

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

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

Date: 10 May 2007

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 Duty Counsel's "Demande d'extension de délai"

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

Duty Counsel for the Defence

Ms Patricia Annick Mongo

**Counsel for the Victims a/0001/06 to
a/0003/06 and a/0105/06**

Mr Luc Walley
Mr Frank Mulenda
Ms Carine Bapita Buyangandu

Procedural History

1. On 29 January 2007, the Pre-Trial Chamber rendered its “*Décision sur la confirmation des charges*”.¹
2. On 30 January 2007, the Appellant filed the “*Defence Appeal Against the Pre-Trial Chamber’s ‘Décision sur la confirmation des charges’ of 29 January 2007*”.²
3. On 1 February 2007, the Appeals Chamber issued the “*Directions and Decision of the Appeals Chamber*” requesting the Prosecution and the Appellant to address the issue of whether the subject matter of the appeal is an appealable decision within the meaning of article 82 (1) (b) of the Statute.³
4. On 2 February 2007, the Legal Representatives of victims a/0001/06 to a/0002/06 and a/0105/06 filed an application to file a response and to participate in the appeal.⁴ On 5 February 2007, the Appeals Chamber issued directions, ordering that the Appellant and the Prosecution file any response to the victims’ application by 9 February 2007.⁵
5. On 7 February 2007, the Appellant filed submissions on whether the subject matter of the appeal falls within article 82 (1) (b) of the Statute,⁶ however the Appellant also filed a request for modification of the time limit.⁷

¹ ICC-01/04-01/06-803.

² ICC-01/04-01/06-797. On the same day, the Appellant also filed an “*Urgent Defence Request for Extension of Time and Page Limits for Brief in Support of Appeal Against the ‘Décision sur la confirmation des charges’*”, ICC-01/04-01/06-798.

³ ICC-01/04-01/06-800.

⁴ ICC-01/04-01/06-802-tEN.

⁵ ICC-01/04-01/06-805 (“*Appeals Chamber’s 5 February 2007 Directions*”).

⁶ “*Defence Submissions on the scope of the right to appeal within the meaning of Article 82(1)(b) of the Statute*”, ICC-01/04-01/06-812, 7 February 2007 (the “*7 February 2007 Submissions on the Scope Article 82 (1) (b)*”).

⁷ ICC-01/04-01/06-811-Conf, referred to in ICC-01/04-01/06-827.

6. On 9 February 2007, the Appellant filed its “Defence Response to the Appeals Chamber’s Directions of 5 February 2007”,⁸ addressing whether the victims’ should be permitted to participate in the appeal.

7. On 16 February 2007, the Appeals Chamber issued a decision⁹ which:

- rejected the Appellant’s 9 February 2007 Response on Victim Participation, and extended until 23 February 2007 the time for filing a response on victim participation pursuant to the Appeals Chamber’s 5 February 2007 Directions; and
- ordered that the Appellant may supplement its 7 February 2007 Submissions on the Scope Article 82 (1) (b) by 23 February 2007.¹⁰

8. On 21 February 2007, Pre-Trial Chamber I granted an application of the former counsel for the Defence to withdraw.¹¹ As a result, on 23 February 2007 the Appeals Chamber extended the time limits for the filing of the outstanding documents to 23 March 2007.¹²

9. On 3 April 2007, the Appeals Chamber issued a further “Decision to Extend Time Limits for Defence Documents”, ordering that the outstanding documents be filed by 4 May 2007, and that if this time limit could not be complied with “owing to non-appointment of counsel for the Appellant, the Registrar is directed to proceed pursuant to the provisions of regulation 73 (2) of the Regulations of the Court to appoint duty counsel to represent the Appellant with regard to the submission of the

⁸ ICC-01/04-01/06-816 (“9 February 2007 Response on Victim Participation”).

⁹ ICC-01/04-01/06-827. The Appeals Chamber issued its reasons on 21 February 2007 (ICC-01/04-01/06-834).

¹⁰ The Prosecution was granted until 28 February 2007 to supplement its response to the Appellant’s 7 February 2007 Submissions on the Scope Article 82 (1) (b).

¹¹ ICC-01/04-01/06-844, 9 March 2007, para. 1 (referring to ICC-01/04-01/06-833-Conf).

¹² ICC-01/04-01/06-838. The Appeals Chamber issued its reasons on 9 March 2007 (ICC-01/04-01/06-844). The Prosecution was granted until 28 March 2007 to supplement its response to the Appellant’s 7 February 2007 Submissions on the Scope Article 82 (1) (b).

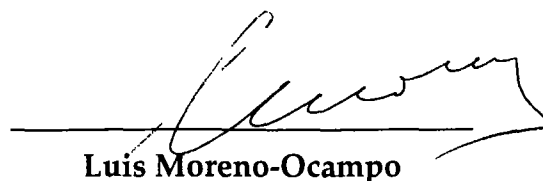
aforesaid documents”, and ordering that in those circumstances the documents were to be filed by 11 May 2007.¹³

10. On 4 May 2007, the Registrar designated Maître Annick Mongo as duty counsel for the Appellant in respect of the submission of the documents.¹⁴

11. On 9 May 2007, Maître Annick Mongo filed a “Demande d’extension de délai”, requesting that the deadline for the filing of the two documents be extended to 21 May 2007.¹⁵

Prosecution’s Position

12. In light of the short time limit set by the Appeals Chamber and the circumstances of this case, as detailed by duty counsel,¹⁶ the Prosecution does not oppose the extension of time to 21 May 2007, on the understanding that the time limit for the Prosecution to supplement its response to the Appellant’s 7 February 2007 Submissions on the Scope Article 82 (1) (b), set out in the 3 April 2007 Decision to Extend Time Limits, will also be extended accordingly.



Luis Moreno-Ocampo

Prosecutor

Dated this 10th day of May 2007
At The Hague, The Netherlands

¹³ ICC-01/04-01/06-857 (“3 April 2007 Decision to Extend Time Limits”). The Prosecution was granted until 16 May 2007 to supplement its response to the Appellant’s 7 February 2007 Submissions on the Scope Article 82 (1) (b).

¹⁴ ICC-01/04-01/06-882.

¹⁵ ICC-01/04-01/06-892.

¹⁶ Maître Annick Mongo was designated duty counsel on Friday 4 May 2007, and the documents which she is engaged to prepare are currently due on Friday 11 May 2007. However duty counsel states that she was not able to arrive at the Court until 8 May 2007, and was unable to meet with the Appellant until 9 May 2007. Duty counsel states that the time remaining before the deadline set by the Appeals Chamber (2 days) is insufficient to furnish proper responses, including analysis of the filings and documents prepared by the Defence team.