

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-01/04-01/06  
Date: 11 February 2009

**TRIAL CHAMBER I**

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

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

**Public Redacted Version**

**Prosecution's Observations on Two Potential Expert Witnesses on Child  
Soldiers and Trauma and Submissions on the Instructions to the Experts**

**Source:** Office of the Prosecutor

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

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**Unrepresented Applicants for  
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**REGISTRY**

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**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## **Introduction**

1. Pursuant to the Trial Chamber Order of 17 December 2008 related to the proposal to call expert witnesses on child soldiers and trauma<sup>1</sup>, the Prosecution hereby submits its observations on their suitability and proposes particular areas and issues to be addressed in any report to be produced for the Trial Chamber during trial.

## **Suitability of the Proposed Experts**

2. Having reviewed the curricula vitae of [REDACTED] and Elisabeth Schauer, the Prosecution has no objections to their production of expert reports or appearance as expert witnesses.

## **Proposed areas and questions to be addressed in their reports**

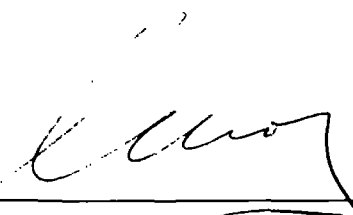
3. First, the Prosecution submits that the reports should focus on the possible traumatic effects of being a child soldier, in particular on the psychological, social, developmental, and mental effects. In doing so, the Prosecution suggests that the reports additionally address the trauma that may affect a child who has been forcibly taken from his or her family, school and community.
4. It is submitted that the above information may provide a context within which child soldier testimonies in Court could be better assessed. The reports could also assist the Court in determining how best to avoid the possible additional traumatic effects of testifying before a Court far from their present homes, or of being examined in front of Thomas Lubanga Dyilo.
5. Second, the Prosecution is of the view that it would be beneficial to the Trial Chamber for the experts to address other topics, including but not limited to: the training and discipline to which children may commonly be subjected to

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<sup>1</sup> ICC-01/04-01/06-1559, "Order for Observations on Two Potential Expert Witnesses on Child Soldiers and Trauma and for Submissions on the Instructions to the Expert", 17 December 2008.

prepare them for combat; their use of drugs, alcohol, or other substances; the living conditions – including matters relating to food and sleep – of children during training and later during combat; and the roles children have played in recent conflicts, including whether they have been active participants in combat and witnessed killings, amongst other things.

6. Third, and as a corollary to the second point, it might be helpful for the experts to address whether, and how, the immaturity of children could affect their capacity to serve as soldiers. For example, the experts may explain whether children have sufficient judgment to assess risks or behave according to generally accepted rules of combat.
7. Lastly, the Prosecution would note that additional matters may arise during the witnesses' testimony or in their reports that would invite further examination including but not limited to the harm done to these children. The Prosecution requests that it be permitted to pursue appropriate additional lines of inquiry in such case.
8. The Prosecution submits that it will be beneficial to the Court to receive such reports, or at least the section on the issue presented in paragraph 4, before the testimony of the child soldiers.



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Luis Moreno-Ocampo  
Prosecutor

Dated this 11<sup>th</sup> day of February 2009  
At The Hague, The Netherlands