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PRE-TRIAL CHAMBER I

Before: Judge Sanji Mmasenono Monageng, Single Judge

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

Public redacted version

**Prosecution's Observations on 12 Applications for Victim Participation
in the Situation in the Democratic Republic of the Congo**

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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Background

1. On 30 June 2010, the Legal Representatives of the applicants filed the “Mémoire en soutien d’une demande de participation à la procédure relative à la situation en République Démocratique du Congo”¹ together with 12 confidential annexes (“Annexes”).
2. On 25 August 2010, the Single Judge² rendered the “Order for the transmission of applications for participation” (“Order”).³ The Single Judge ordered the VPRS to provide unredacted copies of the applications, after they have been processed in accordance with the Decision on Application Process, to the Prosecutor and the OPCD. She further ordered the Prosecution and the OPCD to file their observations on the applications within thirty days following the provision of the applications.⁴
3. On 19 October 2010, VPRS notified the Prosecution the applications in 12 annexes. The annexes were received confidentially.⁵
4. Pursuant to the Order of the Single Judge, the Prosecution hereby submits its observations.

¹ ICC-01/04-565-Conf.

² On 26 July 2010, the Pre-Trial Chamber I (“Chamber”) rendered the “Decision on the designation of a Single Judge of Pre-Trial Chamber” in which the Chamber appointed Judge Sanji Mmasenono Monageng as Single Judge responsible for carrying out the functions of the Chamber including all the issues relating to victims’ applications for participation, in relation to the situation in the Democratic Republic of the Congo and any case emanating therefrom, ICC-01/04-569.

³ ICC-01/04-574-Conf.

⁴ ICC-01/04-574-Conf, page 5.

⁵ ICC-01/04-579-Conf. Anx. 3-15. Since the Prosecution received the annexes confidentially and since the information analyzed in this response is quoted from the annexes, the Prosecution, pursuant to Regulations 23 bis (2) files this response confidentially as well. The Prosecution will file a public redacted version of this response.

Prosecution's observations on the applications

5. The Prosecution submits that 10 of the 12 applicants have provided sufficient information as required to grant them the status of victim at the situation stage, including that each provided [REDACTED] to establish identity.⁶ In the case of the two remaining applicants, a/0263/07 and a/2310/10, the Prosecution submits that they need to provide further information before their applications can be granted.

The 10 applicants who prima facie meet the necessary requirements for victim participation

Application for participation a/0260/07

6. [REDACTED]. Based on these facts, the Prosecution submits that applicant a/0260/07 should be granted status to participate as a victim in the situation.

Application for participation a/0261/07

7. [REDACTED]. Based on these facts, the Prosecution submits that applicant a/0261/07 should be granted status to participate as a victim in the situation.

⁶ The Pre-Trial Chamber, in its 17 August 2007 Decision, established criteria that need to be fulfilled in order to guarantee completeness of the applications: (i) the identity of the applicant; (ii) the date of the crime(s); (iii) the location of the crime(s); (iv) a description of the harm suffered as a result of the commission of any crime within the jurisdiction of the Court; (v) proof of identity; (vi) if the application is made by a person acting with the consent of the victim, the express consent of that victim; (vii) if the application is made by a person acting on behalf of a victim, in the case of a victim who is a child, proof of kinship or legal guardianship; or, in the case of a victim who is disabled, proof of legal guardianship; (viii) a signature or thumb-print of the applicant on the document, at the very least, on the last page of the application (ICC-01/04-374, para. 12). The Pre-Trial Chamber also required presentation of proper identification documents (to prove identity, kinship, guardianship or legal guardianship) for all victims who apply to participate in the early stage of Court proceedings: (i) national identity card, passport, birth certificate, death certificate, marriage certificate, family registration booklet, will, driving licence, card from a humanitarian agency; (ii) voting card, student identity card, pupil identity card, letter from local authority, camp registration card, documents pertaining to medical treatment, employee identity card, baptism card; (iii) certificate/attestation of loss of documents (loss of official documents), school documents, church membership card, association and political party membership card, documents issued in rehabilitation centres for children associated with armed groups, certificates of nationality, pension booklet; or (iv) a statement signed by two witnesses attesting to the identity of the applicant or the relationship between the victim and the person acting on his or her behalf, providing that there is consistency between the statement and the application. The statement should be accompanied by proof of identity of the two witnesses (ICC-01/04-374, para. 15).

Application for participation a/0262/07

8. [REDACTED]. Based on these facts, the Prosecution submits that applicant a/0262/07 should be granted status to participate as a victim in the situation.

Application for participation a/0264/07

9. [REDACTED]. Based on these facts, the Prosecution submits that applicant a/0264/07 should be granted status to participate as a victim in the situation.

Application for participation a/0265/07

10. [REDACTED].⁷ Based on these facts, the Prosecution submits that applicant a/0265/07 should be granted status to participate as a victim in the situation.

Application for participation a/0266/07

11. [REDACTED]. Based on these facts, the Prosecution submits that applicant a/0266/07 should be granted status to participate as a victim in the situation.

Application for participation a/0267/07

12. [REDACTED]. Based on these facts, the Prosecution submits that applicant a/0267/07 should be granted status to participate as a victim in the situation.

Application for participation a/0268/07

13. [REDACTED]. Based on these facts, the Prosecution submits that applicant a/0268/07 should be granted status to participate as a victim in the situation.

Application for participation a/0269/07

14. [REDACTED]. Based on these facts, the Prosecution submits that applicant a/0269/07 should be granted status to participate as a victim in the situation.

⁷ [REDACTED].

Application for participation a/2311/10

15. [REDACTED]. Based on these facts, the Prosecution submits that applicant a/2311/10 should be granted status to participate as a victim in the situation on behalf of [REDACTED]. The Prosecution further submits that the Applicant may apply to participate on [REDACTED] own behalf for [REDACTED] as stated.

*Two applicants whose applications require further clarification**Application for participation a/0263/07*

16. [REDACTED]. The Prosecution submits that the Applicant suffered [REDACTED] as a result of [REDACTED]. However, [REDACTED] needs to provide proof of the identity of [REDACTED] and [REDACTED] relationship⁸ with the Applicant before [REDACTED] application can be granted.

Application for participation a/2310/10

17. [REDACTED].⁹ The Prosecution submits that the Applicant meets the necessary requirements, however [REDACTED] needs to provide proof on [REDACTED] identity as required¹⁰ before [REDACTED] application could be granted.

⁸ The Appeals Chamber has held that an applicant who suffered emotional harm as the result of the loss of a family member requires proof of the identity of the family member and the relationship with the applicant, ICC-02/04-179, paras. 1, 36 and 38.

⁹ [REDACTED].

¹⁰ The Application form for Organizations, Part A, point 11. See also ICC-01/04-374, para. 15.

Conclusion

18. For the reasons outlined above, the Prosecution request that the Single Judge grant participation status as victims in the DRC situation to applicants a/0260/07, a/0261/07, a/0262/07, a/0264/07, a/0265/07, a/0266/07, a/0267/07, a/0268/07, a/0269/07 and a/2311/10.
19. The Prosecution contends that applicants a/0263/07 and a/2310/10 must provide further information before their applications can be granted.



Luis Moreno-Ocampo, Prosecutor

Dated this 29th day of November 2010
At The Hague, The Netherlands