

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 11 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 v. THOMAS LUBANGA DYILO**

Public document

**Decision on the application by Counsel for Mr. Thomas Lubanga Dyilo to extend the
time limit for the filing of the response to the
Prosecutor's document in support of the appeal**

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
Mrs Fatou Bensouda, Deputy Prosecutor
Mr Fabricio Guariglia, Senior Appeals Counsel
Mr Ekkehard Withopf, Senior Trial Lawyer

Counsel for the Defence

Mr. Jean Flamme

The Appeals Chamber of the International Criminal Court,

In the appeal of the Prosecutor pursuant to the decision of Pre-Trial Chamber I dated 23 June 2006, entitled “Decision on the Prosecution Motion for Reconsideration and, in the Alternative, Leave to Appeal” (ICC-01/04-01/06-166),

Having before it the “Réponse à la demande du Procureur du 26 juin 2006” dated 3 July 2006 (ICC-01/04-01/06-178), wherein an application for an extension of the time limit for the filing of the response by Mr. Thomas Lubanga Dyilo to the Prosecutor’s document in support of the appeal is made,

Renders unanimously the following

DECISION

The time limit for the filing of the response by Mr. Thomas Lubanga Dyilo to the Prosecutor’s document in support of the appeal is extended by five days.

REASONS

1. On 3 July 2006, Counsel for Mr. Thomas Lubanga Dyilo filed a document entitled “Réponse à la demande du Procureur du 26 juin 2006” (ICC-01/04-01/06-178, hereafter: “Defence application”). In paragraph 5 of the Defence application, Counsel for Mr. Dyilo requested an extension of the time limit for the filing of the response to the Prosecutor’s document in support of the appeal to at least 15 days of its notification to the defence. Counsel for Mr. Dyilo argued that the issues raised in the present appeal were of great complexity and related to essential rights of the defence. The preparation of the response to the Prosecutor’s document in support of the appeal would require much work; at a time when the preparation of the confirmation hearing and several pending requests and motions tied up more and more of the defence’s resources. Counsel for Mr. Dyilo also referred to requests he had made to carry out investigations in the Democratic Republic

of the Congo prior to the confirmation hearing. The defence, Counsel argued, would not be capable of drafting complex texts for at least two weeks.

2. The Appeals Chamber rendered an order dated 4 July 2006 pursuant to which the Prosecutor could respond to the Defence application within five days of notification of the order. On 5 July 2006, the Prosecutor filed his document in support of the appeal (ICC-01/04-01/06-183, hereafter: “document in support of the appeal”); it was notified to Counsel for Mr. Dyilo on the following day. On 7 July 2006, the Prosecutor filed a response to the Defence application (ICC-01/04-01/06-187), stating that he did not oppose the Defence application. The Prosecutor did, however, voice concern as to the length of the time extension sought and in particular its impact on the Appeals Chamber’s ability to decide the appeal in an expedited fashion. The Prosecutor pointed out that any substantial extension of the time limit would mean that the defence response would be filed after the beginning of the summer court recess on 21 July 2006 at 17:30h, and referred to his document in support of the appeal, in which he had requested an expeditious determination of the appeal by the Appeals Chamber in particular in view of the time line set by the Pre-Trial Chamber for the preparation of the confirmation hearing (see document in support of the appeal, paragraph 37).

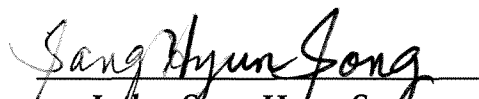
3. The time limit for the filing of the defence response is extended by five days.

4. Pursuant to regulation 35 (2), first sentence, of the Regulations of the Court, a Chamber may extend a time limit if good cause is shown. In the circumstances of the present case, Counsel for Mr. Dyilo has shown good cause for the reason that he has argued convincingly that due to the preparation of the confirmation hearing in respect of Mr. Thomas Lubanga Dyilo, which may include an investigation in the Democratic Republic of the Congo, and other pending work on this case, Counsel for Mr. Dyilo is incapable of filing a potentially complex response to the Prosecutor’s document in support of the appeal within the time limit of ten days provided for in regulation 65 (5) of the Regulations of the Court.

5. It is appropriate to grant an extension by five days, the minimum extension sought by Counsel for Mr. Dyilo. The Appeals Chamber is aware that the Prosecutor has

requested an expedited determination of the appeal. Indeed, the Appeals Chamber will decide the matter without any undue delay. Nevertheless, the important and complex issues at stake necessitate proper preparation by Counsel for Mr. Dyilo of the response to the Prosecutor's document in support of the appeal; in light of this, an extension of five days is not excessive.

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


Judge Sang-Hyun Song
 Presiding Judge


Judge Philippe Kirsch


Judge Georgios M. Pikis


Judge Navanethem Pillay


Judge Erkki Kourula

Dated this 11th day of July 2006

At The Hague, The Netherlands