

After a long wait, the International Crimes Division (ICD) of the High Court of Uganda held on 11 June 2018 another pre-trial hearing for the case of Uganda vs. Thomas Kwoyelo, which resulted in yet another adjournment. The former Lord's Resistance Army (LRA) commander was captured in 2008. Reversing the Constitutional Court's initial decision to grant him full amnesty, the Supreme Court of Uganda ordered his retrial on 8 April 2015. Thomas Kwoyelo is charged with 67 counts of offences under the Geneva Conventions Act and Penal Code Act.

Place: International Crimes Division
Date: 11th June 2018, 09:00-12:00pm
Case Number : Case No 2 of 2010
Accused: Thomas Kwoyelo, former LRA commander
Civil parties: Victims from Amuru District
Summary of the case: Thomas Kwoyelo is a former commander in the Lord's Resistance Army (LRA). He is facing charges before the International Crimes Division of the High Court of Uganda. The charges are crimes against humanity and violations of Article 3 common to the Geneva conventions under customary international law and other offences under the Penal Code Act of Uganda. It is alleged that these crimes were committed in Northern Uganda during the conflict between the LRA and the Uganda Peoples' Defence Force (UPDF). The accused has been facing trial since July 2011 before the Division.

Charges-67 counts

- Murder
- Hostage taking
- Pillaging
- Robbery with aggravation
- Crimes against humanity
- Cruel treatment
- Outrages against dignity
- Enslavement
- Rape
- Torture
- Violence to life and person

Summary of hearings

On Monday 11 June, the court was meant to confirm the charges that prosecution brought against the accused. The Rules of Procedure and Evidence of the ICD indeed demand that there should be a pre-trial first to confirm whether a prima-facie case has been established against the suspects before the main trial is conducted. In the Kwoyelo case, the pre-trial stage started almost 7 years ago, on the 11 July 2011. It has ever since been dragging for numerous reasons, leaving both the national and international community as to whether the matter shall proceed to trial or not.

The latest delay in the confirmation of Thomas Kwoyelo's charges was caused by the defence team, as one of the co-counsels was unable to make it to the court for the trial, due to the alleged late notice of trial. Defence counsel Charles Dalton Oponya argued that the defence team was recently served by prosecution with more documents for amending the charges so that it

needed more time to prepare for these new changes. The defence counsel further argued that the accused's information about the procedural stages and charges, as Thomas Kwoyelo himself stated: *"I would like to know whether the prosecution is prosecuting itself or it's prosecuting me! I am totally unaware of what is happening in the case."* He also requested one extra lawyer to be appointed on private brief.

No objections were raised by either prosecution or the victims' counsels. The latter requested court to caution the defence team in the interest of justice.

In response to the defence's motions, the honourable judge Susan Okalany informed the accused that his lawyers were always served with all the court documents and should have taken the liberty to inform him of the same. His lawyers appointed on private brief have so far absconded court three times despite the fact that they were duly served by the court. Justice Okalany further advised him to summon all his lawyers and communicate his concerns and informed him that any lawyer's reappointment should be done by the next pre-trial hearing, which was set for July 23rd-25th. The charges are now expected to be confirmed on July 25th and the ruling issued on that same week. The various parties to the case are required to prepare skeleton submissions by then.