

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-01/06
Date: 10 September 2009

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

Decision on the applications by 2 victims to participate in the proceedings

Decision/Order/Judgment to be notified in accordance with regulation 31 of the Regulations of the Court to:

The 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 the Victims

Mr Luc Walley
Mr Franck Mulenda
Ms Carine Bapita Buyangandu
Mr Joseph Keta Orwinyo
Mr Jean Chrysostome Mulamba Nsokoloni
Mr Paul Kabongo Tshibangu
Mr Hervé Diakiese

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

Ms Paolina Massidda

The Office of Public Counsel for the Defence

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Ms Maria Luisa Martinod Jacome

Detention Section

Victims Participation and Reparations Section

Ms Fiona McKay

Other

Trial Chamber I ("Trial Chamber" or "Chamber") of the International Criminal Court ("Court" or "ICC"), in the case of The Prosecutor v. Thomas Lubanga Dyilo, delivers the following decision on the applications by two victims to participate in the proceedings, in accordance with Article 68 of the Rome Statute ("Statute").

I. Background

1. The relevant procedural history on participation by victims before the Chamber is set out comprehensively in the "Decision on the applications by victims to participate in the proceedings" issued on 15 December 2008 in which the applications of 117 individuals to participate in the proceedings were resolved (91 of which were granted).¹
2. As regards the present applications, on 26 June 2009 the Registry filed a confidential, *ex parte*, Registry only, "Fourth Report to Trial Chamber I on Victims' Applications under Regulation 86.5 of the Regulations of the Court" ("Registry's Fourth Report") which dealt with the applications of 2 victims to participate in the proceedings.²
3. At the hearing on 3 July 2009, the Trial Chamber instructed the Registry to provide the parties and participants with the 2 new applications included in the Registry's Fourth Report, suitably redacted, by 6 July 2009 and any responses were to be filed by 14 July 2009.³
4. On 6 July 2009, the Registry's Victims Participation and Reparation Section transmitted the relevant documents to the parties and participants.⁴

¹ Decision on the applications by victims to participate in the proceedings, 15 December 2008 (notified on 16 December 2009), ICC-01/04-01/06-1556, paragraphs 1-27.

² Fourth Report to Trial Chamber I on Victims' Applications under Regulation 86.5 of the Regulations of the Court, 26 June 2009, ICC-01/04-01/06-2000-Conf-Exp.

³ Transcript of hearing on 3 July 2009, ICC-01/04-01/06-T-203-CONF-ENG, page 33, lines 19 et seq.

⁴ Transmission to the parties of two new victims' applications for participation in accordance with Trial Chamber I's oral decision of 3 July 2009, 6 July 2009, ICC-01/04-01/06-2027 with confidential annexes.

5. The defence and the prosecution submitted their observations, on 10 and 14 July 2009 respectively.⁵

II. Relevant Provisions

6. The provisions of the Rome Statute framework and other relevant provisions are set out comprehensively in the decisions of the Chamber on victims' participation in the proceedings issued on 18 January 2008, 15 December 2008 and 10 July 2009.⁶

III. Submissions

7. The submissions of the parties and participants have been analysed on a case-by-case basis in Annex A to this filing.

IV. Analysis and Conclusions

8. The Trial Chamber has carefully evaluated both applications in accordance with the general criteria established in the Trial Chamber's Decision on victims' participation of 18 January 2008,⁷ as confirmed or varied by the Appeals Chamber in its judgment of 11 July 2008.⁸
9. The Chamber has additionally applied the criteria and principles to these two applications as set out in its "Decision on the applications by victims to participate in the proceedings" of 15 December 2008.⁹ The applicant-by-applicant analysis is set out in Annex A.

⁵ Observations de la Défense sur les 2 demandes de participation à la procédure transmises le 6 juillet 2009, 10 July 2009, ICC-01/04-01/06-2034; Prosecution's Observations on Two new Applications for Victim Participation by applicants a/0292/09 and a/0398/09, 14 July 2009, ICC-01/04-01/06-2048.

⁶ Decision on victims' participation, 18 January 2008, ICC-01/04-01/06-1119, paragraphs 20-37; Decision on the applications by victims to participate in the proceedings, 15 December 2008 (notified on 16 December 2009), ICC-01/04-01/06-1556, paragraphs 34-49; Decision on the applications by 7 victims to participate in the proceedings, 10 July 2009, ICC-01/04-01/06-2035, paragraphs 10-26.

⁷ ICC-01/04-01/06-1119.

⁸ Judgment on the appeals of The Prosecutor and The Defence against Trial Chamber I's Decision on Victims' Participation of 18 January 2008, 11 July 2008, ICC-01/04-01/06-1432.

⁹ Decision on the applications by victims to participate in the proceedings, 15 December 2008 (notified on 16 December 2009), ICC-01/04-01/06-1556.

10. In the result, applicants a/0292/09 and a/0398/09 are granted status to participate.

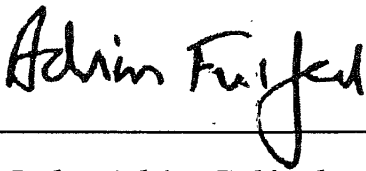
11. Given that both victims are already represented by legal representatives currently acting in the proceedings, the Chamber directs that these victims are allocated to their legal representatives' respective teams.

V. Orders of the Chamber


12. For these reasons, the Trial Chamber hereby:

- a. Grants the applications to participate in the proceedings to victims a/0292/09 and a/0398/09;
- b. Instructs the Registry to allocate the victims to their legal representatives' existing teams;
- c. Orders the Registry to submit to the Chamber a report on the requests for protective and special measures for these two victims no later than 30 September 2009.


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



Judge Adrian Fulford



Judge Elizabeth Odio Benito



Judge René Blattmann

Dated this 10 September 2009

At The Hague, The Netherlands