

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No: ICC-01/04-01/06

Date: 25 September 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

**Decision on Prosecution's Response to Thomas Lubanga Dyilo's 21 September
2006 Request for Leave to Appeal**

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

**Legal Representatives of Victims a/0001/06
to a/0003/06**

Mr Luc Walley
Mr Franck Mulenda

Office of Public Counsel for the Defence

Ms Melinda Taylor

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

NOTING the “Request for Leave to Appeal the First Decision on the Prosecution Requests and Amended Requests for Redactions under Rule 81” (“the Defence Request for Leave to Appeal”),¹ filed by the Defence on 21 September 2006;

NOTING the “Prosecution’s Response to Thomas Lubanga Dyilo’s 21 September 2006 Request for Leave to Appeal, Request for a Preliminary Ruling and Subsidiary Request for an Extension of Time” (“the Prosecution Request”),² filed by the Prosecution on 22 September 2006;

NOTING article 82 (1) (d) of the Rome Statute (“the Statute”), rule 155 of the Rules of Procedure and Evidence (“the Rules”) and Regulations 33, 35 and 65 of the Regulations of the Court (“the Regulations”);

CONSIDERING that the *chapeau* of regulation 33 (1) of the Regulations refers to “the calculation of time for the purposes of any proceedings before the Court”; that the way in which paragraph (1) (a) of regulation 33 of the Regulations is drafted indicates that it applies to all time-limits in any proceedings before the Court; that the expression “days shall only be understood as ‘full days’” in paragraph (1) (b) of the Regulations applies to all time-limits in any proceedings before the Court; and that paragraph (2) of regulation 33 of the Regulations of the Court applies to all time-limits in any proceedings before the Court;

¹ ICC-01/04-01/06-456.

² ICC-01/04-01/06-459.

CONSIDERING that the object and purpose of regulation 33 of the Regulations is to establish a clear system to calculate all time-limits in any proceedings before the Court; and that would be contrary to the said object and purpose to interpret the second part of paragraph 33 (1) (b) of regulation 33 of the Regulations as establishing two different systems for calculating the time-limits in any proceedings before the Court, one for responses and replies *stricto sensu* and another for any other time-limit in any proceedings before the Court;

CONSIDERING therefore that, in the view of the single judge, the submission of the Prosecution that the day of filing should not be taken into consideration only in relation to responses and replies *stricto sensu* is (i) only supported by a restrictive approach to the literal interpretation of the second part of paragraph (2) of regulation 33 of the Regulations, and (ii) contrary to both its systematic interpretation in light of the rest of regulation 33 of the Regulations and the teleological interpretation of regulation 33 of the Regulations;

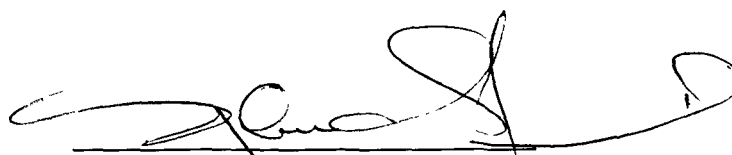
CONSIDERING further that, according to regulation 65 of the Regulations, participants may file a response within three days of notification of an application for leave to appeal under article 82 (1) (d) of the Statute and rule 155 of the Rules; that, according to regulation 35 (2) of the Regulations, an extension of time can be granted upon good cause being shown; and that the Prosecution Request has shown good cause;

FOR THESE REASONS

REJECT the request of the Prosecution for the rejection *in limine* of the Defence Request for Leave to Appeal

GIVE the Prosecution until 27 September 2006 at 16h00 to file a response to the Defence Request for Leave to Appeal.

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



Judge Sylvia Steiner
Single Judge

Dated this Monday 25 September 2006

At The Hague

The Netherlands