



COALITION FOR THE
INTERNATIONAL CRIMINAL COURT

LUBANGA
INFORMAL WEEKLY SUMMARY
22 - 26 NOVEMBER 2010



Situation Case	Democratic Republic of Congo 01/04-01/06 The Prosecutor vs. Thomas Lubanga Dyilo	(UPC) and <i>the Forces patriotiques pour la libération du Congo</i> (FPLC); Alleged former Commander-in-Chief of the FPLC, since September 2002 and at least until the end of 2003; Alleged president of the UPC.
Hearing Chamber	Trial Proceedings Trial Chamber I: Presiding Judge Fulford, Judge Odio Benito and Judge Blattmann	Alleged crimes: <u>Thomas Lubanga Dyilo</u> is allegedly responsible, as co-perpetrator, of 3 war crimes
Parties	OTP: Ms. Bensouda, Mr. Sachdeva, Ms. Samson, Ms. Struyven and team; Defense: Ms. Mabille, Mr. Desalliers, Mr. Biju-Duval and team	
Participants	103 victims represented by Legal Representatives of Victims and OPCV	
Start of Trial	26 January 2009 Beginning of Defense case: 27.01.2010	

Thomas Lubanga Dyilo: born in 1960 in Djiba, Ituri district, Eastern Province; National of the DR C; Alleged founder of *Union des Patriotes Congolais*

Two witnesses, Witness 583 and another unidentified protected witness, apparently a former child-soldier, were questioned both by the Prosecution and the Defence. This week's questioning focused on the **OTP's working methods on the field, and their relationships - especially financial - with intermediaries and witnesses. Divulgence issues were also recurrent.**

22 November 2010 - A former OTP investigator, Witness 583, starts giving testimony before the Court on the working methods of the OTP on the field and his relationships with Mr. X. and Intermediary 316. Examination-in-chief was concluded, and the Defence's cross-examination began. Divulgence issues also arose.

The Court started taking the testimony of a new witness, Witness 583, identified as Nicolas Sebire, a former ICC investigator. Mr. Sebire was the main handler of Mr. X. and of Intermediary 316, who are accused by the Defence team of coaching individuals to act as witnesses against Thomas Lubanga.

Examination-in-Chief by the Prosecution

The OTP proceeded to interrogating its former investigator. The Prosecution questioned Mr. Sebire on the **security conditions in which investigators worked in 2004 and 2005 in Ituri, his relationship with Mr. X. and how he worked with him, with again a particular focus on the financial aspect of the relationship.**

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Mr. Sebire testified that:

- Relations with Mr. X. were marked by the knowledge that Mr. X. was a member of Congolese Intelligence, raising a confidence issue;
- **Investigators had no directives from the hierarchy on how to financially reimburse intermediaries** working with them;
- Several incidents between the investigators and Mr. X. that cast doubt on his reliability, even though they never had any reason to suspect Mr. X. of misconduct.

Cross-examination by the Defence

Questions focused on the **working methods of the investigators** in relation to intermediaries. Several issues were raised in public session, regarding working methods of the OTP and their relationship with intermediary 316.

Divuligation Issues

Issues pertaining to **divuligation of information regarding Witness 583** from the OTP to the Defence were raised. Eventually, the Chamber indicated that it was up to the OTP and the Defence to hold discussions on all the disclosure points which need to be resolved immediately afterwards. The parties were furthermore requested to draw up a short list of all the unresolved disclosure points in order to enable the Chamber to decide upon whether a ruling is necessary.

23 November - The cross-examination of Witness 583 continued, questions focusing on the working method of the OTP in the field.

The cross-examination of Witness 583 continued

The Defence's questions continued to focus on the **investigator's relationship with Intermediary 316**, and the difficulties and complaints they had about him.

The themes of the questions were similar than previously: working methods, **relationship - in particular the financial aspect - with intermediaries**, and different incidents.

Mr. Biju-Duval resumed his cross-examination with questions on two witnesses the OTP had come into contact with, Witness 35 and Witness 15, specifically on how and why they were contacted.

24 November - Cross-examination of Witness 583 was concluded, with the Defence's questions still focusing on the OTP's working methods in the field and the investigator's relationship with Intermediary 316. A new protected witness, unidentified, began his testimony.

The Court determined the **schedule for the submissions regarding the abuse of process**. The Defence has until 10 December 2010, to file its submission. The Prosecution and, if they wish to do so, the Legal Representatives of Victims have until 31 January 2010 to respond.

The cross-examination of Witness 583 concluded.

The Defence finished its cross-examination of Witness 583 with questions on emails sent within the investigation team that mentioned **"inexplicable expenditures" engaged by Intermediary 316**, and Intermediary 316's role in contacting witnesses, especially Witness 15.

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Legal Representatives of Victims had no questions for Witness 583, and the OTP had no further questions.

A new protected witness - so far unidentified - started giving testimony. The Prosecution began its examination-in-chief by asking questions on how the witness met and worked first with Intermediary 316 and then the OTP investigators. It would appear that the witness is a former child-soldier.

The witness claimed that his interactions with Intermediary 316 were limited to the strict necessary, and that his exchanges with OTP investigators were kept confidential. The Prosecution concluded its examination-in-chief.

25 November - Defence cross-examined the witness on the circumstances in which he met Intermediary 316, OTP investigators, and the relationship with each as the investigation continued.

Defence began its cross-examination of the witness. Questions focused on how the witness met Intermediary 316; the witness' family and his meetings with the OTP investigators.

The Defence also asked questions regarding the promises made by the OTP to the witness in order to secure his testimony, such as the promise of a lawyer. The **financial relationship** was once more an issue. The Defence finished its cross-examination at the end of the day.

Catherine Mabile, Defence counsel, made a request regarding a list of **outstanding disclosure issues** deemed by the Defence important, even though they indicated it was now too late as they concerned Witness 583. The Chamber asked the Defence to keep it informed on such issues. In addition, following the itemised complaints by the Defence of material non-disclosure, **it would investigate with the OTP which undisclosed material should be disclosed.**

26 November - No hearing today.

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