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No.: ICC-01/04-01/06
Date: 30 January 2007

THE APPEALS CHAMBER

Before: Judge Philippe Kirsch, President
Judge Georghios M. Pikis
Judge Navi Pillay
Judge Sang-Hyun Song
Judge Erkki Kourula

Registrar: Mr Bruno Cathala

**SITUATION IN THE DEMOCRATIC REPUBLIC OF CONGO
IN THE CASE OF
THE PROSECUTOR
v. THOMAS LUBANGA DYILO**

Public Document

Defence Appeal Against the Pre-Trial Chamber's 'Décision sur la confirmation des charges' of 29 January 2007

The Office of the Prosecutor

Mr. Luis Moreno-Ocampo, Prosecutor
Ms. Fatou Bensouda, Deputy Prosecutor
Mr. Ekkehard Withopf, Senior Trial
Attorney

**Counsel for the Victims a/0001/06 to
a/003/06**

Mr. Luc Walley, n,
Mr. Frank Mulenda

Counsel for the Defence

Mr. Jean Flamme
Mr. Geoff Roberts
Ms. Véronique Pandanzyla

Introduction

1. On 29 January 2007, the Honourable Pre-Trial Chamber acting in the Case of *The Prosecutor v Thomas Lubanga Dyilo* issued its ‘Décision sur la confirmation des charges’ (‘The Decision’).
2. In that Decision, the Honourable Pre-trial Chamber determined that there was sufficient evidence to charge Thomas Lubanga Dyilo with the crimes of the conscription and enlistment of children under the age of fifteen years into national armed forces and using them to participate actively in hostilities within the meaning of articles 8(2)(b)(xxvi) and 25(3) of the Statute.¹
3. In accordance with Article 82(1)(b) of the Statute of the Court a party may appeal as of right ‘a decision granting or denying release of the person investigated or prosecuted’.
4. Rule 154(1) further specifies that an appeal must be ‘filed under article 82(1)(b) not later than five days from the date upon which the party filing the appeal is notified of the decision’.
5. The impugned Decision effectively denies the release of Mr Thomas Lubanga Dyilo. Accordingly, the Defence hereby files its notice of appeal against the Pre-Trial Chamber’s ‘Décision sur la confirmation des charges’.

Relief Sought:

6. The Defence respectfully requests the Honourable Appeals Chamber to:
 - i. Reverse the against the Pre-Trial Chamber’s ‘Décision sur la confirmation des charges’.
 - ii. Order that Thomas Lubanga Dyilo shall be immediately granted unconditional release pursuant to Article 61(10).

¹ At page 133 of the Decision.



Defence counsel

Jean FLAMME

Dated this 30th day of January, 2007

At The Hague