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Pénale  
Internationale**



**International  
Criminal  
Court**

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**PRE-TRIAL CHAMBER I**

**Before: Judge Anita Ušacka, Single Judge**

**SITUATION IN THE DEMOCRATIC REPUBLIC OF CONGO**

**Public Document**

**Decision on the Applications for Participation Filed in Connection with the Investigation in the Democratic Republic of Congo by Applicants a/0189/06 to a/0198/06, a/0200/06 to a/0202/06, a/0204/06 to a/0208/06, a/0210/06 to a/0213/06, a/0215/06 to a/0218/06, a/0219/06, a/0223/06, a/0332/07, a/0334/07 to a/0337/07, a/0001/08, a/0030/08 and a/0031/08**

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

**Counsel for the Defence**

**Legal Representatives of the Victims**

**Legal Representatives of the Applicants**

Mr Joseph Keta  
Mr Jean Luis Gilissen

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**The Office of Public Counsel for  
Victims**

Ms Paolina Massidda, Principal Counsel

**The Office of Public Counsel for the Defence**

Mr Xavier-Jean Keïta, Principal Counsel

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Ms Silvana Arbia

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Ms Fiona McKay

**Other**

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**I, Judge Anita Ušacka**, judge at the International Criminal Court (“the Court”);

**NOTING** the applications for participation in the proceedings a/0332/07, a/0334/07 to a/0337/07 and a/0001/08 (“the Applications”),<sup>1</sup> filed on 30 January 2008 as confidential, *ex parte* in the record of the case of *The Prosecutor v. Germain Katanga*;

**NOTING** the “Prosecution’s Observations on the applications for Participation in the Proceedings of Applicants a/0327/07 to a/0337/07 and a/0001/08”,<sup>2</sup> filed by the Prosecution on 6 March 2008;

**NOTING** the “Defence’s observations on the 12 applications for participation as victims”,<sup>3</sup> filed by the Defence for Germain Katanga on 7 March 2008;

**NOTING** the “*Observations de la Défense relatives aux 12 Demandes de Participation a/0327/07 à a/0337/07 et a/0001/08*”,<sup>4</sup> filed by the Defence for Mathieu Ngudjolo Chui on 20 March 2008;

**NOTING** the “*Decision on the applications for Participation in the Proceedings of Applicants a/0327/07 to a/0337/07 and a/0001/08*”,<sup>5</sup> issued by Judge Sylvia Steiner, acting as Single Judge of Pre-Trial Chamber I (“the Chamber”), on 2 April 2008, in which the Single Judge denied the procedural status of victim in the case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* to Applicants a/0332/07, a/0334/07, a/0335/07, a/0336/07, a/0337/07 and a/0001/08, but decided that their applications for procedural status at the investigation stage of the Situation in the Democratic Republic of Congo (“the DRC”) “shall be examined by the Chamber in due course”;

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<sup>1</sup> ICC-01/04-01/07-171-Conf-Exp-Anx6 and ICC-01/04-01/07-171-Conf-Exp-Anx8 to 12.

<sup>2</sup> ICC-01/04-01/07-250-Conf-Exp.

<sup>3</sup> ICC-01/04-01/07-253.

<sup>4</sup> ICC-01/04-01/07-332.

<sup>5</sup> ICC-01/04-01/07-357.

**NOTING** the “*Décision portant désignation d'un juge unique chargé des questions relatives aux demandes de participation des victimes au stade de l'enquête de la Situation en RDC*”,<sup>6</sup> issued by the Chamber on 11 April 2008, designating Judge Anita Ušacka as Single Judge on issues related to applications for participation in the Situation in the DRC;

**NOTING** the “*Rapport à la Chambre préliminaire I sur les demandes de participation a/0189/06 à a/0198/06, a/0200/06, a/0201/06, a/0202/06, a/0204/06, a/0205/06, a/0206/06, a/0207/06, a/0208/06, a/0210/06, a/0211/06, a/0212/06, a/0213/06, a/0215/06 à a/0218/06, a/0219/06, a/0223/06 – Conformément à la règle 89 paragraphe 1 du Règlement de procédure et de preuve et à la norme 86 paragraphe 5 du Règlement de la Cour*”,<sup>7</sup> filed by the Registrar in the record of the investigation of the situation in the DRC on 6 May 2008;

**NOTING** the “*Transmission de 97 demandes de participation*”,<sup>8</sup> including the applications of Applicants a/0030/08 and a/0031/08, filed by the Registrar on 26 May 2008, in which the Registrar transmitted applications for participation in the proceedings in the case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*;

**NOTING** the “*Observations de la Défense relatives à la question de la recevabilité de demandes de participation de présumées victimes*”,<sup>9</sup> filed by the Defence for Mathieu Ngudjolo Chui on 4 June 2008;

**NOTING** the “*Prosecution's Observations on the applications for Participation in the Proceedings of Applicants a/0009/08 to a/0016/08 and a/0022/08 to a/0112/08*”,<sup>10</sup> filed by the Prosecution on 4 June 2008;

**NOTING** the “*Defence Observations on 97 applications for participation as victims*”,<sup>11</sup> filed by the Defence for Germain Katanga on 4 June 2008;

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<sup>6</sup> ICC-01/04-493.

<sup>7</sup> ICC-01/04-498-Conf-Exp-Anx2 to 29.

<sup>8</sup> ICC-01/04-01/07-510-Conf-Exp-Corr-Anx42 and ICC-01/04-01/07-510-Conf-Exp-Corr-Anx43.

<sup>9</sup> ICC-01/04-01/07-548-Conf.

<sup>10</sup> ICC-01/04-01/07-549-Conf-Exp.

**NOTING** the “Decision on the 97 applications for Participation at the Pre-Trial Stage of the Case”<sup>12</sup> and the “Decision rectifying errors in the ‘Decision on the 97 applications for Participation at the Pre-Trial Stage of the Case’”,<sup>13</sup> issued by Judge Akua Kuenyehia, acting as Single Judge, on 10 and 13 June 2008, in which the Single Judge denied the procedural status of victim in the case to Applicants a/0030/08 and a/0031/08, but decided that the Chamber shall examine their applications for the procedural status of victim at the investigation stage of the situation of the DRC in due course;

**NOTING** the “*Observations du Bureau du Conseil Public pour la Défense sur les 28 demandes de participation en qualité de victimes du 12 Mai 2008, conformément à la décision de la Chambre Préliminaire I du 17 août 2007 intitulée: ‘Decision on the requests of the Legal Representative of Applicants on application process for victims’ participation and legal representation’*”,<sup>14</sup> filed by the Office of Public Counsel for the Defence (“the OPCD”) in the record of the investigation of the situation in the DRC on 12 June 2008;

**NOTING** the “Prosecution’s Observations on 28 Applications for Victim Participation at the Investigation Stage of the Situation in the DRC”,<sup>15</sup> filed by the Prosecution in the record of the investigation of the situation in the DRC on 12 June 2008;

**NOTING** the “Decision Authorising the Submission of Observations Pursuant to rule 89(1) of the Rules on Applications a/0332/07, a/0334/07 to a/0337/07, a/0001/08, a/0030/08 and a/0031/08”,<sup>16</sup> issued by the Single Judge on 3 July 2008;

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<sup>11</sup> ICC-01/04-01/07-550-Conf-Exp.

<sup>12</sup> ICC-01/04-01/07-578-Conf.

<sup>13</sup> ICC-01/04-01/07-589.

<sup>14</sup> ICC-01/04-500-Conf.

<sup>15</sup> ICC-01/04-501.

<sup>16</sup> ICC-01/04-504.

**NOTING** the “OPCD’s Observations on the 3 July 2008 Pre-Trial Chamber I Decision entitled ‘Decision Authorising the submission of Observations Pursuant to rule 89(1) of the Rules on Applications a/0332/07, a/0334/07 to a/0337/07, a/0001/08, a/0030/08 and a/0031/08’”,<sup>17</sup> filed by the OPCD in the record of the investigation of the situation in the DRC on 18 July 2008;

**NOTING** the “Prosecution’s Observations on Applications a/0332/07, a/0334/07 to a/0337/07, a/0001/08, a/0030/08 and a/0031/08 for Victim Participation at the Investigation Phase of the Situation in the DRC”,<sup>18</sup> filed by the Prosecution in the record of the investigation of the situation in the DRC on 18 July 2008;

**NOTING** article 68 of the *Rome Statute* (“the Statute”), rules 85 and 89 of the *Rules of Procedure and Evidence* (“the Rules”), and regulation 86 of the *Regulations of the Court* (“the Regulations”);

## **I. Introduction**

1. This decision will address the applications filed on 30 January 2008,<sup>19</sup> 6 May 2008<sup>20</sup> and 26 May 2008.<sup>21</sup>

2. The applications of Applicants a/0332/07, a/0334/07 to a/0337/07, a/0001/08,<sup>22</sup> a/0030/08 and a/0031/08<sup>23</sup> were initially submitted to Pre-Trial Chamber I for a decision on the procedural status of victim in the case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, but were denied. Thus, this decision will assess whether such applicants shall be granted procedural status at the investigation stage of the situation of the DRC.

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<sup>17</sup> ICC-01/04-521-Conf.

<sup>18</sup> ICC-01/04-525.

<sup>19</sup> ICC-01/04-01/07-171-Conf-Exp-Anx6 and ICC-01/04-01/07-171-Conf-Exp-Anx8 to 12.

<sup>20</sup> ICC-01/04-498-Conf-Exp-Anx2 to 29.

<sup>21</sup> ICC-01/04-01/07-510-Conf-Exp-Corr-Anx42 and ICC-01/04-01/07-510-Conf-Exp-Corr-Anx43.

<sup>22</sup> ICC-01/04-01/07-357.

<sup>23</sup> ICC-01/04-01/07-578-Conf.

## II. Observations of the Parties

### *A. Applications a/0332/07, a/0334/07 to a/0337/07, a/0001/08, a/0030/08 and a/0031/08*

3. The parties' observations on the six applications for participation pending before the Chamber since 30 January 2008, and on the two applications for participation, a/0030/08 and a/0031/08, pending before the Chamber since 26 May 2008, were filed on 18 July 2008 by the OPCD<sup>24</sup> and the Prosecution.<sup>25</sup>

4. In its submission, the OPCD argues that substantive deficiencies or procedural irregularities in the application process require the Single Judge to deny victim status to most of the applicants whose applications are currently pending before the Chamber.<sup>26</sup>

5. The OPCD submits that the applicants have submitted false information for the purpose of facilitating their participation, which is contrary to the necessity of preserving the integrity of the proceedings. The OPCD therefore requests the Single Judge to suspend the application process pending the outcome of an investigation into the allegations concerning the submission of false applications, and the provision of bribes to potential applicants, or in the alternative, to decide that the applicants do not meet the criteria under article 68(3) of the Statute for participation in the proceedings.

6. The OPCD also argues that the principle of equality of arms has not been respected because defence teams assigned to specific cases receive redacted versions of the applications, but the Prosecution teams assigned to specific cases receive unredacted versions. In the view of the OPCD, this creates inequality between the Prosecution and the OPCD when responding to the same applications at the investigation stage of the situation: the Prosecution can rely on its previous

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<sup>24</sup> ICC-01/04-521-Conf.

<sup>25</sup> ICC-01/04-525.

<sup>26</sup> ICC-01/04-500.



observations, but the OPCD cannot similarly rely on the observations provided by the defence teams assigned to the specific cases.

7. The OPCD reiterates its argument that the right to participate in the proceedings should be subject to a determination as to whether the personal interests of the applicant are affected by the proceedings.

8. The OPCD also raises a number of issues which, it argues, relate to the integrity of the proceedings as a whole, including: (i) whether intermediaries of the applicants should be permitted to provide additional information on behalf of the applicants, (ii) whether applicants who cannot read should be assisted in filling out the applications, and (iii) whether other persons should be permitted to be present when the applications are filled out.

9. Finally, the OPCD reiterates its concern with respect to a Chamber or Single Judge either confirming “factual allegations”<sup>27</sup> or making “factual determinations”<sup>28</sup> on the basis of the information presented in the applications.

10. With respect to the Applicant a/0332/07, the OPCD objects to the application on the grounds that the Applicant was a minor at the time he submitted the application, but the application does not indicate that anyone was acting on his behalf. Therefore, the OPCD submits, any power of attorney provided to Mr. Joseph Keta should have been signed by a legal guardian. The OPCD also objects on the grounds that (i) the application appears too sophisticated for a minor of 15, and (ii) since the applicant does not speak French, there should have been some statement by the person assisting him.

11. With respect to Applicants a/0334/07, a/0336/07, a/0337/07, a/0030/08 and a/0031/08, the OPCD objects to the applications on the grounds that the proof of identity is illegible.

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<sup>27</sup> ICC-01/04-521-Conf, para. 11.

<sup>28</sup> ICC-01/04-521-Conf, para. 12.

12. With respect to the application of Applicant a/0336/07, the OPCD also submits that the harm the Applicant alleges to have suffered is as a result of the death of her aunt and that, notwithstanding proof of kinship or of presence at death, the relationship between niece and aunt is not sufficiently proximate as to qualify as a victim in relation to emotional harm.

13. With respect to the application of Applicant a/0030/08, the OPCD submits that the Applicant's claim of moral harm is limited to "worries" concerning his aunt and brothers.

14. With respect to the application of Applicant a/0031/08, the OPCD also argues that the allegations of Applicants a/0030/08 and a/0031/08 are so similar that it is likely that one or both was falsified:

The OPCD invites the Honourable Single Judge to take into consideration the similarities of the previous applicant with this applicant, with regards to the fact that neither were assisted by an interpreter despite the fact that they are both only conversant in Swahili, both were assisted by the same researcher, both applicants have fathers with the same name, both applicants have similar signatures, both provide almost identical hand-drawn maps of the area in which the alleged attack took place with identical road markings and location distances, both state that exactly the same number of livestock was pillaged, although neither witnessed the attack having both left the area prior to the alleged attack. The OPCD respectfully raises the legitimate question of whether the applications were completed together or whether there has been some influence asserted over the applications by the researcher. In such a scenario, the OPCD respectfully requests for the applicants to complete new applications with an independent and impartial interpreter providing the necessary documentation where needed.

15. With respect to the applications of Applicants a/0335/07 and a/0001/08, the OPCD objects that the Applicants do not allege that they were the victims of pillaging, but rather that they lost their possessions as a result of having to leave them behind.

16. The Prosecution observes that, in deciding on the applications, the Single Judge must be satisfied, firstly, that the applicant fulfils the criteria set out in rule

85(a) of the Rules and, secondly, that the requirements of article 68(3) of the Statute are met: namely that the “personal interests” of the applicant are directly affected by the proceedings in which the applicant wishes to participate, and that such participation is “appropriate” at that stage of the proceedings. The Prosecution submits that all of the applications except applications a/0332/07 and a/0001/08 appear to be complete and, *prima facie*, meet the necessary requirements for the definition of victim under rule 85 (a) of the Rules in connection with the situation in the DRC. With regard to application a/0332/07, the Prosecution submits that the application lacks any indication of consent from a legal guardian. Application a/0001/08 lacks information on the specific crimes which would cause economic harm, Applicant a/0001/08 having fled an attack that took place on the territory of the DRC. The Prosecution therefore submits that the Chamber should request that both Applicants a/0332/07 and a/0001/08 provide further information to the Chamber before they are granted a procedural status.

***B. Applications a/0189/06 to a/0198/06, a/0200/06 to a/0202/06, a/0204/06 to a/0208/06, a/0210/06 to a/0213/06, a/0215/06 to a/0218/06, a/0219/06 and a/0223/06***

17. The parties’ observations on the 28 applications for participation pending before the Chamber since 6 May 2008 were filed on 12 June 2008 by the OPCD<sup>29</sup> and the Prosecution.<sup>30</sup>

18. The OPCD raises objections similar to those contained in its previous submissions. For example, the OPCD observes that additional information that was provided for several of the applications was submitted by a person other than the applicant, the legal representative or the person designated to act on behalf of the applicant, and that, therefore, there is no indication that the applicant was consulted or agreed to have the information submitted on his or her behalf. Further, the OPCD

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<sup>29</sup> ICC-01/04-500-Conf.

<sup>30</sup> ICC-01/04-501.

submits that there are irregularities in the form and substance of the applications, as some of the applications lack transparency and intrinsic coherence. Some of the applications, including those of Applicants a/0190/06, a/0194/06, a/0200/06, a/0201/06, a/0207/06, a/0210/06, a/0213/06 and a/0219/06, are incomplete because they lack documents proving the identity of the applicant. In addition, 27 applicants did not provide any document to support the harm they claimed to have suffered. According to the OPCD, the applicants' assertions are vague and do not allow the Chamber to determine either the causal link between the facts and the harm or the alleged perpetrator. Accordingly, the OPCD requests that the Chamber reject all of the applications under rule 89(2) of the Rules.

19. The Prosecution submits that all of the applicants, except those specifically enumerated, have demonstrated, *prima facie*, that they suffered direct harm from crimes committed on the territory of the DRC after July 2002, and that therefore the applicants, *prima facie*, meet all the necessary requirements of the definition of victim under rule 85(a) of the Rules in connection with the situation. The Prosecution argues, with respect to specific applicants who do not meet the criteria of rule 85(a) of the Rules, that:

- i. The application of Applicant a/0206/06 should be rejected since the application was filed on behalf of a deceased relative, without further information that the person submitting the application is also invoking harm he or she personally suffered;
- ii. The applications of Applicants a/0210/06 and a/0213/06 are incomplete because they lack adequate proof of identity, as in both cases no identification document was attached to their applications.
- iii. Proof of kinship or legal guardianship is also missing from application a/0200/06, which was filed by a mother on behalf of her son. In addition, this application lacks any form of proof of identity.

Application a/0201/06, which was also filed by the mother, does contain a copy of her voting card. Nevertheless, for application a/0200/06 to be considered complete, additional information proving kinship (e.g. a birth certificate) must be provided.

iv. Application a/0219/06 was filed by one adult on behalf of another, but lacks the necessary proof of consent from the person on behalf of whom the application was filed. Accordingly, the application cannot be considered complete.

20. The Prosecution therefore submits that Applicants a/0200/06, a/0210/06, a/0213/06 and a/0219/06 should be requested to provide the necessary documentation before their applications can be considered complete.

### **III. Analysis**

21. The Single Judge outlined the essential criteria on the basis of which the Chamber makes decisions on applications for a procedural status in the proceedings in her decision of 3 July 2008.<sup>31</sup> Accordingly, the analysis of the applications will follow this framework. As before, applications determined to be incomplete will be denied, but pursuant to rule 89(2) of the Rules, the applicants involved may file a new application containing the required information later in the proceedings.

22. With respect to the OPCD's submission regarding the Defence's receipt of redacted applications, the Single Judge notes that the issue of whether, at the investigation stage of a situation, the Prosecution and the OPCD should receive redacted or unredacted versions of the applications was settled in the Chamber's "Decision on the Requests of the Legal Representative of Applicants on application process for victims' participation and legal representation",<sup>32</sup> issued on 17 August 2007. In that decision, the Chamber held that, in respect of applications to participate

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<sup>31</sup> ICC-01/04-505, para 29.

<sup>32</sup> ICC-01/04-374.

at the investigation stage of a situation, unredacted copies of the applications would be provided to both the Prosecution and the OPCD.<sup>33</sup>

23. Since the OPCD's mandate is limited to the submission of observations on victims' applications at the investigation stage of a situation, and at the investigation stage of the proceedings, the OPCD and the Prosecution receive the same, unredacted information on which to make observations pursuant to rule 89(1) of the Rules, the Single Judge considers that the principle of equality of arms is not affected at this point.

24. With respect to the OPCD's submissions which, it argues, relate to the integrity of the proceedings as a whole, these issues require the Single Judge to balance the competing concerns of preserving an applicant's access to the Court against any adverse impact on the proceedings if an applicant is permitted to be assisted during the application process. While the Single Judge shares the OPCD's concerns with respect to safeguarding the integrity of the proceedings, the Single Judge also notes that the OPCD's apparent solution would be to deny an applicant victim status if (i) he or she relies on an intermediary to present a complete application and/or his or her supporting documentation to the Court, (ii) he or she cannot read and is assisted by someone else in filling out his or her application, or if (iii) he or she is accompanied by others when his or her application is filled out.

25. The Single Judge notes that, with respect to victim applications, the intermediaries who assist applicants in accessing the Court are essential to the proper progress of the proceedings. Intermediaries who assist applicants do not only explain the relatively complicated 17-page application form to applicants who are, for the most part, wholly unfamiliar with the Court's proceedings, but also provide logistical support to the applicants to ensure that the application, which is often filled out in relatively inaccessible villages in the DRC, is filed with the Court. If the Single Judge were to entertain the OPCD's suggestions, for example, for each applicant who

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<sup>33</sup> ICC-01/04-374, para. 29.

is unable to read either French or English, the Single Judge would have to require that the intermediaries or the applicant videotape the answers to the questions on the application form in the language the applicant speaks, transcribe the video in that language, and then translate the transcript of the video into one of the working languages of the Court, before submitting the transcript, along with any supporting documentation, to the Court. This process would not only pose a number of impractical hurdles prior to the applicants' access to the Court, but would also require resources unavailable to both the applicants and the non-governmental organizations which assist as intermediaries. The Single Judge notes, in addition, that the OPCD points to no specific or concrete adverse impact on the proceedings which may have resulted as a consequence of the impugned assistance. In the absence of some concrete adverse impact resulting from the current process, and in weighing the competing concerns presented, the Single Judge declines to restrict the applicants' access to the Court by denying the applications on the grounds raised.

26. In its submissions in respect of specific applications, the OPCD argues that its inability to corroborate the statements of the applicants in relation to the harm suffered should result in a denial of victim status. In this respect, the Single Judge recalls that:

On 7 December 2007, Judge Sylvia Steiner, acting as Single Judge, decided that in making a decision on an application for participation in the proceedings, the Single Judge would only require that "applicants demonstrate that the elements established by rule 85 of the Rules are met *prima facie*." The rationale for Judge Steiner's decision was based on her interpretation that rule 85 of the Rules and regulation 86 of the Regulations establish an application process with a limited scope and purpose. According to this interpretation, once an Applicant has submitted a complete application and has made a *prima facie* showing of the elements of rule 85 of the Rules, he or she will be granted a procedural status before the Court.<sup>34</sup>

27. Accordingly, since, as noted above, the Single Judge will only engage in a *prima facie* review of the applications as presented, corroboration from the applicant

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<sup>34</sup> ICC-01/04-505, para. 27 quoting ICC-01/04-417, para. 8; see also ICC-01/04-444, p. 10, and ICC-02/05-121, p. 8.

or the parties is not a requirement for granting procedural status at this stage of the proceedings.

28. Regarding the OPCD's argument with respect to the finding of personal interests, the Single Judge reiterates her position that the issue of the timing of an assessment of the personal interests of an applicant is currently pending before the Appeals Chamber.<sup>35</sup> Therefore, the Single Judge's decision as to the pending applications will be based on the current jurisprudence of the Pre-Trial Chamber, with the understanding that the Single Judge's decision may later require modification in accordance with any Appeals Chamber judgment on the aforementioned issue.<sup>36</sup>

29. With respect to the OPCD's concern that the Chamber might make "factual determinations", the Single Judge reiterates that, in relation to a decision on the applications, only a *prima facie*<sup>37</sup> assessment will be made and "a decision to grant an applicant a procedural status in the proceedings in no way predetermines any factual findings that could be made by a Chamber in any judgment on the merits".<sup>38</sup>

30. Finally, with regard to the OPCD's assertion that the relationship between niece and aunt is not sufficiently proximate so as to permit an applicant to qualify as a victim on the basis of moral harm, the Single Judge notes that the OPCD has not supported this assertion with a rule or regulation prohibiting such a relationship from forming the basis for such qualification.

31. Regarding the Prosecution's objection to the applications of Applicant a/0200/06, the Single Judge notes that the issue of whether "[i]n order to establish mental harm suffered as a result of physical harm suffered by another person, should the identity of the latter and the relationship the applicant has with the person be

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<sup>35</sup> ICC-01/04-444.

<sup>36</sup> ICC-01/04-505, para. 4.

<sup>37</sup> See ICC-01/04-535, para. 28.

<sup>38</sup> See ICC-01/04-505, para. 30 and ICC-01/04-535, para. 28.



required” is currently pending before the Appeals Chamber.<sup>39</sup> Therefore, the Single Judge’s decision as to the pending applications will be based on the current practice of Pre-Trial Chamber I, with the understanding that the Single Judge’s decision may later require modification in accordance with any Appeals Chamber judgment on this issue.<sup>40</sup>

**A. *Evaluation of the applications for participation***

*i. Applicant a/0332/07*

32. Applicant a/0332/07 is a minor who submits a complete application on his own behalf; a student card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant describes the harm suffered; and the application is signed with a signature.

33. As Applicant a/0332/07 is a minor, however, his application must be submitted on his behalf by a person who has attained the age of majority. Since the present application was submitted by Applicant a/0332/07 himself, it must be considered incomplete.

*ii. Applicant a/0334/07*

34. Applicant a/0334/07 is a natural person who submits a complete application on his own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant describes the harm suffered; and the application is signed with a signature.

35. Applicant a/0334/07 appears *prima facie* to have suffered moral harm (emotional suffering) as a result of the killing of his wife, allegedly by members of

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<sup>39</sup> ICC-02/04-139.

<sup>40</sup> ICC-01/04-505, para. 4.

Germain Katanga's militia. The moral harm suffered by Applicant a/0334/07 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 7(1)(a), 8(2)(a)(i) or 8(2)(c)(i).<sup>41</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in May 2003 on the territory of the DRC.

36. In his application, Applicant a/0334/07 also asserts the legal conclusion that Germain Katanga's militia perpetrated genocide. However, the Applicant does not provide any evidence to substantiate his allegations in this regard. Finally, Applicant a/0334/07 alleges physical harm following an operation, but there is no indication that this operation has a direct causal link to crime(s) within the jurisdiction of the Court.

*iii. Applicant a/0335/07*

37. Applicant a/0335/07 is a natural person who submits a complete application on his own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant describes the harm suffered; and the application is signed with a signature.

38. Applicant a/0335/07 appears *prima facie* to have suffered moral harm (emotional suffering) as a result of the killing of his son and his father, as well as material harm (economic loss) as a result of the pillaging of his personal and professional belongings, allegedly by members of Germain Katanga's militia. The moral and material harm suffered by Applicant a/0335/07 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 7(1)(a), 8(2)(a)(i) or 8(2)(c)(i), and 8(2)(b)(xvi) or

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<sup>41</sup> *Supra*, footnote 38.

8(2)(e)(v).<sup>42</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in May 2003 on the territory of the DRC.

*iv. Applicant a/0336/07*

39. Applicant a/0336/07 is a natural person who submits a complete application on her own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant describes the harm suffered; and the application is signed with a signature.

40. Applicant a/0336/07 appears *prima facie* to have suffered physical and moral harm (emotional suffering) as a result of rape and sexual enslavement, as well as material harm (economic loss) as a result of the pillaging of her belongings, allegedly by members of Germain Katanga's militia. The physical, moral and material harm suffered by Applicant a/0336/07 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 7(1)(g), 8(2)(b)(xxii) or 8(2)(e)(vi), and 8(2)(b)(xvi) or 8(2)(e)(v).<sup>43</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in May 2003 on the territory of the DRC.

*v. Applicant a/0337/07*

41. Applicant a/0337/07 is a natural person who submits a complete application on her own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant describes the harm suffered; and the application is signed with a signature.

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<sup>42</sup> *Supra*, footnote 38.

<sup>43</sup> *Supra*, footnote 38.

42. Applicant a/0337/07 appears *prima facie* to have suffered moral harm (emotional suffering) and material harm (economic loss) as a result of the alleged killing of her husband and the pillaging of her personal belongings by members of Germain Katanga's militia. The moral and material harm suffered by Applicant a/0337/07 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 8(2)(a)(i) or 8(2)(c)(i), and 8(2)(b)(xvi) or 8(2)(e)(v).<sup>44</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in May 2003 on the territory of the DRC.

*vi. Applicant a/0001/08*

43. Applicant a/0001/08 is a natural person who submits a complete application on her own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant describes the harm suffered; and the application is signed with a thumbprint.

44. Applicant a/0001/08 appears *prima facie* to have suffered material harm (economic loss) as a result of the pillaging of her personal belongings, allegedly by members of Germain Katanga's militia. The material harm suffered by Applicant a/0001/08 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 8(2)(b)(xvi) or 8(2)(e)(v).<sup>45</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in January 2003 on the territory of the DRC.

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<sup>44</sup> *Supra*, footnote 38.

<sup>45</sup> *Supra*, footnote 38.

*vii. Applicant a/0030/08*

45. Applicant a/0030/08 is a natural person who submits a complete application on his own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant describes the harm suffered; and the application is signed with a signature.

46. Applicant a/0030/08 appears *prima facie* to have suffered moral harm (emotional suffering) as a result of the killing of his aunt and brothers and material harm (economic loss) as a result of the pillaging of his cattle, goats and sheep, allegedly by members of a militia. The moral and material harm suffered by Applicant a/0030/08 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 7(1)(a), 8(2)(a)(i) or 8(2)(c)(i) and 8(2)(b)(xvi) or 8(2)(e)(v).<sup>46</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in February 2003 on the territory of the DRC.

*viii. Applicant a/0031/08*

47. Applicant a/0031/08 is a natural person who submits a complete application on his own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant describes the harm suffered; and the application is signed with a signature.

48. Applicant a/0031/08 appears *prima facie* to have suffered moral harm (emotional suffering) as a result of the killing of members of his family and material harm (economic loss) as a result of the pillaging of his cattle, allegedly by members of

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<sup>46</sup> *Supra*, footnote 38.

a militia. The moral and material harm suffered by Applicant a/0031/08 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 7(1)(a), 8(2)(a)(i) or 8(2)(c)(i), and 8(2)(b)(xvi) or 8(2)(e)(v).<sup>47</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in February 2003 on the territory of the DRC.

*ix. Applicant a/0189/06*

49. Applicant a/0189/06 is a natural person who submits a complete application on her own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the applicant describes the harm suffered; and the application is signed with a thumbprint.

50. The applicant appears *prima facie* to have suffered material harm (economic loss) as a result of the alleged destruction of her home when it was burnt down by "members of Thomas Lubanga's militia". The material harm suffered by Applicant a/0189/06 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 8(2)(b)(xiii) or 8(2)(e)(xii).<sup>48</sup> The applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 on the territory of the DRC.

*x. Applicant a/0190/06*

51. Applicant a/0190/06 is a natural person who submits a complete application on her own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the applicant describes the harm suffered; and the application is signed with a signature.

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<sup>47</sup> *Supra*, footnote 38.

<sup>48</sup> *Supra*, footnote 38.

52. The applicant appears *prima facie* to have suffered material harm (economic loss) as a result of the alleged destruction of her home when household items were either taken or destroyed by “members of Thomas Lubanga’s militia”. The material harm suffered by Applicant a/0190/06 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 8(2)(b)(xvi) or 8(2)(e)(v) and 8(2)(b)(xiii) or 8(2)(e)(xii).<sup>49</sup> The applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court’s temporal and territorial jurisdiction: in December 2002 on the territory of the DRC.

*xi. Applicant a/0191/06*

53. Applicant a/0191/06 is a natural person who submits a complete application on his own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the applicant describes the harm suffered; and the application is signed with a signature.

54. The applicant appears *prima facie* to have suffered material harm (economic loss) as a result of the alleged taking of items from his home and the alleged destruction by fire of items in his home by “members of Thomas Lubanga’s militia”. The material harm suffered by Applicant a/0191/06 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 8(2)(b)(xvi) or 8(2)(e)(v) and 8(2)(b)(xiii) or 8(2)(e)(xii).<sup>50</sup> The applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court’s temporal and territorial jurisdiction: in March 2003 on the territory of the DRC.

*xii. Applicant a/0192/06*

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<sup>49</sup> *Supra*, footnote 38.

<sup>50</sup> *Supra*, footnote 38.

55. Applicant a/0192/06 is a natural person who submits a complete application on her own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the applicant describes the harm suffered; and the application is signed with a signature.

56. The applicant appears *prima facie* to have suffered material harm (economic loss) as a result of the alleged taking of items from her home and the alleged destruction by fire of her home by “members of Thomas Lubanga’s militia”. The applicant also alleges that similar harm was suffered by the entire neighbourhood. The material harm suffered by Applicant a/0192/06 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 8(2)(b)(ii), 8(2)(b)(v), and 8(2)(b)(xvi) or 8(2)(e)(v), and 8(2)(b)(i) or 8(2)(e)(i).<sup>51</sup> The applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court’s temporal and territorial jurisdiction: in March 2003 on the territory of the DRC.

*xiii. Applicant a/0193/06*

57. Applicant a/0193/06 is a natural person who submits a complete application on his own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the applicant describes the harm suffered; and the application is signed with a signature.

58. The applicant appears *prima facie* to have suffered material harm (economic loss) as a result of the alleged destruction by fire of his home and the taking of his personal items, allegedly by “Thomas Lubanga’s UPC”. The applicant also appears *prima facie* to have suffered physical harm by being “traumatised and beaten”, from which he received serious injuries, allegedly by Ngabu Djabu Floribert’s FNI. The applicant also alleges that similar harm was suffered by the entire neighbourhood. The material harm suffered by Applicant a/0193/06 appears *prima facie* to have been

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<sup>51</sup> *Supra*, footnote 38.



caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 8(2)(b)(ii), 8(2)(b)(xiii) or 8(2)(e)(xii).<sup>52</sup> The applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 and December 2006 on the territory of the DRC.

*xiv. Applicant a/0194/06*

59. Applicant a/0194/06 is a natural person who appears to submit an application on her own behalf. However, the Single Judge notes that the description of the harm suffered appears to relate not to the Applicant, but to harm allegedly suffered by the Applicant's mother. However, in Part E of the application, the Applicant appears to allege that household items were taken, although it is unclear from the application whether the items were taken from the Applicant or from the Applicant's mother.

60. If the application is submitted on behalf of the Applicant's mother, then the application is incomplete as it lacks proof of identity of the primary applicant, proof of legal guardianship, and proof of consent of the primary applicant for her daughter to act on her behalf. If the application is submitted on behalf of the Applicant, then the application is also incomplete because it lacks information which would identify a harm suffered by the primary applicant, as it is unclear whether the items were taken from the Applicant or from the Applicant's mother.

*xv. Applicant a/0195/06*

61. Applicant a/0195/06 is a natural person who submits a complete application on her own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the applicant describes the harm suffered; and the application is signed with a thumbprint.

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<sup>52</sup> *Supra*, footnote 38.

62. The Applicant appears *prima facie* to have suffered material harm (economic loss) as a result of the alleged destruction of her home, allegedly by “members of Thomas Lubanga’s UPC militia”. The Applicant also alleges that similar harm was suffered by the entire neighbourhood. The material harm suffered by Applicant a/0195/06 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 8(2)(b)(ii), 8(2)(b)(v), 8(2)(b)(xiii) or 8(2)(e)(xii).<sup>53</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court’s temporal and territorial jurisdiction: in February 2003 on the territory of the DRC.

*xvi. Applicant a/0196/06*

62. Applicant a/0196/06 is a natural person who submits a complete application on his own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the applicant describes the harm suffered; and the application is signed with a signature.

63. The Applicant appears *prima facie* to have suffered physical harm as a result of being beaten by “members of Thomas Lubanga’s UPC militia”. The applicant also appears *prima facie* to have suffered material harm (economic loss) as a result of the taking of roofing sheets from her home and personal items from her home. The Applicant also alleges that similar harm was suffered by others in the neighbourhood. The physical and material harm suffered by Applicant a/0196/06 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 7(1)(k), 8(2)(a)(iii) or 8(2)(c)(i), and 8(2)(b)(xvi) or 8(2)(e)(v).<sup>54</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court’s temporal and territorial jurisdiction: in December 2002 on the territory of the DRC.

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<sup>53</sup> *Supra*, footnote 38.

<sup>54</sup> *Supra*, footnote 38.

*xvii. Applicant a/0197/06*

64. Applicant a/0197/06 is a natural person who submits a complete application on his own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the applicant describes the harm suffered; and the application is signed with a signature.

65. The Applicant appears *prima facie* to have suffered material harm as a result of the destruction of his home by fire and the alleged taking of personal and other items from his home, including roofing sheets. The material harm suffered by Applicant a/0195/06 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 8(2)(b)(ii), 8(2)(b)(xiii) or 8(2)(e)(xii).<sup>55</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 on the territory of the DRC.

*xviii. Applicant a/0198/06*

66. Applicant a/0198/06 is a natural person who submits a complete application on his own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the applicant describes the harm suffered; and the application is signed with a signature.

67. The Applicant appears *prima facie* to have suffered physical harm as a result of being attacked, beaten and stabbed, allegedly by "members of the FNI" militia. The Applicant also appears *prima facie* to have suffered material harm (economic loss) as a result of property being allegedly stolen from his home. The applicant alleges that he was the only victim on that day. The physical and material harm suffered by Applicant a/0198/06 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles

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<sup>55</sup> *Supra*, footnote 38.

8(2)(b)(xvi) or 8(2)(e)(v).<sup>56</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in June 2004 on the territory of the DRC.

*xix. Applicant a/0200/06*

68. The application submitted on behalf of this deceased applicant appears to have been submitted by his mother. As has been the practice of the Chamber,<sup>57</sup> the Single Judge would proceed to evaluate this application with the primary applicant being the person acting on behalf of the deceased person. However, it appears that Applicant a/0201/06 is in fact the person who claims to act on behalf of Applicant a/0200/06, and has submitted her own application as well. Thus, the application of a/0200/06 is denied on the ground that the applicant is deceased.

*xx. Applicant a/0201/06*

69. Applicant a/0201/06 is a natural person who submits a complete application on her own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crimes are sufficiently indicated on the application; the applicant describes the harm suffered; and the application is signed with a signature.

70. The Applicant appears *prima facie* to have suffered moral harm (emotional suffering) as a result of her son being killed, allegedly by "FNI combatants". The Applicant appears *prima facie* to have suffered material harm (economic loss) as a result of her property being stolen and her house being destroyed, also allegedly by "FNI combatants". The moral and material harm suffered by Applicant a/0201/06, appears *prima facie* to have been caused by crimes within the jurisdiction of the Court, such as, among others, those enumerated in articles 8(2)(a)(i) or 8(2)(c)(i), 8(2)(b)(xiii) or 8(2)(e)(xii), and 8(2)(b)(xvi) or 8(2)(e)(v).<sup>58</sup> The Applicant alleges that the harm

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<sup>56</sup> *Supra*, footnote 38.

<sup>57</sup> ICC-01/04-423-Corr, para. 24; and ICC-01/04-505, para 23.

<sup>58</sup> *Supra*, footnote 38.

caused by crimes within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in December 2004 on the territory of the DRC.

*xxi. Applicant a/0202/06*

71. Applicant a/0202/06 is a natural person who submits a complete application on her own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the applicant describes the harm suffered; and the application is signed with a thumbprint.

72. The Applicant also appears *prima facie* to have suffered material harm (economic loss) as a result of her home being destroyed with all the belongings inside, allegedly by "UPC militia members". The Applicant also alleges that similar harm was suffered by others in the neighbourhood. The material harm suffered by Applicant a/0202/06 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 8(2)(b)(xiii) or 8(2)(e)(xii), and 8(2)(b)(xvi) or 8(2)(e)(v).<sup>59</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 on the territory of the DRC.

*xxii. Applicant a/0204/06*

73. Applicant a/0204/06 is a natural person who submits a complete application on his own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the applicant describes the harm suffered; and the application is signed with a signature.

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<sup>59</sup> *Supra*, footnote 38.

74. The Applicant appears *prima facie* to have suffered physical and moral harm (emotional suffering) as a result of being “terrorized”, forced to take off his clothes, harassed, allegedly by UPC militia members, and ultimately suffering a heart attack. The Applicant also appears *prima facie* to have suffered material harm (economic loss) as a result of the destruction of his farm. The physical, moral and material harm suffered by Applicant a/0204/06 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 7(1)(k), and 8(2)(b)(i) or 8(2)(e)(i), and 8(2)(b)(xxi) or 8(2)(c)(ii).<sup>60</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court’s temporal and territorial jurisdiction: in September 2002 on the territory of the DRC.

*xxiii. Applicant a/0205/06*

75. Applicant a/0205/06 is a natural person who submits a complete application on his own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the applicant describes the harm suffered; and the application is signed with a signature.

76. The Applicant appears *prima facie* to have suffered material harm (economic loss) as a result of the ransacking of his household belongings and destruction of his home and land, allegedly by members of “Thomas Lubanga’s UPC militia”. The material harm suffered by Applicant a/0205/06 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 8(2)(b)(xiii) or 8(2)(e)(xii), and 8(2)(b)(xvi) or 8(2)(e)(v).<sup>61</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court’s temporal and territorial jurisdiction: from October 2002 to March 2003 on the territory of the DRC.

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<sup>60</sup> *Supra*, footnote 38.

<sup>61</sup> *Supra*, footnote 38.

xxiv. *Applicant a/0206/06*

77. The Single Judge notes that the applicant named in part A of the application is deceased, and the person acting on behalf of the applicant, who is named in Part B of the application, is the deceased person's son. Therefore, as has been the practice of the Chamber,<sup>62</sup> the Single Judge will evaluate this application with the primary applicant being the person acting on behalf of the deceased person.

78. Applicant a/0206/06 is a natural person who submits a complete application: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the applicant describes the harm suffered; and the application is signed with a signature.

79. The Applicant appears *prima facie* to have suffered moral harm (emotional suffering) as a result of the loss of his father, who was allegedly attacked and imprisoned by members of "Thomas Lubanga's militia". The moral harm suffered by Applicant a/0206/06 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 7(1)(k) and 8(2)(b)(i) or 8(2)(e)(i).<sup>63</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in February 2003 on the territory of the DRC.

xxv. *Applicant a/0207/06*

80. Applicant a/0207/06 is a natural person who submits a complete application on his own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the applicant describes the harm suffered; and the application is signed with a signature.

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<sup>62</sup> ICC-0 1/04-423-Corr, para. 24; and ICC-01/04-505, para 23.

<sup>63</sup> *Supra*, footnote 38.

81. The Applicant appears *prima facie* to have suffered material harm (economic loss) as a result of his property, allegedly being taken, on several occasions, first allegedly by members of “Mbusa Nyamwisi’s and Moy’s APC” and Lendu combatants, then allegedly by “Floribert Ndjabu’s FNI” members and later, allegedly, by members of “G  r  me Kakwavu’s FAPC”. The material harm suffered by Applicant a/0207/06 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 8(2)(b)(xvi) or 8(2)(e)(v).<sup>64</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court’s temporal and territorial jurisdiction: in December 2003, April and June 2004, on the territory of the DRC.

xxvi.      *Applicant a/0208/06*

82. Applicant a/0208/06 is a natural person who submits a complete application on her own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the applicant describes the harm suffered; and the application is signed with a signature.

83. The Applicant also appears *prima facie* to have suffered moral harm (emotional suffering) as a result of being attacked and threatened with death, allegedly by members of “Thomas Lubanga’s UPC militia”. The Applicant also appears *prima facie* to have suffered material harm (economic loss) as a result of the pillaging of her property, *inter alia*, her home and car, as well as the dismantling of the roof of her home, allegedly by members of “Thomas Lubanga’s UPC militia”. The moral and material harm suffered by Applicant a/0208/06 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 8(2)(b)(i) or 8(2)(e)(i), and 8(2)(b)(xiii) or 8(2)(e)(xii).<sup>65</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the

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<sup>64</sup> *Supra*, footnote 38.

<sup>65</sup> *Supra*, footnote 38.



Court occurred within the Court's temporal and territorial jurisdiction: in November 2002 on the territory of the DRC.

*xxvii. Applicant a/0210/06*

84. Applicant a/0210/06 has not provided any proof of identity; accordingly, the criterion under rule 85(a) of the Rules with regard to natural persons is not fulfilled and the application must be considered incomplete.

85. In this respect, the Single Judge notes that, although it is indicated on the application that the applicant attached a voting card as proof of identity, proof of identity is actually not enclosed.

*xxviii. Applicant a/0211/06*

86. Applicant a/0211/06 is a natural person who submits a complete application on her own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the applicant describes the harm suffered; and the application is signed with a thumbprint.

87. The Applicant appears *prima facie* to have suffered physical and moral harm (emotional suffering) as a result of being raped, allegedly by members of "Thomas Lubanga's UPC militia". The Applicant also appears *prima facie* to have suffered material harm as a result of the pillaging of her goods and property from her home, as well as the destruction of her home. The physical, moral and material harm suffered by Applicant a/0211/06 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 7(1)(g), 8(2)(b)(xxii) or 8(2)(e)(v)(i), and 8(2)(b)(xiii) or 8(2)(e)(xii).<sup>66</sup> The applicant alleges that the harm caused by crime(s) within the jurisdiction of the

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<sup>66</sup> *Supra*, footnote 38.

Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 on the territory of the DRC.

*xxix. Applicant a/0212/06*

88. Applicant a/0212/06 is a natural person who submits a complete application on her own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the applicant describes the harm suffered; and the application is signed with a thumbprint.

89. The Applicant appears *prima facie* to have suffered physical and moral harm (emotional suffering) as a result of being attacked and injured by gunshots to the leg and arm, allegedly by members of "Thomas Lubanga's UPC militia", and as a consequence of her resulting handicap, she was abandoned by her husband. The physical and moral harm suffered by Applicant a/0212/06 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 7(1)(k), and 8(2)(b)(i) or 8(2)(e)(i).<sup>67</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in January 2003 on the territory of the DRC.

*xxx. Applicant a/0213/06*

90. Applicant a/0213/06 has not provided any proof of identity, accordingly, the criterion under rule 85(a) with regard to natural persons has not been fulfilled and the application must be considered incomplete.

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<sup>67</sup> *Supra*, footnote 38.

91. In this respect, the Single Judge notes that, although it is indicated on the application that the Applicant attached a voting card as proof of identity, proof of identity is actually not enclosed.

*xxxi. Applicant a/0215/06*

92. Applicant a/0215/06 is a natural person who submits a complete application on his own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the applicant describes the harm suffered; and the application is signed with a signature.

93. The Applicant appears *prima facie* to have suffered material harm (economic loss) as a result of the pillaging and subsequent destruction of his home, allegedly by members of "Thomas Lubanga's UPC". The material harm suffered by Applicant a/0215/06 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 8(2)(b)(xiii) or 8(2)(e)(xii), and 8(2)(b)(xvi) or 8(2)(e)(v).<sup>68</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 on the territory of the DRC.

94. Applicant a/0215/06 also asserts a legal conclusion that he was tortured. However, the Applicant does not allege any specific facts which, *prima facie*, would constitute this crime within the meaning of the Statute.

*xxxii. Applicant a/0216/06*

95. Applicant a/0216/06 is a natural person who submits a complete application on her own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the

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<sup>68</sup> *Supra*, footnote 38.

Applicant describes the harm suffered; and the application is signed with a signature.

96. The Applicant appears *prima facie* to have suffered moral harm (emotional suffering) as a result of being attacked and forced to flee, allegedly by members of “Thomas Lubanga’s UPC militia”. The Applicant also appears *prima facie* to have suffered material harm (economic loss) as a result of the damage caused to the roof and interior of her house, allegedly by members of “Thomas Lubanga’s UPC militia”. The moral and material harm suffered by Applicant a/0216/06 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 8(2)(b)(i) or 8(2)(e)(i), and 8(2)(b)(xiii) or 8(2)(e)(xii).<sup>69</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court’s temporal and territorial jurisdiction: in December 2002 on the territory of the DRC.

xxxiii. *Applicant a/0217/06*

97. Applicant a/0217/06 is a natural person who submits a complete application on her own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the applicant describes the harm suffered; and the application is signed with a signature.

98. The Applicant appears *prima facie* to have suffered material harm (economic loss) as a result of the destruction of her house by fire, allegedly by members of “Thomas Lubanga’s UPC”. The material harm suffered by Applicant a/0217/06 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 8(2)(b)(xiii) or 8(2)(e)(xii).<sup>70</sup> The Applicant alleges that the harm caused by crime(s) within the

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<sup>69</sup> *Supra*, footnote 38.

<sup>70</sup> *Supra*, footnote 38.

jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 on the territory of the DRC.

*xxxiv. Applicant a/0218/06*

99. Applicant a/0218/06 is a natural person who submits a complete application on her own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant describes the harm suffered; and the application is signed with a thumbprint.

100. The Applicant appears *prima facie* to have suffered moral harm (emotional suffering) as a result of being attacked, allegedly by members of "Thomas Lubanga's UPC militia". The Applicant also appears *prima facie* to have suffered material harm (economic loss) as a result of her property being pillaged. The moral and material harm suffered by Applicant a/0218/06 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 8(2)(b)(i) or 8(2)(e)(i), and 8(2)(b)(xvi) or 8(2)(e)(v).<sup>71</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in December 2002 on the territory of the DRC.

*xxxv. Applicant a/0219/06*

101. Applicant a/0219/06 is a natural person, and a complete application has been submitted by a person acting on her behalf: a voting card is submitted as proof of identity of the applicant; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant describes the harm suffered; and the application is signed with a signature.

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<sup>71</sup> *Supra*, footnote 38.

102. However, the person acting on behalf of Applicant a/0219/06 has neither submitted proof of identity nor proof of consent of the primary applicant. Thus, this application is incomplete.

*xxxvi. Applicant a/0223/06*

103. Applicant a/0223/06 is a natural person who submits a complete application on his own behalf: a voting card is submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant describes the harm suffered; and the application is signed with a signature.

104. The Applicant appears *prima facie* to have suffered material harm (economic loss) as a result of the pillaging of his goods and destruction of his shop, allegedly by the UPC. The material harm suffered by Applicant a/0223/06 appears *prima facie* to have been caused by crime(s) within the jurisdiction of the Court, such as, among others, those enumerated in articles 8(2)(b)(xiii) or 8(2)(e)(xii), and 8(2)(b)(xvi) or 8(2)(e)(v).<sup>72</sup> The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in November 2002 and May 2003, on the territory of the DRC.

#### **FOR THESE REASONS,**

**DENY** the procedural status of victim at the investigation stage of the situation in the DRC to Applicants a/0194/06, a/0200/06, a/0210/06, a/0213/06, a/0332/07 and a/0219/06;

**GRANT** the procedural status of victim at the investigation stage of the situation in the DRC to Applicants a/0189/06, a/0190/06, a/0191/06, a/0192/06, a/0193/06, a/0195/06, a/0196/06, a/0197/06, a/0198/06, a/0201/06, a/0202/06, a/0204/06, a/0205/06,

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<sup>72</sup> *Supra*, footnote 38.

a/0206/06, a/0207/06, a/0208/06, a/0211/06, a/0212/06, a/0215/06, a/0216/06, a/0217/06, a/0218/06, a/0223/06, a/0334/07, a/0335/07, a/0336/07, a/0337/07, a/0001/08, a/0030/08 and a/0031/08;

**ORDER** the Registrar to assist the persons who have been granted the procedural status of victim, but who have no legal representation, so that they may choose one or more common legal representatives;

**ORDER** the Registrar to appoint the Office of Public Counsel for Victims ("the OPCV") as legal representative for the purpose of providing help and assistance to those persons who have been granted victim status, until such time as they choose a legal representative or the Court assigns one;

**ORDER** the Registry to notify this decision to those persons who have been granted victim status or, if applicable, their legal representatives;

**ORDER** the Prosecution, the OPCD, the OPCV and all legal representatives of the victims to maintain the confidentiality of the applications and refer to the persons who have been granted victim status only by the numbers assigned to them by the Victims Participation and Reparations Section;

**ORDER** the Prosecution and the OPCD to abstain from any direct contact with the persons who have been granted victim status and, if necessary, to contact them only through their legal representatives;

**DECIDE** that, for the moment, the persons who have been granted victim status or their legal representatives will not be granted access to non-public documents registered in the record of the investigation in the DRC.

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

  

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**Judge Anita Ušacka,**  
**Single Judge**

Dated this Tuesday, 4 November 2008  
At The Hague, The Netherlands