

LUBANGA DYILO

INFORMAL WEEKLY SUMMARY

4 - 8 APRIL 2011



<b>Situation Case</b>	Democratic Republic of Congo 01/04-01/06 <b>The Prosecutor vs. Thomas Mr. Lubanga Dyilo</b>	<i>du Congo</i> (FPLC), since September 2002 and at least until the end of 2003; Alleged President of the UPC.
<b>Hearing Chamber</b>	Trial Proceedings <b>Trial Chamber I:</b> Judge Sir Adrian Fulford (Presiding Judge), Judge Odio Benito and Judge Blattmann	<b>Alleged crimes:</b> <u>Thomas Mr. Lubanga Dyilo</u> is allegedly responsible, as co-perpetrator of 3 war crimes:
<b>Parties:</b>	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"> <li>○ 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;</li> <li>○ 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).</li> </ul>
<b>Participants:</b>	120 victims represented by Legal Representatives for Victims and OPVC.	

**Thomas Mr. 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, two witnesses gave testimony:

**Witness 19 - Mr. Balangui Jomba:** Mr. Jomba held different positions within the UPC<sup>1</sup>, including that of Interim President.

**Witness 11:** Mr. Michel Angayika Baba, was Mr. Lubanga's Private Secretary in the UPC.

4 April 2011 - The Prosecution continued its cross-examination of witness 19.

During cross-examination by the Prosecution, the witness provided insight on:

- **The Takeover of Bunia:** the witness testified that the takeover of Bunia in August 2002 was not linked to the UPC. He indicated that it was only at the end of August that Bunia was entrusted to the UPC and the leadership of Mr. Lubanga.
- **The Creation of the UPC:** the UPC was created on 15 September 2000. The witness was present in the discussions leading to the creation of the UPC of which Mr Lubanga was a part.
- **Lubanga's Position within the RCD-KML<sup>2</sup>:** In October 2001 Mr. Lubanga was appointed Minister of Defence in the RCD-KML but did not exercise direct control over the forces, but rather was responsible for policy decisions.

<sup>1</sup> The *Union des Patriotes Congolais*, (UPC). English: The Union of Congolese Patriots, is a Hema armed rebel group in Ituri, northeastern Democratic Republic of the Congo of which Thomas Lubanga was an alleged founder.

- **Tensions between the RCD-KML and the UPC:** on April 2002, the UPC had issued a public declaration which disassociated them from the RCD-KML. The witness testified that the UPC assured the local population that they could provide peace and security to everyone. The witness confirmed that Bunia been divided to two parts: one part was controlled by mutineers<sup>3</sup>, the other part by soldiers who were loyal to the RCD-KML and Military Governor Lopondo.

5 April 2011 - The Prosecution continued its cross-examination of witness 19.

During its cross-examination by the Prosecution, the witness provided insight to:

- **Flight of RCD-KML:** the witness testified that the mutineers, not the UPC, chased Military Governor Lopondo away from Bunia, leading to the evacuation of the RCD-KML.
- **The Takeover of Bunia:** The witness insisted that the takeover of Bunia was not related to Mr. Lubanga or the UPC. A victory was declared in 11 August 2002, and it was only in the end of August that the mutineers decided to give control to the UPC.

6 April 2011 - The Prosecution continued its cross-examination of witness 19.

The witness provided insight on:

- **Gathering Troops:** The witness conveyed to the Court some information regarding his movements in the period between March 2003 and May 2003, and he specifically focused on troops he had gathered. The witness could not confirm that there were any child soldiers among those troops.
- **The Witness' arrival at Mamedi Camp:**<sup>4</sup> The witness testified that in the Mamadi Camp he saw a group of young people who were visibly under the age of 18, but indicated that they were not soldiers. According to the witness' testimony, they were children under the care of General Kisémbé (Chief of Staff), who looked after their well-being.
- **Policy for Recruiting Children:** the witness testified that between September 2002 and September 2003 there was no policy for recruiting children to the UPC. He did however confirm that until 6 March 2003 there had been a number of instances where persons under the age of 18 had been recruited. The witness indicated that there had been some cases where children managed to 'get through the net of recruitment', however these children were subsequently demobilized.
- **Training of Children:** The witness identified some locations where the UPC had trained children under the age of 18, but did not accept that the UPC had also

<sup>2</sup> The RCD-Kisangani-Movement for Liberation (RCD-K/ML) now known as The Forces for Renewal (French: *Forces du Renouveau*) is a political party in the Democratic Republic of Congo. The party originated as a breakaway faction of the rebel Rally for Congolese Democracy (RCD).

<sup>3</sup> A mutiny of Hema commanders within the RCD broke out in Bunia in April 2002. These Hema commanders supported an incursion led by the UPDF (Ugandan armed forces) which expelled the RCD from Bunia. Last week a witness alleged that this constituted a victory for the UPC because the RCD's army was committing the crimes in Ituri.

<sup>4</sup> Mamedi camp is a location in the Ituri Province which the UPC used as a training centre.

trained children under the age of 15 as there was no such policy of recruiting children under the age of 15.

- **Demobilization Decree:** the witness testified that in October 2002 Mr. Lubanga issued an order instructing the demobilization of all people bearing arms who were under the required age. The witness was not aware of - and could not confirm - the existence of a document originating from the FPLC<sup>5</sup> indicating that the FPLC should recruit more children.

**7 April, 2011** - The Prosecution completed its cross-examination of **Witness 19**. **Witness 11** was sworn in and the Defence started its examination-in-chief.

During cross-examination by the Prosecution, Witness 19 provided insight on:

- **The Term "Children" in Reports of UPC Activities:** the witness stated that the reference in UPC reports to the term "children" is not in any way indicative that the UPC recruited children to become soldiers. The witness noted that the term "child" is used as military slang in the Congolese army.

During examination-in-chief by the Defence, Witness 11 provided insight on:

- **Expert Consultant:** the witness testified he had been contracted by Mr. Lubanga in 2001 to act as an expert consultant in a project on social integration for child soldiers returning from Uganda.
- **Position in the UPC:** The witness joined the UPC in July 2002, and was later appointed as private secretary to the president of the UPC. Among other duties, the witness attended various meetings with Mr. Lubanga, such as meetings with leaders of ethnic groups, social organizations, etc. Normally he did not attend meetings with soldiers.
- **The Distinction between the UPC and the UPC-RP:** the witness indicated that the UPC was a political party with a political mandate. However, during the time of imprisonment and absence of Mr. Lubanga, a group which was formerly part of the RCD-KML rebelled against the RCD-KML. Subsequently the UPC set up an armed branch around August 2002 which became UPC-RP.
- **Prohibiting the Use of Minors in the UPC-RP:** the witness confirmed he had drafted a document at the time the UPC-RP was created. The purpose of the document was that Mr. Lubanga wanted to remind the Chief-of-Staff that minors under the age of 18 should not be enrolled.

**8 April, 2011** - The Defence completed its examination-in chief, and the Prosecution began its cross-examination.

During the examination-in-chief by the Defence, the witness provided insight to:

- **The period 5 March 2003 - end of May 2003:** The witness testified that during this time the FPLC were losing the fight against the RCD-KML in Bunia, so the witness and Mr. Lubanga withdrew to several locations. The witness indicated

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<sup>5</sup> The *Forces Patriotiques pour la libération du Congo* (FPLC) is commonly referred to as the armed wing of the UPC.

that Mr. Lubanga had been with him most of that period, except for a few times when Mr. Lubanga went to see his family in Goma.

- **Rally in Bunia (June 2003) and the Presence of Children:** The witness testified that after returning to Bunia once the FPLC had regained control, a rally was organized. The witness noted that there were many armed individuals present in the rally, but could not confirm that they were all soldiers. It appeared that some of these armed individuals were under the age of 18.
- **After the Rally in Bunia:** The witness met with Mr. Lubanga and conveyed to him that some of those who had weapons looked like children. As a result, Mr. Lubanga had asked the witness to draft a decree requesting the immediate demobilization of children in the ranks of the FPLC.
- **UPDF Distribution of Weapons:** The witness testified that when he had enquired about the reason for the presence of armed children in the rally, he learned that the UPDF (before leaving town) had distributed weapons to all those who had wished to protect themselves, including children.
- **Children in the UPC:** The witness testified that children were not trained by the UPC. He noted that there could have been persons under the age of 18 assisting the UPC soldiers in their daily activities, so it may have been appeared that they were soldiers, but in fact they were not.
- **No Age Verification:** The witness could not however validate that there had been any mechanism for verification of age when enrolling persons.