



Original: **French**

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

Date: **8 March 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**

**Application for leave to intervene as amicus curiae**

**Source:** *Justice Plus, Terre des Enfants, Fédération des Jeunes pour la Paix Mondiale and Avocats Sans Frontières*

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

**Office of the Prosecutor**

Ms Fatou Bensouda  
Mr Fabricio Guariglia

**Counsel for the Defence**

Ms Catherine Mabile  
Mr Jean-Marie Biju-Duval  
Mr Marc Desalliers  
Ms Caroline Buteau

**Legal Representatives of Victims**

Mr Luc Walley  
Mr Franck Mulenda  
Ms Carine Bapita Buyangandu  
Mr Paul Kabongo Tshibangu  
Mr Joseph Keta

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparations**

**Office of Public Counsel for Victims**

Ms Paolina Massidda

**Office of Public Counsel for the  
Defence**

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

---

**Registrar**

Ms Silvana Arbia

**Deputy Registrar**

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**  
Ms Fiona McKay

**Other**  
Mr Pieter de Baan, Executive Director,  
Trust Fund for Victims

In the *Scheduling order concerning timetable for sentencing and reparations* dated 14 March 2012, Trial Chamber I invited any interested party to seek written authorisation to participate in the proceedings in order to file observations on the principles to be applied by the Chamber with regard to reparations.<sup>1</sup>

An application for leave to intervene as amicus curiae and to submit written observations was filed by the non-governmental organisations *Justice-plus*, *Terre des Enfants*, *Centre Pelican*, *Fédération des Jeunes pour la Paix Mondiale* and *Avocats Sans Frontières* on 28 March 2012.<sup>2</sup> In the *Decision granting leave to make representations in the reparations proceedings* dated 20 April 2012, the organisations were granted leave to submit their observations.<sup>3</sup> The observations were submitted on 20 May 2012.<sup>4</sup>

In the *Decision on the admissibility of the appeals against Trial Chamber I's Decision establishing the principles and procedures to be applied to reparations and directions on the further conduct of proceedings* dated 14 December 2012, the Appeals Chamber stated that the organisations “which were granted leave to submit observations before the Trial Chamber [...] may, pursuant to rule 103(1) of the Rules of Procedure and Evidence, request leave to submit observations before the Appeals Chamber”.<sup>5</sup> The Appeals Chamber further stated that “such requests must state on which issue, arising from the documents in support of the appeals, observations are proposed to be submitted. The Appeals Chamber further directs that such requests must not include the substance of the proposed observations”.<sup>6</sup>

In response, and for the purpose of contributing to the proper administration of justice, *Justice-plus*, *Terre des Enfants*, *Centre Pelican*, *Fédération des Jeunes pour la Paix Mondiale* and *Avocats Sans Frontières* hereby file an application to intervene as amicus curiae and submit their written observations. These observations will address the issue of the

<sup>1</sup> Trial Chamber I, Situation in the Democratic Republic of the Congo, Case of *The Prosecutor v. Thomas Lubanga Dyilo*, *Scheduling order concerning timetable for sentencing and reparations*, ICC-01/04-01/06, 14 March 2012, para. 12.

<sup>2</sup> “Application for leave to intervene as Amicus Curiae in the case of The Prosecutor v. Thomas Lubanga Dyilo, pursuant to rule 103 of the Rules of Procedure and Evidence”, ICC-01/04-01/06, 28 March 2012.

<sup>3</sup> Trial Chamber I, *Decision granting leave to make representation in the reparation proceedings*, ICC-01/04-01/06, 20 April 2012.

<sup>4</sup> *Observations on the reparations regime*, ICC-01/04-01/06, 10 May 2012.

<sup>5</sup> Appeals Chamber, *Decision on the admissibility of the appeals against Trial Chamber I's “Decision establishing the principles and procedures to be applied to reparations” and directions on the further conduct of proceedings*, ICC-01/04-01/06 A A2 A3 OA 21, para. 77.

<sup>6</sup> *Ibid.*

beneficiaries of the reparation measures, which was discussed in the documents in support of the appeal filed by the Defence team for Mr Thomas Lubanga Dyilo, the Office of Public Counsel for Victims, the V02 team of Legal Representatives and the Legal Representatives of the V01 group of victims.<sup>7</sup> The observations will focus, in particular, on the issue of whether the Chamber erred in law by stating that “it would be inappropriate to limit reparations to the relatively small group of victims that participated in the trial and those who applied for reparations” and finding that it did not need to examine the applications for reparation filed by the victims.<sup>8</sup>

---

<sup>7</sup> Defence team for Mr Thomas Lubanga Dyilo, “*Mémoire de la Défense de M. Thomas Lubanga relatif à l’appel à l’encontre de la ‘Decision establishing the principles and procedures to be applied to reparations’, rendue par la Chambre de première instance le 7 août 2012*”, ICC-01/04-01/06, 5 February 2013, paras. 32 *et seq* and 138 *et seq*; Office of Public Counsel for Victims V02 team of Legal Representatives, “*Document déposé à l’appui de l’appel à l’encontre de la ‘Decision establishing the principles and procedures to be applied to reparations’ délivrée par la Chambre de première instance I le 7 août 2012*”, ICC-01/04-01/06, Date: 5 February 2013, paras. 24 *et seq*; Legal Representatives of the V01 group of victims, “*Document à l’appui de l’appel contre la ‘Decision establishing the principles and procedures to be applied to reparations’ du 7 août 2012*”, ICC-01/04-01/06, 5 February 2013, paras. 14 *et seq*.

<sup>8</sup> Defence team for Mr Thomas Lubanga Dyilo, “*Mémoire de la Défense de M. Thomas Lubanga relatif à l’appel à l’encontre de la ‘Decision establishing the principles and procedures to be applied to reparations’, rendue par la Chambre de première instance le 7 août 2012*”, ICC-01/04-01/06, 5 February 2013, paras. 32 *et seq* and 138 *et seq*; Office of Public Counsel for Victims V02 team of Legal Representatives, “*Document déposé à l’appui de l’appel à l’encontre de la ‘Decision establishing the principles and procedures to be applied to reparations’ délivrée par la Chambre de première instance I le 7 août 2012*”, ICC-01/04-01/06, Date: 5 February 2013, paras. 24 *et seq*; Legal Representatives of the V01 group of victims, “*Document à l’appui de l’appel contre la ‘Decision establishing the principles and procedures to be applied to reparations’ du 7 août 2012*”, ICC-01/04-01/06, 5 February 2013, paras. 14 *et seq*.

**Mr David Alicama**  
Director, *Terre des Enfants*

[signed]

**Mr Etienne Nzadi**  
Director, *Fédération  
des Jeunes pour la Paix Mondiale*

[signed]

**Mr Mitterrand Bossa**  
Director, *Justice Plus*

[signed]

**Ms Francesca Boniotti**  
Director, *Avocats Sans Frontières*

[signed]

---

Dated this 8 March 2013

At Bunia, Democratic Republic of the Congo