

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 6 February 2009

**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**

**Confidential *Ex parte* OTP and OPCV only  
With Confidential *Ex parte* Annexes 1-4 OPCV only**

**Information to the Chamber in relation to the "Prosecution's Application for redactions to victim applications a/0047/06, a/0048/06, a/0050/06 and a/0052/06 and request for disclosure"**

**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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Ms Paolina Massidda

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**Unrepresented Victims**

**Unrepresented Applicants for  
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**The Office of Public Counsel for the  
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**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**

**Other**

## I. Procedural Background

1. On 21 January 2009, the Trial Chamber issued its "Decision on the defence application for disclosure of victim applications"<sup>1</sup>, in which it ordered the Prosecution to *"apply the same approach to [victim applications] as it does to any other exculpatory material in its possession"*.<sup>2</sup> The Trial Chamber further held that *"prior to disclosure of information relevant to these particular witnesses who hold dual status, the views of their individual representatives must be sought, and if objections to disclosure are raised, the matter should be brought immediately to the attention of the Chamber by way of filing, for determination."*<sup>3</sup>

2. During the status conference held on 27 January 2009, and following a request for clarification by the Prosecution and the OPCV, the Chamber clarified that the application forms *"should be treated by the Office of the Prosecutor in exactly the same way as all other Article 67(2) and Rule 77 material."*<sup>4</sup>

3. On 5 February 2009, the OTP filed the "Prosecution's Application for redactions to victim applications a/0047/06, a/0048/06, a/0050/06 and a/0052/06 and request for disclosure".<sup>5</sup>

4. The present submission is filed Confidential Ex parte OTP and OPCV only following the classification given by the Prosecution to its application for redactions. The Annexes are filed Confidential Ex parte only available to the OPCV because they contain information which have not been disclosed to the Prosecution and to the Defense by order of the Trial Chamber.

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<sup>1</sup> ICC-01/04-01/06-1637.

<sup>2</sup> *Ibid.*, paras. 9 and 13.

<sup>3</sup> *Ibid.*, para. 13.

<sup>4</sup> ICC-01/04-01/06-T-109-ENG RT, page 44, lignes 3 to 5.

<sup>5</sup> ICC-01/04-01/06-1672-Conf-Exp.

## II. Redactions of the application forms and of the supplementary information

5. The Principal Counsel of the Office of Public Counsel for Victims as Legal Representative of victims a/0047/06, a/0048/06, a/0050/06 and a/0052/06 respectfully submits the following information to the Chamber.

6. The Prosecution assessed the information contained in the application forms and in the supplementary information provided by victims a/0047/06, a/0048/06, a/0050/06 and a/0052/06 and informed their Legal Representative of the need for disclosure to the Defence.

7. The Legal Representative informed the Prosecution that in her assessment it is necessary to maintain discrete redactions to the application forms and to the supplementary information. Such redactions pertain to some information contained in Part A, Part B, Part H, Part I and Part J of the application forms (as identified in the Annexes to the OTP application for redactions<sup>6</sup>); as well as to some information contained in the supplementary information and pertaining to the location where the interviews between counsel and victims took place and the full details of the interpreter who assisted during such interviews (as identified in the Annexes to the present submission).

8. The Prosecution and the Legal Representative agreed on the need to maintain discrete redactions at this point in time of the proceedings to preserve the safety of the four persons concerned, who enjoy the dual status of victims/witnesses and who will soon testify at trial, of their families and of third parties involved in the proceedings as intermediary. Such discrete redactions will not jeopardise the rights of the Defence.

9. The Prosecution also informed the Legal Representative that it only received the redacted version of the supplementary information and that it is not in a position to provide

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<sup>6</sup> See *supra* note 5. Confidential Ex parte OTP and OPCV Annexes 1 to 4.

the Defence with the newly discretely redacted version, should the Chamber authorise the requested redactions.

10. The Legal Representative informs the Chamber that she is able to provide the Defence and the Prosecution with the newly discretely redacted version of the supplementary information should the Chamber so decide. The proposed redactions are contained in Annexes 1, 2, 3 and 4 of the present submission.

**FOR THE FOREGOING REASONS**, the Legal Representative respectfully requests the Trial Chamber to authorise the redactions as requested and to order the transmission to the Defence of the application forms in the redacted version as proposed by the Prosecution in its submission and the transmission to the Prosecution and the Defence of the supplementary information in the redacted version as proposed by the Legal Representative in the Annexes to the present submission.



**Paolina Massidda**

**Principal Counsel**

**Office of Public Counsel for Victims**

Dated this 6<sup>th</sup> day of February 2009

At The Hague, The Netherlands