

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: 19 July 2011

TRIAL CHAMBER I

Before: Judge Adrian Fulford, President
Judge Elizabeth Odio Benito, Judge
Judge René Blattmann, Judge

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

Confidential

Prosecution's Response to the Kingdom of the Netherlands' "Application for Leave to Appeal the Trial Chamber's 'Decision on the request by DRC-D01-WWWW-0019 for special protective measures relating to his asylum application' (ICC-01/04-01/06-2766-Conf) dated 4 July 2011".

Source: Office of the Prosecutor

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

The Office of the Prosecutor

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Unrepresented Victims

**Unrepresented Applicants for
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Mr Ghislain Mabanga Monga Mabanga

1. On 4 July 2011, Trial Chamber I issued its « Decision on the request by DRC-D01-WWWW-0019 for special protective measures relating to his asylum application »¹ (the "Decision").
2. On 13 July 2011, the Kingdom of the Netherlands sought leave to appeal the Decision. In its application, the Kingdom of the Netherlands states that it was notified of the Decision on 7 July 2011.²
3. The Prosecution firstly notes that the application for leave to appeal should be considered as being filed on time due to the late notification of the Decision to the Kingdom of the Netherlands. Second, and without regard at this stage to the merits of the Kingdom of the Netherlands' underlying position, the Prosecution submits that the current application, made by a State immediately affected by the Decision, demonstrates that the issues that arise from the Trial Chamber's ruling are particularly complex and important. The Prosecution further notes that it has sought leave to appeal issues related to the instant one,³ and also supported a similar application for leave to appeal lodged by the Kingdom of the Netherlands in another case before the Court.⁴
4. For the above mentioned reasons, the Prosecution does not oppose leave to appeal being granted.⁵

¹ ICC-01/04-01/06-2766-Conf

² ICC-01/04-01/06-2768-Conf, para. 7.

³ See ICC-01/04-01/07-3021.

⁴ See ICC-01/04-01/07-3026.

⁵ The Prosecution notes that Trial Chamber II has recently issued a decision on the applications for leave to appeal filed in the *Katanga and Ngudjolo* case mentioned above. According to this ruling, the Chamber can neither grant nor deny the applications since the decision being challenged is severable from the trial proceedings in that case. The parties are thus free to directly file their appeals before the Appeals Chamber, subject to the admissibility of the appeal (see ICC-01/04-01/07-3073).



Luis Moreno-Ocampo
Prosecutor

Dated this 19th day of July 2011
At The Hague, The Netherlands