

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 9 April 2013

THE APPEALS CHAMBER

Before: Judge Erkki Kourula, Presiding Judge
Judge Sang-Hyun Song
Judge Sanji Mmasenono Monageng
Judge Anita Ušacka
Judge Ekaterina Trendafilova

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

Public Document

**Prosecution's Observations on the Application by Child Soldiers International for
Leave to Submit Observations pursuant to Rule 103 of the Rules of Procedure and
Evidence**

Source: Office of the Prosecutor

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

The Office of the Prosecutor

Counsel for the Defence

Ms Catherine Mabilie

Mr Jean-Marie Biju-Duval

Legal Representatives of Victims

The Trust Fund for Victims

Mr Luc Walley

Mr Franck Mulenda

Ms Carine Bapita Buyangandu

Mr Paul Kabongo Tshibangu

Mr Joseph Keta Orwinyo

The Office of Public Counsel for Victims

Organisation requesting leave to participate pursuant to rule 103 of the Rules of Procedure and Evidence

Child Soldiers International

REGISTRY

Registrar

Ms Silvana Arbia

1. On 14 March 2012, the Trial Chamber convicted the Appellant of three counts of war crimes.¹ On 10 July 2012, the Trial Chamber rendered a decision on sentence (“Sentencing Decision”).² Both parties filed notices of appeal.³
2. On 3 December 2012, the Appellant filed documents in support of both his appeal against conviction⁴ and sentence⁵. On 4 February 2013, the Prosecution filed its response to the Appellant’s appeals against conviction⁶ and sentence⁷ and addressed his proffered new evidence. A public redacted version of the responses was filed on 19 February 2013.⁸
3. On 15 February 2013, the Appellant requested permission to file a reply to the Prosecution’s responses to his appeals,⁹ which the Chamber granted on 21 February 2013.¹⁰ On 28 February 2013, the Appellant filed his reply.¹¹
4. On 8 March 2013, Child Soldiers International, an international human rights research and advocacy organization, applied for leave to submit observations pursuant to Rule 103 of the Rules of Procedure and Evidence in the appeal against conviction. According to the applicants, the observations will be confined to (a) the definition of the terms “conscription” and “enlisting” children into armed groups; (b) the continuous nature of these crimes; and (c) the interpretation of “using children to participate actively in hostilities”.¹² On 26 March 2013, the Appeals Chamber invited responses to the application, to be submitted by 9 April 2013.¹³

¹ ICC-01/04-01/06-2842.

² ICC-01/04-01/06-2901.

³ ICC-01/04-01/06-2933 OA4; ICC-01/04-01/06-2934 OA5; ICC-01/04-01/06-2935 OA6.

⁴ ICC-01/04-01/06-2948-Conf.

⁵ Sentencing Appeal Brief.

⁶ ICC-01/04-01/06-2969-Conf.

⁷ ICC-01/04-01/06-2968-Conf.

⁸ ICC-01/04-01/06-2969-Red ; ICC-01/04-01/06-2968-Red.

⁹ ICC-01/04-01/06-2979.

¹⁰ ICC-01/04-01/06-2982.

¹¹ ICC-01/04-01/06-2989-Conf and ICC-01/04-01/06-2989-Red.

¹² ICC-01/04-01/06-2995.

¹³ ICC-01/04-01/06-3001.

5. The Prosecution has no objection to Child Soldier International's application for leave to submit observations under Rule 103 of the Rules of Procedure and Evidence. If leave is granted, the Prosecution reserves its right to respond to the observations submitted, pursuant to Rule 103(2).



Fatou Bensouda
Prosecutor

Dated this 9th day of April 2013
At The Hague, The Netherlands