



Original: **French**

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

Date: **8 July 2008**

THE APPEALS CHAMBER

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

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

Public Document

**Application to Participate in the Appeal Proceedings against the Release of the
Accused**

Source: Legal Representatives of Victims a/0001/06 to a/0003/06

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

The Office of the Prosecutor

Ms Fatou Bensouda, Deputy Prosecutor
Mr Ekkehard Withopf, Senior Trial
Lawyer

Counsel for the Defence

Ms Catherine Mabilie
Mr Jean-Marie Bijou-Duval

Legal Representatives of Victims

Ms Carine Bapita
Messrs Luc Walley and Franck Mulenda

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Paolina Massidda

**The 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

NOTING the *Decision on the release of Thomas Lubanga Dyilo* of 2 July 2008;¹

NOTING the Prosecutor's appeal;²

1. The Victims' Representatives hereby request leave to participate in the Prosecutor's appeal in order to submit their views and concerns with regard to the release of the accused, just as they were able to before the Trial Chamber during the proceedings leading up to the decision.
2. The victims are of the opinion that they have a personal interest in the proceedings pertaining to the possible release of the accused, especially as such release would not be a provisional release under the Court's supervision, but an unconditional one.
3. The victims' situation is extremely precarious. Some of them still live in the area previously controlled by the movement of which the accused is still the leader, and which still exerts real influence there. Others have been threatened as a result of their participation in these proceedings. Some victims have agreed to testify for the Prosecution and their identities have been disclosed to the Defence.
4. All the victims fear that the unconditional release of the accused might alter the balance of power on the ground and place them at personal risk.
5. Furthermore, the Trial Chamber itself, whose decision is under appeal, is of the opinion that: "given the potentially vulnerable position of the victims, the Chamber particularly stresses that it has given full weight to the fears of, and the possible consequence to, the victims as a result of a decision to release the accused. The victims are entitled to have their views and concerns taken into account on issues of this kind".³
6. The victims consider it appropriate for them to be afforded the opportunity to express their views and concerns at the appeal stage also. They submit that such

participation would not be inconsistent with or prejudicial to the rights of the Defence.

FOR THESE REASONS,

MAY IT PLEASE THE TRIAL CHAMBER,

To authorise the victims to present their views and concerns in the proceedings on the Prosecutor's appeal against the decision on the release of Thomas Lubanga Dyilo of 2 July 2008.

[signed]

Luc Walley and Franck Mulenda (absent at signature)

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

Dated this 8 July 2008

At Brussels and Kinshasa