



Original: English

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

Date: 29 May 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

Prosecution's Response to the Legal Representatives' "Demand conjointe des représentants légaux des victimes aux fins de mise en œuvre de la procédure en vertu de la norme 55 du Règlement de la Cour"

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

Counsel for the Defence

Ms Catherine Mabilie

Mr Jean-Marie Biju-Duval

Legal Representatives of Victims

Legal Representatives of Applicants

Mr Luc Walley

Mr Franck Mulenda

Ms Carine Bapita Buyangandu

Mr Joseph Keta Orwinyo

Mr Jean Chrysostome Mulamba

Nsokoloni

Mr Paul Kabongo Tshibangu

Mr Hervé Diakiese

Ms Paolina Massidda

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

1. On 22 May 2009, the Legal Representatives filed an application, pursuant to Regulation 55 of the Regulations of the Court, requesting the Chamber to consider a legal re-characterisation of the facts in the *Lubanga* case as sexual slavery, pursuant to Articles 7(1)(g) or 8(2)(b)(xxii) or 8(2)(e)(vi), and inhuman and cruel treatment, pursuant to Articles 8(2)(a)(ii) or 8(2)(c)(i), respectively. The Legal Representatives further request that the Chamber accept written or oral observations with regard to this matter.¹
2. Regulation 55(2) provides that “[i]f, at any time during the trial, it appears to the Chamber that the legal characterisation of facts may be subject to change, the Chamber shall give notice to the participants of such a possibility and having heard the evidence, shall, at an appropriate stage of the proceedings, give the participants the opportunity to make oral or written submissions. The chamber may suspend the hearing to ensure that the participants have adequate time and facilities for effective participation or, if necessary, it may order a hearing to consider all matters relevant to the proposed change.”
3. Under the Regulation, the Chamber has the authority to consider the possibility of modifying the legal characterization of the facts. If the Chamber considers that it might be appropriate to do so, it will give the participants notice and invite submissions. In that event, the Prosecution will provide its factual and legal response.

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¹ *Prosecutor v. Lubanga*, Demande conjointe des représentants légaux des victimes aux fins de mise en œuvre de la procédure en vertu de la norme 55 du Règlement de la Cour, ICC-01/04-01/06-1891, 22 May 2009, p. 21, last paragraph. See also paras. 5, 10, 41.



Luis Moreno-Ocampo
Prosecutor

Dated this 29th day of May 2009
At The Hague, The Netherlands