



COALITION FOR THE
INTERNATIONAL CRIMINAL COURT

LUBANGA
INFORMAL WEEKLY SUMMARY
14 - 18 JUNE 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 war crimes
Parties	OTP: Ms. Bensouda, Mr. Sachdeva, Ms. Samson, Ms. Struyven and team; Defense: Ms. Mabilie, Mr. Desalliers, Mr. Biju-Duval and team	<ul style="list-style-type: none">• Enlisting and conscripting of 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	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*

Testimonies given this week

- 14 - 17 June: OTP Field Operations Liaison Coordinator, based in the DRC (under protective measures: face and voice distortion)

Topics this week included but were not limited to:

- OTP's procedure of working with Intermediaries

14 June 2010

The Examination-in-Chief by the OTP of the OTP Field Operations Liaison Coordinator started.

The examination of the OTP coordinator took place under protective measures and was conducted by Ms. Samson, OTP. The coordinator, who currently works for the ICC and is based in the DRC, stated that:

- he regularly makes direct payments to both intermediaries and witnesses. The reimbursement of expenses mainly includes travel expenses (such as airport tax and accommodation). Reimbursements for witnesses are decided directly by the ICC field offices; reimbursements for intermediaries are managed within the ICC headquarters in The Hague by the responsible desk officer. The field

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- offices send their receipts on a regular basis to The Hague, where they are filed. As a general rule of procedure, the "Witness Expenses Sheet" is used; he receives instructions from his supervisor, a desk officer at the ICC in The Hague. Whenever a witness or intermediary contacts him, he prepares a "Contact Report" which is sent to his supervisor via e-mail;
- he always questioned children without the presence of intermediaries. An intermediary never participated in an examination nor was the content of an examination ever discussed with an intermediary. It has never come to his attention that a child would have lied about his or her experiences as a child soldier.

15 June 2010

The Examination-in-Chief by the OTP and cross-examination by the Defence Ms. Samson, OTP, continued to question the OTP coordinator under protective measures. The coordinator stated that:

- his tasks were simply to make travel arrangements, prepare the interviews with the children, and provide them with appropriate means for to facilitate their testimony, such as air time for telephones calls to their parents and money for transportation;
- he has never instructed children what to tell other OTP investigators or the bench when testifying in Court;
- he never made any promises to children or their parents before the interviews;
- he never heard of children lying after having given an interview to the OTP;
- the OTP investigators did not discuss the content of interviews with children with anyone else.

The cross-examination of the **OTP coordinator** by the Defense started. The coordinator explained to Ms. Mabilille, Defense, that:

- He introduced himself to the children as a member of an NGO rather than as an ICC official, to retain a level of discretion. His superiors advised him to reveal his "true identity" at a later stage to both the children and their parents. The parents could then agree or not to continue with the investigation.
- he has been working in Bunia where the ICC field office is located;
- there are tight security rules in place for ICC personnel, which restricts movement outside of Bunia;
- he received written instructions from his superiors via e-mail for specific investigations to be conducted and was provided with a list of children he had to interview. When children had no identification papers (when lost during the war in Ituri), he checked their identity.

16 June 2010

The cross-examination of the **OTP coordinator** by the Defense was concluded.

Ms. Mabilille, Defense, questioned the coordinator about receipts confirming OTP payments to three intermediaries referred to as Mr. X, Mr. Y and Mr. Z, as well as Intermediary 143. The coordinator stated that:

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- The intermediaries introduced him to former child soldiers which he screened and redirected to investigators for in-depth interviews.
- In addition, the coordinator commented on several receipts of payments to reimburse intermediaries' expenses for their relocation to a safer place. The receipts pertained to the rent of a new apartment (Mr. Z); hotel accommodation (Mr. Y) and travel expenses (Mr. X).

17 June

The Re-Examination-in-Chief by the OTP of the OTP Field Operations Liaison Coordinator started.

Ms. Samson, OTP, re-examined the coordinator about his contact with someone called Mr. Claude Jango. The coordinator stated that:

- Mr. Jango arrived in Kinshasa at the beginning of March 2008 and left towards the end of July 2008;
- the last time he met Mr. Jango in Bunia was at the beginning of August 2008. As instructed by his supervisor, he handed over money to Mr. Jango that would enable witnesses to return to their previous lives. All forms of further collaboration ceased from that moment on.

Procedural Issues

- On 14 June, contrary to Ms. Mabelle's request, the Chamber ruled that the identity of Witness 581 will not be disclosed to the Defense. In order not to exclude the general public from following the proceedings, Judge Fulford emphasized that redactions shall not become routine.
- On 15 June, Judge Fulford mentioned that the Foreign Ministry of the DRC is currently on strike. That might impact negatively on the timing of witnesses since several are waiting for their passports to be issued.
- On 16 June, the Defense requested the disclosure of the children's identity mentioned in the screening notes. Like Trial Chamber II, the Court has ordered restricted disclosure of child witnesses' identity to the accused and the Defense.
- On 17 June, the OTP made an application to provide Intermediary 316 with the testimony of Defense Witness 16. The Defense submitted in this regard that it was the first time the OTP wished to forward various aspects of evidence that formed the basis of suspicion. This has a direct bearing on the scope of article 55 of the Statute. The Defense had no objection in this regard and pointed out that the procedure has a more general scope concerning interpretation of article 55. Presiding Judge Fulford agreed and there may be a limitation on the extent of material that should be provided.