

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01-04/01-06

Date: 9 May 2008

TRIAL CHAMBER I

Before: Judge Adrian Fulford, President
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 Document
URGENT**

**Request of the OPCV in relation to redactions to the applications of victims
following the Trial Chamber's decision of 6 May 2008**

Source: Office of Public Counsel for Victims

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

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Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

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**Victims Participation and Reparations
Section**

Other

I. Procedural Background

1. On 18 January 2008, Trial Chamber I delivered its "Decision on victims' participation" establishing general guidelines on all matters related to the participation of victims in the proceedings¹.
2. On 27 February 2008, Trial Chamber I granted leave to appeal in part the said decision on three specific issues².
3. On 6 March 2008, Trial Chamber I issued the "Decision on the role of the Office of Public Counsel for Victims and its request for access to documents" pursuant to which "[t]he Office of Public Counsel for Victims shall continue to represent the victim applicants it currently represents until the Chamber issues a decision on their application to participate"³.
4. On 6 May 2008, the Trial Chamber issues its "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/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 (the "Decision")"⁴.

¹ See the "Decision on victim's participation", No. ICC-01/04-01/06-1119, 18 January 2008.

² See the "Decision on the Defence and Prosecution Requests for Leave to Appeal the Decision on Victims' participation of 18 January 2008", No. ICC-01/04-01/06-1191, 27 February 2008.

³ See the "Decision on the role of the Office of Public Counsel for Victims and its request for access to documents", No. ICC-01/04-01/06-1211, 6 March 2008.

⁴ See the "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/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", No. ICC-01/04-01/06-1308, 6 May 2008.

5. On 8 May 2008, Trial Chamber I issued its "Decision issuing a confidential and public redacted version of the 'Decision on disclosure issues, responsibilities for protective measures and other procedural matters'"⁵.

6. The Principal Counsel submits the following observations.

II. Request to be consulted on redactions to the applications before being transmitted to the parties for the purposes of rule 89(1) of the Rules of Procedure and Evidence

6. The Decision authorises redactions of the applications before their transmission to the parties for the purposes of rule 89(1) of the Rules of Procedure and Evidence. Such redactions have to be implemented by the Victims Participation and Reparations Section (the "VPRS").

7. As argued by the Office of Public Counsel for Victims (the "Office" or the "OPCV") in previous filings, the interests of victims are directly concerned by any issue concerning their protection. This matter is of vital importance for victims since most of them requested that the Court ensure that their identity, and any other information which may lead to their identification, not be revealed either to the Prosecutor, the Defence, a State, or any other participant. The matter is even of greater importance for victims who cumulate the dual status of victims and witnesses, particularly at this stage of the proceedings.

8. In respect of the applicants represented by the Office, the Principal Counsel is in a position to provide information on security concerns they may have, because of her constant contact with her clients.

9. The Principal Counsel also submits that in respect of at least one of the person represented by her, a recent event could cause serious consequences on the person's security.

⁵ See the "Decision issuing a confidential and public redacted version of the 'Decision on disclosure issues, responsibilities for protective measures and other procedural matters'", No. ICC-01/04-01/06-1311, 8 May 2008.

10. Furthermore, in relation to the applicants enjoying the dual status of victims and witnesses, the Principal Counsel submits that following the “Decision issuing a confidential and public redacted version of the ‘Decision on disclosure issues, responsibilities for protective measures and other procedural matters’” whereby Trial Chamber I orders the Office of the Prosecutor to provide the OPCV with the relevant witness statements and video footage of persons it is representing⁶, the Principal Counsel will be in the position to verify whether the redactions in the applications are in conformity with the redactions, if any, in the witnesses’ statements. This will ensure that information not disclosed to the Defence through witnesses’ statements will not be disclosed by way of the transmission of the victims’ applications for participation.

11. Accordingly, the Principal Counsel submits that it is appropriate that the Trial Chamber allows her to review the redactions of applications concerning her clients implemented by the VPRS in accordance with the Decision, before the applications be transmitted to the parties.

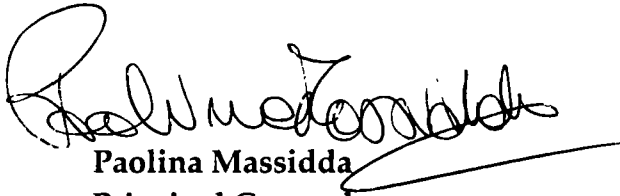
12. The Office will be able to undertake such revision in one day after the receipt of the redacted version by the VPRS.

13. Should the Chamber accede this request, the Principal Counsel further respectfully requests Trial Chamber I to grant her two days from the receipt of the redacted versions of the applications by the VPRS to submit to the Chamber any request for further redactions, if any, and/or any concern related to the protection of the applicants she is representing.

⁶ *Ibid*, paras 73 and 107.

For the foregoing reasons, the Principal Counsel respectfully requests the Trial Chamber

- (i) to grant her request to review the redacted versions of the applications of the applicants she is representing before they are sent to the parties for the purposes of rule 89(1) of the Rules of Procedure and Evidence; and
- (ii) to grant her two days from the receipt of the said redacted applications to address the Trial Chamber on any protective matter, if any.



Paolina Massidda
Principal Counsel
Office of Public Counsel for Victims

Dated this 9 May 2008

At The Hague, The Netherlands