

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-01/06 OA13

Date: 24 July 2008

THE APPEALS CHAMBER

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

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

Public Document

**Re-filing of Prosecution's Document in Support of Appeal against
Decision to Stay Proceedings**

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of *Regulations of the Court*:

The Office of the Prosecutor

Counsel for the Defence

Ms Catherine Mabile

Mr Jean-Marie Biju-Duval

Legal Representatives of Victims

Mr Luc Walley

Mr Franck Mulenda

Ms Carine Bapita Buyangandu

REGISTRY

Registrar

Ms Silvana Arbia

Background

1. On 13 June 2008, the Trial Chamber ordered that proceedings in the case be stayed.¹
2. On 23 June 2008, the Prosecution sought leave to appeal against the Decision,² which the Trial Chamber granted on 2 July 2008.³
3. On 11 July 2008, the Prosecution informed the Trial Chamber that it could place all relevant material before it, and therefore sought lifting of the stay.⁴
4. On 14 July 2008, the Prosecution filed its Appeal Brief.⁵
5. On 16 July 2008, the Defence filed a motion in which it challenged the admissibility of the Prosecution's Appeal Brief, alleging that the Prosecution had exceeded the page limit and had failed to comply with Regulation 36(3) of the Regulations of the Court regarding the format of the Original Appeal Brief.⁶
6. On 18 July 2008, the Prosecution filed a response to the Defence Challenge to Admissibility.⁷
7. On 22 July 2008, the Appeals Chamber rejected the Prosecution's Original Appeal Brief filed on 11 July 2008 and ordered the Prosecution to "re-file ... a document in support of the appeal that complies with the provisions of the Regulations of the Court."⁸
8. The Prosecution hereby Prosecution hereby re-files its Appeal Brief.
9. In its decision on the re-filing of the document in support of the appeal, the Appeals Chamber found that the Original Appeal Brief does not comply with Regulation 36(3), fifth sentence, which stipulates that an average page of a

¹ ICC-01/04-01/06-1401.

² ICC-01/04-01/06-1407.

³ ICC-01/04-01/06-1417.

⁴ ICC-01/04-01/06-1431.

⁵ ICC-01/04-01/06-1434. ("Original Appeal Brief").

⁶ ICC-01/04-01/06-1440 ("Defence Challenge to Admissibility").

⁷ ICC-01/04-01/06-1443.

⁸ ICC-01/04-01/06-1445.

document filed by a participant “shall not exceed 300 words”. When calculating the average amount of words per page included in the Original Appeal Brief, the Appeals Chamber took into consideration the 19 pages containing the submissions of the Prosecution and disregarded the two cover pages.⁹

10. In accordance with Regulation 37(1), the re-filed Appeal Brief consists of 20 pages of submissions, with a total amount of 5,998 words, including footnotes. As a result, the average page of submissions includes 300 words, thereby complying with Regulation 36(3), fifth sentence.

Relief

11. For the above reasons, the Prosecution requests that the Appeals Chamber accept the re-filing of the Prosecution’s Appeal Brief.



 Fatou Bensouda, Deputy Prosecutor
 on behalf of
 Luis Moreno-Ocampo, Prosecutor

24 July 2008

The Hague, The Netherlands

⁹ ICC-01/04-01/06-1445, para.6.