

Current Status of *Case the Prosecutor v. Thomas Lubanga Dyilo*

The International Criminal Court is currently in the process of hearing the case of Prosecutor vs. Thomas Lubanga Dyilo in the Democratic Republic of Congo Situation. Mr. Thomas Lubanga Dyilo is accused of the war crime of using children under the age of fifteen to aid his militia group, the Union of Congolese Patriots(UPC), made illegal under Article 8 of the Rome Statute which created the International Criminal Court. The ICC originally issued a warrant to arrest Lubanga Dyilo on February 10, 2006. On March 17, 2006 Congolese authorities transferred Lubanga Dyilo to the custody of the ICC, making him the first person to be arrested under the statute of the ICC.

Some of the charges against Lubanga Dyilo include forcing children as young as 10 years old to fight in his militia located in the northeastern corner of the Democratic Republic of Congo.

The prosecution maintained in its original warrant request that the court has the jurisdiction to hear this case based on the timing of when the alleged war crimes occurred. The Democratic Republic of Congo signed the Rome Statute on April 8, 2000 and ratified it on April 11, 2002. The Statute then entered into force on July 1, 2002. Lubanga Dyilo has been alleged to have committed his crimes between July 2002 and the end of 2003, making those acts within the jurisdiction of the court.

The prosecution successfully issued its original warrant based on witness testimony and evidence that Lubanga Dyilo was the head of the UPC and implemented a plan and policy of building his militia with the help of child soldiers. The court has granted the status of victim to four individuals in this case, allows them to participate in any proceedings brought in the court against Lubanga Dyilo.

On January 29, 2007, the Pre-Trial Chamber of the International Criminal Court found that there was enough evidence to bring Lubanga Dyilo to trial, thereby confirming the three charges brought against him. In confirming the charges, the Chamber held that it had to determine whether there were “serious and substantiated grounds to believe that the suspect had committed the crimes charged.”

This case will be watched closely to see whether it is more efficient than the *ad hoc* criminal tribunals created in the past for trying war criminals. Up to this point the prosecutor has primarily used documentary and summary evidence rather than calling live witnesses to trial. The prosecution maintains that it may be difficult to find live witnesses as Lubanga Dyilo still has considerable sway as leader of the UPC and victims may be scared to testify.

For more information visit the ICC’s website (http://www.icc-cpi.int/cases/RDC/c0106/c0106_all.html).