

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04
Date: 3 July 2008

PRE-TRIAL CHAMBER I

Before: Judge Anita Ušacka, Single judge

SITUATION IN THE DEMOCRATIC REPUBLIC OF CONGO

Public Document

Decision on the applications for participation filed in connection with the investigation in the Democratic Republic of Congo by Applicants a/0047/06 to a/0052/06, a/0163/06 to a/0187/06, a/0221/06, a/0225/06, a/0226/06, a/0231/06 to a/0233/06, a/0237/06 to a/0239/06, and a/0241/06 to a/0250/06

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

The Office of the Prosecutor

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Ms Fatou Bensouda, Deputy Prosecutor

Counsel for the Defence

Legal Representatives of the Victims

Legal Representatives of the Applicants

Mr Joseph Keta
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Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

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Table of Contents

I. Introduction	8
II. Observations of the Parties	9
A. Applications from ICC-01/04 171-Conf-Exp to ICC-01/04-176-Conf-Exp	9
B. Applications from ICC-01/04-326-Conf-Exp-Anx2 and ICC-01/04-327-Conf-Exp	10
C. Applications from ICC-01/04-356-Conf-Exp	11
III. Analysis	12
A. Whether the Applicants have submitted a complete application, pursuant to regulation 86 of the Regulations	13
B. Whether the Applicants have demonstrated, <i>prima facie</i> , the elements of rule 85 of the Rules	16
C. Evaluation of the applications for participation	18

I, Judge Anita Ušacka, judge at the International Criminal Court (the “Court”);

NOTING the applications for participation in the proceedings filed by a/0047/06 to a/0052/06 (“the applications”)¹ confidential *ex parte* on 25 July 2006 in the record of the situation in the Democratic Republic of the Congo (“DRC”), by which the Applicants requested to be granted a procedural status in the investigation stage of the situation in the DRC;

NOTING the applications for participation in the proceedings filed by a/0221/06², a/0225/06, a/0226/06, a/0231/06 to a/0233/06, a/0237/06 to a/0239/06, a/0241/06 to a/0250/06³ confidential *ex parte* on 23 and 24 April 2007 in the record of the situation in the DRC, by which the Applicants requested to be granted a procedural status in the investigation stage of the situation in the DRC;

NOTING the “*Observations du Conseil ad hoc de la Défense sur les demandes de participation à la procédure a/0004/06 à a/0009/06, a/0016/06 à a/0063/06, a/0071/06 à a/0080/06 et a/0105/06 dans le cadre de l’enquête en République démocratique du Congo*”,⁴ filed by the *ad hoc ad hoc* Counsel for the Defence in the record of the investigation of the situation in the DRC on 28 November 2006 ;

NOTING the “*Observation du Bureau du conseil public pour la Défense sur les demandes de participation à la procédure en qualité des Victimes*”,⁵ filed by the Office of Public Counsel for the Defence (“OPCD”) in the record of the investigation of the situation in the DRC on 25 June 2007 ;

¹ ICC-01/04-171-Conf-Exp to ICC-01/04-176-Conf-Exp

² ICC-01/04-326-Conf-Exp-Anx2

³ ICC-01/04-327-Conf-Exp-Anx 1 to 20

⁴ ICC-01/04-314-Conf, ICC-01/04-314-Conf-Anx 1-2

⁵ ICC-01/04-347-Conf

NOTING the “Prosecution’s Observations on the applications for Participation of Applicants a/0004/06 to a/0009/06, a/0016/06 to a/0063/06, a/0071/06, a/0072/06 to a/0080/06 and a/0105/06”⁶ filed by the Prosecution in the record of the investigation of the situation in the DRC on 30 November 2006;

NOTING the “Prosecution’s Reply under Rule 89(1) to the applications for Participation of Applicants a/0106/06 to a/0110/06, a/0128/06 to a/0162/06, a/0188/06, a/0199/06, a/0203/06, a/0209/06, a/0214/06, a/0220/06 to a/0222/06 and a/0224/06 to a/0250/06”⁷ filed by the Prosecution in the record of the investigation of the situation in the DRC on 25 June 2007;

NOTING the “*Transmission au Bureau du Procureur et au Bureau du Conseil public pour la Défense d’informations supplémentaires sur les demandes de participation, en application de l’ordonnance de la Chambre préliminaire I du 24 août 2007*”⁸ filed by the Registrar in the record of the investigation in the situation in the DRC on 3 September 2007 ;

NOTING the “Corrigendum to the ‘Decision on the applications for Participation Filed in Connection with the Investigation in the Democratic Republic of the Congo by a/0004/06 to a/0009/06, a/0016/06 to a/0063/06, a/0071/06 to a/0080/06 and a/0105/06 to a/0110/06, a/0188/06, a/0128/06 to a/0162/06, a/0199/06, a/0203/06, a/0209/06, a/0214/06, a/0220/06 to a/0222/06, a/0224/06, a/0227/06 to a/0230/06, a/0234/06 to a/0236/06, a/0240/06, a/0225/06, a/0226/06, a/0231/06 to a/0233/06, a/0237/06 to a/0239/06 and a/0241/06 to a/0250/06’”⁹ issued by Judge Sylvia Steiner, acting as Single Judge, on 24 December 2007, in which the Single Judge decided not to rule on applications for participation a/0047/06, a/0048/06, a/0049/06, a/0050/06, a/0051/06,

⁶ ICC-01/04-315, ICC-01/04-315-Conf-Exp-Anx

⁷ ICC-01/04-346

⁸ ICC-01/04-384-Conf-Exp

⁹ ICC-01/04-423-Corr-tENG

a/0052/06, a/0221/06, a/0225/06, a/0226/06, a/0231/06 to a/0233/06, a/0237/06 to a/0239/06 and a/0241/06 to a/0250/06;

NOTING the applications for participation in the proceedings filed by Applicants a/0163/06 to a/0187/06 (“the applications”)¹⁰ confidential *ex parte* on 29 June 2007 in the record of the situation in the DRC, by which the Applicants requested to be granted a procedural status in the investigation stage of the situation in the DRC;

NOTING the “*Décision autorisant le dépôt d’observations sur les demandes de participation à la procédure*”¹¹ issued by Judge Sylvia Steiner, acting as Single Judge, on 17 July 2007;

NOTING the “Decision suspending the time limit for the submission of observations on application for participation in the proceedings”¹² issued by Judge Akua Kuenyehia, acting as Single Judge, on 31 July 2007;

NOTING the “Decision on the time limit to submit observations on applications a/0163/06 to a/0187/06 for participation as victims”¹³ issued by Judge Sylvia Steiner, acting as Single Judge, on 22 August 2007;

NOTING the “*Transmission au Bureau du Procureur et au Bureau du Conseil Public pour la Défense d’informations supplémentaires sur des demandes de participation, en application de la décision de la Chambre Préliminaire I du 22 août 2007*”¹⁴ filed confidential *ex parte* by the Registrar on 28 August 2007;

¹⁰ ICC-01/04-356-Conf-Exp

¹¹ ICC-01/04-358

¹² ICC-01/04-368

¹³ ICC-01/04-375

¹⁴ ICC-01/04-377-Conf-Exp

NOTING the “*Addendum au document ‘Transmission au Bureau du Procureur et au Bureau du Conseil Public pour la Défense d’informations supplémentaires sur des demandes de participation, en application de la décision de la Chambre Préliminaire I du 22 août 2007’*”¹⁵ filed confidential *ex parte* by the Registrar on 3 September 2007;

NOTING the “Prosecution’s reply under Rule 89(1) to the applicants for participation of applications a/0163/06 to a/0187/06 in the situation in the DRC”¹⁶ filed by the Prosecution on 27 September 2007;

NOTING the “*Observations du Bureau du Conseil Public pour la Défense sur les demandes de participation à la procédure en qualité de victimes de demandeurs*”¹⁷ filed by the OPCD on 4 October 2007;

NOTING the “*Décision portant désignation d’un juge unique chargé des questions relatives aux demandes de participation des victimes au stade de l’enquête de la Situation en RDC*”¹⁸ issued by the Pre-Trial Chamber I on 11 April 2008;

NOTING articles 11, 12, 13, 21(2), 57(3)(c), 58, 61 and 68 of the *Rome Statute* (“the Statute”), rules 16, 85, 87, 89, 90, 91 and 92 of the *Rules of Procedure and Evidence* (“the Rules”), and regulation 86 of the *Regulations of the Court* (“the Regulations”);

¹⁵ ICC-01/04-385-Conf-Exp

¹⁶ ICC-01/04-402-Conf

¹⁷ ICC-01/04-404-Conf-Exp

¹⁸ ICC-01/04-493.

I. Introduction

1. This decision will address applications filed on 25 July 2006,¹⁹ 23²⁰ and 24²¹ April 2007 and 3 July 2007.²²

2. On 23 January 2008, Judge Sylvia Steiner, acting as Single Judge in Pre-Trial Chamber I ("the Chamber"), granted the OPCD's request²³ for leave to appeal on her "Decision on the Requests of the OPCD on the Production of Relevant Supporting Documentation Pursuant to Regulation 86(2)(e) of the Regulations of the Court and on the Disclosure of Exculpatory Materials by the Prosecutor."²⁴ This decision granted leave to appeal on one issue, with two sub-parts, related to the victim application process in the stage of the investigation of the Situation in the DRC:

whether article 68(3) of the Statute can be interpreted as providing for a 'procedural status of victim' at the investigation stage of a situation and the pre-trial stage of a case; and (i) if so, whether rule 89 of the Rules and regulation 86 of the Regulations provide for an application process which only aims to grant the procedural status of victim and is thus distinct and separate from the determination of the procedural rights attached to such status; and what are the specific procedural features of the application process? Or (ii) if not, how applications for participation at the investigation stage of a situation and the pre-trial stage of a case must be dealt with.²⁵

3. On 6 February 2008, Judge Steiner granted leave to appeal²⁶ on her "*Décision sur les demandes de participation à la procédure déposées dans le cadre de l'enquête en République démocratique du Congo par a/0004/06 à a/0009/06, a/0016/06 à a/0063/06, a/0071/06 à a/0080/06 et a/0105/06 à a/0105/06 à a/0110/06, a/0188/06, a/0128/06 à a/0162/06, a/0199/06, a/0203/06, a/0209/06, a/0214/06, a/0220/06 à a/0222/06, a/0224/06, a/0227/06 à a/0230/06, a/0234/06 à a/0236/06, a/0240/06, a/0225/06, a/0226/06, a/0231/06 à a/0233/06, a/0237/06 à a/0239/06 à a/0241/06 à a/0250/06*" issued on 24 December 2007. This decision granted leave to appeal on one issue raised by the Prosecution²⁷ and

¹⁹ ICC-01/04-171-Conf-Exp to ICC-01/04-176-Conf-Exp

²⁰ ICC-01/04-326-Conf-Exp-Anx2

²¹ ICC-01/04-327-Conf-Exp

²² ICC-01/04-356-Conf-Exp

²³ ICC-01/04-438

²⁴ ICC-01/04-419

²⁵ ICC-01/04-438, p 8

²⁶ ICC-01/04-444

²⁷ ICC-01/04-428

two issues raised by the OPCD,²⁸ concerning the victim application process in the stage of the investigation of the situation:

- (i) whether a “procedural status of victim”, within the terms of the Decision, can be granted independent of any finding by the Chamber that the requirements of article 68(3) and rule 89 are satisfied, and without addressing and providing for a definition of the personal interests, or following the steps required by the Appeals Chamber's jurisprudence;
- (ii) whether it is possible to grant victims a general right to participate, or whether victim participation is conditioned upon a determination concerning the impact of specific proceedings on the personal interests of the applicants, and an assessment as to the propriety of their participation; and,
- (iii) whether, in order to establish moral harm on the basis of harm suffered by a second person, it is necessary to adduce some level of proof concerning the identity of the second person and the applicant's relationship with this person.²⁹

4. The Single Judge notes that the appeals on these decisions are still pending before the Appeals Chamber. However, the Appeals Chamber has not ordered suspensive effect as to these decisions pursuant to article 82(3) of the Statute. Thus, the Single Judge's decision in relation to these 58 pending applications for participation will be based on the current jurisprudence of the Pre-Trial Chamber, with the understanding that the Single Judge's decision may later require modification in accordance with the Appeals Chamber's judgment.

II. Observations of the Parties

A. Applications from ICC-01/04 171-Conf-Exp to ICC-01/04-176-Conf-Exp

5. The parties' observations on these six applications for participation pending before the Chamber since 25 July 2006 were filed on 28 November 2006 by the *ad hoc* Counsel for the Defence³⁰ and on 30 November 2006 by the Prosecution.³¹

6. The *ad hoc* Counsel for the Defence requested that the Chamber grant victims' status only as to Applicants a/0049/06 and a/0050/06. In relation to

²⁸ ICC-01/04-429

²⁹ ICC-01/04-444

³⁰ ICC-01/04-314

³¹ ICC-01/04-315

applications a/0047/06, a/0048/06, a/0051/06 and a/0052/06, the *ad hoc* Counsel for the Defence observed that since the Applicants were minors, their applications should be rejected unless they are introduced by the person who is the guardian of the indicated minors.

7. In its main submission, the Prosecution argued that, in determining whether individuals may be granted victims' status, the Single Judge should be satisfied that Applicants fulfill the criteria set out in rule 85 of the Rules and that their personal interests are affected by the proceedings in accordance with article 68(3) of the Statute. However, the Prosecution submitted that the personal interests of the Applicants "can only be determined with certainty once a case has been commenced, and cannot be determined as such by the mere fact that crimes are being investigated". Consequently, the Prosecution requested that the Chamber deny all of the applications. In the event the Chamber did not agree with the Prosecution's position, the Prosecution did not oppose the participation of the Applicants in the situation of the DRC.

B. Applications from ICC-01/04-326-Conf-Exp-Anx2 and ICC-01/04-327-Conf-Exp

8. The parties' observations on the nineteen applications for participation pending before the Chamber since 23 and 24 April 2007 were filed on 25 June 2007 by the Prosecution³² and OPCD.³³

9. The Prosecution maintained its main submissions, as stated above in paragraph 7, and therefore requested that the Chamber deny all of the applications.

10. The OPCD principally requested that the Chamber dismiss the applications *in limine* on the grounds they contained a number of irregularities, and that the Applicants did not provide any documents in support of their allegations.

³² ICC-01/04-346

³³ ICC-01/04-347-Conf

Alternatively, the OPCD suggested that the Chamber suspend any decision on these applications until:

- (i) the Applicants exhausted all appropriate national remedies;
- (ii) the Applicants' requests for reparations, if any, were made before national courts or, in the alternative, until the Applicants had been informed that, should their applications be granted by the Chamber, they would be foreclosed from pursuing any other remedies before other courts;
- (iii) the OPCD was provided by the Prosecution with exculpatory information related to the applications or any other material relevant to the preparation of the Defence, so that the OPCD could present observations on the applications based on this information; and
- (iv) the OPCD had the opportunity to present additional arguments relating to the jurisdiction of the Court in the situation of the DRC.

11. Finally, the OPCD submitted that all of the applications should be denied pursuant to article 68(3) of the Statute, given that the Applicants' personal interests are not affected at this stage of the proceedings, their participation is inappropriate and their participation would be prejudicial to the rights of the Defence.

C. Applications from ICC-01/04-356-Conf-Exp

12. The parties' observations on these 25 applications for participation pending before the Chamber since 3 July 2007 were filed on 27 September 2007³⁴ by the Prosecution and on 5 October 2007 by the OPCD.³⁵

13. The Prosecution observed that in deciding on the applications, the Single Judge must be satisfied firstly, that the Applicant fulfils the criteria set out in rule 85(a) of the Rules and, secondly, that the requirements of article 68(3) of the Statute are met: namely that the "personal interests" of the Applicant is directly affected by

³⁴ ICC-01/04-402-Conf

³⁵ ICC-01/04-404-Conf

the proceedings in which the Applicant wishes to participate, and that such participation is “appropriate” at this stage in the proceedings. The Prosecution argued that in order for the “personal interests” of an Applicant to be affected, the Applicant must demonstrate something more than a general interest of any victim in the progress and outcome of the investigation, otherwise the “personal interests criterion” in article 68(3) of the Statute would be rendered meaningless. Thus, in the view of the Prosecution, while the Applicants have fulfilled the requirements of rule 85(a) of the Rules, they have not satisfied the requirements of article 68(3) of the Statute, namely that their personal interests are affected by this stage of the proceedings.

14. In its observations, the OPCD principally requested that the Chamber dismiss the additional information as well as the related applications, because of the incorrect manner in which they were filed. Secondly, the OPCD requested that the Chamber determine that none of the Applicants fulfill the conditions to participate as victims at this stage of the proceedings pursuant to article 68(3) of the Statute and rule 85(a) of the Rules, because (i) the Applicants do not demonstrate that their personal interests are affected, (ii) participation would be inappropriate and would be detrimental to the rights of the Defence and the right to a fair trial, and (iii) none of the Applicants fulfill the conditions to be accepted as a victims in the proceedings before the Court. Thus, the OPCD requested that the Chamber dismiss all of the applications.

III. Analysis

15. The Single Judge notes that in the period between when the above-mentioned applications were filed and the issuance of the present decision on the applications, the Chamber has further outlined the essential criteria required for a decision on an application for participation in the proceedings. Thus, the Single Judge’s decision will follow the framework outlined below.

A. Whether the Applicants have submitted a complete application, pursuant to regulation 86 of the Regulations

16. On 17 August 2007, the Chamber decided that an application for participation would be complete if it contains the following information:

- (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.³⁶

17. In addition, if an application is introduced by another person (whose name appears on Section B of the application form) on behalf of the Applicant, proof of identity of the person acting on the Applicant's behalf and proof of kinship, guardianship or legal guardianship must be submitted with the application, pursuant to regulation 86(2)(e) of the Regulations.³⁷ In this respect, the Single Judge observes that applications a/0047/06, a/0048/06, a/0049/06, a/0050/06, a/0051/06, a/0052/06, a/0164/06, a/0169/06, a/0171/06, a/0225/06, a/0231/06, a/0232/06, a/0233/06, a/0237/06, a/0238/06, a/0239/06, a/0242/06, a/0243/06, a/0244/06, a/0245/06, a/0246/06, a/0247/06 and a/0248/06 have been submitted by other persons, on behalf of these Applicants.

18. The Chamber will accept any of the following documents, some of which may demonstrate identity, kinship, or legal guardianship:

³⁶ ICC-01/04-374, para 9

³⁷ ICC-01/04-374, para 13

- (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.³⁸

19. The Single Judge recalls that in its observations on the applications, the OPCD argued that the Chamber should reject all of the applications submitted on 3 July 2007, because the Chamber is unable to verify the authenticity of the electoral cards provided by some of the Applicants, arguing that such cards may easily be falsified.³⁹ The OPCD also argued that the applications should be rejected because the Chamber is unable to verify at this stage that the Applicant is in fact the person whose electoral card is appended to the application, in part because the Applicants do not provide certified copies of their identification documents.⁴⁰

20. The Single Judge recalls that the Chamber has previously stated:

[T]he Chamber is aware that, in regions which are or have been ravaged by conflict, not all civil status records may be available, and if available, may be difficult or too expensive to obtain. In this respect, the Chamber will, at the investigation stage of the situation, allow the submission of any of the following documents: [...] voting card....⁴¹

In this respect, the Single Judge notes that the Chamber has never required that an Applicant for participation in the proceedings provide certified copies of his or her proof of identification. In addition, in regions which are or have been ravaged by conflict, such civil service facilities as may provide certified copies of official documents may be difficult to reach or may not exist. Moreover, the Single Judge recalls that many persons who have been granted the procedural status of victim are subsequently deemed indigent by the Registrar and their legal counsel is appointed

³⁸ ICC-01/04-374, para. 15.

³⁹ ICC-01/04-404-Conf, para 17

⁴⁰ ICC-01/04-404-Conf, para 17

⁴¹ ICC-01/04-374, paras 13 and 14

by the Court.⁴² To therefore require the Applicants to travel to the nearest town or regional entity, if it exists, possibly hours or days away from the village or locality in which the Applicant resides, at considerable hardship and expense for the Applicant, in order to provide a certified copy of their identification document, in the view of the Single Judge, would create an insurmountable obstacle to participation in the proceedings, especially at this preliminary stage.

21. Therefore, the Single Judge is satisfied that although only a *prima facie* presentation of proof of identity appended to the application is required for a decision on the applications pursuant to rule 89(1) of the Rules, throughout the proceedings, there will be additional opportunities for the credibility and authenticity of the Applicants' identities and the allegations within their applications to be further scrutinized. Thus, the Single Judge is not willing to impose such an obstacle, as suggested by OPCD, during the application phase of the proceedings.

22. Furthermore, the Single Judge notes that applications a/0164/06 and a/0171/06 were submitted on behalf of deceased persons. In this regard, the Single Judge recalls that Judge Sylvia Steiner, acting as Single Judge, has previously ruled that:

rule 89(3) of the Rules states that an application for participation may be made by a person acting on behalf of the victim concerned with the victim's consent, or on the victim's behalf in the case of a child or a disabled person. However, no provision permits the submission of an application for participation on behalf of a deceased person. Rule 89(3) authorises the submission of an application for participation on a person's behalf provided the person consents. The Single Judge notes that such consent cannot be given by a deceased person. She is therefore of the opinion that deceased persons cannot be considered to be natural persons within the meaning of rule 85(a). However, close relations of deceased and disappeared persons may be considered to be victims under the Statute, the Rules, and the Regulations of the Court provided they fulfill the necessary criteria.⁴³

23. However, the Single Judge also notes that the persons who introduced applications a/0164/06 and a/0171/06 (whose names appear on section B of the application forms) also allege to have personally suffered harm. As a result, and as

⁴² See, for example, ICC-01/04-490, ICC-01/04-01/06-1383-Corr, ICC-01/04-01/07-562 and ICC-01/04-01/07-563

⁴³ ICC-01/04-423-Corr-tENG, para 24

has been the practice of the Chamber⁴⁴, the Single Judge will evaluate these applications with these persons as the primary applicants, rather than the deceased person (whose name appears on section A of the application form).

B. Whether the Applicants have demonstrated, prima facie, the elements of rule 85 of the Rules

24. As the Chamber has previously stated: “[r]ule 85, sub-rule (a), establishes four criteria that have to be met in order to obtain the status of victim: the victim must be a natural person; he or she must have suffered harm; the crime from which the harm ensued must fall within the jurisdiction of the Court; and there must be a causal link between the crime and the harm suffered.”⁴⁵

25. The Single Judge recalls the arguments of the Prosecution⁴⁶ and the OPCD⁴⁷ that in addition to assessing whether the Applicants meet the criteria of rule 85 of the Rules, the Applicants should also be required to demonstrate the criteria in article 68(3) of the Statute: (i) that their personal interests are affected and (ii) that participation is appropriate at this stage of the proceedings. The Single Judge recalls that the issue of how the Chamber should apply the criteria listed in article 68(3) of the Statute in respect of the application phase is currently pending before the Appeals Chamber.⁴⁸ However, as noted previously, since the Appeals Chamber has not ordered suspensive effect as to this decision, the Single Judge will analyse the pending applications in accordance with the current jurisprudence of Pre-Trial Chamber.

26. In this respect, the Chamber has previously decided that participation in the Situation stage of the proceedings is appropriate,⁴⁹ and has further stated that:

⁴⁴ ICC-01/04-423-Corr, para. 24 *in fine*.

⁴⁵ ICC-01/04-101, para 79

⁴⁶ ICC-01/04-315, paras 18-20, ICC-01/04-346, paras 15-20 and ICC-01/04-402-Conf, paras 47-54

⁴⁷ ICC-01/04-347-Conf, para 23-27 and ICC-01/04-404-Conf, paras 37-41

⁴⁸ ICC-01/04-444

⁴⁹ ICC-01/04-101, p 41 See also ICC-01/04-438, p 5, ICC-01/04-444, p 10, ICC-02/05-118, p 5, and ICC-02/05-121, pp 7-8

[t]he Chamber considers that the personal interests of victims are affected in general at the investigation stage, since the participation of victims at this stage can serve to clarify the facts, to punish the perpetrators of crimes and to request reparations for the harm suffered.⁵⁰

27. On 7 December 2007, Judge Sylvia Steiner, acting as Single Judge, decided that in making a decision on an application for participation in the proceedings, the Single Judge would only require that “applicants demonstrate that the elements established by rule 85 of the Rules are met *prima facie*.”⁵¹ The rationale for Judge Steiner’s decision was based on her interpretation that rule 85 of the Rules and regulation 86 of the Regulations establish an application process with a limited scope and purpose. According to this interpretation, once an Applicant has submitted a complete application and has made a *prima facie* showing of the elements of rule 85 of the Rules, he or she will be granted a procedural status before the Court. As the Chamber has previously stated, the Single Judge will not “determine in any great detail at this stage the precise nature of the causal link and the identity of the person(s) responsible for the crimes.”⁵²

28. In respect of this *prima facie* analysis, the Single Judge notes that the crimes within the jurisdiction of the Court, pursuant to articles 6, 7 and 8 of the Statute and the Elements of Crimes, each contain contextual elements.⁵³ The Single Judge recalls, however, that explicit factual references to the contextual elements of crimes within the jurisdiction of the Court are often not present in the applications. In other words, Applicants rarely, if ever, allege specific facts that would expressly indicate that the harm they suffered was a part of a “manifest pattern of similar conduct directed against that group” or that the harm occurred in the “context of an international or non-international armed conflict, and the perpetrator must have been aware of the factual circumstances of the conflict.”

⁵⁰ ICC-01/04-101, paras 63-64

⁵¹ ICC-01/04-417, para 8 See also ICC-01/04-444, p 10, and ICC-02/05-121, p 8

⁵² ICC-01/04-101, para 94

⁵³ Elements of Crimes, General Introduction (7) For a crime under article 6, it must be shown that the “conduct took place in the context of a manifest pattern of similar conduct directed against that group or was conduct that could itself effect such destruction” In order to establish a crime against humanity under article 7, it is necessary to demonstrate that the “perpetrator knew that the conduct was part of or intended the conduct to be a part of a widespread or systematic attack against the civilian population” To demonstrate a war crime under article 8, the crime must have occurred in the context of an international or non-international armed conflict, and the perpetrator must have been aware of the factual circumstances of the conflict

29. Thus, in deciding on the applications, the Single Judge will follow the practice of the Chamber: the first element taken into consideration by the Single Judge will be the application itself; the second element taken into consideration by the Single Judge will be the observations submitted by the Defence and the Prosecutor, and any additional information that the Chamber may receive pursuant to regulation 86(7) of the Regulations; and, the third element taken into consideration will be any information from the application itself, viewed in a light most favorable to the Applicants, from which the Single Judge may directly infer the material, moral and contextual elements of the crimes within the jurisdiction of the Court.

30. As an example, if an Applicant alleges that he or she was harmed by “the militia,” the Single Judge may infer that the Applicant has alleged, *prima facie*, that the harm occurred in the context of an armed conflict. In the same way, if an Applicant alleges that a similar attack or harm occurred against his neighbors and residents of other neighborhoods, the Single Judge may infer a widespread or systematic attack directed against a civilian population. The Single Judge emphasises, however, that any preliminary determination that an Applicant has alleged facts from which one may infer, *prima facie*, the contextual elements of crimes within the jurisdiction of the Court are merely based on this preliminary analysis. Thus, a decision to grant an Applicant a procedural status in the proceedings in no way predetermines any factual findings that could be made by a Chamber in any judgment on the merits.

C. Evaluation of the applications for participation

i. Incomplete applications

31. As has been previously stated by the Chamber, in every case in which an application is submitted on behalf of an Applicant who is a minor, the application must contain proof of kinship or legal guardianship of the next-of-kin or guardian.⁵⁴

⁵⁴ ICC-01/04-374, para 9

In addition, when the Applicant is a minor, if the application is submitted by a person who is not the next-of-kin or legal guardian of the Applicant, the application must contain the consent of the next-of-kin or legal guardian that an application has been made on the minor's behalf. In other words, the minor's consent to have a third-party submit an application on his or her behalf is insufficient. As such, Applicants a/0047/06, a/0048/06, a/0049/06, a/0050/06, a/0051/06, and a/0052/06, who were minors at the time the applications were made, are incomplete, as they do not include the consent of the Applicant's next-of-kin or legal guardian that an application was made on the Applicant's behalf.

32. Further, the Single Judge observes that Applicants a/0221/06, a/0225/06, a/0226/06, a/0237/06, a/0238/06, a/0239/06 and a/0241/06 did not provide any proof of identity. Thus, these applications are incomplete.

33. Applicant a/0169/06 does not provide proof of identity of the person who is acting on her behalf, and therefore her application is incomplete. In addition, Applicant a/0169/06 has not completed "Part J" of the application form: the names of the persons whose thumb prints are marked on the form are incomplete, and the thumb prints on page 16 of the application appear to have been made by the same person.

34. For Applicants a/0243/06 and a/0244/06, the first names appearing on the proof of identity do not match the names on Part A of their respective standard participation forms. Thus, the Single Judge is unable to determine that the Applicants have provided adequate proof of identity, and consequently, these applications are incomplete.

35. Applicants a/0245/06 and a/0246/06 were minors when their applications were submitted and their guardians acted on their behalf. However, these Applicants are now adults, and the Single Judge deems it necessary to be provided with additional information concerning whether the Applicants now consent to having another person act on their behalf.

36. Therefore, the above-mentioned incomplete applications will be denied. However, pursuant to rule 89(2) of the Rules, Applicants a/0047/06, a/0048/06, a/0049/06, a/0050/06, a/0051/06, a/0052/06, a/0169/06, a/0221/06, a/0225/06, a/0226/06, a/0237/06, a/0238/06, a/0239/06, a/0241/06, a/0243/06, a/0244/06, a/0245/06 and a/0246/06 may file a new application, which contains the essential information, later in the proceedings.

37. Finally, the Single Judge notes that Applicants a/0231/06, a/0232/06, a/0247/06, a/0248/06 all indicate that they were born in the year 1990, but do not provide an exact date of birth. Since the Applicants will reach the age of 18 in 2008, the Single Judge will presume that they are still minors, and will evaluate their applications on this basis.

ii. Applicant a/0163/06

38. Applicant a/0163/06 is a natural person who submits a complete application on his own behalf: a voting card has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a signature of the Applicant.

39. Applicant a/0163/06 appears *prima facie* to have suffered material harm (economic loss) as a result of the alleged destruction of the Applicant's hotel, and the use of beds, mattresses and other items in setting up Thomas Lubanga's UPC military camp. The material harm suffered by Applicant a/0163/06 appears, *prima facie*, to be caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(a)(iv), 8(2)(b)(ii), 8(2)(b)(v), 8(2)(b)(xiii) or 8(2)(e)(xii) of the Statute. The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in November 2002 and on the territory of the DRC.

iii. Applicant a/0164/06

40. Application a/0164/06 was introduced on behalf of a deceased person. Consequently, as stated above in paragraph 24 of the present decision, the person who introduced the application will be considered as the primary Applicant, a/0164/06. In support of his application, Applicant a/0164/06 submits: a voting card as proof of identity; the date and location of the alleged crime(s); a description of the alleged harm suffered; and signs the application with a thumb print.

41. Applicant a/0164/06 appears *prima facie* to have suffered moral harm (emotional suffering) as a result of the killing of his brother allegedly by members of the UPC militia during the armed conflict. The moral harm suffered by Applicant a/0164/06 appears, *prima facie*, to have been caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(a)(i) or 8(2)(c)(i) of the Statute. The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in February 2003 and on the territory of the DRC.

iv. Applicant a/0165/06

42. Applicant a/0165/06 is a natural person who submits a complete application on her own behalf: a voting card has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a thumb print.

43. Applicant a/0165/06 appears *prima facie* to have suffered material harm (economic loss) as a result of her house being set on fire and items from her home being stolen during the armed conflict, allegedly by members of the Thomas Lubanga's UPC militia. The material harm suffered by Applicant a/0165/06 appears, *prima facie*, to have been caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(a)(iv), 8(2)(b)(ii), 8(2)(b)(v), 8(2)(b)(xiii) or 8(2)(e)(xii), and

8(2)(b)(xvi) or 8(2)(e)(v) of the Statute. The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 and on the territory of the DRC.

v. Applicant a/0166/06

44. Applicant a/0166/06 is a natural person who submits a complete application on her own behalf: a voting card has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a thumb print.

45. Applicant a/0166/06 appears *prima facie* to have suffered physical harm from a broken hip allegedly inflicted by members of the Thomas Lubanga's UPC militia, which resulted in the Applicant's paralysis, and material harm (economic loss) as a result of items being stolen during the alleged attack. The physical and material harm suffered by Applicant a/0166/06 appears, *prima facie*, to have been caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(a)(iii), 8(2)(b)(xi) or 8(2)(e)(i), 8(2)(c)(i) and 8(2)(b)(xvi) or 8(2)(e)(v) of the Statute. The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in February 2003 and on the territory of the DRC.

vi. Applicant a/0167/06

46. Applicant a/0167/06 is a natural person who submits a complete application on her own behalf: a voting card has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a thumb print.

47. Applicant a/0167/06 appears *prima facie* to have suffered material harm (economic loss) as a result of items being stolen from her home allegedly by members of Thomas Lubanga's UPC militia. The material harm suffered by Applicant a/0167/06 appears, *prima facie*, to have been caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(b)(xvi) or 8(2)(e)(v) of the Statute. The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in December 2002 and on the territory of the DRC.

48. Applicant a/0167/06 also makes a legal conclusion in her application that her son was tortured. However, the Applicant does not allege any specific facts, which *prima facie* would constitute this crime, pursuant to the Statute.

vii. Applicant a/0168/06

49. Applicant a/0168/06 is a natural person who submits a complete application on his own behalf: a voting card has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a signature and a thumb print.

50. Applicant a/0168/06 appears *prima facie* to have suffered material harm (economic loss) as a result of his house being burnt down, allegedly by members of the military element of the UPC. Applicant a/0168/06 also appears to allege physical harm as a result of being forced to drink urine. The Applicant alleges that the entire of population of the SIR locality were also victims during this attack. The physical and material harm suffered by Applicant a/0168/06 appears, *prima facie*, to have been caused by crime(s) within the jurisdiction of the Court, in particular articles 7(1)(k), 8(2)(a)(iv), 8(2)(b)(ii), 8(2)(b)(v), 8(2)(b)(xiii) or 8(2)(e)(xii), 8(2)(b)(xxi) or 8(2)(c)(ii), 8(2)(a)(iii), 8(2)(b) (xi) or 8(2)(e)(i), 8(2)(c)(i). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 and on the territory of the DRC.

viii. Applicant a/0170/06

51. Applicant a/0170/06 is a natural person who submits a complete application on her own behalf: a voting card has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a thumb print.

52. Applicant a/0170/06 appears *prima facie* to have suffered material harm (economic loss) as a result of the burning and destruction of her house and to other houses, allegedly by the members of the Thomas Lubanga's UPC militia. The material harm suffered by Applicant a/0170/06 appears, *prima facie*, to have been caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(a)(iv), 8(2)(b)(ii), 8(2)(b)(v), 8(2)(b)(xiii) or 8(2)(e)(xii). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 and on the territory of the DRC.

53. The Single Judge notes that Applicant a/0170/06 also alleges physical harm including temporary paralysis from trauma to his head. However, the Applicant does not appear to link these injuries to the alleged attack by the militia.

ix. Applicant a/0171/06

54. The Single Judge notes that application a/0171/06 was introduced on behalf of a deceased person. Consequently, as stated above in paragraph 24 of the present decision, the person who introduced the application will be considered as the primary Applicant, a/0171/06. In support of the application, Applicant a/0171/06 submits: a voting card as proof of identity; the date and location of the alleged crime(s); a description of the harm suffered; and the application is signed with a thumb print.

55. Applicant a/0171/06 appears *prima facie* to have suffered moral harm as a result of the killing of her husband, and material harm (economic loss) as the result of her house being burnt, allegedly by members of Thomas Lubanga's UPC militia. The moral and material harm suffered by Applicant a/0171/06 appears, *prima facie*, to have been caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(a)(i) or 8(2)(c)(i), 8(2)(a)(iv), 8(2)(b)(ii), 8(2)(b)(v), and 8(2)(b)(xiii) or 8(2)(e)(xii). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 and on the territory of the DRC.

x. Applicant a/0172/06

56. Applicant a/0172/06 is a natural person who submits a complete application on her own behalf: a voting card has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a signature and a thumb print.

57. Applicant a/0172/06 appears *prima facie* to have suffered material harm (economic loss) as a result of her home being set on fire and everything inside her home being destroyed, allegedly by members of Thomas Lubanga's UPC militia. The material harm suffered by Applicant a/0172/06 appears, *prima facie*, to have been caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(a)(iv), 8(2)(b)(ii), 8(2)(b)(v), and 8(2)(b)(xiii) or 8(2)(e)(xii). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 and on the territory of the DRC.

xi. Applicant a/0173/06

58. Applicant a/0173/06 is a natural person who submits a complete application on her own behalf: a voting card has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a thumb print.

59. Applicant a/0173/06 appears *prima facie* to have suffered material harm (economic loss) as a result of the alleged destruction of her home and the personal items inside her home when it was set on fire, allegedly by members of Thomas Lubanga's UPC militia. The Single Judge notes that Applicant a/0173/06 alleges that her furniture was "pillaged" before the house was burnt in part D.1 of the application; however, in part E.1 she alleges that her house was burnt with everything inside, including the furniture. Although this constitutes an inconsistency in her application, the Single Judge observes that at a minimum, the destruction of the Applicant's home appears, *prima facie*, to have been caused by crime(s) within the jurisdiction of the Court, in particular 8(2)(a)(iv), 8(2)(b)(ii), 8(2)(b)(v), 8(2)(b)(xiii) or 8(2)(e)(xii). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 and on the territory of the DRC.

xii. Applicant a/0174/06

60. Applicant a/0174/06 is a natural person who submits a complete application on her own behalf: a voting card has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a thumb print.

61. Applicant a/0174/06 appears *prima facie* to have suffered material harm (economic loss) as a result of her home being set on fire and everything inside her

home being destroyed, allegedly by members of the Thomas Lubanga's UPC militia. The material harm suffered by Applicant a/0174/06 appears, *prima facie*, to have been caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(a)(iv), 8(2)(b)(ii), 8(2)(b)(v), 8(2)(b)(xiii) or 8(2)(e)(xii). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 and on the territory of the DRC.

xiii. Applicant a/0175/06

62. Applicant a/0175/06 is a natural person who submits a complete application on her own behalf: a voting card has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a thumb print.

63. Applicant a/0175/06 appears *prima facie* to have suffered material harm (economic loss) as a result of her house allegedly being burnt and destroyed during the armed conflict between the UPC and FNI militia, in which she alleges that UPC members burnt an entire camp (neighbourhood), leaving her homeless. The material harm suffered by Applicant a/0175/06 appears, *prima facie*, to have been caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(a)(iv), 8(2)(b)(ii), 8(2)(b)(v), and 8(2)(b)(xiii) or 8(2)(e)(xii). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 and on the territory of the DRC.

xiv. Applicant a/0176/06

64. Applicant a/0176/06 is a natural person who submits a complete application on his own behalf: a voting card has been submitted as proof of identity; the date and

location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a thumb print.

65. Applicant a/0176/06 appears *prima facie* to have suffered material harm (economic loss) as a result of the pillaging of personal items from his home and destruction of his home by fire, allegedly by members of Thomas Lubanga's UPC militia. The material harm suffered by Applicant a/0176/06 appears, *prima facie*, to have been caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(a)(iv), 8(2)(b)(ii), 8(2)(b)(v), 8(2)(b)(xiii) or 8(2)(e)(xii), and 8(2)(b)(xvi) or 8(2)(e)(v). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 and on the territory of the DRC.

xv. Applicant a/0177/06

66. Applicant a/0177/06 is a natural person who submits a complete application on her own behalf: a voting card has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a signature.

67. Applicant a/0177/06 appears *prima facie* to have suffered physical harm as a result of being beaten, allegedly by members of Thomas Lubanga's UPC militia, and material harm as a result of the alleged pillaging of personal items from her home and the destruction of her home and other belongings by fire. The physical and material harm suffered by Applicant a/0177/06 appears *prima facie* to be caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(a)(iii), 8(2)(b)(xi) or 8(2)(e)(i), 8(2)(c)(i), 8(2)(a)(iv), 8(2)(b)(ii), 8(2)(b)(v), 8(2)(b)(xiii) or 8(2)(e)(xii), and 8(2)(b)(xvi) or 8(2)(e)(v). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 and on the territory of the DRC.

xvi. Applicant a/0178/06

68. Applicant a/0178/06 is a natural person who submits a complete application on her own behalf: a voting card has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a thumb print.

69. Applicant a/0178/06 appears *prima facie* to have suffered material harm (economic loss) as a result of the destruction of her home and other belongings by fire, allegedly set by members of Thomas Lubanga's UPC militia. The material harm suffered by Applicant a/0178/06 appears *prima facie* to be caused by crime(s) within the jurisdiction of the Court, in particular 8(2)(a)(iv), 8(2)(b)(ii), 8(2)(b)(v), 8(2)(b)(xiii) or 8(2)(e)(xii). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 and on the territory of the DRC.

xvii. Applicant a/0179/06

70. Applicant a/0179/06 is a natural person who submits a complete application on his own behalf: a voting card has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a signature.

71. Applicant a/0179/06 appears *prima facie* to have suffered material harm (economic loss) as a result of personal items inside his home being taken, allegedly by members of Thomas Lubanga's UPC militia, and from the destruction of his home when a bomb, allegedly launched by the militia, hit his house. Thus, the material harm suffered by Applicant a/0179/06 appears *prima facie* to be caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(a)(iv), 8(2)(b)(ii), 8(2)(b)(v), 8(2)(b)(xiii) or 8(2)(e)(xii). The Applicant alleges that the harm caused by

crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in May 2003 and on the territory of the DRC.

xviii. Applicant a/0180/06

72. Applicant a/0180/06 is a natural person who submits a complete application on his own behalf: a voting card has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a thumb print.

73. Applicant a/0180/06 appears *prima facie* to have suffered material harm (economic loss) as a result of his household effects being taken, allegedly by members of Thomas Lubanga's UPC militia. The material harm suffered by Applicant a/0180/06 appears *prima facie* to be caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(b)(xvi) or 8(2)(e)(v). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in April 2003 and on the territory of the DRC.

74. Applicant a/0180/06 also makes a legal conclusion that he, his wife and his children were tortured. However, the Applicant does not allege in his application any specific facts which would, *prima facie*, constitute this crime pursuant to the Statute.

xix. Applicant a/0181/06

75. Applicant a/0181/06 is a natural person who submits a complete application on her own behalf: a voting card has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a thumb print.

76. Applicant a/0181/06 appears *prima facie* to have suffered material harm (economic loss) as a result of the destruction of her home when, allegedly, members of Thomas Lubanga's UPC militia took the wood and roofing from her home, and took personal items inside. The material harm suffered by Applicant a/0181/06 appears *prima facie* to be caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(a)(iv), 8(2)(b)(ii), 8(2)(b)(v), 8(2)(b)(xiii) or 8(2)(e)(xii), and 8(2)(b)(xvi) or 8(2)(e)(v). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in February 2003 and on the territory of the DRC.

xx. Applicant a/0182/06

77. Applicant a/0182/06 is a natural person who submits a complete application on her own behalf: a voting card has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a thumb print.

78. Applicant a/0182/06 appears *prima facie* to have suffered material harm (economic loss) as a result of personal items being taken allegedly by members of the UPC militia. The material harm suffered by Applicant a/0182/06 appears *prima facie* to be caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(b)(xvi) or 8(2)(e)(v). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in December 2002 and on the territory of the DRC.

79. Applicant a/0182/06 also makes a legal conclusion that she and her children were tortured by members of the UPC militia, but she does not allege any specific facts which would constitute torture under the Statute.

xxi. Applicant a/0183/06

80. Applicant a/0183/06 is a natural person who submits a complete application on his own behalf: a voting card has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a signature.

81. Applicant a/0183/06 appears *prima facie* to have suffered material harm (economic loss) as a result of personal items inside his house being taken allegedly by members of Thomas Lubanga's UPC militia, and from the destruction of his home when it was allegedly burned by the militia. The material harm suffered by Applicant a/0183/06 appears *prima facie* to be caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(a)(iv), 8(2)(b)(ii), 8(2)(b)(v), 8(2)(b)(xiii) or 8(2)(e)(xii) and 8(2)(b)(xvi) or 8(2)(e)(v). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 and on the territory of the DRC.

xxii. Applicant a/0184/06

82. Applicant a/0184/06 is a natural person who submits a complete application on her own behalf: a voting card has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a signature and a thumb print.

83. Applicant a/0184/06 appears *prima facie* to have suffered material harm (economic loss) when allegedly members of Thomas Lubanga's UPC militia evicted her from her home, destroyed her home by burning it, and took everything inside her home, including the roofing sheets, cupboards and her personal items. The material harm suffered by Applicant a/0184/06 appears *prima facie* to be caused by

crime(s) within the jurisdiction of the Court, in particular articles 8(2)(a)(iv), 8(2)(b)(ii), 8(2)(b)(v), 8(2)(b)(xiii) or 8(2)(e)(xii) and 8(2)(b)(xvi) or 8(2)(e)(v). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 and on the territory of the DRC.

xxiii. Applicant a/0185/06

84. Applicant a/0185/06 is a natural person who submits a complete application on her own behalf: a voting card has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a thumb print.

85. Applicant a/0185/06 appears *prima facie* to have suffered material harm (economic loss) when allegedly members of Thomas Lubanga's UPC militia burned her home with everything inside. The material harm suffered by Applicant a/0185/06 appears *prima facie* to be caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(a)(iv), 8(2)(b)(ii), 8(2)(b)(v), 8(2)(b)(xiii) or 8(2)(e)(xii). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 and on the territory of the DRC.

xxiv. Applicant a/0186/06

86. Applicant a/0186/06 is a natural person who submits a complete application on his own behalf: a voting card has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a signature.

87. Applicant a/0186/06 appears *prima facie* to have suffered physical harm as a result of a collarbone fracture inflicted on him, allegedly by members of Thomas Lubanga's UPC militia, and material harm (economic loss) as a result of the burning of his home, which led to his displacement. The physical and material harm suffered by Applicant a/0186/06 appears *prima facie* to be caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(a)(iii), 8(2)(b) (xi) or 8(2)(e)(i), 8(2)(c)(i), 8(2)(a)(iv), 8(2)(b)(ii), 8(2)(b)(v), and 8(2)(b)(xiii) or 8(2)(e)(xii). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in March 2003 and on the territory of the DRC.

88. Applicant a/0186/06 also makes a legal conclusion that he was tortured by members of the UPC militia, but he does not allege any specific facts which would, *prima facie*, constitute this crime pursuant to the Statute.

xxv. Applicant a/0187/06

89. Applicant a/0187/06 is a natural person who submits a complete application on her own behalf: a voting card has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a thumb print.

90. Applicant a/0187/06 appears *prima facie* to have suffered material harm (economic loss) as a result of her property being taken allegedly by members of the UPC militia. The material harm suffered by Applicant a/0187/06 appears *prima facie* to be caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(b)(xvi) or 8(2)(e)(v). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in February 2003 and on the territory of the DRC.

xxvi. Applicant a/0231/06

91. Applicant a/0231/06 is a minor who is a natural person, and a complete application has been submitted by a person acting on her behalf: a certificate from the National Disarmament, Demobilization and Reintegration Programme has been submitted as proof of identity for the Applicant, a voting card has been submitted as proof of identity of her guardian who is acting on her behalf; a certificate of family reunification has been appended as proof of guardianship; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a signature.

92. Applicant a/0231/06 appears *prima facie* to have suffered physical and moral harm (emotional suffering) as a result of her forced recruitment (conscription) into the UPC as a child aged 13, allegedly by members of the UPC militia, as well as being given as a wife to a UPC member, giving birth to a child and not being able to reintegrate into her community. The physical and moral harm suffered by Applicant a/0231/06 appears *prima facie* to be caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(b)(xxi) or 8(2)(b)(c)(ii), 8(2)(b)(xxii) or 8(2)(e)(vi), and 8(2)(b)(xxvi) or 8(2)(e)(vii). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: from October 2002 for two years; and on the territory of the DRC.

xxvii. Applicant a/0232/06

93. Applicant a/0232/06 is a minor who is a natural person and a complete application has been submitted by a person acting on her behalf: a certificate from the National disarmament, demobilization and reintegration programme has been submitted as proof of identity for the Applicant; a voting card has been submitted as proof of identity of her guardian who is acting on her behalf; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a signature.

94. Applicant a/0232/06 appears *prima facie* to have suffered physical and moral harm (emotional suffering) as a result of her forced recruitment (conscription) into the UPC as a child aged 13, allegedly by members of the UPC militia, as well as being given as a wife to a UPC member. The physical and moral harm suffered by Applicant a/0232/06 appears *prima facie* to be caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(b)(xxi) or 8(2)(b)(c)(ii), 8(2)(b)(xxii) or 8(2)(e)(vi), and 8(2)(b)(xxvi) or 8(2)(e)(vii). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: from October 2002 to February 2003, and on the territory of the DRC.

xxviii. Applicant a/0233/06

95. Applicant a/0233/06 is a minor who is a natural person, and a complete application has been submitted by the person acting on his behalf: a certificate from the National disarmament, demobilization and reintegration programme has been submitted as proof of identity for the Applicant; a voting card has been submitted as proof of identity for the guardian who is acting on his behalf; a certificate of family reunification has been submitted as proof of guardianship; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed.

96. Applicant a/0233/06 appears *prima facie* to have suffered moral harm as a result of his conscription into the UPDF as a child aged 13, and being used, allegedly by members of members of the UPDF militia, to carry munitions. The moral harm suffered by Applicant a/0233/06 appears *prima facie* to be caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(b)(xxvi) or 8(2)(e)(vii). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in July 2003 (for two years) and on the territory of the DRC.

xxix. Applicant a/0242/06

97. Applicant a/0242/06 is a minor who is a natural person and a complete application has been submitted by the person acting on her behalf: a certificate from the National disarmament, demobilization and reintegration programme has been submitted as proof of identity for the Applicant; a voting card has been submitted as proof of identity for the person acting on her behalf; a certificate of family reunification, in favour of the Applicant's family member, has been submitted as proof of guardianship; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a signature.

98. Applicant a/0242/06 appears *prima facie* to have suffered physical and moral harm (emotional suffering) as a result of her forced recruitment (conscription) into the UPC as a child aged 13, allegedly by members of the militia of the UPC; as well as being given as a wife to a UPC member, giving birth to a child and not being able to reintegrate into her community. The physical and moral harm suffered by Applicant a/0242/06 appears *prima facie* to be caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(b)(xxi) or 8(2)(b)(c)(ii), 8(2)(b)(xxii) or 8(2)(e)(vi), and 8(2)(b)(xxvi) or 8(2)(e)(vii). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in 2003, and on the territory of the DRC.

xxx. Applicant a/0247/06

99. Applicant a/0247/06 is a natural person who is a minor, and a complete application has been submitted by the person acting on his behalf: a certificate from the National disarmament, demobilization and reintegration programme has been submitted as proof of identity for the Applicant; a voting card has been submitted as proof of identity for the person acting on his behalf; a certificate of family reunification has been submitted as proof of guardianship; the date and location of

the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a signature.

100. The Applicant appears *prima facie* to have suffered moral harm as a result of his forced recruitment (conscriptio) by Ugandan militiamen, and then into the UPC militia while he was under the age of 15. The moral harm suffered by Applicant a/0247/06 appears, *prima facie*, to be caused by crime(s) within the jurisdiction of the Court, in particular articles Article 8(2)(b)(xxvi) or 8(2)(e)(vii). The Applicant alleges that the harm caused by crime(s) occurred within the Court's temporal and territorial jurisdiction: in October 2002 and on the territory of the DRC.

xxxi. Applicant a/0248/06

101. Applicant a/0248/06 is a natural person who is a minor, and a complete application has been submitted by a person acting on his behalf: a certificate from the National disarmament, demobilization and reintegration programme has been submitted as proof of identity for the Applicant; a certificate of family reunification has been submitted as proof of identity for the person acting on his behalf and proof of guardianship; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a signature

102. Applicant a/0248/06 appears *prima facie* to have suffered moral harm (emotional suffering) as a result of his forced recruitment (conscriptio) into the UPC while he was under the age of 15, allegedly by the militiamen of the UPC. The moral harm suffered by Applicant a/0248/06 appears *prima facie* to be caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(b)(xxvi) or 8(2)(e)(vii). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in December 2002 continuing for four years, and on the territory of the DRC.

xxxii. Applicant a/0249/06

103. Applicant a/0249/06 is a natural person and has submitted a complete application on his own behalf: a pupil identity card and a certificate from the National disarmament, demobilization and reintegration programme have been submitted as proof of identity; the date(s) and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a thumb print.

104. Applicant a/0249/06 appears *prima facie* to have suffered moral harm as a result of his alleged forced recruitment (conscripted) by military troops of the UPC, as a child aged 14 starting in April 2002, and active participation in hostilities allegedly through July 2003. The moral harm suffered by Applicant a/0249/06 appears *prima facie* to be caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(b)(xxvi) or 8(2)(e)(vii).

105. The Single Judge notes that the Applicant indicates that he was demobilized from the military on 8 July 2002. Subsequently, the Chamber received additional information from the Applicant's legal representative that the actual date of demobilization was 8 July 2003. Thus, the Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: starting from 14 April 2002, but continuing beyond 1 July 2002 until July 2003 and on the territory of the DRC.

xxxiii. Applicant a/0250/06

106. Applicant a/0250/06 is a natural person and has submitted a complete application on his own behalf: a certificate from the National disarmament, demobilization and reintegration programme has been submitted as proof of identity; the date and location of the alleged crime(s) are sufficiently indicated on the application; the Applicant has described the harm suffered; and the application is signed with a signature.

107. Applicant a/0250/06 appears *prima facie* to have suffered physical and moral harm as a result of his forced recruitment (conscription) into the UPC as a child aged 14, during which he had to carry heavy munitions and was forced to undertake military training, allegedly by members of the UPC. The physical and moral harm suffered by Applicant a/0250/06 appears *prima facie* to be caused by crime(s) within the jurisdiction of the Court, in particular articles 8(2)(b)(xxvi) or 8(2)(e)(vii). The Applicant alleges that the harm caused by crime(s) within the jurisdiction of the Court occurred within the Court's temporal and territorial jurisdiction: in the period from October 2002 to 2005, and on the territory of the DRC.

FOR THESE REASONS

DENY the procedural status of victim at the investigation stage of the situation in the DRC to Applicants a/0047/06, a/0048/06, a/0049/06, a/0050/06, a/0051/06, a/0052/06, a/0169/06, a/0221/06, a/0225/06, a/0226/06, a/0237/06, a/0238/06, a/0239/06, a/0241/06, a/0243/06, a/0244/06, a/0245/06 and a/0246/06;

GRANT the procedural status of victim at the investigation stage of the situation in the DRC to Applicants a/0163/06, a/0164/06, a/0165/06, a/0166/06, a/0167/06, a/0168/06, a/0170/06, a/0171/06, a/0172/06, a/0173/06, a/0174/06, a/0175/06, a/0176/06, a/0177/06, a/0178/06, a/0179/06, a/0180/06, a/0181/06, a/0182/06, a/0183/06, a/0184/06, a/0185/06, a/0186/06, a/0187/06, a/0231/06, a/0232/06, a/0233/06, a/0242/06, a/0247/06, a/0248/06, a/0249/06 and a/0250/06;

ORDER the Registrar to assist persons who have been granted the procedural status of victim, and who have no legal representation, so that they may choose one or more common legal representatives;

ORDER the Registrar to appoint the Office of Public Counsel for Victims (“the OPCV”) as legal representative for the purpose of providing help and assistance to those persons who have been granted victim status until such time as they choose a legal representative or the Court assigns one;

ORDER the Registry to notify this decision to those persons who have been granted victim status or, if applicable, their legal representatives;

ORDER the Prosecution, the OPCD, the OPCV and all legal representatives of the victims to maintain the confidentiality of the applications and refer to the persons who have been granted victim status only by the numbers assigned to them by the Victims Participation and Reparations Section;

ORDER the Prosecution and the OPCD to abstain from any direct contact with the persons who have been granted victim status and, if necessary, to only contact them through their legal representatives;

DECIDE that, for the present, the persons who have been granted victim status or their legal representatives will not be granted access to non-public documents registered in the record of the investigation in the DRC.

Done in both English and French, the English version being authoritative.



Judge Anita Ušacka
Single judge

Dated this Thursday, 3 July 2008
At The Hague, The Netherlands