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

Date: 15 June 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 Document

**Prosecution's Observations on Supplementary Information relevant to 21
Victim Applications**

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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**Victims Participation and Reparations
Section**

Other

Background

1. On 12 June 2009, the Trial Chamber ordered the Prosecution to file by 4:00 pm on 15 June 2009 its final submissions on the supplementary information for victim applications notified on 11 May 2009 by way of filings ICC-01/04-01/06-1866 and ICC-01/04-01/06-1817.¹ The Defence filed their observations to the supplementary information on 15 May 2009.²

Prosecution's Observations on the Supplementary Information

2. The supplementary information regarding the 21 applications can be divided into two categories. The first category relates to 18 individuals whose applications to participate as victims in the case against Thomas Lubanga Dyilo have been granted.³ The second category adds or clarifies facts relating to three applicants (a/0252/07, a/0255/07 and a/0256/07) whose applications to participate as victims in the case against Thomas Lubanga Dyilo were denied on 15 December 2008.⁴
3. The 18 participating victims who now file supplementary information originally applied to participate in the proceedings while they were minors. They have now reached the age of majority and wish to act in their own name and no longer wish to be represented by a legal guardian. The Prosecution has no observation on the victims' request to represent themselves without a legal guardian.

¹ Transcript of 12 June 2009, ICC-01/04-01/06-T-191-ENG RT, at page 60 line 3 to 9.

² ICC-01/04-01/06-1874.

³ Decision on the applications by victims to participate in the proceedings of 15 December 2008, ICC-01/04-01/06-1556.

⁴ Decision on the applications by victims to participate in the proceedings of 15 December 2008, ICC-01/04-01/06-1556.

4. Regarding the three applications (a/0252/07, a/0255/07 and a/0256/07) that were previously denied, the Chamber has not indicated its intention to re-evaluate these applications. The Prosecution nevertheless submits its observations on the supplementary information provided in support of the applications.
5. In denying these three applications, the Chamber held in its decision of 15 December 2008 that “the applicant was 15 years or older at the time of the events or that the alleged recruitment took place at a time which is outside the scope of the charges, namely September 2002 to 13 August 2003”.⁵
6. For applicant a/0252/07, the supplementary information does not provide further clarification regarding the applicant’s age.
7. For applicant a/0255/07, the supplementary information clarifies that the date of recruitment took place before 13 August 2003 “probably on 5 August 2003”. For applicant a/0256/07, the supplementary information redacts the date of recruitment but states that “**As for 0255/07**, recruitment for 0256/07 **also** took place before 13 August 2003 [...] probably on [redacted] August 2003 in the same village of [redacted]” [emphasis added]. It appears that despite the redaction to the possible date of recruitment of applicant a/0256/07, it is the same date as the possible date of recruitment of applicant 0255/07 (before 13 August 2003). Accordingly, the possible date of recruitment now falls within the time-frame of the charges against Thomas Lubanga Dyilo. Additionally, since these applicants were born in 1989 and 1992, respectively, they were both under the age of 15 at the time of recruitment.

Relief requested

⁵ Decision on the applications by victims to participate in the proceedings of 15 December 2008, ICC-01/04-01/06-1556, paragraph 115.

8. Based on the foregoing, the Prosecution has no objection to the request by the 18 victims that they now act on their own behalf. On the remaining three applications, should the Chamber seek to re-assess the three victim applications that previously had been denied, the Prosecution requests the Chamber to:

- (i) Request further information in respect of application a/0252/07;
and
- (ii) grant applications a/0255/07 and a/0256/07 in light of the supplementary information.



Luis Moreno-Ocampo
Prosecutor

Dated this 15th day of June 2009
At The Hague, The Netherlands