



Original : English

No.: ICC-01/04-01/06
Date: 13 November 2006

THE APPEALS CHAMBER

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

Registrar: Mr Bruno Cathala

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

Public Document

Defence Response to Prosecution Request for Extension of the Page Limit

The Office of the Prosecutor

Mr. Luis Moreno-Ocampo, Prosecutor
Mrs Fatou Bensouda, Deputy Prosecutor
Mr. Fabricio Guariglia, Senior Appeals
Counsel

Legal Representatives for Victims

a/0001/06 to a/003/06

Mr. Luc Walleyen
Mr. Frank Mulenda

Counsel for the Defence

Mr. Jean Flamme
Ms. Veronique Pandanzyla

Other Participant

Democratic Republic of the Congo

1. Introduction:

1. On 13 November 2006, the Prosecution filed a request for an extension of a page limit, in which it submitted that the brief filed in support of the Defence challenge to jurisdiction exceeded the applicable page limit, and in turn, requested an extension of the page limit for its brief.

2. Submissions:

2. The Defence has no position on the Prosecution request for an extension of the page-limit for the following reasons.
3. Regulation 38(1)(c) provides that the page limit for challenges to the admissibility or jurisdiction of the Court shall not exceed 100 pages.
4. In light of the fact that the regulation does not distinguish between the Pre-Trial, Trial or Appeal Chamber, the Defence submits that the regulation applies equally to challenges to jurisdiction filed as of right, under article 82(1)(c), to the Appeals Chamber.
5. This interpretation is further supported by the following.
6. Appeals filed under article 82(1)(c), are further governed by Rule 154, which stipulates that Rule 150(3) and (4) shall apply *mutatis mutandis*.
7. Regulation 57 of the Regulations of the Court was enacted “for the purposes of Rule 150”. Regulation 58 refers to appeals filed in accordance with regulation 57, and stipulates that documents filed in support of the appeal shall not exceed 100 pages.
8. Although Regulation 64 limits and excludes other aspects of regulation 58 (i.e the deadline for filing the document in support of the appeal), it does not expressly exclude the page limits for such appeals. The Defence therefore submits that further to Rule 154 in conjunction with Rule 150, and Regulation 57, the page-limit for documents set out in regulation 58(5) is applicable to appeals challenging jurisdiction.
9. The Defence therefore submits that its appeal brief in support of its challenge to jurisdiction did not exceed the applicable page limit.

Relief Sought:

10. For the reasons set out above, the defence requests the Honourable Appeals Chamber to disregard the submissions of the Prosecution pertaining to the page limit of the document in support of the Appeal.



Jean Flamme, Counsel for the Defence

Dated this 13th day of November, 2006

At The Hague, The Netherlands