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DR Congo: ICC Hearing Could Pave Way for Court's First Trial

Prosecution Must Pursue More Charges and Perpetrators

The Hague — The prosecutor for the International Criminal Court (ICC) must pursue more charges against Congolese rebel leader Thomas Lubanga and prosecute others responsible for heinous crimes in the Democratic Republic of Congo (DRC) if the court is going to bring justice to the Congolese people, Human Rights Watch said today.

Thomas Lubanga Dyilo, who has been in the ICC's custody since March 16, is the former leader of the Union of Congolese Patriots (UPC), an armed group responsible for war crimes and crimes against humanity in the Ituri region of northeastern DRC. The ICC has charged him with enlisting and conscripting children as soldiers and using them to participate actively in the conflict in Ituri. On November 9, the court will begin a crucial hearing in The Hague to determine if there is sufficient evidence against Lubanga to move ahead with what would be the ICC's first-ever trial.

“The hearing to confirm these important charges marks a milestone for the victims in Ituri,” said Géraldine Mattioli, international justice advocate at Human Rights Watch. “But these charges only begin to address the horrific acts committed by the UPC. If the ICC is going to have an impact on ending impunity in Ituri, the prosecutor must pursue more charges against Lubanga and target more perpetrators responsible for atrocities.”

The UPC under Lubanga committed numerous other serious crimes in Ituri, including murder, torture, rape and mutilation. More than 60,000 civilians have been slaughtered by armed groups in Ituri since the beginning of the conflict, according to the UN.

Other armed groups, including the Lendu militia Nationalist and Integrationist Front (FNI) led by Floribert Njabu, also committed serious human rights abuses. Human Rights Watch believes that the ICC prosecutor should investigate Congolese, Ugandan and Rwandan officials who may be implicated in some of the international crimes committed in Ituri.

The hearing is not a trial to determine whether Thomas Lubanga is guilty or not, but a pre-trial hearing in which the prosecution will have to satisfy the court that there is enough evidence to move ahead with a trial. During the hearing, Lubanga, through his lawyer, can object to the charges and challenge the prosecution's evidence.

Four victims, through their legal representatives, will present their views and concerns about the current charges to the court as independent parties. However, they cannot participate in a manner that is prejudicial to or inconsistent with Lubanga's fair trial rights.

“This is the first time victims will be heard in an international criminal proceeding

presenting their own concerns and not just as witnesses,” said Mattioli. “It is crucial that the ICC keeps people in the DRC informed about these and other important developments in The Hague.”

Human Rights Watch urged the ICC to disseminate information about the hearing by holding a news conference in The Hague and transmitting it via video link for live broadcast in the DRC. The court should also make available audio, video and written summaries in an easily accessible and understandable format after the hearing.

Background

Ituri is one of the areas worst affected by Congo’s devastating wars. A local armed conflict between Hema and Lendu ethnic groups that began in 1999 was exacerbated by Ugandan military forces and aggravated by the broader international armed conflict in the DRC.

Over the past five years, Human Rights Watch has gathered hundreds of testimonies documenting widespread human rights abuses committed by the UPC in Ituri. Survivors told Human Rights Watch how the UPC, a predominately Hema militia group, carried out ethnic massacres, murder, torture, rape and mutilation, as well as the recruitment of child soldiers. For example, UPC combatants under the leadership of Lubanga slaughtered at least 800 civilians on the basis of their ethnicity in the gold mining region of Mongbwalu between November 2002 and June 2003.

Serious human rights abuses were also committed by other groups, including the FNI, a Lendu militia opposed to the UPC led by Floribert Njabu. For example, in March 2003, the FNI attacked the town of Kilo in Ituri and killed at least 100 civilians, mostly women and children, whom they accused of helping the Hema.

The Ituri conflict, as well as others in eastern DRC, highlights the participation of non-Congolese forces. Ituri in particular became a battleground between the governments of Uganda, Rwanda and the DRC. These governments have provided political and military support to Congolese armed groups, despite abundant evidence of their widespread violations of international humanitarian law.

In April 2004, the transitional Congolese government referred crimes committed in the country to the ICC. On June 23, 2004, the prosecutor announced the beginning of the court’s investigation in the DRC.

The International Criminal Court, based in The Hague, has broad international support. Currently, 104 countries have ratified the Rome Statute establishing the court, and 139 have signed the Rome treaty.

Human Rights Watch