) – RDC

Dear Mr. Prosecutor,

We are a group of human rights organizations with experience in documenting human rights abuses and serving victims in the Democratic Republic of the Congo (DRC). We are writing out of concern about your communication of June 28, 2006, informing Pre-Trial Chamber I of the temporary suspension of your office's investigation in the case against Mr. Thomas Lubanga Dyilo. In that communication, you cited the limitations posed by the present security situation in Ituri. As a result, we understand that Mr. Lubanga's confirmation hearing, currently scheduled to take place on September 28, 2006, will only relate to the existing charges of enlisting, conscripting and using children as soldiers in the Union of Congolese Patriots (UPC).



We welcome the initiation of proceedings against Thomas Lubanga before the International Criminal Court (ICC) as an important step in bringing justice to the many victims of the brutal conflict in Ituri. Enlisting, conscripting and using children as soldiers in armed conflict are serious crimes that should be condemned and appropriately punished. However, much more is needed.



According to estimates by the United Nations, in the past six years more than 60,000 people have been slaughtered in Ituri alone.¹ This reality requires that those responsible for the most serious crimes are brought to justice. As you are aware, the UPC, which Mr. Lubanga led, has committed numerous other serious crimes in Ituri including murder, torture and sexual violence. For example, in February-March 2003, UPC militias carried out a large-scale military operation called

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¹ Integrated Regional Information Networks, "DRC: UN agencies assist thousands displaced," July 12, 2006 [online], http://www.irinnews.org/report.asp?ReportID=54567&SelectRegion=Great_Lakes&SelectCountry=DRC (retrieved July 24, 2006).

“Chikana Namukono” against the villages located between Lipri and Nyangaraye. The operation, a veritable manhunt, resulted in the killing of at least 350 persons and the complete destruction of 26 localities.²

We are disappointed that two years of investigation by your office in the DRC has not yielded a broader range of charges against Mr. Lubanga. Charging those responsible for the most serious crimes committed in Ituri – including, but not limited to Mr. Lubanga – with representative crimes for which there is a strong evidentiary basis is crucial for the victims of these crimes and for ending the culture of impunity in the DRC and in the Great Lakes region. We believe that the failure to include additional charges in the case against Mr. Lubanga could undercut the credibility of the ICC in the DRC. Moreover, the narrow scope of the current charges may result in severely limiting victims’ participation in the first proceedings before the ICC. This could negatively impact on the right of victims to reparations.

We believe that you, as the prosecutor, must send a clear signal to the victims in Ituri and the people of the DRC that those who perpetrate crimes such as rape, torture and summary executions will be held to account. The limited capacity of the judicial system in the DRC at present to handle cases involving serious crimes underscores the importance of the ICC in ensuring these crimes are addressed.

We recognize the challenges posed by the precarious security situation in Ituri at the present time. In that regard, we have concerns with respect to the understaffing of the DRC investigation and prosecution teams. We believe that it is crucial that your office deploy sufficiently sized investigative teams at the earliest possible opportunity once the security situation improves to work efficiently and effectively. In the interim, we urge your office to continue its analysis of otherwise available information with the aim of furthering the investigation in the case against Mr. Lubanga.

We appreciate the position you have articulated in recent filings to the court emphasizing the need for your office to continue its investigation after Mr. Lubanga’s confirmation hearing.³ This issue is currently being litigated before the Appeals Chamber.⁴ Should the Appeals Chamber support your position, we urge your office to use the opportunity to continue its investigation against Mr. Lubanga not only in relation to the current charges, but also with the goal of seeking additional charges before the commencement of his trial.

Because of the considerable impunity in the DRC, despite recent progress, the victims in Ituri have placed their hope in the ICC to bring justice for the crimes they have suffered. While we realize the ICC can only hold a limited number of perpetrators to account, it is essential that the cases it tries are, to the greatest extent possible, representative of the heinous crimes committed.

² Letter from the U.N. Secretary General to the President of the Security Council, “Special Report on the Events in Ituri, January 2002-December 2003,” July 16, 2004, paras. 68-70.

³ Situation in the Democratic Republic of the Congo in the Case of The Prosecutor v. Thomas Lubanga Dyilo, International Criminal Court, Case No. ICC-01/04-01/06, Prosecution’s Document in Support of the Appeal, July 5, 2006.

⁴ Situation in the Democratic Republic of the Congo in the Case of The Prosecutor v. Thomas Lubanga Dyilo, International Criminal Court, Case No. ICC-01/04-01/06, Decision on the Prosecution Motion for Reconsideration and, in the Alternative, Leave to Appeal (Pre-Trial Chamber I), June 23, 2006.

To do so would be consistent with the experience of victims and provide them with the opportunity to uncover the truth behind the atrocities they have endured. This would maximize the ICC's impact on the communities most affected in the DRC.

We appreciate your consideration of this letter.

Sincerely,

Avocats Sans Frontières

Center for Justice and Reconciliation

Coalition Nationale pour la Cour Pénale Internationale - RCD

Fédération Internationale des Ligues des Droits de l'Homme

Human Rights Watch

International Center for Transitional Justice

Redress

Women's Initiatives for Gender Justice