



Original: **French**

No.: **ICC-01/04-01/06**
Date: **5 February 2013**

THE APPEALS CHAMBER

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

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

IN THE CASE OF
THE PROSECUTOR v. THOMAS LUBANGA DYILO

Public Document

**Application by the V02 Team of Legal Representatives of Victims for a Grace
Period to Submit their Consolidated Observations
in compliance with Decision ICC-01/04-01/06-2951**

Source: V02 Team of Legal Representatives of Victims

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

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Other

**Application by the V02 team of legal representatives of victims for a grace period
to submit their consolidated observations in compliance with
Decision ICC-01/04-01/06-2951**

I – Procedural history

1. On 14 March 2012, pursuant to article 74 of the Rome Statute, Trial Chamber I handed down its judgment on the responsibility of the Accused, thereby bringing the trial proceedings to a close.¹
2. On 10 July 2012, pursuant to article 76 of the Rome Statute, Trial Chamber I handed down its decision on sentence, following from its above-mentioned decision of 14 March 2012.²
3. On 3 October 2012, the Office of the Prosecutor filed a notice of appeal against the decision on sentence.³
4. On 3 October 2012, the Defence also filed two notices of appeal, one against the trial judgment⁴ and one against the decision on sentence.⁵
5. On 26 November 2012, the Defence filed an application for leave to present additional evidence in the appeals.⁶

¹ ICC-01/04-01/06-2842: “Judgment pursuant to Article 74 of the Statute”.

² ICC-01/04-01/06-2901: “Decision on Sentence pursuant to Article 76 of the Statute”.

³ ICC-01/04-01/06-2933 A4: “Prosecution’s Notice of Appeal against Trial Chamber I’s Decision on Sentence pursuant to Article 76 of the Statute”.

⁴ ICC-01/04-01/06-2934-tENG A5: “Notice of Appeal lodged by the Defence for Mr Thomas Lubanga against Trial Chamber I’s Judgment pursuant to Article 74 of the Statute of 14 March 2012”.

⁵ ICC-01/04-01/06-2935-tENG A6: “Notice of Appeal lodged by the Defence for Mr Thomas Lubanga against Trial Chamber I’s Decision on sentence pursuant to Article 76 of the Statute of 10 July 2012”.

⁶ ICC-01/04-01/06-2942-Conf-tENG: “Defence application to present additional evidence in the appeals against the Judgment pursuant to Article 74 of the Statute and the Decision on sentence pursuant to Article 76 of the Statute”.

6. On 3 December 2012, the Defence submitted a document in support of its appeal against the judgment⁷ and a document in support of its appeal against the decision on sentence.⁸
7. On 3 December 2012, the Prosecution filed its document in support of the appeal against the decision on sentence.⁹
8. On 13 December 2012, the Appeals Chamber, having pending before it the appeals against the judgment (ICC-01/04-01/06-2842) and against the sentence (ICC-01/04-01/06-2901), issued a decision¹⁰ ordering the legal representatives to convey to it, by 16.00 on 4 February 2013, their consolidated observations in reply to the documents in support of the Defence's and the Prosecution's appeals (ICC-01/04-01/06-2948-Conf-tENG; ICC-01/04-01/06-2949-tENG; ICC-01/04-01/06-2950).
9. In this application, the legal representatives of victims in the V02 team make the following submissions to the Appeals Chamber:

II – Application by the V02 Team

10. The V02 team set about implementing the orders in the above-mentioned Decision (ICC-01/04-01/06-2951) but was considerably hampered by the fact that the three counsel in the team reside primarily in the DRC, where Internet connections are often faulty and where trial documents – especially confidential

⁷ ICC-01/04-01/06-2948-Conf-tENG A6: "Mr Thomas Lubanga's appellate brief against the 14 March 2012 Judgment pursuant to Article 74 of the Statute".

⁸ ICC-01/04-01/06-2949-tENG A6: "Mr Thomas Lubanga's appellate brief against Trial Chamber I's 10 July 2012 Decision on Sentence pursuant to Article 76 of the Statute".

⁹ ICC-01/04-01/06-2949 A6: "Prosecution's Document in Support of Appeal against the Decision on Sentence pursuant to Article 76 of the Statute (ICC-01/04-01/06-2901)".

¹⁰ ICC-01/04-01/06-2951: "Decision on the participation of victims in the appeals against Trial Chamber I's conviction and sentencing decisions".

documents (which are not posted on the Court's website) – are difficult to access and cannot be emailed to them by the team member on site in The Hague.

11. Moreover, the counsel repeatedly asked for the Registry's consent and logistical support to undertake field missions to meet with their clients and update their dossiers with them, but to no avail. They have therefore had to rely on their own relatively limited means to do this. Lastly, the allotted time frame – between the Decision of 13 December 2012 and the deadline for their observations (4 February 2013) – did not enable them to complete the missions they had set out to do because they had other engagements during that period, both in and outside the DRC.
12. In spite of the above, the team did its utmost to keep the time frames, but experienced technical difficulties in the last few days, due largely to the recurrent impossibility of obtaining access to documents. Despite all its efforts, when the set time frame expired, it had become all too clear that filing submissions worthy of legal practitioners was an impossible undertaking. The team therefore emailed the Chamber to request a 72-hour grace period. In reply, it was informed that the Appeals Chamber does not entertain requests presented by email but only those presented as official submissions. That is the reason why the V02 team of legal representatives of victims is reiterating, in this application, its request for a 72-hour grace period.

FOR THESE REASONS

Owing to exceptional circumstances beyond its control, which prevented it from meeting the deadline set in the order at paragraph 4 of Decision 2951, the V02 team of legal representatives of victims respectfully requests the Appeals Chamber to grant it a 72-hour grace period.

Dated this 5 February 2013

At Kinshasa, Democratic Republic of the Congo

And at Tours, France

[signed]

Carine Bapita Buyangandu

[signed]

Paul Kabongo Tshibangu

[signed]

Joseph Keta Orwinyo

Legal Representatives of Victims