

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No. ICC-01/04-01/06 OA 18

Date: 22 July 2010

THE APPEALS CHAMBER

Before:

**Judge Sang-Hyun Song, Presiding Judge
Judge Erkki Kourula
Judge Anita Ušacka
Judge Daniel David Ntanda Nsereko
Judge Sanji Mmasenono Monageng**

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

IN THE CASE OF THE PROSECUTOR v. THOMAS LUBANGA DYILO

Public document

**Decision on the Prosecutor's application for an extension of page limit for his
document in support of appeal**

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

The Office of the Prosecutor

Ms Fatou Bensouda, Deputy Prosecutor
Mr Fabricio Guariglia

Counsel for the Defence

Ms Catherine Mabilie
Mr Jean-Marie Biju-Duval

REGISTRY

Registrar

Ms Silvana Arbia



The Appeals Chamber of the International Criminal Court,

In the appeal of the Prosecutor against the decision of Trial Chamber I entitled “Decision on the Prosecution’s Urgent Request for Variation of the Time-Limit to Disclose the Identity of Intermediary 143 or Alternatively to Stay Proceedings Pending Further Consultations with the VWU” of 8 July 2010 (ICC-01/04-01/06-2517-Conf),¹

Having before it the “Prosecution’s Application for an extension of page limit for its document in support of appeal against Trial Chamber I’s decision of 8 July 2010 staying the proceedings for abuse of process” of 19 July 2010 (ICC-01/04-01/06-2523),

Renders unanimously the following

DECISION

The page limits for the Prosecutor’s document in support of the appeal and for Mr Lubanga Dyilo’s response to the document in support of the appeal are extended by 20 pages.

REASONS

1. On 8 July 2010, Trial Chamber I rendered the “Decision on the Prosecution’s Urgent Request for Variation of the Time-Limit to Disclose the Identity of Intermediary 143 or Alternatively to Stay Proceedings Pending Further Consultations with VWU”² (hereinafter: “Impugned Decision”), thereby staying proceedings.
2. On 15 July 2010, Trial Chamber I rendered an oral decision, granting the Prosecutor leave to appeal the Impugned Decision.³
3. On 19 July 2010, the Prosecutor submitted the “Prosecution’s Application for an extension of page limit for its document in support of appeal against Trial Chamber I’s decision of 8 July 2010 staying the proceedings for abuse of process”

¹ A redacted version of the decision was filed on the same day as ICC-01/04-01/06-2517-Red. All references herein are to the redacted version.

² ICC-01/04-01/06-2517.

³ ICC-01/04-01/06-T-314-ENG, p. 14, line 1 to p. 17, line 7.



(hereinafter: “Request”).⁴ The Prosecutor requests the authorisation of the Appeals Chamber to extend the page limit for the document in support of the appeal to 40 pages.⁵ The Prosecutor argues that such an extension is “necessary for the Prosecution to fully present the context in which the impugned decision arose”.⁶ According to the Prosecutor:

The factual context will include the sequence of events leading to the disclosure order, the risks involved for the person whose identity was ordered disclosed and the VWU’s analysis of the need for and degree of protection that had to be provided. It will include an explanation why the defence wanted the information and objected to deferred disclosure. It will also include information regarding the resource person known to the Chamber and the parties and brought out before and during the trial itself but not cited in the stay order. The legal context will include arguments based on judicial precedent and statutory provisions that relate to the Court’s protection scheme, the Prosecutor’s particular responsibilities and obligations, and the remedies and sanctions available to the Chamber.⁷

4. On 21 July 2010, Mr Lubanga Dyilo filed the “Réponse de la Défense à la « Prosecution’s Application for an extension of page limit for its document in support of appeal against Trial Chamber I’s decision of 8 July 2010 staying the proceedings for abuse of process », déposée le 19 juillet 2010”⁸ (hereinafter: “Response”). Mr Lubanga Dyilo submits that the Request should be rejected.⁹ He argues that the questions that the Prosecutor intends to raise and which he advances as justification for the extension of the page limit fall outside the scope of the issues in respect of which the Trial Chamber granted leave to appeal.¹⁰ He recalls that the Trial Chamber has carefully formulated the issues on appeal and that the Prosecutor has not established “exceptional circumstances” that would justify the extension of the page limit.¹¹

⁴ ICC-01/04-01/06-2523.

⁵ Request, para. 5.

⁶ Request, para. 4.

⁷ Request, para. 4.

⁸ ICC-01/04-01/06-2530.

⁹ Response, p. 4.

¹⁰ Response, paras 6-7.

¹¹ Response, para. 8.



5. Regulation 37 of the Regulations of the Court provides:

1. A document filed with the Registry shall not exceed 20 pages, unless otherwise provided in the Statute, Rules, these Regulations or ordered by the Chamber.
2. The Chamber may, at the request of a participant, extend the page limit in exceptional circumstances.

6. The Appeals Chamber notes that the Prosecutor has identified in the Request a considerable number of questions which, in his view, are relevant to the determination of this appeal. Without determining, at this stage, whether the questions the Prosecutor intends to raise in the document in support of the appeal are properly before the Appeals Chamber, the Appeals Chamber considers that the number and complexity of the questions identified by the Prosecutor as potentially relevant, together with the extraordinary nature of a stay of proceedings constitute “exceptional circumstances” for the purpose of regulation 37 (2) of the Regulations of the Court and therefore decides to extend the page limit for the document in support of the appeal.¹² The Appeals Chamber considers that in these circumstances, it is also appropriate to extend the page limit for Mr Lubanga Dyilo’s response to the document in support of the appeal.

Done in both English and French, the English version being authoritative.



Judge Anita Ušacka
For the Presiding Judge

Dated this 22nd day of July 2010

At The Hague, The Netherlands

¹² See also *Prosecutor v. Thomas Lubanga Dyilo*, “Decision on the Prosecutor’s Motion for Extensions of Time and Page Limits”, 3 July 2006, ICC-01/04-01/06-177, para. 6; *Situation in the Democratic Republic of the Congo*, “Judgment on the Prosecutor’s Application for Extraordinary Review of Pre-Trial Chamber I’s 31 March 2006 Decision Denying Leave to Appeal”, 13 July 2006, ICC-01/04-168, para. 4.