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No.: ICC-01/04-01/06  
Date: 20 October 2006

**PRE-TRIAL CHAMBER I**

**Before:** Judge Claude Jorda, Presiding Judge  
Judge Akua Kuenyehia  
Judge Silvia Steiner

**Registrar:** Mr Bruno Cathala

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO  
IN THE CASE OF  
*THE PROSECUTOR v. THOMAS LUBANGA DYILO***

**Public**

**Decision on applications for participation in proceedings a/0004/06 to a/0009/06, a/0016/06, a/0063/06, a/0071/06 to a/0080/06 and a/0105/06 in the case of *The Prosecutor v. Thomas Lubanga Dyilo***

**The Office of the Prosecutor**

Mr Luis Moreno Ocampo  
Ms Fatou Bensouda  
Mr Ekkehard Withopf

**Legal Representatives of Applicants  
a/0071/06 and a/0105/06**

Mr Emmanuel Daoud  
Mr Patrick Baudouin  
Ms Carine Bapita Buyangandu

**Counsel for the Defence**

Mr Jean Flamme  
Ms Véronique Pandanzyla

**Office of Public Counsel for the  
Defence**

Ms Melinda Taylor

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

**NOTING** the “Warrant of arrest”<sup>1</sup> issued by the Chamber on 10 February 2006 against Thomas Lubanga Dyilo;

**NOTING** applications for participation in the proceedings a/0004/06<sup>2</sup>, a/0005/06<sup>3</sup>, a/0006/06<sup>4</sup>, a/0007/06<sup>5</sup>, a/0008/06<sup>6</sup>, a/0009/06<sup>7</sup>, a/0016/06<sup>8</sup>, a/0017/06<sup>9</sup>, a/0018/06<sup>10</sup>, a/0019/06<sup>11</sup>, a/0020/06<sup>12</sup>, a/0021/06<sup>13</sup>, a/0022/06<sup>14</sup>, a/0023/06<sup>15</sup>, a/0024/06<sup>16</sup>, a/0025/06<sup>17</sup>, a/0026/06<sup>18</sup>, a/0027/06<sup>19</sup>, a/0028/06<sup>20</sup>, a/0029/06<sup>21</sup>, a/0030/06<sup>22</sup>, a/0031/06<sup>23</sup>, a/0032/06<sup>24</sup>, a/0033/06<sup>25</sup>, a/0034/06<sup>26</sup>, a/0035/06<sup>27</sup>, a/0036/06<sup>28</sup>, a/0037/06<sup>29</sup>, a/0038/06<sup>30</sup>, a/0039/06<sup>31</sup>, a/0040/06<sup>32</sup>, a/0041/06<sup>33</sup>, a/0042/06<sup>34</sup>, a/0043/06<sup>35</sup>, a/0044/06<sup>36</sup>, a/0045/06<sup>37</sup>, a/0046/06<sup>38</sup>,

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<sup>1</sup> ICC-01/04-01/06-2-US made public pursuant to Decision ICC-01/04-01/06-37.

<sup>2</sup> ICC-01/04-01/06-144-Conf-Exp.

<sup>3</sup> ICC-01/04-01/06-269-Conf-Exp.

<sup>4</sup> ICC-01/04-01/06-154-Conf-Exp.

<sup>5</sup> ICC-01/04-01/06-155-Conf-Exp.

<sup>6</sup> ICC-01/04-01/06-156-Conf-Exp.

<sup>7</sup> ICC-01/04-01/06-157-Conf-Exp.

<sup>8</sup> ICC-01/04-01/06-237-Conf-Exp.

<sup>9</sup> ICC-01/04-01/06-238-Conf-Exp.

<sup>10</sup> ICC-01/04-01/06-239-Conf-Exp.

<sup>11</sup> ICC-01/04-01/06-240-Conf-Exp.

<sup>12</sup> ICC-01/04-01/06-241-Conf-Exp.

<sup>13</sup> ICC-01/04-01/06-242-Conf-Exp.

<sup>14</sup> ICC-01/04-01/06-243-Conf-Exp.

<sup>15</sup> ICC-01/04-01/06-244-Conf-Exp.

<sup>16</sup> ICC-01/04-01/06-245-Conf-Exp.

<sup>17</sup> ICC-01/04-01/06-246-Conf-Exp.

<sup>18</sup> ICC-01/04-01/06-247-Conf-Exp.

<sup>19</sup> ICC-01/04-01/06-248-Conf-Exp.

<sup>20</sup> ICC-01/04-01/06-249-Conf-Exp.

<sup>21</sup> ICC-01/04-01/06-250-Conf-Exp.

<sup>22</sup> ICC-01/04-01/06-251-Conf-Exp.

<sup>23</sup> ICC-01/04-01/06-252-Conf-Exp.

<sup>24</sup> ICC-01/04-01/06-253-Conf-Exp.

<sup>25</sup> ICC-01/04-01/06-254-Conf-Exp.

<sup>26</sup> ICC-01/04-01/06-255-Conf-Exp.

<sup>27</sup> ICC-01/04-01/06-256-Conf-Exp.

<sup>28</sup> ICC-01/04-01/06-257-Conf-Exp.

<sup>29</sup> ICC-01/04-01/06-258-Conf-Exp.

<sup>30</sup> ICC-01/04-01/06-259-Conf-Exp.

<sup>31</sup> ICC-01/04-01/06-260-Conf-Exp.

<sup>32</sup> ICC-01/04-01/06-261-Conf-Exp.

<sup>33</sup> ICC-01/04-01/06-262-Conf-Exp.

<sup>34</sup> ICC-01/04-01/06-263-Conf-Exp.

<sup>35</sup> ICC-01/04-01/06-264-Conf-Exp.

a/0047/06<sup>39</sup>, a/0048/06<sup>40</sup>, a/0049/06<sup>41</sup>, a/0050/06<sup>42</sup>, a/0051/06<sup>43</sup>, a/0052/06<sup>44</sup>, a/0053/06<sup>45</sup>, a/0054/06<sup>46</sup>, a/0055/06<sup>47</sup>, a/0056/06<sup>48</sup>, a/0057/06<sup>49</sup>, a/0058/06<sup>50</sup>, a/0059/06<sup>51</sup>, a/0060/06<sup>52</sup>, a/0061/06<sup>53</sup>, a/0062/06<sup>54</sup>, a/0063/06<sup>55</sup>, a/0071/06<sup>56</sup>, a/0072/06<sup>57</sup>, a/0073/06<sup>58</sup>, a/0074/06<sup>59</sup>, a/0075/06<sup>60</sup>, a/0076/06<sup>61</sup>, a/0077/06<sup>62</sup>, a/0078/06<sup>63</sup>, a/0079/06<sup>64</sup>, a/0080/06<sup>65</sup> et a/0105/06<sup>66</sup> (“the applications for participation”), filed confidentially and *ex parte* on 31 July 2006, 3 and 4 August 2006 and 6, 14 and 25 September 2006;

**NOTING** the “Decision authorising the Prosecutor and the Defence to file observations on the applications of Applicants a/0004/06 to a/0009/06, a/0016/06 to a/0046/06 and a/0047/06 to a/0052/06 in the case of *The Prosecutor v. Thomas Lubanga Dyilo*”<sup>67</sup>, rendered by the Chamber on 4 August 2006;

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<sup>36</sup> ICC-01/04-01/06-265-Conf-Exp.

<sup>37</sup> ICC-01/04-01/06-266-Conf-Exp.

<sup>38</sup> ICC-01/04-01/06-267-Conf-Exp.

<sup>39</sup> ICC-01/04-01/06-216-Conf-Exp.

<sup>40</sup> ICC-01/04-01/06-217-Conf-Exp.

<sup>41</sup> ICC-01/04-01/06-218-Conf-Exp.

<sup>42</sup> ICC-01/04-01/06-219-Conf-Exp.

<sup>43</sup> ICC-01/04-01/06-220-Conf-Exp.

<sup>44</sup> ICC-01/04-01/06-221-Conf-Exp.

<sup>45</sup> ICC-01/04-01/06-412-Conf-Exp.

<sup>46</sup> ICC-01/04-01/06-413-Conf-Exp.

<sup>47</sup> ICC-01/04-01/06-414-Conf-Exp.

<sup>48</sup> ICC-01/04-01/06-415-Conf-Exp.

<sup>49</sup> ICC-01/04-01/06-416-Conf-Exp.

<sup>50</sup> ICC-01/04-01/06-417-Conf-Exp.

<sup>51</sup> ICC-01/04-01/06-418-Conf-Exp.

<sup>52</sup> ICC-01/04-01/06-419-Conf-Exp.

<sup>53</sup> ICC-01/04-01/06-420-Conf-Exp.

<sup>54</sup> ICC-01/04-01/06-421-Conf-Exp.

<sup>55</sup> ICC-01/04-01/06-422-Conf-Exp.

<sup>56</sup> ICC-01/04-01/06-423-Conf-Exp.

<sup>57</sup> ICC-01/04-01/06-467-Conf-Exp.

<sup>58</sup> ICC-01/04-01/06-468-Conf-Exp.

<sup>59</sup> ICC-01/04-01/06-469-Conf-Exp.

<sup>60</sup> ICC-01/04-01/06-470-Conf-Exp.

<sup>61</sup> ICC-01/04-01/06-471-Conf-Exp.

<sup>62</sup> ICC-01/04-01/06-472-Conf-Exp.

<sup>63</sup> ICC-01/04-01/06-473-Conf-Exp.

<sup>64</sup> ICC-01/04-01/06-474-Conf-Exp.

<sup>65</sup> ICC-01/04-01/06-475-Conf-Exp.

<sup>66</sup> ICC-01/04-01/06-482-Conf-Exp.

<sup>67</sup> ICC-01/04-01/06-270.

**NOTING** the “Decision authorising the filing of observations on applications for participation in the proceedings a/0004/06 to a/0009/06, a/0016/06 to a/0063/06 and a/0071/06”<sup>68</sup>, rendered by the Chamber on 22 September 2006, whereby the Chamber authorised the Prosecutor and the Defence to make observations on applications a/0053/06 to a/0063/06 and a/0071 to participate in the proceedings against Thomas Lubanga Dyilo;

**NOTING** the “Decision authorising the filing of observations on applications for participation in the proceedings a/0072/06 to a/0080/06 and a/0105/06”<sup>69</sup>, rendered by the Chamber on 29 September 2006;

**NOTING** the registration in the record of the case of the redacted versions of Applications for participation a/0004/06 to a/0009/06 and a/0016/06 to a/0052/06 on 8 August 2006,<sup>70</sup> of Applications a/0053/06 to a/0063/06 and a/0071/06 on 3 October 2006<sup>71</sup> and of Applications for participation a/0072/06 to a/0080/06 and a/0105/06 on 10 October 2006;<sup>72</sup>

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<sup>68</sup> ICC-01/04-01/06-463.

<sup>69</sup> ICC-01/04-01/06-494.

<sup>70</sup> ICC-01/04-01/06-273-Conf, ICC-01/04-01/06-274-Conf, ICC-01/04-01/06-275-Conf, ICC-01/04-01/06-276-Conf, ICC-01/04-01/06-277-Conf, ICC-01/04-01/06-278-Conf, ICC-01/04-01/06-279-Conf, ICC-01/04-01/06-280-Conf, ICC-01/04-01/06-281-Conf, ICC-01/04-01/06-282-Conf, ICC-01/04-01/06-283-Conf, ICC-01/04-01/06-284-Conf, ICC-01/04-01/06-285-Conf, ICC-01/04-01/06-286-Conf, ICC-01/04-01/06-287-Conf, ICC-01/04-01/06-288-Conf, ICC-01/04-01/06-289-Conf, ICC-01/04-01/06-290-Conf, ICC-01/04-01/06-291-Conf, ICC-01/04-01/06-292-Conf, ICC-01/04-01/06-293-Conf, ICC-01/04-01/06-294-Conf, ICC-01/04-01/06-295-Conf, ICC-01/04-01/06-296-Conf, ICC-01/04-01/06-297-Conf, ICC-01/04-01/06-298-Conf, ICC-01/04-01/06-299-Conf, ICC-01/04-01/06-300-Conf, ICC-01/04-01/06-301-Conf, ICC-01/04-01/06-302-Conf, ICC-01/04-01/06-303-Conf, ICC-01/04-01/06-304-Conf, ICC-01/04-01/06-305-Conf, ICC-01/04-01/06-306-Conf, ICC-01/04-01/06-307-Conf, ICC-01/04-01/06-308-Conf, ICC-01/04-01/06-309-Conf, ICC-01/04-01/06-310-Conf, ICC-01/04-01/06-311-Conf, ICC-01/04-01/06-312-Conf, ICC-01/04-01/06-313-Conf, ICC-01/04-01/06-314-Conf, ICC-01/04-01/06-315-Conf.

<sup>71</sup> ICC-01/04-01/06-499-Conf, ICC-01/04-01/06-500-Conf, ICC-01/04-01/06-501-Conf, ICC-01/04-01/06-502-Conf, ICC-01/04-01/06-503-Conf, ICC-01/04-01/06-504-Conf, ICC-01/04-01/06-505-Conf, ICC-01/04-01/06-506-Conf, ICC-01/04-01/06-507-Conf, ICC-01/04-01/06-508-Conf, ICC-01/04-01/06-509-Conf, ICC-01/04-01/06-510-Conf.

<sup>72</sup> ICC-01/04-01/06-536-Conf, ICC-01/04-01/06-537-Conf, ICC-01/04-01/06-538-Conf, ICC-01/04-01/06-539-Conf, ICC-01/04-01/06-540-Conf, ICC-01/04-01/06-541-Conf, ICC-01/04-01/06-542-Conf, ICC-01/04-01/06-543-Conf, ICC-01/04-01/06-544-Conf, ICC-01/04-01/06-545-Conf.

**NOTING** the “Prosecution's Observations on the Applications for Participation of Applicants a/0004/06 to a/0009/06 and a/0016/06 to a/0046/06”, registered in the record of the case of *The Prosecutor v. Thomas Lubanga Dyilo* on 22 August 2006, whereby the Prosecutor requests that the Pre-Trial Chamber reject the applications for participation on the ground that there is no causal link between the facts alleged by the applicants and the crimes set forth in the warrant of arrest issued against Thomas Lubanga Dyilo;<sup>73</sup>

**NOTING** the “Prosecution's Observations on the Applications for Participation of Applicants a/0047/06 to a/0052/06”, registered in the record of the case of *The Prosecutor v. Thomas Lubanga Dyilo* on 25 August 2006, in which the Prosecutor states that Applicants a/00047/06 to a/0052/06, having established that there was a causal link between the alleged crimes and the charges set forth in the warrant of arrest issued against Thomas Lubanga Dyilo, satisfy the requirements to be granted victim status at this stage of the proceedings; that he nevertheless adds that the applicants are also Prosecution witnesses and, as such, granting them victim status should not hinder the applicants' pre-existing status as witnesses for the Office of the Prosecutor;<sup>74</sup>

**NOTING** the “Prosecution's Observations on the Applications for Participation of Applicants a/0053/06 to a/0063/06 and a/0071/06”, registered in the record of the case of *The Prosecutor v. Thomas Lubanga Dyilo* on 12 October 2006, whereby the Prosecutor requests that the Chamber reject these applications to participate in the proceedings against Thomas Lubanga Dyilo on the ground that none of the applicants has established that there was a causal link between the harm they suffered and the crimes set forth in the warrant of arrest issued against Thomas Lubanga Dyilo;<sup>75</sup>

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<sup>73</sup> ICC-01/04-01/06-342-Conf-Exp.

<sup>74</sup> ICC-01/04-01/06-354-Conf-Exp.

<sup>75</sup> ICC-01/04-01/06-559-Conf-Exp.

**NOTING** the “Prosecution’s Observations on the Applications for Participation of Applicants a/0072/06 to a/0080/06 and a/0105/06”, registered in the record of the case of *The Prosecutor v. Thomas Lubanga Dyilo* on 18 October 2006, whereby the Prosecutor requests that the Chamber (i) grant Applicant a/0105/06 the status of a victim with standing to participate in the case of *The Prosecutor v. Thomas Lubanga Dyilo* because he has established that there was a causal link between the harm he suffered and the crimes set forth in the warrant of arrest issued against Thomas Lubanga Dyilo, (ii) request Applicant a/0078/06 to provide documentary evidence to the Chamber confirming her date of birth and (iii) reject applications for participation a/0072/06 to a/0077/06 and a/0079/06 to a/0080/06 on the ground that there was no causal link between the harm suffered by the applicants and the charges brought against Thomas Lubanga Dyilo;<sup>76</sup>

**NOTING** the “Defence submissions regarding the applications for participation in the proceedings of Applicants a/0004/06 to a/0052/06”<sup>77</sup>, registered in the record of the case of *The Prosecutor v. Thomas Lubanga Dyilo* on 5 September 2006, in which Counsel for the Defence maintains that the applicants cannot claim victim status at this stage of the proceedings in so far as Applicants a/0034/06 and a/0037/06 can not show that they suffered any direct and personal harm, that Applicants a/0034/06, a/0037/06, a/0041/06, a/0042/06 and a/0043/06 have not established that there was any relationship between themselves and the direct victim, and that none of the Applicants has established that there was any causal link between the alleged harm and the charges brought against Thomas Lubanga Dyilo;

**NOTING** the “Defence observation on the applications to participate in the proceedings by a/0053/06 to a/0063/06 and a/0071/06”, registered in the record of the case of *The Prosecutor v. Thomas Lubanga Dyilo* on 12 October 2006, whereby the Defence requests that the Chamber reject those applications for participation in the

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<sup>76</sup> ICC-01/04-01/06-584-Conf-Exp.

<sup>77</sup> ICC-01/04-01/06-386.

proceedings against Thomas Lubanga Dyilo on the ground that there was no causal link between the harm alleged by the applicants and the crimes set forth in the warrant of arrest issued against Thomas Lubanga Dyilo<sup>78</sup>,

**NOTING** the “*Observation de la Défense sur les demandes de participation à la procédure a/0072/06 à a/0080/06 et a/0105/06*”, registered in the case file of *The Prosecutor v. Thomas Lubanga Dyilo* on 18 October 2006, whereby the Defence requests that the Chamber declare the applications for participation of applicants a/0072/06 to a/0080/06 and a/0105/06 to be inadmissible on the grounds that (i) the crimes listed in the applications for participation of applicants a/0072/06 to a/0080/06 are not mentioned in the warrant of arrest issued against Thomas Lubanga Dyilo and that, as a result, there was no causal link between the alleged facts and harm and the charges brought against Thomas Lubanga Dyilo, and that (ii) Applicant a/0105/06 alleges that his minor son was enlisted by the Ugandan Armed Forces, the UPDF, in 2002, whereas Thomas Lubanga Dyilo was never in control of the UPDF and that, as a result, he cannot be held accountable for an act carried out by a branch of the Ugandan army;<sup>79</sup>

**NOTING** the “Decision on the applications for participation in the proceedings of VPRS 1, VPRS 2, VPRS 3, VPRS 4, VPRS 5 and VPRS 6”, rendered by the Chamber on 17 January 2006;<sup>80</sup>

**NOTING** the “Decision on the Applications for Participation in the Proceedings Submitted by VPRS 1 to VPRS 6 in the case *The Prosecutor v. Thomas Lubanga Dyilo*”, rendered by the Chamber on 22 June 2006;<sup>81</sup>

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<sup>78</sup> ICC-01/04-01/06-561.

<sup>79</sup> ICC-01/04-01/06-585.

<sup>80</sup> ICC-01/04-101.

<sup>81</sup> ICC-01/04-01/06-162-Conf-Exp.

**NOTING** the “Decision on the Arrangements for Participation of Victims a/0001/06, a/0002/06 and a/0003/06 at the Confirmation Hearing”, rendered by the Chamber on 22 September 2006;<sup>82</sup>

**NOTING** the “Decision on the date of the confirmation hearing”, rendered by the Chamber on 5 October 2006, deciding to postpone the confirmation hearing to 9 November 2006;<sup>83</sup>

**CONSIDERING** articles 11, 12, 13, 21(2), 57(3)(c), 58, 61 and 68 of the Rome Statute (“the Statute”), rules 85, 87, 89, 90, 91 and 92 of the Rules of Procedure and Evidence (“the Rules”), and regulation 86 of the Regulations of the Court;

**CONSIDERING** that the Chamber is of the opinion that, with the exception of Applicants a/0008/06, a/0009/06, a/0019/06, a/0044/06, a/0053/06 and a/0062/06, the applicants are seeking the status of victims with standing to participate in the proceedings at the investigation stage in the Situation in the Democratic Republic of the Congo (“the DRC”) and in the case of *The Prosecutor v. Thomas Lubanga Dyilo*;

**CONSIDERING** that because of the lack of an explicit indication of the intention to participate at the pre-trial stage in applications a/0008/06, a/0009/06, a/0019/06, a/0044/06, a/0053/06 and a/0062/06, the Chamber cannot consider these applications for participation;

**CONSIDERING**, however, that the Chamber will consider the applications in due course should Applicants a/0008/06, a/0009/06, a/0019/06, a/0044/06, a/0053/06 and a/0062/06 so expressly request;

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<sup>82</sup> ICC-01/04-01/06-462.

<sup>83</sup> ICC-01/04-01/06-521.

**CONSIDERING** that the Chamber is of the opinion that under rule 85(a) of the Rules the following four criteria must be satisfied for victim status to be granted, regardless of the stage of the proceedings in which the applicants wish to participate: the victim must be a natural person; the victim must have suffered harm; the crime from which the harm resulted must fall within the jurisdiction of the Court; and there must be a causal link between the crime and the harm;

**CONSIDERING** that the crimes set forth in the warrant of arrest issued against Thomas Lubanga Dyilo are within the jurisdiction of the Court;

**CONSIDERING** that the applicants are natural persons;<sup>84</sup>

**CONSIDERING** that at this stage of the proceedings, the causation requirement under rule 85 of the Rules is satisfied where the victim and, as the case may be, the immediate family or the dependents of the direct victim, provide sufficient evidence to show that there are reasonable grounds to believe that he or she has suffered harm directly linked to the crimes set forth in the warrant of arrest, or that he or she suffered harm in intervening to assist direct victims in the case, or to prevent their victimisation as a result of the commission of these crimes;<sup>85</sup>

**CONSIDERING** that the Chamber is of the opinion that Applicants a/0004/06, a/0005/06, a/0006/06, a/0007/06, a/0016/06, a/0017/06, a/0018/06, a/0020/06, a/0021/06, a/0022/06, a/0023/06, a/0024/06, a/0025/06, a/0026/06, a/0027/06, a/0028/06, a/0029/06, a/0030/06, a/0031/06, a/0032/06, a/0033/06, a/0034/06, a/0035/06, a/0036/06, a/0037/06, a/0038/06, a/0039/06, a/0040/06, a/0041/06, a/0042/06, a/0043/06, a/0045/06, a/0046/06, a/0054/06, a/0055/06, a/0056/06, a/0057/06, a/0058/06, a/0059/06, a/0060/06, a/0061/06, a/0063/06, a/0071/06, a/0072/06, a/0073/06, a/0074/06, a/0075/06, a/0076/06, a/0077/06, a/0078/06, a/0079/06 et a/0080/06 have not provided sufficient evidence to show that

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<sup>84</sup> ICC-01/04-101, para. 80.

<sup>85</sup> ICC-01/04-01/06-172, p. 7 et 8.

there are reasonable grounds to believe that the harm they suffered is directly linked to the crimes set forth in the warrant of arrest against Thomas Lubanga Dyilo, or that they suffered harm in intervening to assist direct victims in the case or to prevent their victimisation as a result of the commission of these crimes;

**CONSIDERING** that the Chamber will in due course consider their application for participation in the investigation into the Situation in the DRC;

**CONSIDERING**, furthermore, that the Chamber is of the opinion that by their statements, Applicants a/0047/06, a/0048/06, a/0049/06, a/0050/06, a/0051/06 and a/0052/06 have provided sufficient evidence to satisfy the Court that there are reasonable grounds to believe that they suffered emotional and physical harm due to their enlistment in the Union des Patriotes Congolais (“UPC”) militia; that, in addition, the applicants have provided sufficient evidence to satisfy the Chamber that there are reasonable grounds to believe that they suffered harm as a result of the crimes set forth in the warrant of arrest issued against Thomas Lubanga Dyilo;

**CONSIDERING**, however, that article 68(3) of the Statute provides that the Court shall permit the views and concerns of victims to be presented and considered “[w]here the personal interests of the victims are affected [...] at stages of the proceedings determined to be appropriate by the Court”;

**CONSIDERING** that the Chamber may determine at its discretion the appropriateness of the stage of the proceedings at which the views and concerns of the victims may be presented;

**CONSIDERING** that in this case, Applicants a/0047/06 to a/0052/06 are being afforded specific protective measures;

**CONSIDERING** that the recent deterioration in security in some regions of the DRC has affected the range of protective measures currently available and that may be applied to protect victims and witnesses;<sup>86</sup>

**CONSIDERING**, furthermore, that the Chamber is of the opinion that the effective exercise of procedural rights arising from the granting of the status of victims with standing to participate in the proceedings would require repeated contacts between the applicants and their legal representatives; that the Chamber is of the opinion that such repeated contacts, although necessary for the effective exercise of the said procedural rights, even if organised by the Victims and Witnesses Unit, would have the effect of significantly increasing the risks to which the applicants are exposed;

**CONSIDERING** that, in this context, and having carefully considered each case, the Chamber is of the opinion that granting Applicants a/0047/06 to a/0052/06 the status of victims with standing to participate would be inappropriate at this particular stage in the proceedings;

**CONSIDERING**, furthermore, that Applicant a/0105/06 is acting on behalf of his minor son; that, in his statement, the applicant mentions the enlistment of his son by the UPDF (Uganda Peoples Defence Forces) in 2002; that the Chamber notes, however, that it is apparent from the material filed in support of the application for participation<sup>87</sup> that the son also allegedly served in the UPC for one and a half years beginning in 2002, including as a soldier, when he was still less than fifteen years old;

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<sup>86</sup> ICC-01/04-01/06-462.

<sup>87</sup> ICC-01/04-01/06-482-Conf-Exp, 27 September 2006. See the personal information form for children associated with armed forces and groups dated 14 May 2004 and the certificate of demobilisation of a child from an armed group (pp. 24 and 27 of Application to participate in the proceedings a/0105/06).

**CONSIDERING** that the Chamber recalls that the crimes set forth in the warrant of arrest issued against Thomas Lubanga Dyilo are limited to the period from July 2002 to December 2003, and that, as a result, in determining whether it is appropriate to grant victim status to the applicants, it will only take into account the crimes committed during that period;

**CONSIDERING** that the Chamber is also of the opinion, in light of the statement by the applicant and, in particular, in light of the documents appended to this application,<sup>88</sup> that it has sufficient evidence to establish a familial relationship between Applicant a/0105/06 and his minor son on whose behalf he is acting;

**CONSIDERING** that in this case, the Chamber is of the opinion that there are reasonable grounds to believe that Applicant a/0105/06 suffered harm that may be characterised as emotional<sup>89</sup> and physical suffering<sup>90</sup> due to his enlistment in the UPC militia; that the applicant has provided sufficient evidence to satisfy the Chamber that there are reasonable grounds to believe that he suffered harm as a result the crimes set forth in the warrant of arrest issued against Thomas Lubanga Dyilo and that he should be granted victim status in the case of *The Prosecutor v. Thomas Lubanga Dyilo*;

**CONSIDERING** that Applicant a/0105/06 wishes that his identity not be disclosed to the Defence;

**CONSIDERING** that the confirmation hearing will be held on 09 November 2006; that in view of the imminence of this date, the Chamber will not be able to consider

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<sup>88</sup> ICC-01/04-01/06-482-Conf-Exp, 27 September 2006. See the *fiche de vérification individuelle* (personal information form) for children associated with armed forces and groups dated 14 May 2004, the *fiche de recherche familiale* (family information form) and the child reunification certificate under the DDR programme, issued by the International Rescue Committee (pp. 24, 25 and 28 of Application for participation in the proceedings a/0105/06).

<sup>89</sup> ICC-01/04-101, paras. 115 and 116.

<sup>90</sup> ICC-01/04-101, para. 146.

new applications for participation in the proceedings in the instant case before the said hearing;

**FOR THESE REASONS,**

**DECIDES** that the status of victims with standing to participate in the proceedings in the case of *The Prosecutor v. Thomas Lubanga Dyilo* cannot be granted to Applicants a/0047/06, a/0048/06, a/0049/06, a/0050/06, a/0051/06 and a/0052/06 at this particular stage of the proceedings;

**DECIDES** that the status of victims with standing to participate in the proceedings in the case of *The Prosecutor v. Thomas Lubanga Dyilo* cannot be granted to a/0004/06, a/0005/06, a/0006/06, a/0007/06, a/0016/06, a/0017/06, a/0018/06, a/0020/06, a/0021/06, a/0022/06, a/0023/06, a/0024/06, a/0025/06, a/0026/06, a/0027/06, a/0028/06, a/0029/06, a/0030/06, a/0031/06, a/0032/06, a/0033/06, a/0034/06, a/0035/06, a/0036/06, a/0037/06, a/0038/06, a/0039/06, a/0040/06, a/0041/06, a/0042/06, a/0043/06, a/0045/06, a/0046/06, a/0054/06, a/0055/06, a/0056/06, a/0057/06, a/0058/06, a/0059/06, a/0060/06, a/0061/06, a/0063/06, a/0071/06, a/0072/06, a/0073/06, a/0074/06, a/0075/06, a/0076/06, a/0077/06, a/0078/06, a/0079/06 and a/0080/06;

**DECIDES** that victim status is granted to Applicant a/0105/06 at this stage of the case of *The Prosecutor v. Thomas Lubanga Dyilo*;

**DECIDES** that this victim or his or her legal representative will participate in the confirmation hearing on the same terms as those granted to victims a/0001/06 to a/0003/06;

**ORDERS** the Registrar to notify all public documents in the case of *The Prosecutor v. Thomas Lubanga Dyilo* to Ms Carine Bapita Buyangandu, the legal representative of victim a/0105/06;

**ORDERS** the Registrar or his representatives to take all necessary measures to ensure Ms Carine Bapita Buyangandu's attendance at the confirmation hearing on 09 November 2006;

**INFORMS** that in view of the date of the confirmation hearing scheduled for 09 November 2006, no new applications for participation in the case of *The Prosecutor v. Thomas Lubanga Dyilo* will be considered before the confirmation hearing.

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

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**Judge Claude Jorda**  
**Presiding Judge**

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**Judge Akua Kuenyehia**

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**Judge Silvia Stein**

Done on Friday 20 October 2006

At The Hague, The Netherlands