



Original: English

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Date: 15 May 2009

TRIAL CHAMBER I

Before: Judge Adrian Fulford, Presiding Judge
Judge Elizabeth Odio Benito, Judge
Judge René Blattmann, Judge

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
THE PROSECUTOR
v. THOMAS LUBANGA DYILO**

Public Document

**Prosecution's Observations on Seven Redacted Applications for Victim
Participation to the Case, concerning applicants a/0523/08, a/0609/08, a/0610/08,
a/0611/08, a/0053/09, a/0060/09 and a/0249/09**

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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**Unrepresented Applicants for
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Introduction

1. On 12 May 2009, the Registry notified the parties with seven applications for participation as victims in the proceedings, from applicants a/0523/08, a/0609/08, a/0610/08, a/0611/08, a/0053/09, a/0060/09 and a/0249/09.¹ The Prosecution submits that five of the applications – a/0610/08, a/0611/08a/0053/09, a/0060/09, and a/0249/09 -- are complete and appear to meet the requirements of Rule 85 and decisions of the Court. Applications filed by a/0523/08 and a/0609/08 require further information or clarification before the applicants may be granted to participate as victims

The Prosecution's Observations

The five applicants who prima facie meet the necessary requirements for victim participation

2. The information in applications by applicants a/0060/09, a/0249/09, a/0610/08, and a/0611/08 suggests that the applicants were under the age of 15 at the time of their enlistment, conscription or use by the armed forces of the UPC/FPLC during the time-frame relevant to the charges against Thomas LUBANGA.
3. The four applications contain sufficient proof of identity in the form of copies of driving licences, school records and birth certificates. Two of the four applicants (a/0060/09 and a/0249/09) were over the age of 18 when they submitted their applications. Applicants a/0610/08 and a/0611/08 (who are brothers) were under the age of 18; their uncle submitted the applications on their behalf, along with proof of guardianship.
4. Application a/0053/09 is filed by an adult on behalf of himself and his deceased nephew, whom he claims was conscripted by the UPC in August of

¹ ICC-01/04-01/06-1869 with Conf.Anx. 1 to 7.

2002 at age 13. The applicant claims that his nephew was killed during combat in Mandro in March 2003 and includes a death certificate in the application. He also claims to have endured physical and emotional pain and suffering, caused by the conscription and death of his nephew, who was his deceased sister's only child. For these reasons the Prosecution submits that applicant a/0053/09 should be granted status to participate as a victim of indirect harm.

The two applicants whose applications require further clarification

5. Applicant a/0609/08 is the uncle of applicants a/0610/08 and a/0611/08 and submitted applications on their behalf as their legal guardian (see paragraph 3 above). He also submits a separate application on his own behalf, claiming the loss of his son, who disappeared during the conflict. The applicant does not indicate whether the disappearance occurred due to the enlistment or conscription into the UPC/FPLC and whether his son had been under the age of 15 at the time. Finally, the applicant does not claim personal harm deriving from the enlistment or conscription of his son and nephews, but instead invokes financial harm suffered due to events independent from the enlistment and conscription (such as due to acts of pillaging and for having to care for the children). The Prosecution submits that the applicant need submit further information on the disappearance of his son and the connection between the harm he suffered and the enlistment and conscription of children before his application can be granted.
6. Applicant a/0523/08 alleges to have been conscripted into the UPC in May 2003 along with his siblings. Born in 1978, the applicant claims to be the third of six children. Given his date of birth, which is confirmed by the identity card attached to the application, the applicant would have been around 25 years of age at the time of his alleged conscription. There is no information indicating that his siblings were under the age of 15 at the time of their

alleged conscription. The Prosecution therefore submits that further information should be provided before this application can be granted.

Conclusion

7. For the reasons outlined above, the Prosecution requests that the Chamber grant applicants a/0610/08, a/0611/08, a/0053/09, a/0060/09 and a/0249/09 participation status as victims in the case against Thomas LUBANGA.
8. The Prosecution contends that applicants a/0523/08 and a/0609/08 should be requested to provide further information in order to allow assessment of their requests to participate as victims in the proceedings.



Luis Moreno-Ocampo
Prosecutor

Dated this 15th day of May 2009
At The Hague, The Netherlands