

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 11 March 2009

**TRIAL CHAMBER I**

**Before:** Judge Adrian Fulford, President  
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 Document**

**Prosecution's Submission of Supplementary Questions  
for the Court Expert on Child Soldiers and Trauma**

**Source:** Office of the Prosecutor

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

*Court to:*

**The Office of the Prosecutor**

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**Legal Representatives of Victims**

**Legal Representatives of Applicants**

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**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**The Office of Public Counsel for  
Victims**

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

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Ms Silvana Arbia

**Defence Support Section**

**Victims and Witnesses Unit**

Mr Simo Vaatainen

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## I. Background

1. On 6 February 2009, the Trial Chamber issued its "Instructions to the Court's expert on child soldiers and trauma",<sup>1</sup> in which it provided instructions to the Court expert and directed the parties and participants "to identify by way of a public filing any supplementary questions for her consideration, no later than two weeks following notification of the report".<sup>2</sup>
2. The expert's report entitled "The Psychological Impact of Child Soldiering" was filed on 25 February 2009.<sup>3</sup>
3. The Prosecution submits supplementary questions for the consideration of the Trial Chamber and the expert.

## II. Prosecution's supplementary questions

4. The Prosecution's supplementary questions relate to information contained in Section 7 of the report entitled « Interference of the trauma with the ability to testify ».<sup>4</sup>
5. In Section 7 of the report, the expert states:

"Once post-traumatic stress disorder has developed, we see victims, including child soldiers, experience immense suffering due to involuntary sensory, visual or other recall of the most horrific moments of their lives, whereby their autobiographic memory is fragmented and their ability to willingly focus their mind and concentrate is reduced. Much of the daily and nightly

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<sup>1</sup> ICC-01/04-01/06-1671, 6 February 2009.

<sup>2</sup> ICC-01/04-01/06-1671, 6 February 2009, page 10, paragraph 15.

<sup>3</sup> ICC-01/04-01/06-1729-Anx1, 25 February 2009.

<sup>4</sup> ICC-01/04-01/06-1729-Anx1, 25 February 2009, pages 34-35.

energy is spent avoiding to get reminded, since remembering the traumatic experience brings up painful emotions and panic-like physical arousal and distress [...] affected survivors can be limited in their capacity to verbally express in detail and chronology, not because they do not remember what happened, but because they enter a state of great anxiety, visible or physiologically felt by the child as trembling, sweating, heart racing, headache, body pain. Emotions felt by the child range from anxiety, anger, disgust to helplessness during recall. The potential child witnesses who have seen the most and the worst events are also the ones probably most affected by their experiences."

6. Based on the above assessment, the Prosecution seeks to add the following additional areas for the expert's consideration. These questions are not intended to be exhaustive on the topic, but cover the main points that the Prosecution seeks to address:

- (i) In your experience, can you please explain if and why former child soldiers have difficulty accurately recalling and expressing the chronology of the events during the time they were a soldier? (i.e. date or time of events, sequence of events, numbers, distances).
- (ii) In your expertise should one expect a former child soldier to be able to recall and express details about their experience with the same ability as other witnesses? If not, why not?
- (iii) In your experience, is a former child soldier more likely to be able to recall and express the details of their experience immediately following demobilization, some time after the events have settled, in fragments over time, or will it depend on the level of trauma that the individual has suffered?

7. The Prosecution reserves the right to ask additional questions should the need arise.



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Luis Moreno-Ocampo  
Prosecutor

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