

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: French

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

Date: 7 June 2012

TRIAL CHAMBER I

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

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
*THE PROSECUTOR v. THOMAS LUBANGA DYILO***

Public Document

**Response of the Legal Representatives of the V01 group of victims to Defence
application ICC-01/04-01/06-2892 of 4 June 2012**

Source: Legal Representatives of the V01 group of victims

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

Office of the Prosecutor

Mr Luis Moreno-Ocampo
Ms Fatou Bensouda

Counsel for the Defence

Ms Catherine Mabilie
Mr Jean-Marie Biju-Duval

Legal Representatives of Victims

Mr Luc Walley
Mr Franck Mulenda
Ms Carine Bapita Buyangandu
Mr Joseph Keta Orwinyo
Mr Paul Kabongo Tshibangu

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

Office of Public Counsel for Victims

Ms Paolina Massidda

**Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. On 4 June, the Defence sought to introduce additional evidence during the sentencing proceedings.¹
2. This application was submitted one week before the hearing of 13 June, intended for submissions on sentencing, whereas the Chamber has entertained discussions relating to the organisation of the hearing since 14 March 2012.
3. Article 76(2) allows the introduction of relevant additional evidence “in accordance with the Rules of Procedure and Evidence”, but neither the Rules of Procedure and Evidence nor the Regulations of the Court specify the requirements for the submission of such additional evidence within the framework of article 76.
4. In any event, the application to call additional witnesses would fundamentally alter the substance of the said hearing: additional evidence should necessarily be subject to the adversarial principle to ensure the fairness of the proceedings, and it is not inconceivable that the Prosecution would call new witnesses in response.
5. The application suggests that the new witnesses would provide evidence on the number of children under the age of 15 years who were recruited, the circumstances of their recruitment, the consequences for the victims, etc. Insofar as the evidence would relate to matters affecting the interests of the participating victims, their Legal Representatives should be able to request leave to examine these new witnesses. Finally, a fresh exchange of written submissions may be appropriate.
6. Given that all the facts of the case have already been dealt with in detail during proceedings, the Legal Representatives consider that the submission of additional evidence, specifically on the presence of mitigating or aggravating circumstances, is not necessary. If the Chamber were to authorise such

¹ ICC-01/04-01/06-2892.

submissions, the Legal Representatives would seek leave to respond appropriately to the fresh evidence.

FOR THESE REASONS,

MAY IT PLEASE THE CHAMBER

To note these submissions.

At Brussels and Kinshasa, dated this 7 June 2012.

The Legal Representatives of the V01 group of victims,

Luc Walley
[signed]

Franck Mulenda
[signed]