

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

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

Date: 7 July 2006

THE APPEALS CHAMBER

Before: Judge Sang-Hyun Song, Presiding Judge
Judge Philippe Kirsch
Judge Georgios M. Pikis
Judge Navanethem Pillay
Judge Erkki Kourula

Registrar: Mr Bruno Cathala

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

Public Document

**Prosecution's Response to Thomas Lubanga Dyilo's Request for an Extension of
the Time Limit**

The Office of the Prosecutor
Mr Luis Moreno-Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
Mr Fabricio Guariglia, Senior Appeals Counsel
Mr Ekkehard Withopf, Senior Trial Lawyer

Counsel for the Defence
Mr Jean Flamme

1. On 3 July 2006, counsel for Thomas Lubanga Dyilo (hereinafter, the “Respondent”) filed a document entitled “Réponse à la demande du Procureur du 26 Juin 2006”.¹ In that document, the Respondent addressed a prior request for extensions of both page and time limits filed by the Prosecution on 26 June 2006² and requested an extension of the time-limit of at least 15 days to file a response to the Prosecution’s Document in Support of the Appeal on the basis of the following considerations: (a) the complexity of the issues; (b) the current workload of the defence, in particular in relation to the upcoming confirmation hearing; and (c) the intention of the Respondent to conduct a mission in the territory of the DRC, presumably within the coming weeks.³ On 4 July 2006, the Prosecution was given five days to respond to the Respondent’s Request.⁴
2. The Prosecution considers that the Respondent’s arguments show “good cause” and accordingly does not oppose an extension of time being granted to the Respondent. The Prosecution is particularly aware of the constraints placed on the Respondent’s opportunities to travel to the DRC in order to conduct his inquiries prior to the confirmation hearing.
3. The Prosecution does have concerns about the length of the extension requested, and in particular its impact on the Appeals Chamber’s ability to decide the current appeal in an expedited fashion. As the Prosecution has already explained to the Appeals Chamber, in her Decision on the Postponement of the Confirmation Hearing⁵ the Single Judge has decided *inter alia* that the Prosecution should disclose potentially exculpatory material and the names and the statements of the witnesses the prosecution intends to rely on at the confirmation hearing, no later

¹ ICC-01-04-01/06-178 (hereinafter, “Respondent’s Request”).

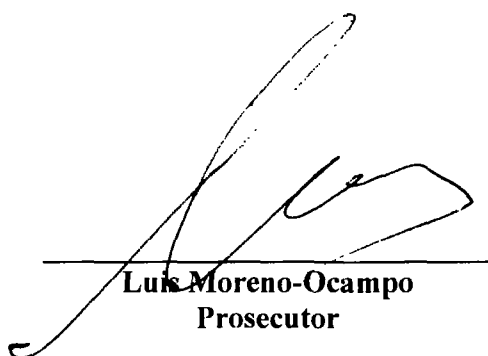
² Respondent’s Request, para. 4.

³ Respondent’s Request, para. 5.

⁴ Order Concerning the Filing of a Response by the Prosecutor to the Defence Application for an extension of the Time Limit for the Filing of the Response to the Document in Support of the Appeal, ICC-01/04-01/06-181.

⁵ Decision on the Postponement of the Confirmation Hearing and the Adjustment of the Timetable Set in the Decision on the Final System of Disclosure, ICC-01/04-01/06-126, 24 May 2006.

than 28 August 2006⁶, thus the Prosecution's earlier request for an expedited resolution of this appeal.⁷ However, the Prosecution also recognizes that any substantial extension of time would unavoidably mean that the response will be filed after the beginning of the summer recess (21.07.2006, 17:30). Consequently, the Prosecution does not take any position at this stage as to whether the requested extension of time is excessive or not, a matter that, it is respectfully submitted, ought to be decided by the Appeals Chamber in light of its own schedule and work plans.



Luis Moreno-Ocampo
Prosecutor

Dated this 7th day of July 2006
At The Hague, The Netherlands

⁶ The Single Judge further gave a deadline of 28 August for the Prosecution to make requests under Rule 81 for exceptions to disclose evidence included in the Prosecution's Charging document and list of evidence (para. 10). Inspection under Rule 77 is to take place no later than 31 August 2006 (paras 4 and 5).

⁷ See Prosecution's Document in Support of the Appeal, ICC-01/04-01/06-183, 5 July 2006, para. 37.