

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: French

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

Date: 10 May 2007

THE PRESIDENCY

Before: Judge Philippe Kirsch, President
Judge Akua Kuenyehia, First Vice-President
Judge René Blattmann, Second Vice-President

Registrar: Mr Bruno Cathala

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

Confidential

Ex parte: only available to the Defence

Urgent Request for the Appointment of a Duty Counsel

Mr Thomas Lubanga Dyilo

On 7 May 2007, Mr Thomas Lubanga Dyilo filed a “*Demande urgente en vertu de la Règle 21-3 du Règlement de procédure et de preuves*”¹ with the Presidency, asking the Presidency to review the Registry’s decision to appoint Mr Altit and Ms Mongo as duty counsel and to grant Mr Thomas Lubanga Dyilo a small amount of additional time to make his choice.

In the meantime, Mr Thomas Lubanga Dyilo met with the two duty counsel and wishes to inform the Presidency that he cannot accept the choice of the Registry. The two duty counsel do not meet the criteria detailed by Mr Thomas Lubanga Dyilo in his letter of 25 April 2007.

Mr Altit does not seem to be fully available and focused on preparing a response to the application by the Prosecutor, as his trial before the International Criminal Tribunal for Rwanda starts in June 2007.

In particular, with regard to the appointment of Ms Mongo.

Above and beyond all the qualities that Mr Thomas Lubanga Dyilo recognises Ms Mongo to have, there remains a major concern about the level of legal English of this duty counsel appointed by the Registry.

It is unnecessary to recall that the various documents on which the duty counsel will be expected to work are written in high-level English. Would intermediate level English be sufficient to analyse and correctly understand the documents in question and the highly specialised legal issues therein raised, within the short time limit set by the Appeals Chamber?

It was precisely to avoid such a situation that Mr Thomas Lubanga Dyilo repeated time and again that he wished to be consulted on the appointment of these two duty counsel and consequently listed a number of criteria to be met by the duty counsel pursuant to regulation 73(2) of the *Regulations of the Court*.

The current situation only confirms his doubts as to the diligence of the Registry and the respect of his right to a fair and effective defence in such conditions.²

¹ ICC-01/04-01/06-887-Conf-Exp. This request was not registered in the record until 8 May 2007 due to a technical problem: the Registry did not receive the annexes to this request by 4 p.m. on 7 May 2007.

² See attached confidential ex parte annex A: Exchange of emails following an urgent request by the Duty Counsel for translation of documents.

To demonstrate his diligence in looking for a duty counsel, Mr Thomas Lubanga Dyilo contacted a number of counsel on the shortlist who met the objective requirements detailed in his letter of 25 April 2007, and who had declared themselves willing and ready to act as duty counsel for him.

Mr Thomas Lubanga Dyilo respectfully requests that the Presidency

- i. review the Registry's decision to appoint Mr Altit and Ms Mongo as duty counsel;
- ii. accept the appointment of counsel of his choice, in accordance with regulation 73(2) of the *Regulations of the Court*;
- iii. require the Registry to act diligently in considering the application under regulation 83 in order that a definitive solution be found to the problem of representation by a counsel of his choice.
- iv.

[signed]

Thomas Lubanga Dyilo

Dated this 10 May 2007

At The Hague