Cour Pénale Internationale

International Criminal Court

Original: **French**

No.: **ICC-01/04-01/07**
Date: **14 June 2011**

TRIAL CHAMBER II

Before: **Judge Bruno Cotte, Presiding Judge**
Judge Fatoumata Dembele Diarra
Judge Christine Van den Wyngaert

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
THE PROSECUTOR v. GERMAIN KATANGA AND MATHIEU NGUDJOLO CHUI

Public document

Decision on the applications to resume action submitted by the family members of deceased Victims a/0025/08, a/0051/08, a/0197/08 and a/0311/09

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

The Office of the Prosecutor
Mr Luis Moreno-Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
Mr Éric MacDonald, Senior Trial Lawyer

Counsel for Germain Katanga
Mr David Hooper
Mr Andreas O'Shea

Counsel for Mathieu Ngudjolo Chui
Mr Jean-Pierre Kilenda Kakengi Basila
Mr Jean-Pierre Fofé Djofia Malewa

Legal Representatives of Victims
Mr Jean-Louis Gilissen
Mr Fidel Nsita Luvengika

Legal Representatives of Applicants

Office of Public Counsel for Victims

Office of Public Counsel for the Defence

States' Representatives

Amicus Curiae

REGISTRY

Registrar
Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section
Ms Fiona McKay

Other

Trial Chamber II of the International Criminal Court ("the Chamber" and "the Court" respectively), acting pursuant to articles 21 and 68 of the Rome Statute ("the Statute"), rules 85, 86 and 89 of the Rules of Procedure and Evidence ("the Rules") and regulation 86 of the Regulations of the Court, decides as follows.

I. Procedural background

1. On 2 April and 10 and 23 June 2008, Pre-Trial Chamber I authorised 57 persons to participate as victims in this case.[1]

2. On 26 February 2009, the Chamber laid down the procedure to be followed by the Victims Participation and Reparations Section ("VPRS") for the treatment of applications for participation, and in particular VPRS's role in the preparation of redacted versions of applications for participation prior to their disclosure to the Prosecutor and the Defence.[2]

3. Following several decisions by the Chamber on the applications for participation transmitted by VPRS, 309 victims were authorised to participate in the proceedings.[3] Furthermore, in certain cases, the Chamber authorised the

[1] Pre-Trial Chamber I, *Decision on the Applications for Participation in the Proceedings of Applicants a/0327/07 to a/0337/07 and a/0001/08*, 2 April 2008, ICC-01/04-01/07-357; *Public Redacted Version of the "Decision on the 97 Applications for Participation at the Pre-Trial Stage of the Case*", 10 June 2008, ICC-01/04-01/07-579 ("ICC-01/04-01/07-579"); *Decision on the Application for Participation of Witness 166*, 23 June 2008, ICC-01/04-01/07-632.

[2] *Decision on the treatment of applications for participation*, 26 February 2009, ICC-01/04-01/07-933 ("the Decision of 26 February 2009"), paras. 46-54. See also the Registry, "*Rapport du Greffe sur la mise en place d'un régime d'expurgation des demandes de participation de victimes, conformément à la décision du 26 février 2009 (ICC-01/04-01/07-933)*", 20 March 2009, ICC-01/04-01/07-974-Conf-Exp ("ICC-01/04-01/07-974-Conf-Exp"), with confidential, *ex parte* annex.

[3] *Dispositif de la décision relative aux 345 demandes de participation de victimes à la procédure*, 31 July 2009, ICC-01/04-01/07-1347; *Corrigendum du dispositif de la décision relative aux 345 demandes de participation de victimes à la procédure*, 5 August 2009, ICC-01/04-01/07-1347-Corr; *Grounds for the Decision on the 345 Applications for Participation in the Proceedings Submitted by Victims*, 23 September 2009, ICC-01/04-01/07-1491-Red-tENG ("Decision of 23 September 2009"), with confidential, *ex parte* annex (see also the confidential redacted version of the annex, ICC-01/04-01/07-1491-Conf-Anx-Red); *Operative Part of the Second Decision on the Applications by Victims for Participation in the Proceedings*, 23 November 2009, ICC-01/04-01/07-1669 ("Disposition of 23 November 2009"); *Motifs de la deuxième décision relative aux demandes de participation de victimes à la procédure*, 22 December 2009, ICC-01/04-01/07-1737 ("Decision of 22 December 2009"), with confidential, *ex parte* annex (see also the confidential redacted version of

persons mandated by the families of deceased victims to participate in the proceedings on the victims' behalf.[4]

4. Pursuant to the order of 22 July 2009 on the organisation of the common legal representation[5] and the Registry's appointment of counsel of 22 September 2009,[6] some of the victims authorised to participate in the proceedings were assigned to the main group of victims represented by Mr Nsita Luvengika, and others to the group of child soldier victims represented by Mr Gilissen.

5. At the request of the Defence teams,[7] the victims authorised to participate in the proceedings gradually consented to their identity being disclosed to the parties. Accordingly, the Chamber issued several decisions ordering the lifting of their anonymity vis-à-vis those parties.[8]

6. More specifically, by document number 1789, filed by Mr Nsita Luvengika on 25 January 2010, the Chamber was informed that, with the exception of three victims belonging to the main group of victims (a/0051/08, a/0197/08 and

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the annex, ICC-01/04-01/07-1737-Conf-Anx-Red); *Motifs de la troisième décision relative à 8 demandes de participation de victimes à la procédure*, 17 March 2010, ICC-01/04-01/07-1967 ("Decision of 17 March 2010"), with confidential, *ex parte* annexes 1 to 4 (see also the confidential redacted version of the annexes); *Quatrième décision relative à 2 demandes de participation de victimes à la procédure*, 8 November 2010, ICC-01/04-01/07-2516, with confidential, *ex parte* annexes (see also the confidential redacted version of the annexes); *Cinquième décision relative à 2 demandes de participation de victimes à la procédure*, 9 February 2011, ICC-01/04-01/07-2693, with confidential, *ex parte* annexes (see also the confidential redacted version of the annexes).

[4] See, for example, the following cases of deceased victims: a/0207/08 (Dispositive of 23 November 2009, p. 7; Decision of 22 December 2009, para. 31, and annex, ICC-01/04-01/07-1737-Conf-Anx-Red, pp. 22-25) and a/0120/09 (Decision of 17 March 2010, paras. 12 and 15, and Annex 1, ICC-01/04-01/07-1967-Conf-Anx1-Red).

[5] *Order on the organisation of common legal representation of victims*, 22 July 2009, ICC-01/04-01/07-1328.

[6] Registry, "*Désignation définitive de Me Fidel Nsita Luvengika comme représentant légal commun du groupe principal de victimes et affectation des victimes aux différentes équipes*", 22 September 2009, ICC-01/04-01/07-1488.

[7] Defence for Germain Katanga, "Defence Motion Requesting the Disclosure of the Identity of Applicants Having Obtained the Status of Victims", 7 September 2009, ICC-01/04-01/07-1461; Defence for Mathieu Ngudjolo, "*Adjonction de la Défense de Mathieu Ngudjolo à la Requête de la Défense de Germain Katanga n°ICC-01/04-01/07-1461*", 9 September 2009, ICC-01/04-01/07-1463.

[8] See *Décision relative à la divulgation de l'identité de victimes aux parties et invitant le Procureur et la Défense à présenter leurs observations sur les informations supplémentaires concernant certaines victimes décédées*, 11 April 2011, ICC-01/04-01/07-2827 ("Decision of 11 April 2011"), para. 7, footnotes 11 and 12; and para. 17, footnote 26.

a/0311/09), all of the victims authorised to participate in the proceedings had agreed to the disclosure of their identity to the parties.[9] Mr Nsita Luvengika specified that the three victims whose anonymity had not by then been lifted were deceased.[10] In response to that filing, in an oral decision on 18 February 2010 the Chamber provisionally granted anonymity to said deceased victims with respect to the parties until the position of their family members on the continuation of the initiated action had been ascertained. The Chamber also ordered Mr Nsita Luvengika to contact the families of those victims as soon as possible in order to inform the Chamber whether they intended to disclose the identity of the deceased victims to the parties. Lastly, the Chamber stated that the Legal Representative should indicate, if necessary and after consultation with the Victims and Witnesses Unit ("VWU"), whether the families intended to submit an application for protective measures.[11]

7. On 7 December 2010, the Chamber was informed by VPRS of the steps Mr Nsita Luvengika was taking in order to obtain the consent of these last victims to the disclosure of their identity to the parties and to ascertain the position of the family members on both the continuation of the action initiated on behalf of the deceased victims and whether they intended to disclose the identity of those victims and their own identity to the parties.[12]

8. In an e-mail dated 17 December 2010, the Chamber took note of these steps. It requested the Legal Representatives to inform the Chamber by 15 February 2011, *inter alia* "[TRANSLATION] […] in respect of the deceased victims, whether the family members intend to continue their action and agree, therefore, to disclosure of the identity of those deceased victims and of their own identity". The Chamber also indicated that, in the future, as soon as the Legal

[9] Legal Representative of the main group of victims, "*Quatrième soumission du représentant légal commun du groupe principal de victimes relative à la divulgation de l'identité des victimes*", 25 January 2010, ICC-01/04-01/07-1789, paras. 4 and 5.
[10] *Ibidem*.
[11] ICC-01/04-01/07-T-104-Red-FRA WT 18-02-2010, pp. 33 and 34.
[12] E-mail from VPRS to the Chamber, 7 December 2010 at 15.28.

Representatives learn of the death of a victim, it will be incumbent upon them to contact the family members to ascertain whether they intend to continue the action, and to inform the Chamber of the family members' response as soon as possible. Lastly, it reminded the Registry that once it has been informed by the Legal Representatives that the victims and the persons wishing to act on behalf of deceased victims agree to the disclosure of their identity to the parties, it is then for the Registry to carry out such disclosure immediately.[13]

9. On 15 February 2011, the Legal Representative of the main group of victims provided the information requested ("Information submitted by Mr Nsita Luvengika").[14] He also indicated that he would transmit to VPRS additional documents related to the continuation of the action initiated before the Court on behalf of deceased Victims a/0025/08, a/0051/08, a/0197/08 and a/0311/09.[15]

10. On 25 February 2011, the Registry transmitted to the Chamber the applications for participation of the aforementioned deceased victims and the additional information pertaining to said victims provided by their Legal Representative.[16]

11. In order to obtain the observations of the parties, on 11 April 2011 the Chamber ordered, *inter alia*, that they be provided with a redacted version of the documents containing the additional information pertaining to those four deceased victims.[17]

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[13] E-mail from a Legal Officer of the Chamber to Legal Representatives of the victims, 17 December 2010 at 14.18.

[14] Common legal representative of the main group of victims, "*Cinquième soumission du représentant légal relative à la notification du décès de cinq victimes, à la reprise des dossiers de certaines victimes décédées et à la divulgation de l'identité de victimes et/ou de repreneurs d'action de certaines victimes*", 15 February 2011, ICC-01/04-01/07-2706.

[15] *Ibid*., paras. 12-19.

[16] Registry, "*Transmission des informations supplémentaires communiquées par Maître Nsita Luvengika, Représentant légal des victimes a/0025/08, a/0051/08, a/0197/08 et a/0311/09 en référence au document ICC-01/04-01/07-2706 du 15 février 2011*", 25 February 2011, ICC-01/04-01/07-2737 ("Transmission of the additional information provided by Mr Nsita Luvengika"), with confidential, *ex parte* annexes.

[17] Decision of 11 April 2011.

12. On 13 April 2011, the Registry disclosed to the parties the additional information concerning the deceased victims in redacted form.[18]

13. On 19 and 20 April 2011, the Defence for Mathieu Ngudjolo ("Observations of the Defence for Mathieu Ngudjolo")[19] and the Prosecutor ("Observations of the Prosecutor")[20] submitted the requisite observations on the additional information.

14. Following a request from the Chamber for clarification on the application to resume action submitted on behalf of deceased Victim a/0197/08, VPRS contacted the Legal Representative's team,[21] which on 23 May 2011 provided it with new information and an additional document.[22]

15. At the Chamber's request,[23] on 30 May 2011 the Registry transmitted the consolidated application for participation form of deceased Victim a/0197/08 including the additional information provided by the Legal Representative ("Additional Information").[24]

16. VPRS redacted the Additional Information after consultation with VWU and in accordance with the Decision of 26 February 2009 and the Registry report of

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[18] Registry, "*Transmission en version expurgée des demandes de participation consolidées des victimes a/0025/08, a/0051/08, a/0197/08 et a/0311/09 par application de la Décision de la Chambre du 11 avril 2011 (ICC-01/04-01/07-2827)*", 13 April 2011, ICC-01/04-01/07-2831, with confidential, *ex parte* annexes, Prosecutor, Defence and Mr Nsita Luvengika only, of the consolidated forms of Victims a/0025/08, a/0051/08, a/0197/08 and a/0311/09.

[19] Defence for Mathieu Ngudjolo, "*Observations de la Défense de Mathieu Ngudjolo Chui sur la demande de reprise de l'action, et en particulier sur les informations complémentaires fournies par le Représentant légal commun concernant la reprise d'instance par les proches des victimes décédées a/0025/08, a/0051/08, a/0197/08 et a/0311/09*", 19 April 2011, ICC-01/04-01/07-2842.

[20] Office of the Prosecutor, "*Observations de l'Accusation sur la demande de reprise de l'action de certaines victimes décédées*", 20 April 2011, ICC-01/04-01/07-2847.

[21] E-mail from VPRS to the Chamber, 10 May 2011 at 17.36.

[22] E-mail from VPRS to the Chamber, 25 May 2011 at 18.48. See also Registry, "*Transmission des informations supplémentaires relatives à la demande a/0197/08 communiquées par Maître Nsita Luvengika, Représentant légal du groupe principal de victime*", 30 May 2011, ICC-01/04-01/07-2970, with confidential, *ex parte* annex, Registry and Mr Nsita Luvengika only.

[23] E-mail from a Legal Officer of the Chamber to VPRS, 26 May 2011 at 18.18.

[24] Registry, Additional Information.

20 March 2009. The Chamber had ordered the Registry to provide the Prosecutor and the Defence with a redacted version of the said document in order to obtain any observations the parties wished to submit by 9 June 2011.[25]

17. On 1 June 2011, the Registry filed the redacted version of the Additional Information[26] and, on 8 and 9 June 2011, the Defence for Mathieu Ngudjolo[27] and the Prosecutor[28] submitted their observations to the Chamber, indicating that they did not object to the resumption of the action initiated by deceased Victim a/0197/08.

II. Discussion

1. Resumption of the action initiated by the deceased victims

18. In light of the additional information provided by the Legal Representative and the submissions of the parties, the Chamber has considered the four applications submitted to it by persons wishing to act on behalf of deceased Victims a/0025/08, a/0051/08, a/0197/08 and a/0311/09, respectively.

19. The Chamber recalls that, in its Decision of 23 September 2009, it considered both the general and specific submissions of the parties.[29] It is of the view that the findings it reached at that time apply, *mutatis mutandis*, to these new applications, as does its position on, for example, the redaction of applications

[25] E-mail from a Legal Officer of the Chamber to the Registry and the parties and participants, 31 May 2011 at 12.02, referring to the Decision of 26 February 2009 and to ICC-01/04-01/07-974-Conf-Exp, with confidential, *ex parte* annex.
[26] Registry, "*Transmission en version expurgée du formulaire de participation consolidé de la victime a/0197/08*", 1 June 2011, ICC-01/04-01/07-2982, with confidential, *ex parte* annex, Prosecutor and Mr Nsita Luvengika only, ICC-01/04-01/07-2970-Conf-Exp-Anx-Red.
[27] E-mail from the Defence for Mathieu Ngudjolo to the Chamber, 8 June 2011 at 18.12.
[28] Office of the Prosecutor, "Prosecution's Observations on Additional Documents Provided by Applicant a/0197/08", 9 June 2011, ICC-01/04-01/07-3004.
[29] Decision of 23 September 2009, paras. 20-56.

for participation,[30] documents which could prove the applicants' identity,[31] proof supplied by a death certificate or certificate of family relationship,[32] and on the influence, if any, of intermediaries.[33]

20. The Chamber recalls its decision that the close relatives of a victim authorised to participate who is now deceased may decide to continue the action initiated by the victim before the Court, but that they may do so only on behalf of the deceased victim and within the limits of the views and concerns expressed by the victim in his or her initial application.[34]

a) Victim a/0025/08

21. The Chamber recalls that Victim a/0025/08 was authorised to participate in the proceedings by the Pre-Trial Chamber on 10 June 2008.[35] According to the information provided by the person wishing to continue the action before the Court, in particular, the extract from the death certificate, a/0025/08 died in 2008.[36] The Chamber notes that some of the victim's close relatives nominated the victim's brother to "[TRANSLATION] take care of the family of [the victim]".[37] The statement is signed by five family members, including the designated person, and a copy of their identity documents is attached.[38]

[30] *Ibid*., paras. 24 and 25.
[31] *Ibid*., paras. 31-33. See also Decision of 26 February 2009, paras. 30 and 34.
[32] *Ibid*., paras. 34-39.
[33] *Ibid*., paras. 40-43.
[34] Decision of 22 December 2009, para. 30
[35] ICC-01/04-01/07-579, para. 127.
[36] Registry, Annex 1 to Transmission of the additional information provided by Mr Nsita Luvengika, ICC-01/04-01/07-2737-Conf-Exp-Anx1 ("ICC-01/04-01/07-2737-Conf-Exp-Anx1"), p. 21. See also the confidential, redacted version of Annex 1, p. 21.
[37] ICC-01/04-01/07-2737-Conf-Exp-Anx1, pp. 23-26. See also the confidential redacted version of Annex 1, pp. 23-26.
[38] ICC-01/04-01/07-2737-Conf-Exp-Anx1, pp. 23-30. See also the confidential redacted version of Annex 1, pp. 23-30.

22. In this respect, the Chamber notes that, in the information provided on 15 February 2011, Mr Nsita Luvengika, the Legal Representative of the victim concerned, indicated that the victim's family had expressed a wish to continue the action initiated before the Court and that it had nominated a family member to do so.[39] However, the Chamber notes, as does the Prosecutor in his submissions,[40] that, in the statement provided, the close family members of the deceased victim do not specifically mandate the designated person to continue the action initiated before the Court, and merely nominate this person to "[TRANSLATION] take care of the family" of the victim.

23. The Chamber considers that the family relationship between the deceased victim and the person wishing to act on the victim's behalf has been established, but that it has not been shown that the victim's family explicitly mandated that individual to resume the action initiated before the Court. Hence the Chamber is of the view that it requires additional details to make a fully informed decision on the merits of this application to resume action. Accordingly, it reserves judgement, and requests the Legal Representative to provide it with a statement from the deceased victim's family specifically mandating a person to continue the action initiated by the victim before the Court.

b) Victim a/0051/08

24. The Chamber recalls that Victim a/0051/08 was authorised to participate in the proceedings by the Pre-Trial Chamber on 10 June 2008.[41] It notes that this victim is reported to have died in 2008 and takes note of the victim's death certificate submitted by the family.[42] It also takes note of the minutes of the family meeting mandating the victim's grandson to continue the action initiated before the

[39] Information submitted by Mr Nsita Luvengika, paras. 14-16.
[40] Prosecutor's Observations, paras. 3 and 4.
[41] ICC-01/04-01/07-579, para. 127.
[42] Registry, Annex 2 to Transmission of the additional information provided by Mr Nsita Luvengika, ICC-01/04-01/07-2737-Conf-Exp-Anx2 ("ICC-01/04-01/07-2737-Conf-Exp-Anx2"), p. 23. See also the confidential redacted version of Annex 2, p. 23.

Court, and notes that the four signatory family members, including the designated person, provided a copy of their identity documents.[43] Lastly, the Chamber notes that, according to the information provided by the Legal Representative to VPRS on 15 February 2011, the designated person had been assisting the applicant since the beginning of the application procedure.[44]

25. The Chamber therefore considers that the family relationship between the deceased victim and the person wishing to act on the victim's behalf has been established and that the person has been mandated by the family of the deceased to continue on the victim's behalf the action initiated by the victim. Accordingly, it authorises the person mandated by the family of deceased Victim a/0051/08 to continue the action before the Court on behalf of that victim.

c) Victim a/0197/08

26. The Chamber recalls that Victim a/0197/08 was authorised to participate in the proceedings by the Decision of 23 September 2009.[45] It notes that, according to the death certificate transmitted to the Chamber on 25 February 2011, the victim died in 2009.[46] It notes the minutes of the family meeting mandating the victim's brother to continue the action initiated before the Court, and notes that three of the four signatory family members, including the designated person, provided a copy of their identity documents.[47] It also notes the Additional Information provided by the Legal Representative stating the identity of the persons who

[43] ICC-01/04-01/07-2737-Conf-Exp-Anx2, pp. 25-27. See also the confidential redacted version of Annex 2, pp. 25-27.
[44] ICC-01/04-01/07-2737-Conf-Exp-Anx2, p. 24, referring to an e-mail sent by the Legal Representative to the Registry on 15 February 2011. See also the confidential redacted version of Annex 2.
[45] Decision of 23 September 2009, and annex ICC-01/04-01/07-1491-Conf-Anx-Red, pp. 116-118.
[46] Registry, Annex 3 to "*Transmission des informations supplémentaires communiquées par Me Nsita Luvengika*", ICC-01/04-01/07-2737-Conf-Exp-Anx3 ("ICC-01/04-01/07-2737-Conf-Exp-Anx3"), p. 26. See also the confidential redacted version of Annex 3, p. 27.
[47] ICC-01/04-01/07-2737-Conf-Exp-Anx3, pp. 25, 28 and 29. See also the confidential redacted version of Annex 3, pp. 26, 29 and 30.

signed the minutes of the family meeting.[48] Lastly, the Chamber notes that the mandated person provides an additional statement pertaining to the date of birth of deceased Victim a/0197/08.[49]

27. The Chamber therefore considers that the family relationship between the deceased victim and the person wishing to act on that victim's behalf has been established and that that individual has indeed been mandated by the family to continue on the victim's behalf the action initiated by the victim. Accordingly, it authorises the person mandated by the family of deceased Victim a/0197/08 to continue the action initiated before the Court on behalf of that victim.

d) Victim a/0311/09

28. The Chamber recalls that Victim a/0311/09 was authorised to participate in the proceedings by the Decision of 23 September 2009.[50] It notes the minutes of the family meeting mandating the victim's son to continue the action initiated before the Court and notes that the four signatory family members, including the designated person, provided a copy of their identity documents.[51]

29. The Chamber considers that the family relationship between the victim and the person wishing to act on the victim's behalf has been established and that the person has indeed been mandated by the family to continue on the victim's behalf the action initiated by the victim. However, the Chamber notes that the documents which the Registry transmitted to it on 25 February 2011 do not include the victim's death certificate. Although the Legal Representative

[48] Registry, Annex to Additional Information, ICC-01/04-01/07-2970-Conf-Exp-Anx, pp. 31 and 32. See also the confidential, redacted, *ex parte* version, Registry and Mr Nsita Luvengika only, of the annex, pp. 31 and 32.
[49] ICC-01/04-01/07-2737-Conf-Exp-Anx3, p. 27. See also the confidential redacted version of Annex 3, p. 28.
[50] Decision of 23 September 2009 and annex, ICC-01/04-01/07-1491-Conf-Anx-Red, pp. 502-504.
[51] Registry, Annex 4 to "*Transmission des informations supplémentaires communiquées par Me Nsita Luvengika*", ICC-01/04-01/07-2737-Conf-Exp-Anx4, pp. 27-30. See also the confidential redacted version of Annex 4, pp. 27-30.

concerned, Mr Nsita Luvengika, has stated on several occasions that the victim is deceased,[52] the Chamber finds that it requires additional details in order to be able to make a fully informed decision on the merits of the application. Accordingly, it reserves judgement and requests the Legal Representative to provide it with certification of the death of Victim a/0311/09 as soon as possible.

2. Lifting of anonymity and granting of protective measures

30. The Chamber recalls that the persons designated to continue the action initiated by Victims a/0051/08, a/0197/08 and a/0311/09 by their respective families have all agreed to the disclosure of their own identity and of the identity of the deceased victims in question to the parties, since the Chamber authorises them to continue the action of their family members.[53] Accordingly, should the Chamber grant the application for participation, the person designated to continue the action of deceased Victim a/0025/08 would not be opposed to disclosure of his identity to the parties, the identity of the victim having already been disclosed to them.[54] The Chamber also recalls that the Legal Representative requested it to extend the protective measures previously ordered for all victims authorised to participate in the proceedings thus far to include those persons resuming the action of deceased Victims a/0025/08, a/0051/08, a/0197/08 and a/0311/09.[55]

31. Since the present decision authorises the persons mandated by the families of deceased Victims a/0051/08 and a/0197/08 to continue the action initiated by the victims, the Chamber invites the Registry to disclose to the parties the identity of the victims and of the persons resuming their action.

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[52] Information provided by Mr Nsita Luvengika, paras. 12 and 13.
[53] *Ibid*., para. 22. See also Decision of 11 April 2011, para. 28.
[54] *Ibid*., para. 23. See also Decision of 11 April 2011, para. 28.
[55] *Ibid*., para. 25. See also Decision of 11 April 2011, para. 28.

32. In respect of the request for protective measures for those resuming action, the Chamber considers that the protective measures granted to the victims authorised to participate in the proceedings also apply to the persons authorised to participate on behalf of the deceased victims.

33. In this regard, the Chamber recalls its decision granting anonymity vis-à-vis the public to all of the victims authorised to participate in this case, including those persons authorised to participate in the proceedings on behalf of the deceased victims.[56]

34. The Chamber further reminds the parties of their obligation under the Code of Professional Conduct for counsel to ensure that their team members do not disclose to third parties the identity of the victims authorised to participate in the proceedings, including the identity of persons authorised to participate on behalf of the deceased victims, and, to this end, to limit disclosure to a restricted number of team members.[57]

35. Lastly, the Chamber recalls that the decision on the "Protocol on investigations in relation to witnesses benefiting from protective measures" of 26 April 2010[58] and the decision on the arrangements for contact between represented victims and the parties of 23 November 2010[59] apply to all victims, both protected and represented, including the persons authorised to participate in the proceedings on behalf of the deceased victims.

[56] See, *inter alia*, ICC-01/04-01/07-T-104-Red-FRA WT 18-02-2010, pp. 33 and 34.
[57] *Ibidem*.
[58] *Decision on the "Protocol on investigations in relation to witnesses benefiting from protective measures"*, 26 April 2010, ICC-01/04-01/07-2047.
[59] *Décision relative aux modalités de contact entre des victimes représentées et les parties*, 23 November 2010, ICC-01/04-01/07-2571.

FOR THESE REASONS, the Chamber,

AUTHORISES the persons mandated respectively by the families of deceased Victims a/0051/08 and a/0197/08 to participate in these proceedings on behalf of said victims;

ORDERS Mr Nsita Luvengika to transmit to it as soon as possible (i) in respect of the application to resume the action of deceased Victim a/0025/08, a statement by the family of the victim designating a person specifically to continue the action initiated before the Court; and (ii) in respect of Victim a/0311/09, a document certifying the victim's death;

REMINDS the Registry that it is incumbent upon it to disclose to the parties the identity of deceased Victims a/0051/08 and a/0197/08 and of those resuming their action;

RECALLS that all victims authorised to participate in these proceedings, including those persons authorised to participate on behalf of the deceased victims, are granted anonymity vis-à-vis the public;

REMINDS the parties of their obligation under the Code of Professional Conduct for counsel to ensure that their team members do not disclose to third parties the identity of victims authorised to participate in the proceedings, including the identity of persons authorised to participate on behalf of deceased victims, and to this end, to limit disclosure of such information to a restricted number of their team members; and

RECALLS that the decision on the "Protocol on investigations in relation to witnesses benefiting from protective measures" of 26 April 2010 and the decision on the arrangements for contact between represented victims and the parties of 23 November 2010 apply to all victims, both protected and represented, including

persons authorised to participate in the proceedings on behalf of the deceased victims.

Done in both English and French, the French version being authoritative.

[signed]

Judge Bruno Cotte
Presiding Judge

[signed]

Judge Fatoumata Dembele Diarra

[signed]

Judge Christine Van den Wyngaert

Dated this 14 June 2011,

At The Hague, The Netherlands