



Original: **French**

No.: ICC-01/04-01/06
Date: 14 September 2009

THE APPEALS CHAMBER

Before: Judge Daniel David Ntanda Nsereko , President
Judge Sang-Hyun Song, Presiding Judge
Judge Akua Kuenyehia
Judge Erkki Kourula
Judge Anita Ušacka

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
*THE PROSECUTOR v. THOMAS LUBANGA DYILO***

Public Document

Application for Participation by the Legal Representatives in the Appeals Proceedings relating to the *Decision giving notice to the parties and participants that the legal characterisation of the facts may be subject to change in accordance with Regulation 55(2) of the Regulations of the Court.*

Source: The Legal Representatives of Victims a/0001/06, a/0002/06, a/0003/06, a/0049/06, a/0007/08, a/0149/08, a/0155/07, a/0156/07, a/0404/08, a/0405/08, a/0406/08, a/0407/08, a/0409/08, a/0149/07 et a/0162/07, a/0610/08, a/0611/08 and a/0249/09

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

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Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

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States' Representatives

Amicus Curiae

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Ms Silvana Arbia

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Detention Section

**Victims Participation and Reparations
Section**

Other

I. Background

1. On 14 July 2009, Trial Chamber I issued its *Decision giving notice to the parties and participants that the legal characterisation of the facts may be subject to change in accordance with Regulation 55(2) of the Regulations of the Court*.¹
2. On 17 July 2009, the Presiding Judge of Trial Chamber I issued his “Minority opinion on the Decision giving notice to the parties and participants that the legal characterisation of the facts may be subject to change in accordance with Regulation 55(2) of the Regulations of the Court”.²
3. On 11 August 2009, the Defence submitted its “*Requête sollicitant l’autorisation d’interjeter appel de la ‘Decision giving notice to the parties and participants that the legal characterisation of the facts may be subject to change in accordance with Regulation 55(2) of the Regulations of the Court’ rendue le 14 juillet 2009*”.³
4. On 12 August 2009, the Prosecution presented an “Application for Leave to Appeal the ‘Decision giving notice to the parties and participants that the legal characterisation of the facts may be subject to change in accordance with Regulation 55(2) of the Regulations of the Court’”.⁴
5. On 17 August 2009, the Legal Representatives of the Victims filed their “*Réponse conjointe aux demandes de la Défense et du Procureur d’interjeter appel de la ‘Decision giving notice to the parties and participants that the legal characterisation of the facts may be subject to change in accordance with*

¹ ICC-01/04-01/06-2049

² ICC-01/04-01/06-2054

³ ICC-01/04-01/06-2073-Conf

⁴ ICC-01/04-01/06-2074

Regulation 55(2) of the Regulations of the Court' *datées respectivement des 11 et 12 août 2009*".⁵

6. On 17 August 2009, the Prosecution submitted a response to the Defence Request seeking leave to appeal Trial Chamber I's Decision of 14 July 2009.⁶
7. On 27 August 2009, Trial Chamber I issued its "Clarification and further guidance to parties and participants in relation to the 'Decision giving notice to the parties and participants that the legal characterisation of the facts may be subject to change in accordance with Regulation 55(2) of the Regulations of the Court'".⁷
8. On 31 August 2009, the Prosecution submitted its observations on the "Clarification and further guidance to parties and participants in relation to the 'Decision giving notice to the parties and participants that the legal characterisation of the facts may be subject to change in accordance with Regulation 55(2) of the Regulations of the Court'".⁸
9. On 3 September 2009, Trial Chamber I issued its *Decision on the prosecution and the defence applications for leave to appeal the 'Decision giving notice to the parties and participants that the legal characterisation of the facts may be subject to change in accordance with Regulation 55(2) of the Regulations of the Court'*, granting the applicants leave to appeal the impugned decision.⁹
10. On 10 September 2009, the Defence filed its appeal. The Office of the Prosecutor did so on 14 September 2009.

⁵ ICC-01/04-01/06-2079

⁶ ICC-01/04-01/06-2080

⁷ ICC-01/04-01/06-2093

⁸ ICC-01/04-01/06-2095

⁹ ICC-01/04-01/06-2107

II. Application

11. The Legal Representatives of the Victims (“the Legal Representatives”) hereby request leave to participate in the appeals proceedings relating to the *Decision giving notice to the parties and participants that the legal characterisation of the facts may be subject to change in accordance with Regulation 55(2) of the Regulations of the Court* dated 14 July 2009, following the appeals by the Defence and the Prosecution, in order to highlight their views and concerns and to respond to the submissions of which they will be notified.

III. Interest of the Victims

12. Insofar as the impugned decision was issued following the joint application submitted by all the Legal Representatives of the Victims in order to implement the procedure under regulation 55 of the *Regulations of the Court* filed on 22 May 2009,¹⁰ the Legal Representatives have an obvious interest in participating in this appeal.

13. All the child victims represented by the undersigned were enlisted in a militia in circumstances which can be characterised as inhuman and degrading treatment or sexual slavery. Because it could lead to a modification of the legal characterisation of the facts which are the subject of the trial, the implementation of the procedure under regulation 55 of the *Regulations of the Court* therefore affects the victims’ personal interests represented by the Legal Representatives and the scope of their right to reparation. Accordingly, they have an obvious interest in participating in this appeal.

¹⁰ ICC-01/04-01/06-1891

FOR THESE REASONS,

MAY IT PLEASE THE APPEALS CHAMBER

- To allow the Legal Representatives to submit their views and concerns in relation to the appeal by the Defence and the Prosecution against the *Decision giving notice to the parties and participants that the legal characterisation of the facts may be subject to change in accordance with Regulation 55(2) of the Regulations of the Court* dated 14 July 2009.

[signed]

Luc Walley, Counsel

For the group of victims a/0001/06, a/0002/06, a/0003/06, a/0049/06, a/0007/08, a/0149/08, a/0404/08, a/0405/08, a/0406/08, a/0409/08, a/0155/07, a/0156/07, a/0407/07a/0149/07, a/0162/07, a/0610/08, a/0611/08 and a/0249/09

Dated this 14 September 2009

At Brussels, Belgium