



Original: **English**

No.: ICC-01/04-01/06
Date: **27 November 2012**

THE APPEALS CHAMBER

Before: Judge Erkki Kourula, Presiding Judge
Judge Sang-Hyun Song
Judge Sanji Mmasenono Monageng
Judge Anita Ušacka
Judge Ekaterina Trendafilova

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

Public

Prosecution's Response to the Defence Request for an Extension of the Page Limit

Source: Office of the Prosecutor

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

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Background

1. On 14 March 2012, Trial Chamber I (the “Trial Chamber”) issued its “Judgment pursuant to article 74 of the Statute” in the case of *The Prosecutor v. Thomas Lubanga Dyilo* (the “Judgment”).¹
2. On 10 July 2012, the Trial Chamber rendered its “Decision on Sentence pursuant to article 76 of the Statute” (the “Sentencing Decision”).²
3. On 3 October 2012, Thomas Lubanga filed Notices of Appeal against the Judgment³ and the Sentencing Decision.⁴ The briefs in both appeals are due to be filed on 3 December 2012. On 27 November 2012, the Defence requested an extension of the page limit for its appeal brief against the Judgment.⁵ On the same day, the Appeals Chamber ordered⁶ the Prosecution to file its response to the Defence’s request by 28 November 2012 at 16.00h.
4. The Prosecution hereby files its response to the Defence’s request, in compliance with the order of the Appeals Chamber.

Submissions

5. The Prosecution does not agree to the Defence request. The Defence has not established any “exceptional circumstances” to justify such an extension, as required under regulation 37(2) of the Regulations of the Court.
6. First, the Defence states that its appeal focuses on the “entirety” of the Judgment and that 100 pages is “insufficient”.⁷ The page limit, however, has a salutary effect

¹ ICC-01/04-01/06-2842.

² ICC-01/04-01/06-2901. The Sentencing Decision includes the dissenting opinion of Judge Odio Benito, pp. 41-52.

³ ICC-01/04-01/06-2934 OA5.

⁴ ICC-01/04-01/06-2935 OA6.

⁵ ICC-01/04-01/06-2943 OA5.

⁶ ICC-01/04-01/06-2944 A5.

⁷ ICC-01/04-01/06-2943 OA5, paras.4 and 5.

of requiring that litigants focus their arguments and, rather than including every conceivable complaint, select the most compelling issues for appeal.

7. The Defence also cites the number of pages of the final closing briefs and the Judgment.⁸ The number of pages of the final closing briefs is irrelevant to this request, as they have no bearing on an appeal against the Trial Chamber's Judgment. Nor is the number of pages in the Judgment in and of itself a significant factor.⁹ The issue instead is solely whether the Defence can adequately raise its intended factual and legal challenges to that Judgment within the existing 100-page limit. The Prosecution submits that the Defence application has not sufficiently addressed that critical issue.
8. The Prosecution does not dispute that additional pages can enable more thorough arguments on complex or novel issues, but absent any indication that in fact the case presents significant issues, much less what they might be, it is impossible to conclude that the extra pages are required.

⁸ ICC-01/04-01/06-2943 OA5, para.4.

⁹ In addition, not all pages in the Judgment have the same importance: for instance, out of the total 593 pages, 90 are devoted to procedural background including an overview of submissions, a history of the conflict and a summary of the development of the Prosecution's investigation, and 17 pages belong to a separate and dissenting opinion.

Relief Sought

9. Based upon the inadequate showing by the Appellant, the Prosecution respectfully requests that the Appeals Chamber deny this request or, in the alternative, require a more particular showing why additional pages are necessary.



Fatou Bensouda
Prosecutor

Dated this 27th day of November 2012

At The Hague, The Netherlands