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PRE-TRIAL CHAMBER I

Before: Judge Claude Jorda, President
Judge Akua Kuenyehia
Judge Sylvia Steiner

Registrar: Mr Bruno Cathala

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

Public redacted document

Decision on the Applications for Participation in the Proceedings of a/0001/06, a/0002/06 and a/0003/06 in the case of the Prosecutor v. Thomas Lubanga Dyilo and of the investigation in the Democratic Republic of the Congo

The Office of the Prosecutor

Mr Luis Moreno Ocampo

Ms Fatou Bensouda

Mr Ekkehard Withopf

Legal representative of applicants

Mr Luc Walley

Mr Franck Mulenda

Ad hoc Counsel for the Defence

Mr Tshimanga

PRE-TRIAL CHAMBER I (“the Chamber”) of the International Criminal Court (“the Court”);

NOTING the “Arrest Warrant”¹ issued by the Chamber on 10 February 2006 for Thomas Lubanga Dyilo;

NOTING the three Applications for participation in the proceedings a/0001/06, a/0002/06 and a/0003/06 (“Applications for participation”) registered in the record of the situation in the Democratic Republic of the Congo (DRC)² and in the record of the case of *The Prosecutor v. Thomas Lubanga Dyilo*³ on 11 May 2006;

NOTING the “Decision establishing a deadline for the Prosecution and the Defence to submit Observations on the Applications of Applicants a/0001/06 to a/0003/06” rendered by the Chamber on 18 May 2006⁴;

NOTING the decision of the Chamber, also dated 18 May 2006, which appointed an *ad hoc* Counsel for the Defence in the investigation into the situation in the DRC and which established a deadline for the Prosecutor and the *ad hoc* Counsel for the Defence to submit observations on the Applications for participation in the context of the investigation into the situation in the DRC⁵;

¹ ICC-01/04-01/06-2-US, made public in accordance with decision ICC-01/04-01/06-37

² ICC-01/04-144-Conf-Exp, ICC-01/04-145-Conf-Exp, ICC-01/04-146-Conf-Exp

³ ICC-01/04-01/06-98-Conf-Exp, ICC-01/04-01/06-99-Conf-Exp, ICC-01/04-01/06-100-Conf-Exp.

⁴ ICC-01/04-01/06-107.

⁵ ICC-01/04-147.

NOTING the registering of the redacted versions of the Applications for participation in the record of the situation in the DRC⁶ and in the case record⁷ on 2 June 2006;

NOTING the submissions by the Prosecutor on the Applications for participation, filed on 6 June 2006 in the file of the case of *The Prosecutor v. Thomas Lubanga Dyilo*⁸ in which he states that Applicant a/0001/06, Mrs [REDACTED], together with [REDACTED] and [REDACTED] who she represents, meet the criteria for being defined as victims under rule 85 of the *Rules of Procedure and Evidence* (“the Rules”), that [REDACTED] and [REDACTED] have established that there is a genuine and close link between the harm they have suffered and the charges against Thomas Lubanga Dyilo;

NOTING that in these same submissions the Prosecutor considers that Mrs [REDACTED] also meets the criteria set out in rule 85 of the Rules, that she has suffered harm as a result of the fact that [REDACTED] and [REDACTED] were recruited into the UPC and that she has provided sufficient information to demonstrate that her personal interests are directly linked to the proceedings against Thomas Lubanga Dyilo, that the Prosecutor adds that, however, the death of Mrs [REDACTED]’s husband in [REDACTED] in the wake of fighting between the UPC and the FNI does not allow the commission of a crime to be established, the fact that he also adds that the murder [REDACTED], Mrs [REDACTED]’s son, by a member of the APC who was not under the command or control of Thomas Lubanga Dyilo does not allow a link to be established between the harm suffered and the charges against Thomas Lubanga Dyilo;

⁶ ICC-01/04-148-Conf, ICC-01/04-149-Conf, ICC-01/04-01/06-150-Conf

⁷ ICC-01/04-01/06-133-Conf, ICC-01/04-01/06-134-Conf, ICC-01/04-01/06-135-Conf

⁸ ICC-01/04-01/06-139-Conf-Exp

NOTING the submissions of the Prosecutor regarding Application a/0002/06⁹, in which the Prosecutor considers that, as far as most of the aspects mentioned are concerned, the Applicants meet the criteria for being recognised as a victim under rule 85 of the Rules¹⁰, the fact that the Prosecutor considers [REDACTED] to have been forcibly recruited by the UPC, that he received military training in various UPC camps in [REDACTED] and [REDACTED], that he was [REDACTED] and that he said in his statement that the person responsible for these acts was Thomas Lubanga Dyilo; the fact moreover that the Prosecutor therefore considered that [REDACTED] established a genuine and close link between the harm he suffered and the charges against Thomas Lubanga Dyilo¹¹, that the Prosecutor also considered that [REDACTED]'s father, Mr [REDACTED], has established a close and genuine link between the harm he suffered as a result of his son's enlistment, in particular because his son was unable to continue his schooling, and the charges against Thomas Lubanga Dyilo, the fact that the Prosecutor recognises in the particular circumstances that the personal interests of Mr [REDACTED] are directly linked to the proceedings against Thomas Lubanga Dyilo¹², the fact that nonetheless the Prosecutor considers that the information provided by Mr [REDACTED] regarding the murders of his wife [REDACTED] and of his [REDACTED] child on [REDACTED] appear to entail the responsibility of the FNI, FRPI and the UPDF, the fact that he considers that this information does not allow the necessary link to be established between the alleged crime and the charges against Thomas Lubanga Dyilo¹³;

NOTING the submissions of the Prosecutor in connection with Application a/0003/06¹⁴, in which the Prosecutor submits that Mr [REDACTED] and his wife, Mrs [REDACTED], meet the criteria to be recognised as a victim under rule 85 of the Rules because their son, [REDACTED], was abducted by UPC militias, the fact that Mr

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ ICC-01/04-01/06-139-Conf-Exp

[REDACTED] and Mrs [REDACTED] claim that they have suffered as a result of his absence, as have their other children, and that Thomas Lubanga's UPC militias are responsible for this, the Prosecutor therefore considers that these two persons have established a close and genuine link between the harm they have suffered and the charges against Thomas Lubanga Dyilo¹⁵; the fact that nonetheless the Prosecutor considers that, regarding the other crimes described by these two persons, that is, the death of Mr [REDACTED] following UPC attacks and the death of Mr [REDACTED], the Applicants have not provided sufficient evidence to establish that this crime is linked to the charges against Thomas Lubanga Dyilo¹⁶;

NOTING the submissions of the Counsel for the Defence in the case of *The Prosecutor v. Thomas Lubanga Dyilo*¹⁷ filed in the case record of *The Prosecutor v. Thomas Lubanga Dyilo* on 14 June 2006, in which the Counsel for the Defence indicates that the redacted decisions rendered by the Chamber when he was not informed beforehand of the application for protection measures of 3 May 2006 are not valid because they contravene rule 87 (2) of the Rules; the fact that the Counsel for the Defence believes that not having access to all non-redacted versions of the procedural documents is a violation of the rights of the Defence, the fact that he is challenging the validity of the Applications for participation on the ground that they are anonymous and too vague and that he believes that rule 87 (3) of the Rules does not prevent these names being disclosed to him; that he also believes that the participation of victims in the debates during the confirmation hearing runs counter to the presumption of innocence and that it would be premature given that the status of victim depends on recognition of the accused's guilt; that he also states that in order to establish whether there is a link with the charges in the Arrest Warrant, that the age of the children concerned at the time of the facts should be indicated and that he also states that the death of the

¹⁵ ICC-01/04-01/06-139-Conf-Exp, para. 20

¹⁶ ICC-01/04-01/06-139-Conf-Exp, para. 21

¹⁷ ICC-01/04-01/06-151-Conf

spouse of Applicant a/0001/06 and of her son has no causal link with the case of *The Prosecutor v. Thomas Lubanga Dyilo*;

NOTING the submissions of the *ad hoc* Counsel for the Defence in the investigation into the situation in the DRC¹⁸, which were registered in the DRC situation record on 26 June 2006, in which the *ad hoc* Counsel for the Defence suggested rejecting the Applications for participation on the grounds that: some authorities to act would be incomplete and therefore not valid; the criteria of the Court's *ratione temporis* jurisdiction is not met with regard to Application for participation a/0002/06; the Applicants having not proved the existence of a family or marital link or produced a death certificate for a member of their family who is said to be a direct victim of the alleged crime; the causal link between the harm alleged by the Applicants and the crimes described by them has not been proved;

PURSUANT to articles 5, 11, 12, 13, 21 (2), 58, 61 and 68 of the Rome Statute ("the Statute"), rules 85, 89, 90, 91 and 92 of the Rules and regulation 86 of the Regulations of the Court;

CONSIDERING that the legal Representatives of the Applicants request the Chamber to "[authorise] the applicants to participate as victims in the proceedings relating to the situation in the Democratic Republic of the Congo and in the case initiated against Mr Thomas Lubanga Dyilo¹⁹", and that they mention that "all the applicants either have or had children who were enrolled into Thomas Lubanga Dyilo's UPC militia in contravention of article 8 of the Rome Statute of the International Criminal Court; [that these] were forcible enlistments and [that] some of the applicants suffered the murder of children or other members of their family by the UPC militia as part of a recruitment campaign, either because they refused to

¹⁸ ICC-01/04-161-Conf.

¹⁹ ICC-01/04-01/06-133-Conf, p.8; ICC-01/04-01/06-134-Conf, p.8; ICC-01/04-01/06-135-Conf, p.8

take part or because they tried to escape their fate; [that some] of the applicants were also victims of other war crimes related to the above-mentioned crimes such as the wilful killing of their family members, destruction of property, unlawful confinement, attack against the civilian population [...; that the] applicants all belong to [one ethnic group] or live with members of that ethnic group, within which Thomas Lubanga Dyilo's militia still exerts a strong influence; [that] children represented by some [Applicants] were members of the armed forces of this militia, [... that they] all request absolute confidentiality, [...] [REDACTED]"²⁰;

CONSIDERING that the Chamber holds that in these Applications the Applicants request the granting of the status of victim in order to take part in the proceedings at the stage of the investigation into the situation in the DRC and in the case of *The Prosecutor v. Thomas Lubanga Dyilo*;

CONSIDERING that the Chamber holds that rule 85 (a) of the Rules lists four necessary criteria for the status of victim to be recognised, regardless of the stage of the proceedings in which the Applicants wish to participate, that is: that the victim must be a natural person; that he/she has suffered harm; that the crime from which the harm resulted must fall within the jurisdiction of the Court; and that there must be a causal link between the crime and the harm;

CONSIDERING that the crimes set out in the arrest warrant for Thomas Lubanga Dyilo fall within the jurisdiction of the Court;

CONSIDERING that the Applicants are natural persons²¹;

²⁰ ICC-01/04-01/06-133-Conf, p.7; ICC-01/04-01/06-134-Conf, p.7; ICC-01/04-01/06-135-Conf, p.7

²¹ ICC-01/04-101, para. 80

CONSIDERING that Applicant a/0001/06 is a woman of Congolese nationality from the [REDACTED] ethnic group, who currently lives in [REDACTED] (DRC) and who is acting both on her own behalf and as the legal representative for her minor son [REDACTED], born in [REDACTED] in [REDACTED], and for her minor grandson for whom she has assumed custody, [REDACTED], born in [REDACTED] in [REDACTED]; that she states that her husband died [REDACTED] in [REDACTED] during the fighting between the UPC and the FNI; that she then learnt of the death of her son, who was killed in [REDACTED] by a member of the APC, that her son and grandson who were under fifteen years of age at the time then decided to join the UPC, that following the call for demobilisation by [REDACTED] military personnel these two children were cared for by [REDACTED] and returned to their families; that she states that the death of her husband and of her son and the fact that these two children left home to join the UPC seriously affected her and her entire family;

CONSIDERING that [REDACTED], son of Applicant a/0001/06, has appended a statement to this Application in which he explains that after the murder of his elder brother in [REDACTED] and the death of his father in [REDACTED] he joined the UPC along with [REDACTED], then under fifteen years of age; that he was used as a [REDACTED]; and that he was then demobilised and returned to his family;

CONSIDERING that [REDACTED], grandson of Applicant a/0001/06, states that in [REDACTED] 2002, after having learnt of the murder of his elder brother by a member of the APC, he joined the UPC in [REDACTED]; that, at the time, he was under fifteen years of age and adds that one of the UPC commanders used him as a [REDACTED] and that he received weapons handling training for one week; and that in [REDACTED] he was demobilised and spent [REDACTED] months in a [REDACTED] camp before returning to his family;

CONSIDERING that in the “Decision on the Application for Participation in the Proceedings of VPRS1 to VPRS6 in the case of *The Prosecutor v. Thomas Lubanga Dyilo*”²², which was rendered by the Chamber on 22 June 2006, the Chamber held that at this stage in the case, the Applicants must demonstrate that there is a sufficient causal link between the harm they suffered and the crimes for which there are reasonable grounds to believe that Thomas Lubanga Dyilo is criminally responsible and for whose commission the Chamber issued an arrest warrant; that the causal link required by rule 85 of the Rules with regard to the stage of the case is demonstrated once the victim, and, if applicable, the immediate family or dependents of that victim²³, provide sufficient evidence to establish that that person has suffered harm directly linked to the crimes set out in the arrest warrant or that that person has suffered harm by intervening to assist the direct victims in the case or to prevent these victims from becoming victims as a result of these crimes being committed²⁴;

CONSIDERING that the Chamber holds that it has sufficient evidence to allow it to establish the family link between Applicant a/0001/06 and the persons she represents, with regard to the documents annexed to the present application²⁵, that is, the birth

²² ICC-01/04-01/06-172

²³ ICC-01/04-01/06-172. See the “Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power” United Nations General Assembly, resolution 40/34, 29 November 1985, 40th Session, United Nations Document A/RES/40/34. See also the “Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law”, Office of the High Commissioner for Human Rights, resolution 2005/35, 19 April 2005. Inter-American Court of Human Rights, Case of *Velásquez Rodríguez c. Honduras*, Decree of 29 July 1988, para. 127 to 139; Inter-American Court of Human Rights, Case of *Fairén-Garbi and Solís-Corrales c. Honduras*, Decree of 15 March 1989 para. 130 to 136; Inter-American Court of Human Rights, Case of the “Street children” (*Villagrán-Morales et consorts, c. Guatemala*), Decree of 19 November 1999, para 174-177; Inter-American Court of Human Rights, Case of “Panel Blanca” c. Guatemala (*Paniagua-Morales et consorts*). Reparations, Decree of 25 May 2001; Inter-American Court of Human Rights Case of “Panel Blanca” c. Guatemala (*Paniagua-Morales et consorts*). Reparations, statement in a public hearing before the Court, 11 August 2000, p. 144 to 175.

²⁴ See the “Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power” United Nations General Assembly, resolution 40/34, 29 November 1985, 40th Session, United Nations Document A/RES/40/34. See also the “Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law”, Office of the High Commissioner for Human Rights, resolution 2005/35, 19 April 2005.

²⁵ ICC-01/04-01/06-98-Conf-Exp, 11 May 2006, see the birth certificate for one of the applicant’s children and the certificate of demobilisation from an armed group for the other child (p. 26 and 29 of the application for participation in the proceedings).

certificate of [REDACTED], a photograph, a certificate of demobilisation from an armed group in the name of [REDACTED] and [REDACTED]'s national identity card;

CONSIDERING that in the particular circumstances the Chamber holds that there are reasonable grounds to believe that Applicant a/0001/06 and those that she represents have suffered emotional suffering²⁶ as a result of the latter being enrolled into the UPC militias; that there are reasonable grounds to believe that the two children represented by Applicant a/0001/06 have suffered physical harm²⁷ as a result of their enlistment in the UPC militias; that these three persons have provided sufficient evidence to allow the Chamber to hold that there are reasonable grounds to believe that they are victims of the crimes listed in the arrest warrant issued against Thomas Lubanga Dyilo and that they must be granted the status of victim in the case of *The Prosecutor v. Thomas Lubanga Dyilo*;

CONSIDERING that Applicant a/0002/06 is a man of Congolese nationality from the [REDACTED] ethnic group who currently lives in [REDACTED] (DRC) and who is acting both on his own behalf and as legal representative for his minor son, [REDACTED], who was born in [REDACTED] on [REDACTED]; that he states that in [REDACTED], at [REDACTED] a group of armed youths forced the children to follow them; he adds that his son was one of these children, that his son was then taken to a training camp in [REDACTED] whose leader was [REDACTED], where he received training for three months at the end of which time he was taken to a camp in [REDACTED] where he served in [REDACTED] until [REDACTED]; that following his transfer to [REDACTED] in [REDACTED], Applicant a/0002/06 claims to have been able to bring his son back to [REDACTED], without the other "child soldiers" knowing this, that he also claims that his son returned to school until [REDACTED] and that during [REDACTED] he was approached by an older child who took him to the camp at [REDACTED], where he

²⁶ ICC-01/04-101, paras. 115 and 116

²⁷ ICC-01/04-101, para. 146

served in [REDACTED] before being sent to [REDACTED] and two weeks later to [REDACTED] where he was made available to [REDACTED] for whom he performed household chores; that Applicant a/0002/06 states that he was able to organise his son's transfer from that camp to [REDACTED] where he was able to collect him and take him to [REDACTED] where he was put in [REDACTED] before being returned to his family;

CONSIDERING that Applicant a/0002/06 also states that his wife and son, who was [REDACTED] of age at the time, were killed on [REDACTED] in the fighting in [REDACTED] in [REDACTED]; that he adds that at this time the region was controlled by FNI and FRPI (*Forces patriotiques de résistance de l'Ituri*) militiamen and that the UPDF (Ugandan Armed Forces) held the town of Bunia; that he also adds that during the course of the fighting the militias who were conducting a manhunt killed several [REDACTED] in the district, including his wife and child²⁸;

CONSIDERING that the Chamber holds that it has sufficient evidence in the light of the Applicant's statement, to establish the family link between Applicant a/0002/06 and his minor son, [REDACTED], born in [REDACTED] on [REDACTED];

CONSIDERING that the Chamber holds that the Court can exercise its jurisdiction only in respect of crimes committed after 1 July 2002 and that as a result it will take into consideration only criminal acts committed after that date when determining whether the Applicants should be granted victim status;

CONSIDERING that in this case the Chamber holds that there are reasonable grounds to believe that Applicant a/0002/06 and his minor son, [REDACTED], born in [REDACTED] on [REDACTED], and for whom he is the legal representative, have

²⁸ ICC-01/04-01/06-99-Conf-Exp.

endured emotional suffering²⁹ as a result of the latter's enlistment into the UPC militias; that there are reasonable grounds to believe that the child represented by Applicant a/0002/06 has endured physical suffering³⁰ as a result of his enlistment in the UPC militias; that Applicant a/0002/06 has provided sufficient evidence to enable the Chamber to hold that there are reasonable grounds to believe that he, and the person he represents, are the victims of the crimes listed in the arrest warrant issued against Thomas Lubanga Dyilo and that they must be recognised as victims in the case of *The Prosecutor v. Thomas Lubanga Dyilo*;

CONSIDERING that Applicant a/0003/06 is a man of Congolese nationality of the [REDACTED] ethnic group, who currently lives in [REDACTED] (DRC); that he states that in order to increase its numbers the UPC recruited youths in the town of [REDACTED] in [REDACTED] 2003; that he adds that recruitment occurred in the vicinity of [REDACTED] or along the route to [REDACTED] and that on [REDACTED] 2003 militias seized a group of children on the road leading to [REDACTED], and that this group included his son, [REDACTED], born [REDACTED]; that he adds that these children were forcibly taken to an unknown location and that he subsequently learnt that the children had been murdered and that some of them had tried to flee; that Applicant a/0003/06 also adds that he reported the disappearance before [REDACTED] to a member of MONUC; that the Applicant also reports the murder of his son [REDACTED], born [REDACTED]; that he explains that on [REDACTED] 2003, following an attack by the UPC in the [REDACTED] district [REDACTED], his family dispersed and his son remained at the family home [REDACTED]; that on his return to the said residence on [REDACTED] 2003 the Applicant states that he found his son dead in front of the house, that he had suffered two bullet wounds [REDACTED]; that he then reported this murder to MONUC; that he also wishes to point out the fact that that he was arrested on [REDACTED] 2003 by militiamen who spoke Hema, before being quickly released³¹;

²⁹ ICC-01/04-101, paras. 115 and 116.

³⁰ ICC-01/04-101, para.146

³¹ ICC-01/04-01/06-100-Conf-Exp.

CONSIDERING that the Chamber holds that Applicant a/0003/06 is acting on his own behalf, that the statement by Mr Luc Walley and Mr Franck Wulenda, who are the Applicant's Legal Representatives, which states that the Applicant is also acting on his wife's behalf, cannot be taken into consideration as no express authorisation has been appended by the Applicant;

CONSIDERING that in these particular circumstances the Chamber holds that there are reasonable grounds to believe that Applicant a/0003/06 has endured emotional suffering³² as a result of his son being enrolled in the UPC militias; that there are reasonable grounds to believe that the child was a victim of the UPC practice of recruiting youths in the town of [REDACTED] in order to boost its numbers; that Applicant a/0003/06 has provided sufficient evidence to allow the Chamber to hold that there are reasonable grounds to believe that he is a victim of the crimes mentioned in the arrest warrant issued against Thomas Lubanga Dyilo and that he must be granted the status of victim in the case of *The Prosecutor v. Thomas Lubanga Dyilo*;

CONSIDERING that the Chamber holds that the victims in the case of *The Prosecutor v. Thomas Lubanga Dyilo* are also recognised as victims in the investigation into the situation in the DRC with regard to the crimes associated with this case;

CONSIDERING that the victims also recount other crimes which have no connection with the case of *The Prosecutor v. Thomas Lubanga Dyilo* and that nonetheless the Chamber holds that the Applicants will be able to participate in the proceedings in the context of the investigation into the situation in the DRC, after having demonstrated that there are grounds to believe that they have suffered harm

³² ICC-01/04-101, paras. 115 and 116

as a result of these crimes being committed if they fall within the jurisdiction of the Court;

CONSIDERING that a crime must meet the following conditions in order to fall within the jurisdiction of the Court: it must be one of the crimes listed in article 5 of the Statute, that is, the crime of genocide, crimes against humanity and war crimes; it must meet the conditions of article 11 of the Statute; and finally the crime must meet one of the two conditions described in article 12 of the Statute³³;

CONSIDERING that in its decision of 17 January 2006 the Chamber set out the criteria that must be met in order to establish that the alleged crime falls within the jurisdiction of the Court³⁴;

CONSIDERING that Applicant a/0001/06 mentioned crimes allegedly perpetrated in [REDACTED] and [REDACTED] in [REDACTED] and [REDACTED] in Ituri, in Orientale Province of the DRC;

CONSIDERING that Applicant a/0002/06 refers to crimes allegedly perpetrated on [REDACTED] in [REDACTED] in Ituri, in Orientale Province of the DRC;

CONSIDERING that Applicant a/0003/06 refers to crimes allegedly perpetrated in [REDACTED] 2003 in [REDACTED] in Ituri, in the Orientale Province of DRC;

CONSIDERING that the three Applicants recount crimes committed after 1 July 2002;

³³ ICC-01/04-101, paras. 83-93

³⁴ ICC-01/04-101, paras. 83-93

CONSIDERING that the Chamber holds that with regard to the harm suffered by Applicant a/0001/06 and those she represents as a result of the murder of her son by a member of the APC; that there are reasons to believe that they have suffered harm which at this stage can be characterised as emotional suffering related to the loss of a family member³⁵; that the Chamber notes that in her statement Applicant a/0001/06 presents a similar description of the relevant facts in the light of the information at its disposal and subject to any subsequent decision³⁶ and that the crime recounted by Applicant a/0001/06 falls within the jurisdiction of the Court pursuant to articles 6 to 8 of the Statute, and in particular article 7 (1) (a) of the Statute;

CONSIDERING that the Chamber holds that it does not have sufficient information to determine that the death of the husband of Applicant a/0001/06 constitutes harm caused by the commission of a crime which falls within the jurisdiction of the Court;

CONSIDERING that the Chamber holds, with regard to the harm suffered by Applicant a/0002/06 and the person he represents as a result of the murder of his wife and of his son aged [REDACTED] during the fighting between the FNI, FRPI and UPDF; that there are grounds to believe that they have suffered harm which at this stage can be characterised as emotional suffering related to the loss of their family members³⁷; that the Chamber notes that in his statement Applicant a/0002/06 provides a similar description of the relevant events in the light of the information it has at its disposal and subject to any subsequent decision³⁸ and that the crime recounted by Applicant a/0002/06 falls within the jurisdiction of the Court pursuant to articles 6 to 8 of the Statute, in particular article 7 (1) (a) of the Statute;

³⁵ ICC-01/04-101

³⁶ *Democratic Republic of Congo. On the precipice: The deepening human rights and humanitarian crisis in Ituri*, Amnesty International report, March 2003, public document, AI Index: AFR 62/006/2003

³⁷ ICC-01/04-101

³⁸ Institute for Security Studies, African security analysis programme, "Situation Report: Tension in Ituri: An Update on the Democratic Republic of the Congo", 25 April 2003, p. 3

CONSIDERING that the Chamber holds that, with regard to the harm suffered by Applicant a/0003/06 as a result of his son's murder on [REDACTED] 2003 following a UPC attack in the [REDACTED] district [REDACTED], there are grounds to believe that he has experienced suffering which, at this stage, may be characterised as emotional suffering related to the death of his family member³⁹; that the Chamber holds that in his statement Applicant a/0003/06 provides a similar description of the relevant events in the light of the information at its disposal and subject to any subsequent decision⁴⁰; and that the crime recounted by Applicant a/0003/06 falls within the jurisdiction of the Court pursuant to articles 6 to 8 of the Statute, in particular article 7 (1) (a) of the Statute;

FOR THESE REASONS,

DECIDES that the status of victim is granted to Applicants a/0001/06, a/0002/06 and a/0003/06 in the stage of the case of *The Prosecutor v. Thomas Lubanga Dyilo* in the situation in the DRC in view of the harm linked to the crimes as described in the arrest warrant issued against Thomas Lubanga Dyilo;

DECIDES that the status of victim as far as the situation in the DRC is concerned is granted to Applicants a/0001/06, a/0002/06 and a/0003/06 in view of the harm they have suffered as a result of the commission of the crimes as described in their respective statements which fall within the jurisdiction of the Court;

³⁹ ICC-01/04-101

⁴⁰ United Nations Security Council, "Fourteenth report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo", 17 November 2003, United Nations document S/2003/1098, para. 3

ORDERS the Registrar to notify the legal representatives of victims a/0001/06 to a/0003/06 of all the public documents in the case of *The Prosecutor v. Thomas Lubanga Dyilo*;

INVITES the legal representatives of victims a/0001/06, a/0002/06 and a/0003/06 to submit to the Chamber, within fifteen days of the date of notification of this decision, any comments regarding arrangements for their participation in the confirmation hearing in the case involving Thomas Lubanga Dyilo.

Done in both English and French, the French version being authoritative.

[signed]

Judge Claude Jorda
President

[signed]

Judge Akua Kuenyehia

[signed]

Judge Sylvia Steiner

Dated this Monday 31 July 2006

At The Hague (Netherlands)