

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-01/04-01/06
Date: 8 February 2011

TRIAL CHAMBER I

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

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

Public

**Redacted version of the Corrigendum of Decision on the applications by 15
victims to participate in the proceedings**

Decision/Order/Judgment to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

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Ms Fatou Bensouda

Counsel for the Defence

Ms Catherine Mabile
Mr Jean-Marie Biju Duval

Legal Representatives of the Victims

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Mr Franck Mulenda
Ms Carine Bapita Buyangandu
Mr Joseph Keta Orwinyo
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Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
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Ms Paolina Massidda

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States Representatives

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REGISTRY

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Ms Maria Luisa Martinod Jacome

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**Victims Participation and Reparations
Section**

Ms Fiona McKay

Other

Trial Chamber I (“Trial Chamber” or “Chamber”) of the International Criminal Court (“Court” or “ICC”), in the case of *The Prosecutor v. Thomas Lubanga Dyilo*, delivers the following Decision on the applications by 15 victims to participate in the proceedings, in accordance with Article 68 of the Rome Statute (“Statute”).¹

I. Background

1. The relevant procedural history on participation by victims before the Chamber is set out comprehensively in the “Decision on the applications by victims to participate in the proceedings” issued on 15 December 2008 in which the applications from 117 individuals to participate in the proceedings were resolved (92 were granted).²
2. As regards the present applications, on 14 June 2010 the Registry filed a confidential, *ex parte*, Registry only, “Fifth Report to Trial Chamber I on Victims’ Applications under Regulation 86.5 of the Regulations of the Court” (“Registry’s Fifth Report”) which dealt with the applications of 15 victims to participate in the proceedings.³
3. At the hearing on 17 June 2010, the Trial Chamber instructed the Registry to provide the parties and participants with the 15 new applications included in the Registry’s Fifth Report, suitably redacted, by 21 June 2010 and any responses by the parties were to be filed by 2 July 2010 and further submissions by the legal representative by 9 July 2010.⁴
4. Due to an internal miscommunication within the Registry, the redacted applications were not transmitted to the parties before the aforesaid deadline.

¹ Fifth Report to Trial Chamber I on Victims’ Applications under Regulation 86.5 of the Regulations of the Court, 14 June 2010, ICC-01/04-01/06-2474-Conf-Exp; Report on supplementary information related to applications a/0026/10, a/0031/10 and a/0738/10, 11 November 2010, ICC-01/04-01/06-2616-Conf-Exp.

² Corrigendum to the Decision on the applications by victims to participate in the proceedings, 13 January 2009, ICC-01/04-01/06-1556-Corr-Anx1, paragraphs 1-27.

³ Fifth Report to Trial Chamber I on Victims’ Applications under Regulation 86.5 of the Regulations of the Court, 14 June 2010, ICC-01/04-01/06-2474-Conf-Exp.

⁴ Transcript of hearing on 17 June 2010, ICC-01/04-01/06-T-303-CONF-ENG, page 18, line 5 et seq.

Instead, the Registry's Victims Participation and Reparation Section ("VPRS") provided the relevant redacted applications to the parties on 29 June 2010.⁵

5. The Trial Chamber ordered the stay of proceedings on 8 July 2010.⁶
6. The Appeals Chamber lifted the stay of proceedings on 8 October 2010.⁷
7. During the hearing on 11 October 2010, the Trial Chamber set a new deadline for the parties and participants' observations, namely 22 October 2010.⁸ The defence and the Office of the Prosecutor ("prosecution") respectively submitted their observations on 18 October 2010⁹ and 22 October 2010.¹⁰
8. On 2 November 2010, the legal representative of these 15 applicants requested authorisation to respond to the observations of the defence.¹¹ The Chamber granted this request during the hearing on 2 November 2010,¹² and the observations were filed on 5 November 2010.¹³
9. On 11 November 2010, the Registry transmitted supplementary documents to the Chamber, relating to applicants a/0026/10, a/0031/10 and a/0738/10.¹⁴ On the

⁵ Transmission to the parties of fifteen new victims' applications for participation in accordance with Trial Chamber I's oral decision of 17 June 2010, 29 June 2010, ICC-01/04-01/06-2509 with confidential annexes.

⁶ Decision on the Prosecution's Urgent Request for Variation of the Time-Limit to Disclose the Identity of Intermediary 143 or Alternatively to Stay Proceedings Pending Further Consultations with the VWU, 8 July 2010, ICC-01/04-01/06-2517-Conf. A public redacted version of this decision was issued on the same day, ICC-01/04-01/06-2517-Red.

⁷ Judgment on the appeal of the Prosecutor against the decision of Trial Chamber I of 8 July 2010 entitled "Decision on the Prosecution's Urgent Request for Variation of the Time-Limit to Disclose the Identity of Intermediary 143 or Alternatively to Stay Proceedings Pending Further Consultations with the VWU", 8 October 2010, ICC-01/04-01/06-2582.

⁸ Transcript of hearing on 11 October 2010, ICC-01/04-01/06-T-316-ENG, page 14, line 2 et seq.

⁹ Observations de la Défense sur les 15 demandes de participation à la procédure communiquées le 29 juin 2010, 18 October 2010, ICC-01/04-01/06-2587-Conf.

¹⁰ Prosecution's Observations on Fifteen Redacted Applications for Victim Participation in the Case, 22 October 2010, ICC-01/04-01/06-2590-Conf. A public redacted version of this decision was issued on 1 November 2010, ICC-01/04-01/06-2590-Red.

¹¹ Demande d'autorisation de répondre aux observations de la défense du 18 Octobre 2010 sur les 15 demandes de participation des victimes à la procédure, 2 November 2010, ICC-01/04-01/06-2599-Conf.

¹² Transcript of hearing on 2 November 2010, ICC-01/04-01/06-T-321-CONF-ENG ET, page 61, line 17 et seq.

¹³ Réplique aux observations de la Défense sur les 15 demandes de participation des victimes, 5 November 2010, ICC-01/04-01/06-2603.

¹⁴ Report on supplementary information related to applications a/0026/10, a/0031/10 and a/0738/10, 11 November 2010, ICC-01/04-01/06-2616-Conf-Exp.

same day the Registry provided the redacted versions of these supplementary documents to the parties.¹⁵

10. On 19 November 2010, the defence informed the Chamber that due to the redactions applied to this material it was unable to make any further submissions and it reiterated its previous observations (filing ICC-01/04-01/06-2587-Conf).¹⁶
11. On 23 November 2010, the prosecution submitted its observations to the supplementary documents provided by applicants a/0026/10, a/0031/10 and a/0738/10.¹⁷

II. Relevant Provisions

12. The relevant provisions, particularly of the Rome Statute framework, are set out comprehensively in the decisions of the Chamber on victim participation, issued variously on 18 January 2008, 15 December 2008 and 10 July 2009.¹⁸

III. Submissions

13. The submissions that address the position of each particular applicant are dealt with in Annex A to this Decision. However, to the extent that the parties have made general submissions that are of relevance to most or all of the applicants, the Chamber has addressed these below.

¹⁵ Transmission to the parties and Me Keta of redacted supplementary documents related to applications a/0026/10, a/0031/10 and a/0738/10, 11 November 2010, ICC-01/04-01/06-2617.

¹⁶ Email communication from defence counsel to a Legal Officer of Trial Chamber I on 19 November 2010.

¹⁷ Prosecution's Observations on supplementary information related to applications a/0026/10, a/0031/10 and a/0738/10, 23 November 2010, ICC-01/04-01/06-2633.

¹⁸ Decision on victims' participation, 18 January 2008, ICC-01/04-01/06-1119, paragraphs 20-37; ICC-01/04-01/06-1556-Corr-Anx1, paragraphs 34-50; Decision on the applications by 7 victims to participate in the proceedings, 10 July 2009, ICC-01/04-01/06-2035, paragraphs 10-26.

General submissions of the defence

14. The defence contends that the applications are imprecise; they are incomplete or very general; and the necessary documents or witnesses are missing in order to establish the allegations set out therein.¹⁹ The defence argues that the 15 applications have been completed in an identical and imprecise manner, which casts serious doubts as to the value of the assistance provided by particular individuals when the victims were completing the forms.²⁰ The defence highlights that all the applicants have a similar profile (namely, young girls allegedly abducted in the areas surrounding [REDACTED] between [REDACTED] 2003; in each case they were taken by force and used as “wives”; and they filled in the relevant forms in [REDACTED] 2009). The defence submits that these similarities make it essential for the accused to know the identity of the various individuals who assisted each victim to fill in the forms.²¹
15. The defence also emphasises that the identification document submitted by 9 of the 15 applicants, which is an “*attestation de carence*” (certificate of loss of documents) were all prepared in [REDACTED] 2009 by the same police officer, and it is suggested they are untrustworthy. As for the other 6 applicants who submitted a student identity card with their applications, the defence submits that doubts exist as to the authenticity of any that were signed by witness DRC-OTP-WWWW-0563. In his statement, DRC-OTP-WWWW-0563 mentioned that he prepared student identity cards for ICC staff and Mr Keta (who represents these 15 applicants) at a stage when they were no longer students, and when DRC-OTP-WWWW-0563 was no longer authorised to grant them. In all the circumstances, the defence contends that there are serious doubts as to the validity of any documents in this category.²²

¹⁹ ICC-01/04-01/06-2587-Conf, paragraphs 9-12.

²⁰ ICC-01/04-01/06-2587-Conf, paragraphs 13-15.

²¹ ICC-01/04-01/06-2587-Conf, paragraphs 16-17.

²² ICC-01/04-01/06-2587-Conf, paragraphs 18-20.

16. The defence submits that due to the significant number, and extent, of the redactions in the application forms, it is unable to evaluate the authenticity of the information provided therein, and thus it is unable to advance useful submissions on the admissibility of these documents.²³
17. As regards 14 of the 15 applicants (a/0033/10 is excluded) the defence argues that it is not possible to verify whether the alleged events come within the dates relevant to the charges.²⁴
18. In relation to 7 applicants (a/0026/10, a/0029/10, a/0030/10, a/0031/10, a/0035/10, a/0037/10, a/0333/10) the defence highlights that they merely suggest “Thomas Lubanga” was criminally responsible, without indicating the nature of his culpability, and the suggested link between the accused and the alleged crimes. The defence observes that the applicants do not provide the name or the affiliations of the group that abducted them.²⁵

General submissions of the prosecution

19. The prosecution submits that 12 of the 15 applications (a/0027/10, a/0028/10, a/0029/10, a/0030/10, a/0033/10, a/0334/10, a/0035/10, a/0037/10, a/0333/10, a/0336/10, a/0738/10, a/0739/10) are complete and appear to meet the requirements under Rules 85(a) of the Rules of Procedure and Evidence (“Rules”).²⁶ For the other three applicants, the prosecution provides specific observations that have been summarised in the annex to this Decision (applicants a/0740/10, a/0026/10 and a/0031/10).²⁷

General submissions of the legal representative

20. In response to the defence submission that the victims’ applications are imprecise and contain lacunae, the legal representative argues that neither the

²³ ICC-01/04-01/06-2587-Conf, paragraphs 21-24.

²⁴ ICC-01/04-01/06-2587-Conf, paragraphs 25-27.

²⁵ ICC-01/04-01/06-2587-Conf, paragraphs 30-34.

²⁶ ICC-01/04-01/06-2590-Red, paragraph 6.

²⁷ ICC-01/04-01/06-2590-Red, paragraphs 31-32.

Statute nor the Rules refer to an evidential threshold that is to be met for the details provided in the application forms. By reference to the case law of Trial Chamber I, it is suggested there only needs to be *prima facie* verification of the information included in the application forms. The legal representative also refers to the jurisprudence of the pre-trial chambers as regards the evidential threshold for victims' applications.²⁸

21. Addressing the defence observation that there are similarities between the application forms, the legal representative contends that this is not a legitimate basis for determining that the victims' applications are inadmissible, given the Trial Chamber's decision as to when an application form is to be considered complete.²⁹
22. In response to the defence submission that the applications lack adequate means of identification, or references to documents or witnesses, the legal representative argues that in accordance with the Chamber's established approach, the applications have been properly completed. The legal representative contends that there is consistent, court-wide jurisprudence as to the identification documents that are admissible, given the different security, political, social and individual position of the various applicants.³⁰
23. As regards the submission of the defence as to the reliability of the identification documents provided by the applicants, the legal representative submits they come from a competent source.³¹
24. The legal representative submits that the Chamber ordered the redactions to the identities of the individuals who issued the identity documents, in accordance with its established practice.³²

²⁸ ICC-01/04-01/06-2603, paragraph 11.

²⁹ ICC-01/04-01/06-2603, paragraph 12.

³⁰ ICC-01/04-01/06-2603, paragraph 13.

³¹ ICC-01/04-01/06-2603, paragraph 14.

³² ICC-01/04-01/06-2603, paragraphs 15-17.

25. Finally, the legal representative addresses the link between the harm suffered by the victims and the accused, referring to a pre-trial decision in which the Single Judge indicated that the applicant simply needs to provide, if possible, the identity of the person or persons who are considered responsible for the harm. On this basis, the legal representative contends that it is unnecessary for the applicant to identify the individual charged by the prosecution.³³

IV. Analysis and Conclusions

26. The Trial Chamber has assessed the 15 applications in accordance with the general principles and criteria established in the Trial Chamber's Decision on victims' participation of 18 January 2008,³⁴ as confirmed or varied by the Appeals Chamber in its judgment of 11 July 2008,³⁵ along with the approach set out in the Trial Chamber's "Decision on the applications by victims to participate in the proceedings" of 15 December 2008.³⁶

27. The applicant-by-applicant analysis is set out in Annex A. However, as set out above, to the extent that the parties have made general submissions that are of relevance to some or all of the applicants, the Chamber has addressed these arguments hereafter.

28. The first general issue is the defence contention that the applications are imprecise; they are incomplete or very general; and the necessary documents or witnesses are missing in order to establish the allegations set out therein.³⁷ The Chamber is unable to accept this submission given that, in line with the Court's jurisprudence, the obligation on an applicant is limited to providing the Chamber with sufficient material to establish, *prima facie*, his or her identity and the link between the alleged harm and the charges against the accused.

³³ ICC-01/04-01/06-2603, paragraph 18.

³⁴ ICC-01/04-01/06-1119.

³⁵ Judgment on the appeals of The Prosecutor and The Defence against Trial Chamber I's Decision on Victims' Participation of 18 January 2008, 11 July 2008, ICC-01/04-01/06-1432.

³⁶ ICC-01/04-01/06-1556-Corr-Anx1.

³⁷ ICC-01/04-01/06-2587-Conf, paragraphs 9-12.

Previously the Chamber has taken into account the “overall picture provided by the applicant to the Chamber”, bearing in mind the applicant’s account and any documents submitted to the Chamber, in order to reach a *prima facie* determination as to whether the applicant suffered harm as a result of a crime included in the charges against the accused.³⁸

29. The defence additionally argues that the 15 applications have been completed identically and imprecisely, creating serious doubts as to the assistance provided by certain individuals to the victims, when the forms were completed.³⁹ On review of the relevant material, although the answers in the application forms are similar, they are not identical. The Chamber previously observed, in broadly analogous circumstances, that the “similarities between the applications are unsurprising and do not in any way undermine their credibility”.⁴⁰ Furthermore, the Chamber considers that similarities in this instance are unsurprising given the “broad context of the systematic conscription of children under the age of 15 into the military forces of the UPC” during the timeframe of the charges in the province of Ituri, from whence all 15 applicants come.⁴¹

30. Nonetheless, the defence argues that these similarities make it necessary for the defence to be provided with the identities of the individuals who assisted the victims to fill in the forms.⁴² The Chamber acknowledges that this information has been disclosed on previous occasions (namely, in the application forms for a/0225/06/, a/0229/06 and a/0270/07, who each testified during the trial).⁴³ However, these 15 applicants simply ask to participate in the proceedings and they are not, at present, requesting a more active role in the trial, nor are they

³⁸ Order issuing Annexes to the “Decision on the applications by victims to participate in the proceedings” of 15 December 2008, 19 December 2008, ICC-01/04-01/06-1563-Conf-AnxA2, pages, 9, 17-18, 23, 199, 202, 205, 207, 210, 213, 216, 229.

³⁹ ICC-01/04-01/06-2587-Conf, paragraphs 13-15.

⁴⁰ ICC-01/04-01/06-1563-Conf-AnxA2, page 286.

⁴¹ ICC-01/04-01/06-1556-Corr-Anx1, paragraph 103.

⁴² ICC-01/04-01/06-2587-Conf, paragraphs 16-17.

⁴³ Decision on the disclosure of information from victims’ application forms (a/0225/06, a/0229/06, a/0270/07), 14 October 2010, ICC-01/04-01/06-2586-Conf-Exp.

trial witnesses. The Chamber has previously ruled that unless there are substantive reasons for suspecting that the individuals who assisted the applicants in this way attempted to persuade one or more of them to give false evidence, or otherwise misused their position, disclosure of the identities of those who provided assistance is not required.⁴⁴ For the reasons set out above, the similarities between the forms does not lead to this conclusion, and generally there is no basis to doubt the role of the individuals who assisted the victims or the integrity of the process. Non-disclosure of the identities of those who assisted the applicants is necessary in order to protect the applicants, by maintaining their anonymity, pursuant to Article 68(1) of the Statute. This step is not detrimental to rights of the accused.

31. As an exception to this general position, disclosure of the identity of the individual who assisted applicants a/0028/10, a/0029/10, a/0030/10, a/0031/10, a/0033/10, a/0037/10, a/0333/10, a/0334/10, a/0336/10a/0739/10, and a/0740/10, has already been ordered.⁴⁵ Thus, the redactions to his name should be lifted.
32. The defence submits that the identity documents ("*attestation de carence*") provided by the applicants are untrustworthy. Particularly, it is argued that there are reasons to distrust the student identity cards signed by non-trial witness DRC-OTP-WWWW-0563. The defence contends that there are serious doubts as to the validity of these documents.⁴⁶
33. Considering the position generally, the Chamber has expressly recognised that an "*attestation de carence*" is a valid document by which an individual can demonstrate his or her identity.⁴⁷ Thus, in principle, these documents are admissible and they provide *prima facie* proof of the identity of the applicants concerned.

⁴⁴ Redacted Decision on Intermediaries, 31 May 2010, ICC-01/04-01/06-2434-Red2, paragraph 139(e).

⁴⁵ ICC-01/04-01/06-2586-Conf-Exp, paragraph 42.

⁴⁶ ICC-01/04-01/06-2587-Conf, paragraphs 18-20.

⁴⁷ ICC-01/04-01/06-1119, paragraph 87(iii).

34. As to the suggested unreliability of the student identification cards, the defence has provided the Chamber with the relevant statement of DRC-OTP-WWWW-0563 in its third request for admission of documents.⁴⁸ The Chamber has established that this individual has not issued any of the relevant student identity cards. The Chamber thus considers that the redactions are appropriate, since the withheld information is irrelevant to any known issue concerning the defence case or the known issues in this trial, and, moreover, they are necessary in order to protect the identity of the applicants.

35. The defence suggests that due to the significant number, and the extent of, the redactions to the application forms, it is unable to evaluate the authenticity of the information provided therein or to make useful submissions on the admissibility of these documents.⁴⁹

36. In its Decision of 7 May 2008, the Chamber set out the reasons for transmitting redacted versions of the victims' application forms to the parties:

24. At this stage the Chamber is essentially conducting a preliminary assessment on the merits of the applications that may lead to some of them being rejected and this could result in applicants not being granted the status of participants in the proceedings. For this limited purpose, the Chamber adopts the observations of Single Judge Politi when addressing a similar issue, namely that "[g]iven the practical and financial obstacles necessarily associated with measures other than redactions (in particular, measures in the field or relocation) [...] the adoption of any measures other than redactions would exceed the scope of the present proceedings and would therefore be unjustified".

25. The Trial Chamber has carefully applied the principle of proportionality approved by the Appeals Chamber, that protective measures should:

- i) restrict the rights of the suspect or accused only as far as necessary;
- ii) be put in place where they are the only sufficient and feasible measure.

26. The Trial Chamber deems that the above two requirements are met given that:

- i) In light of the current and significant insecurity situation in relevant parts of the Democratic Republic of Congo, non-disclosure of the applicants' identities is necessary. This will not restrict the rights of the accused at this moment, or create an irreversible situation that cannot be corrected in due course, given that the Trial Chamber will make any necessary judgements as to these redactions at the time any of the applicants are granted status as victims, in order to guarantee the fairness of proceedings.

⁴⁸ Second Corrigendum Troisième requête de la Défense aux fins de dépôt de documents, 16 November 2010, ICC-01/04-01/06-2604-Conf-Corr2, paragraphs 21-25 and Annexes 5 and 6.

⁴⁹ ICC-01/04-01/06-2587-Conf, paragraphs 21-24.

ii) Consistent with the Chamber's 18 January Decision on victims' participation, if victims are granted status to participate in the proceedings, their active role in the trial will depend on additional discrete applications in which they must set out specifically how their interests are affected at a given phase of the proceedings. At that stage the Chamber will take into account whether the victim is requesting continued anonymity for the purposes of determining the appropriate form of participation. At this preliminary juncture, however, redactions to applications are necessary and appropriate and are the only feasible and appropriate measures at this stage of the proceedings, namely the initial application process.⁵⁰

37. This approach should apply, *mutatis mutandis*, to these 15 applications. To the extent that any of these applicants seek in due course to participate substantively in the trial, the Chamber will reconsider their current position of anonymity vis-à-vis the parties.⁵¹ However, for the limited purpose of making observations on these applications, the parties are not unduly or disproportionately prejudiced by non-disclosure of the applicants' identities, nor is material unfairness created for the accused. The critical stage will occur later, when the Chamber re-evaluates these protective measures in light of the circumstances of participation by any of these applicants in the trial.⁵²

38. As regards 14 of the 15 applicants (excluding a/0033/10) the defence argues that it is not possible to establish that the alleged events come within the dates relevant to the charges.⁵³ However, on a review of the applications and the report from the VPRS, the Chamber is persuaded that it has been established, *prima facie*, that the applicants' alleged recruitment occurred between September 2002 and August 2003.⁵⁴

39. In relation to 7 applicants (a/0026/10, a/0029/10, a/0030/10, a/0031/10, a/0035/10, a/0037/10 and a/0333/10) the defence highlights that they merely suggest "M.

⁵⁰ Decision inviting the parties' observations on applications for participation of a/0001/06 to a/0004/06, a/0047/06 to a/0052/06, a/0077/06, a/0078/06, a/0105/06, a/0221/06, a/0224/06 to a/0233/06, a/0236/06, a/0237/06 to a/0250/06, a/0001/07 to a/0005/07, a/0054/07 to a/0062/07, a/0064/07, a/0065/07, a/0149/07, a/0155/07, a/0156/07, a/0162/07, a/0168/07 to a/0185/07, a/0187/07 to a/0191/07, a/0251/07 to a/0253/07, a/0255/07 to a/0257/07, a/0270/07 to a/0285/07, and a/0007/08, 7 May 2010, ICC-01/04-01/06-1308, paragraphs 24-26.

⁵¹ ICC-01/04-01/06-1119, paragraph 131.

⁵² ICC-01/04-01/06-1308, paragraph 29.

⁵³ ICC-01/04-01/06-2587-Conf, paragraphs 25-27.

⁵⁴ ICC-01/04-01/06-1563-Conf-AnxA2, pages 130, 132, 135, 137, 142, 144, 147, 150, 152, 154, 156, 158, 160, 162, 164, 166, 168, 174, 176, 180, 184, 188-189, 193, 197.

Thomas Lubanga” was criminally responsible, without indicating the nature of his culpability, and the suggested link between the accused and the alleged crimes. The defence observes that the applicants do not indicate the name or the affiliations of the group that abducted them.⁵⁵

40. The majority of the applicants have referred, in various ways, to either the UPC or Mr Thomas Lubanga when describing the relevant events or identifying those who were responsible for them (see a/0026/10, a/0029/10, a/0031/10, a/0037/10 and a/0333/10). Seven relevant applicants have referred to Mr Thomas Lubanga, along with others linked to the UPC (such as “Commander Kisembo”), as those responsible for what happened to them. The accused is charged with crimes allegedly committed between September 2002 and 13 August 2003, when the UPC/FPLC is said to have systematically recruited children.⁵⁶ Given this occurred in Ituri which is the identified location for all the applicants, notwithstanding the fact that the responsibility of others cannot be discounted, on the material provided to the Bench there is *prima facie* evidence (as opposed to proof beyond a reasonable doubt or on a balance of probabilities) that the relevant applicants are victims under Rule 85(a) of the Rules, having suffered personal harm as a result of crimes confirmed against the accused, in the period of time between September 2002 and 13 August 2003.

V. Orders of the Chamber

41. For these reasons, the Trial Chamber hereby:

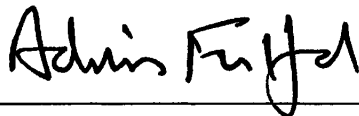
- a. Grants the applications to participate in the proceedings of victims a/0026/10, a/0027/10, a/0028/10, a/0029/10, a/0030/10, a/0031/10, a/0033/10, a/0035/10, a/0037/10, a/0333/10, a/0334/10, a/0336/10, a/0738/10, a/0739/10 and a/0740/10.

⁵⁵ ICC-01/04-01/06-2587-Conf, paragraphs 30-34.

⁵⁶ Decision on the confirmation of the charges, 14 May 2007, ICC-01/04-01/06-803-tEN, paragraph 250.

- b. Orders the Registry to submit a report to the Chamber on the requests for protective and special measures for these 15 victims no later than 24 January 2011.
- c. Orders the Registry to provide the identity of the person assisting applicants a/0028/10, a/0029/10, a/0030/10, a/0031/10, a/0033/10, a/0037/10, a/0333/10, a/0334/10, a/0336/10, a/0739/10 and a/0740/10 to the parties.
- d. Orders the Registry to submit the public redacted version of this cover Decision and the confidential and public redacted versions of Annex A of this Decision to the Chamber for its review by 7 January 2011.
- e. Directs that these victims are allocated to the team that includes Mr Keta, given he represents each of them.

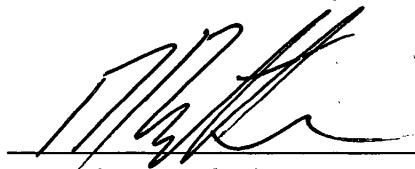
Done in both English and French, the English version being authoritative.



Judge Adrian Fulford



Judge Elizabeth Odio Benito



Judge René Blattmann

Dated this 8 February 2011

At The Hague, The Netherlands