

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

No.: ICC-01/04-01/06
Date: 16 October 2006

THE APPEALS CHAMBER

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

Prosecution's Response to Appeals Chamber's Request and Directions

The Office of the Prosecutor

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

Counsel for the Defence

Mr Jean Flamme
Ms Véronique Pandanzyla

Office of Public Counsel for the Defence

Ms Melinda Taylor

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

Mr Luc Walley
Mr Franck Mulenda

Other Participant

The Democratic Republic of the Congo

Procedural History

1. On 5 October 2006, the Pre-Trial Chamber issued the “Decision on the Defence Challenge to the Jurisdiction of the Court pursuant to article 19(2)(a) of the Statute”.¹
2. On 9 October 2006, Counsel for Thomas Lubanga Dyilo filed his “Requête d’appel du Conseil de la Défence de la ‘Decision on the Defence Challenge to the Jurisdiction of the Court pursuant to article 19(2)(a) of the Statute’ du 3 octobre 2006”.²
3. On 13 October 2006, the Presiding Judge of the Appeals Chamber issued the “Appeals Chamber’s Request and Directions”,³ soliciting the views of the Prosecution and the Appellant in relation to “submit[ting] the document in support of the appeal and the document in response thereto within a period of less than 21 days.”

Discussion

4. The Prosecution is amenable in principle to submitting its response within a period of less than 21 days. It appreciates the efforts being made by the Appeals Chamber to expedite the consideration of this appeal.
5. The possibility of abridging the time intervals set forth in the Regulations of the Court is complicated in this instance by the substantiality of the issue – a

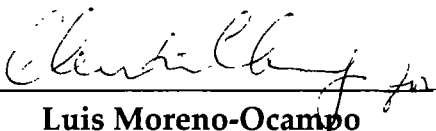
¹ ICC-01/04-01/06-512 (“Decision on the Defence Challenge to Jurisdiction”).

² ICC-01/04-01/06-532.

³ ICC-01/04-01/06-569.

challenge to jurisdiction. The Prosecution estimates that the minimum time necessary to brief the issue comprehensively, in conformity with its obligation to address the facts and law fully, would be 14 days.

6. Furthermore, the Prosecution respectfully submits that any reduction in the time available for filing should apply equally to both parties. On the issue presented on appeal, the Prosecution would oppose any timetable whereby the Appellant had more time to prepare the document in support of appeal than the Respondent had to respond.
7. The Prosecution notes that it is unlikely that any fair abridgement of the timetable for filings will result in pleadings being closed prior to the commencement of the confirmation hearing on 9 November 2006. Further, the determination of this appeal after the commencement of the confirmation hearing will not cause prejudice. The Pre-Trial Chamber has issued a Decision on the Defence Challenge to Jurisdiction. This decision remains in effect, and therefore the confirmation hearing will not be taking place in the absence of a ruling on jurisdiction.
8. Regardless of whether the Chamber retains the formal time-limit of 21 days or establishes a lesser period, the Prosecution will endeavour to file its response to the document in support of appeal as expeditiously as possible.



Luis Moreno-Ocampo
Prosecutor

Dated this 16th day of October 2006
At The Hague, The Netherlands