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

Date: 4 August 2006

**PRE-TRIAL CHAMBER I**

**Before:** Judge Sylvia Steiner, Single judge

**Registrar:** Mr Bruno Cathala

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

**Public Document**

**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**

**The Office of the Prosecutor**

Mr Luis Moreno Ocampo

Ms Fatou Bensouda

Mr Ekkehard Withopf

**Counsel for the Defence**

Mr Jean Flamme

Ms Véronique Pandanzyla

**I, Sylvia Steiner**, judge at the International Criminal Court (the “Court”),

**NOTING** the applications for participation in the proceedings n<sup>o</sup>: a/0004/06<sup>1</sup>, a/0005/06<sup>2</sup>, a/0006/06<sup>3</sup>, a/0007/06<sup>4</sup>, a/0008/06<sup>5</sup>, a/0009/06<sup>6</sup>, a/0016/06<sup>7</sup>, a/0017/06<sup>8</sup>, a/0018/06<sup>9</sup>, a/0019/06<sup>10</sup>, a/0020/06<sup>11</sup>, a/0021/06<sup>12</sup>, a/0022/06<sup>13</sup>, a/0023/06<sup>14</sup>, a/0024/06<sup>15</sup>, a/0025/06<sup>16</sup>, a/0026/06<sup>17</sup>, a/0027/06<sup>18</sup>, a/0028/06<sup>19</sup>, a/0029/06<sup>20</sup>, a/0030/06<sup>21</sup>, a/0031/06<sup>22</sup>, a/0032/06<sup>23</sup>, a/0033/06<sup>24</sup>, a/0034/06<sup>25</sup>, a/0035/06<sup>26</sup>, a/0036/06<sup>27</sup>, a/0037/06<sup>28</sup>, a/0038/06<sup>29</sup>, a/0039/06<sup>30</sup>, a/0040/06<sup>31</sup>, a/0041/06<sup>32</sup>, a/0042/06<sup>33</sup>, a/0043/06<sup>34</sup>, a/0044/06<sup>35</sup>, a/0045/06<sup>36</sup>, a/0046/06<sup>37</sup>, a/0047/06<sup>38</sup>, a/0048/06<sup>39</sup>, a/0049/06<sup>40</sup>, a/0050/06<sup>41</sup>, a/0051/06<sup>42</sup>, a/0052/06<sup>43</sup>

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<sup>1</sup> ICC-01/04-01/06-144-Conf-Exp.

<sup>2</sup> ICC-01/04-01/06-269-Conf-Exp.

<sup>3</sup> ICC-01/04-01/06-154-Conf-Exp.

<sup>4</sup> ICC-01/04-01/06-155-Conf-Exp.

<sup>5</sup> ICC-01/04-01/06-156-Conf-Exp.

<sup>6</sup> ICC-01/04-01/06-157-Conf-Exp.

<sup>7</sup> ICC-01/04-01/06-237-Conf-Exp.

<sup>8</sup> ICC-01/04-01/06-238-Conf-Exp.

<sup>9</sup> ICC-01/04-01/06-239-Conf-Exp.

<sup>10</sup> ICC-01/04-01/06-240-Conf-Exp.

<sup>11</sup> ICC-01/04-01/06-241-Conf-Exp.

<sup>12</sup> ICC-01/04-01/06-242-Conf-Exp.

<sup>13</sup> ICC-01/04-01/06-243-Conf-Exp.

<sup>14</sup> ICC-01/04-01/06-244-Conf-Exp.

<sup>15</sup> ICC-01/04-01/06-245-Conf-Exp.

<sup>16</sup> ICC-01/04-01/06-246-Conf-Exp.

<sup>17</sup> ICC-01/04-01/06-247-Conf-Exp.

<sup>18</sup> ICC-01/04-01/06-248-Conf-Exp.

<sup>19</sup> ICC-01/04-01/06-249-Conf-Exp.

<sup>20</sup> ICC-01/04-01/06-250-Conf-Exp.

<sup>21</sup> ICC-01/04-01/06-251-Conf-Exp.

<sup>22</sup> ICC-01/04-01/06-252-Conf-Exp.

<sup>23</sup> ICC-01/04-01/06-253-Conf-Exp.

<sup>24</sup> ICC-01/04-01/06-254-Conf-Exp.

<sup>25</sup> ICC-01/04-01/06-255-Conf-Exp.

<sup>26</sup> ICC-01/04-01/06-256-Conf-Exp.

<sup>27</sup> ICC-01/04-01/06-257-Conf-Exp.

<sup>28</sup> ICC-01/04-01/06-258-Conf-Exp.

<sup>29</sup> ICC-01/04-01/06-259-Conf-Exp.

<sup>30</sup> ICC-01/04-01/06-260-Conf-Exp.

<sup>31</sup> ICC-01/04-01/06-261-Conf-Exp.

<sup>32</sup> ICC-01/04-01/06-262-Conf-Exp.

<sup>33</sup> ICC-01/04-01/06-263-Conf-Exp.

<sup>34</sup> ICC-01/04-01/06-264-Conf-Exp.

<sup>35</sup> ICC-01/04-01/06-265-Conf-Exp.

<sup>36</sup> ICC-01/04-01/06-266-Conf-Exp.

<sup>37</sup> ICC-01/04-01/06-267-Conf-Exp.

<sup>38</sup> ICC-01/04-01/06-216-Conf-Exp.

<sup>39</sup> ICC-01/04-01/06-217-Conf-Exp.

<sup>40</sup> ICC-01/04-01/06-218-Conf-Exp.

<sup>41</sup> ICC-01/04-01/06-219-Conf-Exp.

("Applications for participation"), filed as confidential and *ex parte* on 31 July 2006 and also on 3 and 4 August 2006, in which the applicants request that they be granted the status of victims participating in the case of *The Prosecutor v. Thomas Lubanga Dyilo*,

**NOTING** the decision rendered on 22 March 2006 by Pre-Trial Chamber I, which appointed Judge Sylvia Steiner as the single judge and which gave her the responsibility under article 57 (2) of the Rome Statute ("the Statute"), to discharge the functions of the Chamber in the case of Thomas Lubanga Dyilo, including those functions set out in rule 121 (2) (b) of the Rules of Procedure and Evidence (the "Rules")<sup>44</sup>,

**PURSUANT TO** articles 57 (3) (c) and 68 (1) of the Statute, rules 86 and 89 of the Rules and regulation 86 of the Regulations of the Court,

**CONSIDERING** that under rule 89 (1) of the Rules, the Prosecution and the Defence are entitled to reply to any application for participation within a time limit set by the Pre-Trial Chamber and that in order to allow them to exercise this right effectively, the Registrar must provide them with a copy of that application,

**CONSIDERING** that the modalities for providing the Prosecution and the Defence with a copy of any application for participation are governed by the provisions of the Statute, in particular in article 68 (1), by virtue of which the Pre-Trial Chamber and the other organs of the Court shall take the appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims without

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<sup>42</sup> ICC-01/04-01/06-220-Conf-Exp.

<sup>43</sup> ICC-01/04-01/06-221-Conf-Exp.

<sup>44</sup> ICC-01/04-01/06-51

being prejudicial to or inconsistent with the rights of the defence and the requirements of a fair and impartial trial,

**CONSIDERING** also that pursuant to article 57 (3) (c) of the Statute, one of the functions of the Pre-Trial Chamber is, where necessary, to provide for the protection and privacy of victims and witnesses, and that rule 86 of the Rules establishes as a general principle the duty of the Pre-Trial Chamber, when issuing an order or instruction, and of the other organs of the Court when discharging their functions under the Statute and the Rules, to take into account the needs of all victims and witnesses in accordance with article 68 of the Statute,

**CONSIDERING** therefore that when the situation in terms of the safety of an applicant so requires, the Pre-Trial Chamber may instruct the Registrar to provide the Prosecution and the Defence with a redacted copy of that person's application for participation, after having deleted any information which might lead to that person's being identified,

**CONSIDERING**, however, that redacted measures must be limited to what is strictly necessary in the light of the situation in terms of the safety of an applicant and that they must enable the Prosecution and the Defence to exercise their right to respond effectively to the application for participation,

**CONSIDERING** that the Pre-Trial Chamber is satisfied that the present situation of the applicants requires the Defence Counsel to receive a redacted copy of the applications in which any information which might lead to their identification has been deleted,

**CONSIDERING** that in order not to be exposed to other dangers the applicants must not be contacted directly by any of the organs of the Court, but only via the Victims Participation and Reparations Section,

**FOR THESE REASONS,**

**ORDER** the Registrar to provide as soon as possible:

- i) to the Prosecution, a non-redacted copy of the Applications for participation,
- ii) to the Defence Counsel, a redacted copy of the Applications in which any information which might lead to the identification of the applicants has been deleted,

**ORDER** all the organs of the Court not to contact the applicants directly and to do so only, if necessary, via the Victims Participation and Reparations Section,

**DECIDE** to give the Office of the Prosecutor and the Defence Counsel the possibility of submitting by 18 August 2006 at 1600 at the latest, comments on the Applications for Participation and on the possibility of the Applicants being granted the status of victims authorised to take part in the proceedings before the Chamber in the case of *The Prosecutor v. Thomas Lubanga Dyilo*.

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

Judge Sylvia Steiner

Single Judge

Dated this Friday 4 August 2006

At The Hague,

The Netherlands