

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-01/06
Date: 22 October 2008

TRIAL CHAMBER I

**Before: Judge Adrian Fulford, Presiding Judge
Judge Elizabeth Odio Benito
Judge René Blattmann**

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

**Public
Urgent
Order for submissions on the detention of Thomas Lubanga Dyilo**

Decision/Order/Judgment to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
 Ms Fatou Bensouda, Deputy Prosecutor
 Mr Ekkehard Withopf, Senior Trial Lawyer

Counsel for the Defence

Ms Catherine Mabile
 Mr Jean-Marie Biju-Duval

Legal Representatives of the Victims

Mr Luc Walley
 Mr Franck Mulenda
 Ms Carine Bapita Buyangandu

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
 Participation/Reparation**

**The Office of Public Counsel for
 Victims**

**The Office of Public Counsel for the
 Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
 Section**

Other

1. On 21 October 2008, the Appeals Chamber issued its “Judgment on the appeal of the Prosecutor against the decision of Trial Chamber I entitled ‘Decision on the release of Thomas Lubanga Dyilo’”.¹ On the same day, the Appeals Chamber issued another judgment on the appeal of the Office of the Prosecutor (“prosecution”) of the Trial Chamber’s decision to stay the proceedings, which dismissed the appeal.²

2. A prosecution’s further appeal, against the Trial Chamber’s “Decision on the Prosecution’s Application to Lift the Stay of the Proceedings”, is pending before the Appeals Chamber.³ On 13 October 2008, the prosecution filed an “Application For Trial Chamber to Review all the Undisclosed Evidence Obtained from Information Providers”.⁴

3. In its judgment on the decision on the release of Mr Thomas Lubanga Dyilo, the Appeals Chamber held that the Trial Chamber’s decision ordering the unconditional release of the accused “was erroneous because [it] failed to take the conditional character of the stay it had imposed properly into account.”⁵ The Appeals Chamber remanded the matter to the Trial Chamber “for a new determination, in light of paragraphs 37 to 42 of the present judgment, as to whether or not Mr. Lubanga should remain in the custody of the Court, or whether he should be released, with or without conditions, taking into

¹ ICC-01/04-01/06-1487.

² Judgment on the appeal of the Prosecutor against the decision of Trial Chamber I entitled “Decision on the consequences of non-disclosure of exculpatory materials covered by Article 54(3)(e) agreements and the application to stay the prosecution of the accused, together with certain other issues raised at the Status Conference on 10 June 2008”, 21 October 2008, ICC-01/04-01/06-1486.

³ Decision on the Prosecution’s Application for Leave to Appeal the “Decision on the Prosecution’s Application to Lift the Stay of the Proceedings”, 24 September 2008, ICC-01/04-01/06-1473.

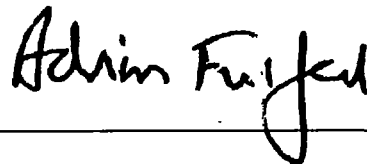
⁴ ICC-01/04-01/06-1477-Conf-Exp, and public redacted version, ICC-01/04-01/06-1478. See also, “Order for further information regarding potentially exculpatory documents and for expedited defence response”, 15 October 2008, ICC-01/04-01/06-1480; “Réponse de la Défense à la ‘Prosecution’s Application for Trial Chamber to Review all the Undisclosed Evidence Obtained from Information Providers’”, 21 October 2008, ICC-01/04-01/06-1484; “Prosecution’s submission of a table on correlation between annexes to the ‘Application for Trial Chamber to Review all the Undisclosed Evidence Obtained from Information Providers’”, 21 October 2008, ICC-01/04-01/06-1485.

⁵ ICC-01/04-01/06-1487, paragraph 44 ; see also paragraph 1.

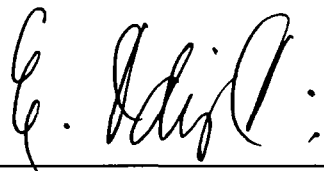
account all relevant factual developments at the time of the new determination.”⁶

4. In order to assist it in the consideration of this issue, the Chamber requests the prosecution, the defence and the legal representatives to make submissions on the matter of the pre-trial detention of Thomas Lubanga Dyilo in the light of the Appeals Chamber’s judgment by 16.00 on 31 October 2008.

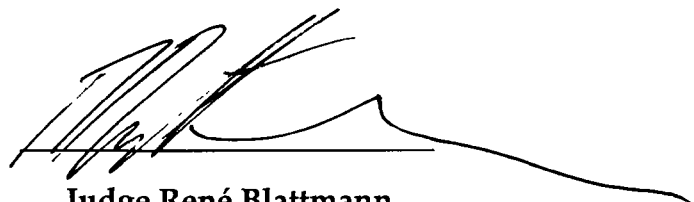
Done in both English and French, the English version being authoritative.



Judge Adrian Fulford



Judge Elizabeth Odio Benito



Judge René Blattmann

Dated this 22 October 2008

At The Hague, The Netherlands

⁶ ICC-01/04-01/06-1487, paragraph 45.