

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No. ICC-01/04-01/06 A5

Date: 28 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

Urgent

Public document

Decision on Mr Lubanga's request for an extension of the page limit

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

The Office of the Prosecutor
Ms Fatou Bensouda, Prosecutor
Mr Fabricio Guariglia

Counsel for the Defence
Ms Catherine Mabile
Mr Jean-Marie Biju-Duval

REGISTRY

Registrar
Ms Silvana Arbia

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The Appeals Chamber of the International Criminal Court,

In the appeal of Mr Thomas Lubanga Dyilo against the decision of Trial Chamber I entitled “Judgment pursuant to article 74 of the Statute” of 14 March 2012 (ICC-01/04-01/06-2842),

Having before it the “Requête de la Défense aux fins d’augmentation du nombre de pages autorisées pour son Mémoire déposé dans le cadre de son appel à l’encontre du ‘Jugement rendu en application de l’Article 74 du Statut’”, filed by Mr Thomas Lubanga Dyilo on 27 November 2012 (ICC-01/04-01/06-2943),

Renders the following

DECISION

The page limit for the document to be filed in this appeal under regulation 58 of the Regulations of the Court is extended by 20 pages.

REASONS

1. On 14 March 2012, Trial Chamber I delivered the “Judgment pursuant to Article 74 of the Statute”¹ (hereinafter: “Conviction Decision”) by which it found Mr Thomas Lubanga Dyilo (hereinafter: “Mr Lubanga”) guilty “of the crimes of conscripting and enlisting children under the age of fifteen years into the FPLC and using them to participate actively in hostilities within the meaning of Articles 8(2)(e)(vii) and 25(3)(a) of the Statute from early September 2002 to 13 August 2003”.²
2. On 3 October 2012, Mr Lubanga filed the “Acte d’appel de la Défense de M. Thomas Lubanga à l’encontre du « Jugement rendu en application de l’article 74 du Statut » rendu par la Chambre de première instance I le 14 mars 2012”.³
3. On 27 November 2012, Mr Lubanga filed the “Requête de la Défense aux fins d’augmentation du nombre de pages autorisées pour son Mémoire déposé dans le

¹ ICC-01/04-01/06-2842.

² Conviction Decision, para. 1358.

³ ICC-01/04-01/06-2934 (A5).

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cadre de son appel à l'encontre du 'Jugement rendu en application de l'Article 74 du Statut'⁴ (hereinafter: "Request"), requesting the Appeals Chamber, pursuant to regulation 37 (2) of the Regulations of the Court, to grant him an extension of 20 pages of the 100-page limit applicable to his document in support of his appeal pursuant to regulation 58 (5) of the Regulations of the Court. He submits that the 100-page limit is insufficient for his document in support of the appeal, underlining the length of the Conviction Decision, which, in its French version, is 686 pages long.⁵ He furthermore refers to the length of the closing briefs filed by the parties and participants.⁶ Lastly, Mr Lubanga argues that, considering that this is the first final appeal directed against a decision under article 74 of the Statute before the Court, the requested 20 additional pages should allow him to present his arguments on complex and novel issues.⁷

4. On 27 November 2012, the Appeals Chamber issued an order authorising the Prosecutor to file a response to the Request by 28 November 2012 at 16h00.⁸ On 28 November 2012, the Prosecutor filed her response,⁹ objecting to the Request, because, in her view, Mr Lubanga failed to establish any "exceptional circumstances", as required by regulation 37 (2) of the Regulations of the Court.¹⁰ She submits that only the length of the Conviction Decision and not that of the closing briefs should be taken into consideration,¹¹ and that Mr Lubanga has not sufficiently explained why he cannot "adequately raise [his] intended factual and legal challenges [...] within the existing 100-page limit".¹² She argues that "not all pages in the judgment have the same importance".¹³

5. The Appeals Chamber considers that, in the specific circumstances of the case, namely in light of the fact that this is the first appeal directed against a decision under article 74 of the Statute, which might raise complex and novel issues, and the length

⁴ ICC-01/04-01/06-2943 (A5).

⁵ Request, para. 5.

⁶ Request, para. 5.

⁷ Request, para. 7.

⁸ ICC-01/04-01/06-2944 (A5).

⁹ "Prosecution's Response to the Defence Request for an Extension of the Page Limit", ICC-01/04-01/06-2945 (A5) (hereinafter: "Prosecutor's Response").

¹⁰ Prosecutor's Response, para. 5.

¹¹ Prosecutor's Response, para. 7.

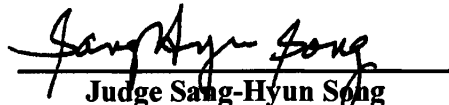
¹² Prosecutor's Response, para. 7.

¹³ Prosecutor's Response, para. 7 and footnote 9.

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of the Conviction Decision, there are “exceptional circumstances” in terms of regulation 37 (2) of the Regulations of the Court that justify the extension of the page limit for Mr Lubanga’s document in support of the appeal. The Appeals Chamber considers that the length of the extension sought (20 pages) is reasonable. The Appeals Chamber therefore grants the Request.

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



Judge Sang-Hyun Song
For the Presiding Judge

Dated this 28th day of November 2012

At The Hague, The Netherlands