

LUBANGA DYILO

INFORMAL WEEKLY SUMMARY
MARCH 28TH - APRIL 1ST 2011



| | | |
|------------------------|---|--|
| Situation Case | Democratic Republic of Congo 01/04-01/06 The Prosecutor vs. Thomas Lubanga Dyilo | <i>du Congo</i> (FPLC), since September 2002 and at least until the end of 2003; Alleged President of the UPC. |
| Hearing Chamber | Trial Proceedings Trial Chamber I: Judge Sir Adrian Fulford (Presiding Judge), 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 Defence: Ms. Mabilie, Mr. Desalliers, Mr. Biju-Duval and team | <ul style="list-style-type: none"> ○ 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 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). |
| Participants: | 120 victims represented by Legal Representatives for Victims and OPVC. | |

Thomas Lubanga Dyilo: born in 1920 in Djiba, Ituri district, Eastern Province; National of the DRC; Alleged founder of *Union des Patriotes Congolais* (UPC) and the *Forces Patriotiques pour la liberation*

Start of Trial: 26 January 2009

This week, **Witness 19 (Defence Witness)** was sworn in and began giving his testimony

Witness 19 - Mr. Balangui Jomba first met Mr. Lubanga in 1984, and in September 2000 the witness participated in the establishment of the Union of the Congolese Patriots (UPC)¹. Mr. Jomba held different UPC positions including Deputy National Secretary for Internal and Foreign Affairs, Secretary for Internal and Customary Affairs, and for a short period was Interim President of the UPC.

March 28th and 29th 2011 - No hearing.

March 30th 2011
Witness 19 was sworn in and the Defence began its examination-in-chief

The witness provided insight on;

- **The establishment of the UPC:** Individuals, including Lubanga, established the UPC with the goals of representing all provinces and their ethnic groups in the eastern part of the DRC and to subsequently install security, stability and

¹ The Union of Congolese Patriots is an armed group in Ituri, northeastern Democratic Republic of the Congo which supports the Hema ethnic group, of which Thomas Lubanga was an alleged founder and President.

- peace among these different ethnic populations². The witness explained how he contributed to the foundation of the UPC movement by drafting its statutes with the aim of resolving the *Lendu/Hema*³ conflict in Ituri.
- The witness strongly affirmed that the UPC was set up purely for political reasons as opposed to military, and that the UPC had no soldiers. The witness denied the allegation that Mr. Lubanga led a private militia within the structure of the UPC.
 - **Commissioner of Defence of RCD**⁴: The witness testified that Lubanga was shortly Commissioner of Defence for the RCD in April 2002.
 - **No Minors at Lubanga Residence**: Allegedly, the witness paid regular visits to Lubanga's residence and never saw any minors within Lubanga's entourage.
 - **April-August 2002**: The witness testified that a mutiny of Hema commanders within the RCD broke out in Bunia in April 2002. These Hema commanders supported an incursion led by the UPDF⁵ which expelled the RCD from Bunia. The witness alleged that this constituted a victory for the UPC because the RCD's army was committing the crimes in Ituri.
 - **Control of Bunia, September 2002**: The witness testified that the UPC assumed control of Bunia in September 2002 giving the UPC mutineers both a political and military structure. Soon thereafter, Lubanga was appointed President of the UPC and Commander in Chief of its military wing, the FPLC⁶.
 - **No UPC militia branch**: However, despite admitting to the fact that the mutineers were given a political and military structure within the UPC and that Lubanga was put in charge of the military wing of the UPC, self-contradictorily the witness insisted that no armed militia branch existed under the UPC and furthermore, Lubanga never had any armed men or soldiers under his command during that time.
 - **Self Defence groups and minors**: According to the witness, when Lendu fighters attacked Ituri civilian populations in 1999, in order to protect themselves people formed self-defence groups to protect themselves and the witness alleged that the recruitment of minors became common practice.

March 31st 2011

The Defence completed its examination in chief of Witness 19.

During the Defence's questioning, the witness provided further insight on:

- **UPC Demobilisation policy**: The witness alleged that the UPC issued a policy stating that no one under the age of 18 years should bear arms. However, the self defence groups strongly opposed this. The witness alleged that this is why the UPC had difficulty implementing the policy.

² The witness explained that during 1999-2000, the Ituri district was ravaged by invasions, incursions and the massacres of Ituri populations.

³ The "Ituri conflict", this term designates the conflict between the agriculturalist *Lendu* and the pastoralist *Hema* groups in the Ituri region of the North Eastern part of the DRC.

⁴ The Congolese Rally for Democracy (RCD) was a rebel group operating in the eastern region of the DRC

⁵ The Uganda People's Defence Force (UPDF) constitutes the National armed forces for Uganda.

⁶ The Forces patriotiques pour la libération du Congo (FPLC).

- **Forced conscription:** The witness alleged that during the course of his activities for the UPC, he never received a message or a report from a Secretariat that there had been issues of forced conscription of minors.
- **UPC Commanders:** The witness admitted that he did not have the opportunity to meet all UPC commanders and so he remains unaware of whether they had child soldiers in their entourage.
- **Conflict in Bunia:** The witness testified that he left Bunia the evening the fighting began, on March 5th 2003 and returned to Bunia on May 12th 2003.
- **Presence of Minors under General Kisémbó:** During conflict in Bunia, the witness testified that he was under the protection of General Kisémbó and his men. The witness did not deny that there were minors present in Kisémbó's compound but he alleged that they were not armed and not wearing uniforms.
- **Presence of Minors in militia groups:** The witness alleged that he saw minors in the various self defence groups in the Bunia region. He stated that it was difficult to distinguish what militia group the minors were a part of since many of them were wearing UPC military uniforms.

April 1st 2011 - The Prosecution began its cross-examination of Witness 19.

During the Prosecution's cross examination, the witness provided further insight on:

- **Reasons for Establishment of the UPC:** The witness alleged that the UPC was founded in September 2000 for two main reasons; to reveal the mismanagement of the RCD Kisangani Government and to defy rebel movements in Ituri in order to reinstitute peace.
- **Military Status of the UPC:** The witness firmly denied any military function to the UPC when it was founded, despite being confronted with different UPC documents providing evidence to the contrary⁷.
- **Lubanga Signed document:** The witness was confronted with a document drafted in the year 2000, signed by Thomas Lubanga, which explicitly attested that the UPC was a political and military movement. The witness that the document "does not reflect the true nature of the UPC".

⁷ The Prosecution confronted the witness with various documents drafted by the UPC and with UPC headings, all of which indicated military intentions and functions to the UPC party. The dates of the documents were not discussed in Court. The documents would state various things like "The UPC has military control of"; "The UPC will take up arms against the RCD", and so on.