

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **French**

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

Date: **6 January 2009**

TRIAL CHAMBER I

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

CASE OF

THE PROSECUTOR v. THOMAS LUBANGA DYILO

Confidential

Defence Observations on the Trial Chamber's Order of 17 December 2008

Source: Mr Thomas Lubanga Dyilo's Defence Team

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

The Office of the Prosecutor

Mr Luis Moreno Ocampo
Ms Fatou Bensouda

Counsel for the Defence

Ms Catherine Mabilie
Mr Jean-Marie Biju-Duval
Mr Marc Desalliers
Ms Caroline Buteau

Legal Representatives of Victims

Mr Luc Walley
Mr Franck Mulenda
Ms Carine Bapita Buyangandu
Mr Joseph Keta Orwinyo
Mr Jean Louis Gilissen
Mr Jean Chrysostome Mulamba
Nsokoloni
Mr Paul Kabongo Tshibangu
Mr Hervé Diakiese

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

BACKGROUND

1. On 17 December 2008, the Trial Chamber informed the Parties of the identity of two proposed candidates to appear as expert witnesses on issues related to child soldiers and trauma.¹

2. The Trial Chamber ordered the Parties and participants to file, no later than 6 January 2009, any submissions on the suitability of these candidates, and any questions to be addressed by the expert in producing her report.

OBSERVATIONS

3. At this stage, the Defence is unable to make any particular observations in respect of the suitability of the two candidates proposed by the Chamber. However, it reserves the right to submit, at a later stage, observations on the suitability of the candidate appointed by the Chamber.

4. The Defence wishes that the following factors be considered by the child soldier expert appointed by the Chamber when producing her report:

- a. Various ways in which minors may join armed forces or groups;
- b. History and description of this phenomenon worldwide, and in the Democratic Republic of the Congo in particular;
- c. Origins and causes of this phenomenon in the eastern Democratic Republic of the Congo, and in Ituri in particular;
- d. Methods of, and difficulties in, demobilising child soldiers;
- e. Measures taken by government/national authorities in the face of this phenomenon, in the DRC in particular.

¹ ICC-01/04-01/06-1559.

FOR THESE REASONS, MAY IT PLEASE TRIAL CHAMBER I:

TO TAKE FORMAL NOTE of the observations herein.

[signed]

Ms Catherine Mabilie, Counsel

Dated this 6 January 2008

At The Hague, The Netherlands