



Original: **French**

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

Date: **13 September 2012**

THE APPEALS CHAMBER

Before:

**Judge Sang-Hyun Song
Judge Sanji Mmasenono Monageng
Judge Erkki Kourula
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 the participation of victims in the Defence interlocutory appeal
against Trial Chamber I's *Decision establishing the principles and procedures to be
applied to reparations* of 7 August 2012**

Source: Office of Public Counsel for Victims

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 Mabilie
Mr Jean-Marie Biju-Duval

Legal Representatives of Victims

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

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

Office of Public Counsel for Victims

Ms Paolina Massidda
Ms Sarah Pellet
Mr Dmytro Suprun

**Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar and Deputy Registrar
Ms Silvana Arbia and Mr Didier Preira

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. PROCEDURAL BACKGROUND

1. On 14 March 2012, Trial Chamber I (“the Chamber”) handed down its *Judgment pursuant to Article 74 of the Statute*,¹ by which it found Mr Thomas Lubanga Dyilo guilty of the crimes of conscripting and enlisting children under the age of fifteen years into the *Force Patriotique pour la libération du Congo* and using them to participate actively in hostilities within the meaning of articles 8(2)(e)(vii) and 25(3)(a) of the Rome Statute from early September 2002 to 13 August 2003.²

2. On the same day, the Chamber issued its *Scheduling order concerning timetable for sentencing and reparations*,³ by which it invited the parties and participants to file submissions on issues related to reparations and the procedure to be followed.⁴ It also invited “other individuals or interested parties” to apply in writing for leave to file submissions on issues related to reparations.⁵

3. On 28 March 2012, the Office of Public Counsel for Victims (“OPCV”) submitted an application for leave to appear before the Chamber in respect of specific issues concerning reparations.⁶

4. On 5 April 2012, the Chamber issued its *Decision on the OPCV’s request to participate in the reparations proceedings*,⁷ by which it (i) instructed the Registry to appoint the OPCV as the legal representative for the unrepresented applicants and to provide it with the applications for reparations that have been received thus far, as

¹ See *Judgment pursuant to Article 74 of the Statute* (Trial Chamber I), ICC-01/04-01/06-2842, 14 March 2012.

² *Idem*, para. 1358.

³ See *Scheduling order concerning timetable for sentencing and reparations* (Trial Chamber I), ICC-01/04-01/06-2844, 14 March 2012.

⁴ *Idem*, para. 8.

⁵ *Ibid.*, para. 10.

⁶ See “Request to appear before the Chamber pursuant to Regulation 81(4)(b) of the Regulations of the Court on issues related to reparations proceedings”, ICC-01/04-01/06-2848, 28 March 2012.

⁷ See *Decision on the OPCV’s request to participate in the reparations proceedings* (Trial Chamber I), ICC-01/04-01/06-2858, 5 April 2012.

well as any future applications from unrepresented victims; and (ii) instructed the OPCV to file submissions on the principles to be applied by the Chamber with regard to reparations and the procedure to be followed, on behalf of those victims who have not submitted applications but who may benefit from an order for collective reparations.⁸

5. On 18 April 2012, the OPCV filed its submissions on the principles to be applied by the Chamber with regard to reparations and the procedure to be followed.⁹ That same day, the other legal representatives of victims also filed their submissions on the issue.¹⁰

6. On 7 August 2012, the Chamber issued its *Decision establishing the principles and procedures to be applied to reparations* (“Impugned Decision”).¹¹

7. On 13 August 2012, the Defence filed an application for leave to appeal against the *Decision establishing the principles and procedures to be applied to reparations* of 7 August 2012¹² pursuant to article 82(1)(d) of the Rome Statute and rule 155 of the Rules of Procedure and Evidence.¹³

8. On 17 August 2012, Principal Counsel of the OPCV and the V02 team of legal representatives filed a joint response to the Defence application for leave to appeal against the *Decision establishing the principles and procedures to be applied to reparations*

⁸ *Idem.*, para. 13.

⁹ See “Observations on issues concerning reparations”, ICC-01/04-01/06-2863, 18 April 2012.

¹⁰ See “*Observations du groupe de victimes V02 concernant la fixation de la peine et des réparations*”, ICC-01/04-01/06-2869, 18 April 2012, and “*Observations sur la fixation de la peine et les réparations de la part des victimes a/0001/06, a/0003/06, a/0007/06 a/00049/06, a/0149/07, a/0155/07, a/0156/07, a/0162/07, a/0149/08, a/0404/08, a/0405/08, a/0406/08, a/0407/08, a/0409/08, a/0523/08, a/0610/08, a/0611/08, a/0053/09, a/0249/09, a/0292/09, a/0398/09, et a/1622/10*”, ICC-01/04-01/06-2864, 18 April 2012.

¹¹ See *Decision establishing the principles and procedures to be applied to reparations* (Trial Chamber I), ICC-01/04-01/06-2904, 7 August 2012 (“Impugned Decision”).

¹² See “*Requête de la Défense sollicitant l’autorisation d’interjeter appel de la « Decision establishing the principles and procedures to be applied to reparation » rendue le 7 août 2012*”, ICC-01/04-01/06-2905, 13 August 2012.

¹³ *Idem.*, para. 4.

of 7 August 2012,¹⁴ in which they submitted that the Impugned Decision constitutes an “order for reparations” pursuant to article 75 of the Rome Statute, within the meaning of article 82(4) of the Rome Statute and rule 150 of the Rules of Procedure and Evidence.¹⁵

9. On 24 August 2012, Principal Counsel of the OPCV and the V02 team of legal representatives filed their “Appeal against Trial Chamber I’s *Decision establishing the principles and procedures to be applied to reparations* of 7 August 2012”¹⁶ pursuant to article 82(4) of the Rome Statute and rule 150 of the Rules of Procedure and Evidence.

10. On 29 August 2012, the Chamber issued its *Decision on the defence request for leave to appeal the Decision establishing the principles and procedures to be applied to reparations*,¹⁷ by which it granted the Defence leave to appeal against the Impugned Decision with respect to the following four issues:

the suggestion that “victims of sexual or gender-based violence” may be eligible for reparations violates the principle that the convicted person shall only be ordered to make reparations for damage resulting from crimes for which he was found guilty;¹⁸

the Chamber’s ‘proximate cause’ criteria is excessively vague;¹⁹

the Chamber has breached the Rome Statute by i) delegating certain judicial functions to the Trust Fund for Victims (“TFV”) in conjunction with the Registry and the experts appointed by the TFV, and ii) delegating supervision of the reparations proceedings to a new Chamber;²⁰ and

the standard of proof for establishing the facts relevant to reparations awarded from the TFV, or any source apart from the funds of the convicted person, is too vague to be applied by a non-judicial organ, and it does not enable the defence to respond to the victims’ allegations.²¹

¹⁴ See “Réponse conjointe à la « Requête de la Défense sollicitant l’autorisation d’interjeter appel de la « Decision establishing the principles and procedures to be applied to reparation » rendue le 7 août 2012”, ICC-01/04-01/06-2907, 17 August 2012.

¹⁵ *Idem*, paras. 12-15.

¹⁶ See “Appeal against Trial Chamber I’s *Decision establishing the principles and procedures to be applied to reparations* of 7 August 2012”, ICC-01/04-01/06-2909 OA 21, 24 August 2012.

¹⁷ See *Decision on the defence request for leave to appeal the Decision establishing the principles and procedures to be applied to reparations* (Trial Chamber I), ICC-01/04-01/06-2911, 29 August 2012.

¹⁸ *Idem*, paras. 9 and 40.

¹⁹ *Ibid.*

²⁰ *Ibid.*, paras. 10 and 40.

²¹ *Ibid.*

11. On 10 September 2012, the Defence filed a document in support of its appeal against the Impugned Decision.²²

12. Principal Counsel of the OPCV, acting in her capacity as legal representative of a number of victims,²³ submits the following application to participate in the interlocutory appeal lodged by the Defence.

13. Principal Counsel submits that the victims should systematically be authorised to participate in the proceedings related to the Defence's appeal against the Impugned Decision, and that the Appeals Chamber should review its previous practice concerning victim participation in interlocutory appeals, since the instant appeal is *sui generis*.

II. PARTICIPATION OF VICTIMS IN THE PRESENT INTERLOCUTORY APPEAL

14. Previous rulings of the Appeals Chamber concerning victim participation in interlocutory appeals lodged pursuant to article 82(1)(d) of the Rome Statute have established that (i) any individual wishing to participate in an appeal filed under that article must submit an application for leave to do so;²⁴ (ii) the Appeals Chamber must

²² See "Document déposé par la Défense à l'appui de l'appel à l'encontre de la 'Decision establishing the principles and procedures to be applied to reparation' rendue par la Chambre de première instance I le 7 août 2012", ICC-01/04-01/06-2919 OA 21, 10 September 2012.

²³ The relevant victims are: a/0046/06, a/0047/06, a/0050/06, a/0052/06, a/0198/09, a/2917/11, a/0241/06, a/0189/07, a/0032/10, a/0034/10, a/0036/10, a/0737/10, a/1610/10, a/1611/10, a/1613/10, a/1618/10, a/1621/10, a/2015/11, a/2016/11, a/2017/11, a/2018/11, a/2019/11, a/2020/11, a/2021/11, a/2916/11, a/2918/11, a/2919/11, a/2920/11, a/2921/11, a/2922/11, a/2923/11, a/2924/11, a/2925/11, a/2926/11, a/2927/11, a/2928/11, a/2929/11, a/2930/11 and a/2931/11. See *Decision on the OPCV's request to participate in the reparations proceedings, supra*, footnote 7, para. 13. See also "Notification of appointment of the Office of Public Counsel of Victims as legal representative of unrepresented applicants for reparations", ICC-01/04-01/06-2903, 27 July 2012, pp. 3 and 4. Principal Counsel is also acting on behalf of all those victims who have not submitted an application for reparations but who may benefit from an order for collective reparations. See *Decision on the OPCV's request to participate in the reparations proceedings, supra*, footnote 7, para. 13.

²⁴ See *Decision of the Appeals Chamber on the OPCV's request for clarification and the legal representatives' request for extension of time and Order of the Appeals Chamber on the date of filing of applications for*

be satisfied that the individual seeking to participate is a “victim” authorised to participate in the relevant case;²⁵ and (iii) the application for leave to participate in the appeal must set out how the personal interests of the victim are affected by the appeal, explain how the presentation of the victim’s views and concerns would be appropriate at that stage, and show that such participation would not be inconsistent with or prejudicial to the rights of the accused.²⁶ However, in the separate opinion of certain judges of the Appeals Chamber, any victim who participated in the proceedings giving rise to the interlocutory appeal pursuant to article 82(1)(d) of the Rome Statute is entitled to submit observations in response to the appeal pursuant to regulation 65(5) of the Regulations of the Court without seeking prior authorisation.²⁷

15. Furthermore, the Appeals Chamber has acknowledged that it may be moved to review its previous stance on the participation of victims in interlocutory appeals

participation and on the time of the filing of the responses thereto by the OPCD and the Prosecutor (Appeals Chamber), 13 February 2008, ICC-01/04-450 OA4, para. 1.

²⁵ See *Decision on the participation of victims in the appeal (Appeals Chamber), ICC-01/04-01/06-1452 OA12, 6 August 2008, paras. 7 and 8.* See also *Decision, in limine, on Victim Participation in the appeals of the Prosecutor and the Defence against Trial Chamber I’s Decision entitled “Decision on Victims’ Participation (Appeals Chamber), ICC-01/04-01/06-1335 OA9 OA10, 16 May 2008, paras. 36-40.*

²⁶ See *Decision on Victim Participation in the appeal of the Office of Public Counsel for the Defence against Pre-Trial Chamber I’s Decision of 3 December 2007 and in the appeals of the Prosecutor and the Office of Public Counsel for the Defence against Pre-Trial Chamber I’s Decision of 6 December 2007 (Appeals Chamber), 18 June 2008, ICC-02/05-138 OA OA2 OA3, paras. 49, 51 and 53-59.* See also *Decision on the participation of victims in the appeal (Appeals Chamber), ICC-01/04-01/06-1452 OA12, 6 August 2008, paras. 7 and 8;* and *Decision of the Appeals Chamber on the OPCV’s request for clarification and the legal representatives’ request for extension of time and Order of the Appeals Chamber on the date of filing of applications for participation and on the time of the filing of the responses thereto by the OPCD and the Prosecutor (Appeals Chamber), 13 February 2008, ICC-01/04-450 OA4, para. 1.*

²⁷ See, *inter alia*, *Separate Opinion of Judge Sang-Hyun Song attached to Decision on the Participation of Victims in the Appeal against Trial Chamber I’s Decision to Stay the Proceedings, ICC-01/04-01/06-2556 OA18, 18 August 2010, p. 8;* and *Separate Opinion of Judge Sang-Hyun Song attached to Decision on the Participation of Victims in the Appeal of Mr Katanga Against the “Decision on the Modalities of Victim Participation at Trial (Appeals Chamber), ICC-01/04-01/07-2124 OA11, 24 May 2010, p. 8.* See also *Separate opinion of Judge Sang-Hyun Song and Judge Christine Van den Wyngaert with respect to the “Decision on the participation of victims in the appeals” issued on 20 October 2009 attached to Judgment on the appeals of Mr Lubanga Dyilo and the Prosecutor against the Decision of Trial Chamber I of 14 July 2009 entitled “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”, ICC-01/04-01/06-2205 OA15 OA16, 8 December 2009, p. 42.*

where there are “convincing reasons to depart from its previous jurisprudence”.²⁸ Consequently, Principal Counsel submits the following observations, which may provide the Appeals Chamber with convincing reasons to depart from its previous jurisprudence concerning the participation of victims in interlocutory appeals.

16. Principal Counsel notes that the Appeals Chamber has never been moved to rule on the participation of victims in an interlocutory appeal filed pursuant to article 82(1)(d) of the Rome Statute against a decision concerning reparations proceedings pursuant to article 75 of the Rome Statute.

17. Firstly, Principal Counsel submits that the victims’ interest in obtaining reparations is a perfect example of their personal interests. This is also reflected in the Court’s jurisprudence,²⁹ which clearly falls within the scope of fundamental human rights principles and is fully supported by legal writing.³⁰ It follows that any victim who might benefit from either individual or collective reparations has performed an obvious interest in participating in any proceedings related to reparations.

²⁸ See *Reasons for the “Decision on the Participation of Victims in the Appeal against the ‘Decision on the Interim Release of Jean-Pierre Bemba Gombo and Convening Hearings with the Kingdom of Belgium, the Republic of Portugal, the Republic of France, the Federal Republic of Germany, the Italian Republic, and the Republic of South Africa’”* (Appeals Chamber), ICC-01/05-01/08-566 OA2, 20 October 2009, para. 16. See also *Decision on the Participation of Victims in the Appeal against Trial Chamber I’s Oral Decision of 15 July 2010 to Release Thomas Lubanga Dyilo* (Appeals Chamber), ICC-01/04-01/06-2555 OA17, 17 August 2010, para. 16.

²⁹ See *Decision on victims’ participation* (Trial Chamber I), ICC-01/04-01/06-1119, 18 January 2008, para. 98. See also *Decision on the Set of Procedural Rights Attached to Procedural Status of Victim at the Pre-Trial Stage of the Case* (Pre-Trial Chamber I, Single Judge), ICC-01/04-01/07-474, 13 May 2008, para. 97.

³⁰ See Donat-Cattin, D., “Article 75. Reparations to victims”, in Triffterer, O., *Commentary on the Rome Statute of the International Criminal Court*, Verlag C. H. Beck oHG, Hart Publishing, Nomos Verlagsgesellschaft, 2nd edition, Munich, 2008, p. 1400. See also Ambos, K., “El Marco Jurídico de la Justicia de Transición”, Tenus, Bogota, 2008, notes 107-112. See also *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*, adopted by the 64th Session of the United Nations General Assembly by resolution No. 60/147, UN Doc. A/RES/60/147, 16 December 2005, para. 21. Furthermore, see “Note prepared by the former Special Rapporteur of the Sub-Commission, Mr. Theo van Boven, in accordance with paragraph 2 of Sub-Commission resolution 1996/28”, UN Doc. E/CN.4/1997/104, 16 January 1997, pp. 2-5. See also “Final Report Prepared by Mr. Joinet Pursuant to Sub-Commission Decision 1996/119, Question of the impunity of perpetrators of human rights violations (civil and political)” UN Doc. E/CN.4/Sub.2/1997/20, 26 June 1997, pp. 3-31.

18. Hence in order to give full effect to the victims' interest in obtaining reparations, the Court's basic documents rightly grant them extensive rights and prerogatives enabling them to participate efficiently and effectively in reparations proceedings. At issue here is the right to submit an application for reparations,³¹ the possibility of making representations on matters related to reparations,³² the right to request the appointment of experts for the purposes of determining the scope, extent of any damage, loss and injury to, or in respect of victims,³³ and the right to question witnesses, experts and the person concerned at a hearing limited to reparations.³⁴ Furthermore, article 75(1) of the Rome Statute empowers the competent trial chamber to grant reparations to victims on its own motion, including victims who have not submitted a corresponding application.

19. In this respect, Principal Counsel submits that in view of the pivotal role which the Court's basic documents place on victims in reparations proceedings under article 75 of the Rome Statute, they cannot be compelled to seek the Appeals Chamber's leave to participate in an interlocutory appeal resulting from reparations proceedings initiated by a trial chamber.

20. Principal Counsel submits in this respect that because the individuals whom she represents have been authorised by Trial Chamber I to participate in reparations proceedings in the present case, there is all the more reason that they should automatically be entitled to participate in any interlocutory appeal concerning a decision flowing from those proceedings, including the Impugned Decision.

21. Moreover, in addition to the fact that any victim who might obtain reparations has perforce an obvious interest in participating in the reparations proceedings in

³¹ See article 75(1) of the Rome Statute.

³² See article 75(3) of the Rome Statute.

³³ See rule 97(2) of the Rules of Procedure and Evidence.

³⁴ See rule 91(4) of the Rules of Procedure and Evidence.

question,³⁵ including any interlocutory appeal arising from the proceedings, the Impugned Decision precisely and specifically affects the personal interests of the individuals represented by Principal Counsel.

22. In respect of those victims who have submitted an individual application, the Chamber decided in the Impugned Decision not to examine the individual applications for reparations received by the Registry,³⁶ thereby rejecting them without considering them on their merits, and ordered the Registry to transmit them to the Trust Fund for Victims (“TFV”), allowing the TFV the unfettered discretion to decide whether those victims are to be included in its reparations programmes.³⁷

23. As for the victims who have not submitted applications for individual reparations but who may benefit from an order for collective reparations, Principal Counsel submits that since the Chamber delegated all of its responsibilities for reparations to the TFV, including those for individual applications, they have an obvious interest in participating in the Appeals Chamber’s determination of the issues raised by the Defence, in particular the issue of the delegation of responsibilities for reparations to the TFV, as well as issues concerning the applicable evidentiary standards. Furthermore, they also have a personal interest in participating in the determination of the issue of the potential delegation to a newly constituted chamber, since the judges of a new bench have, by definition, never presided in the case at bar and hence risk omitting to consider the entirety of relevant evidence, and thus affecting or compromising, the victims’ right to reparations under article 75 of the Rome Statute.

24. In conclusion, in light of the victims’ considerable prerogatives under the Court’s basic documents in relation to reparations proceedings, the participation of victims in an interlocutory appeal arising from those proceedings must be subject to

³⁵ See *supra*, para. 17.

³⁶ See Impugned Decision, *supra*, footnote 11, para. 289(a).

³⁷ *Idem*, paras. 284 and 289(a).

a *sui generis* legal regime and, in any event, one which differs from previous decisions on the matter, which did not concern reparations proceedings.

25. Principal Counsel is of the opinion that such evidence may lead the Appeals Chamber to depart from its previous rulings on the issue and to establish a *sui generis* regime concerning victims' participation in the interlocutory appeal under article 82(1)(d) of the Rome Statute arising from the reparations proceedings under article 75 of the Rome Statute.

26. In the alternative, Principal Counsel submits that, in the event that the Appeals Chamber holds that victim participation in the interlocutory appeal under article 82(1)(d) of the Rome Statute arising from the reparations proceedings under article 75 of the Rome Statute must be subject to the same regime established in its previous rulings, the victims whom she represents should be authorised to participate in that appeal.

27. In this respect, Principal Counsel submits that the participation, both of the victims who have submitted an individual application for reparations and those victims who may benefit from an order for collective reparations, in the present interlocutory appeal is appropriate in light of the fact that the Impugned Decision precisely and specifically affects their personal interests, as demonstrated *supra*.³⁸

28. Furthermore, any decision on the outcome of the applications for individual reparations or on the number of victims entitled to benefit from collective reparations in the instant case cannot in any way affect the rights of the convicted person and/or fair-trial guarantees. Indeed, the Chamber has already stated that Mr Lubanga does not possess any property or assets which can be used for the purposes of reparations and that his contribution would be limited to non-monetary reparations, and only

³⁸ See *supra*, para. 17.

with his agreement.³⁹ It held further that any reparations award shall be implemented by the TFV on the basis of a “community-based approach”, using its voluntary contributions.⁴⁰ Collective reparations awards cannot be made directly against a convicted person and may only be made through the Trust Fund.⁴¹

29. Furthermore, as regards in particular the victims who have not submitted individual applications for reparations but who may benefit from an order for collective reparations, Principal Counsel submits that even though the potential beneficiaries of collective reparations are as yet unidentified, it is important that their interests are represented appropriately in the instant appeal, since the Impugned Decision precisely and specifically affects their personal interests.

30. In this respect, Trial Chamber I has already held that it is important to safeguard the rights of the potential beneficiaries of collective reparations and to represent their interests in the reparations proceedings in the instant case.⁴² Furthermore, the Chamber found that the principles governing issues of reparations in the Court’s legal framework apply to all victims, not solely those who have submitted an application for reparations, and that none of those principles is inconsistent with or prejudicial to the rights of the convicted person and the requirements of a fair and impartial trial.⁴³

31. Lastly, it was in order to give full effect to victim participation in the reparations proceedings in the present case that the Registry recently quite rightly considered that it is in the interests of the victims concerned not to modify their legal representation, and consequently decided that the OPCV should continue to

³⁹ See Impugned Decision, *supra*, footnote 11, para. 269.

⁴⁰ *Idem*, para. 274.

⁴¹ See rule 98 of the Rules of Procedure and Evidence.

⁴² See *Decision on the OPCV’s request to participate in the reparations proceedings*, *supra*, footnote 7, paras. 11 and 12(b).

⁴³ See *Decision on the defence request for leave to appeal the Decision establishing the principles and procedures to be applied to reparations*, *supra*, footnote 17, para. 28. See also, Impugned Decision, *supra*, footnote 11, para. 255.

represent the unrepresented applicants for reparations and the victims who may ultimately benefit from reparations.⁴⁴

Consequently, Principal Counsel of the OPCV respectfully requests the Appeals Chamber:

- **To rule** that the victims who have submitted an individual application for reparations and the victims who may benefit from an order for collective reparations are entitled to participate in the Defence's interlocutory appeal against the Impugned Decision, owing to the fact that their personal interests are directly and automatically affected by any decision taken within the context of reparations proceedings;

- **In the alternative**, should the Appeals Chamber consider that the instant appeal falls within the scope of its previous rulings on the participation of victims in interlocutory appeals, **to find** that the personal interests of the victims who have submitted an individual application for reparations and the victims who might benefit from an order for collective reparations are affected by the present interlocutory appeal, that the presentation of their views and concerns is appropriate at this stage and that such participation is not inconsistent with or prejudicial to the rights of the Defence, and consequently **to authorise** those victims to participate in the Defence's interlocutory appeal against the Impugned Decision, in particular **to authorise** them (i) to file observations on the document in support of the appeal within a time limit to be determined by the Appeals Chamber and (ii) to make written submissions in the manner determined by the Appeals Chamber on any issue which affects the

⁴⁴ See "Notification of appointment of the legal representatives of victims and applicants for reparations", ICC-01/04-01/06-2910, 27 August 2012, pp. 4 and 5.

interests of the victims raised by the Defence and/or the Prosecution during the appeals proceedings.

[signed]

Paolina Massidda
Principal Counsel

Dated this 13 September 2012

At The Hague, The Netherlands