



Original: **French**

No.: ICC-01/04-01/06
Date: 29 November 2006

THE APPEALS CHAMBER

Before: Judge Erkki Kourula, Presiding Judge
Judge Philippe Kirsch
Judge Georgios M. Pikis
Judge Navanethem Pillay
Judge Sang-Hyun Song

Registrar: Mr Bruno Cathala

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

Public document

**Response of Victims a/0001/06, a/0002/06 and a/0003/06 to the Defence request of 16
November 2006**

The Office of the Prosecutor

Mr Luis Moreno Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
Mr Ekkehard Withopf, Senior Trial Lawyer
Mr Fabricio Guariglia, Senior Appeals
Counsel

Counsel for Thomas Lubanga Dyilo

Mr Jean Flamme
Ms Véronique Pandanzyla

**Legal Representatives of Victims a/0001/06
to a/0003/06**

Mr Luc Walley
Mr Franck Mulenda

Legal Representative of Victim a/0105/06

Ms Carine Bapita Buyangandu

NOTING the “Defence Request for an Order Regarding Non-Compliance with Time Limits”, filed on 16 November 2006,¹

NOTING the order of the Appeals Chamber of 24 November 2006,²

The Legal Representatives of Victims a/0001/06, a/0002/06 and a/0003/06 submit the following observations:

1. Non-compliance with the time limit under regulation 64(5) of the Regulations of the Court does not render the filing null and void. Consequently, it is incumbent upon the Appeals Chamber to determine the consequences of non-compliance with the said time limit.

2. In the present case, the Legal Representatives of the Victims submit that failure to comply with the time limit for filing their response is not prejudicial to the rights of the Defence because the Appeals Chamber had not yet ruled on the Defence appeal filed on 26 October 2006³ when the observations of the Legal Representatives were filed, and the Defence had the opportunity to respond to the legal arguments articulated in these observations.

3. Alternatively, if the Appeals Chamber were to reject the “Response of Victims a/0001/06, a/0002/06 and a/0003/06 to the Appeal of the Defence from the Decision on the application for interim release of Thomas Lubanga Dyilo”,⁴ the Legal

¹ See the “Defence Request for an Order Regarding Non-Compliance with the Time Limits”, No. ICC-01/04-01/06-708 of 16 November 2006.

² See the “Order of the Appeals Chamber”, No. ICC-01/04-01/06-727 of 24 November 2006

³ See the “Defence Appeal Against the `Décision sur la demande de mise en liberté provisoire de Thomas Lubanga Dyilo”, No. ICC-01/04-01/06-618, 26 October 2006.

⁴ See the “Response of victims a/0001/06, a/0002/06 and a/003/06 to the appeal of the Defence from the Decision on the application for interim release of Thomas Lubanga Dyilo”, No. ICC-01/04-01/06-704, 16 November 2006 (Response of Victims).

Representatives of the Victims recall that their observations which were submitted to the Pre-Trial Chamber on 9 October 2006 in the first instance,⁵ form part of the case record submitted to the Appeals Chamber and may therefore be taken into account by said Chamber.

4. In any case, the Legal Representatives of the Victims request that they be “entitled to attend and participate in the proceedings [...] unless, in the circumstances of the case, the Chamber concerned is of the view that the representative’s intervention should be confined to written observations or submissions”, pursuant to rule 91(2) of the Rules of Procedure and Evidence. They consider that in the context of the current proceedings, they should be entitled to attend any hearing that may be held by the Appeals Chamber and to present their views and concerns, with the prior permission of the Chamber, when the personal interests of Victims a/0001/06, a/0002/06 and a/0003/06 are directly affected.

5. Moreover, the proceedings concerning the interim release of Thomas Lubanga Dyilo directly affect the personal interests of the victims as described in the observations filed by the Legal Representatives on 9 October 2006 and which remain unchanged.⁶

FOR THESE REASONS,

MAY IT PLEASE THE APPEALS CHAMBER:

⁵ See the “Observations of victims a/0001/06, a/0002/06 et a/003/06 in respect of the application for release filed by the Defence”, No. ICC-01/04-01/06-530, 9 October 2006.

⁶ *Ibid.*, paras. 11-15, pp. 4-6

To accept the Response of the Legal Representatives of Victims a/0001/06, a/0002/06 and a/0003/06 of 16 November 2006.⁷

To grant the Legal Representatives of the Victims leave to attend any hearing of the Defence appeal in this case and to make oral submissions concerning the views and concerns of Victims a/0001/06, a/0002/06 and a/0003/06.

To grant the Legal Representatives of the Victims leave to submit written observations in the manner determined by the Chamber on any issue which affects the interests of the victims raised by the Prosecution or the Defence during the appeal proceedings.

Alternatively, if the Appeals Chamber does not grant Victims a/0001/06, a/0002/06 and a/0003/06 leave to make oral submissions concerning their views and concerns at any hearing which may be held, the Legal Representatives ask that they be authorised to make written submissions in the manner determined by the Chamber on any issue which affects the interests of the victims raised by the Prosecution or the Defence during the appeals proceedings.

[signed]

Franck Mulenda and Luc Walley (absent at the time of signature)
Legal Representatives of Victims a/0001/06, a/0002/06 and a/0003/06

Dated 29 November 2006

At The Hague, The Netherlands

⁷ See Response of Victims, *op. cit.*, *supra*, footnote 4.