

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No. ICC-01/04-01/06 A 4 A 5 A 6

Date: 7 February 2013

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 document

**Decision on the request for an extension of time filed by the Legal
Representatives of Victims V02**

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

Legal Representatives of Victims V01
Mr Luc Walley
Mr Franck Mulenda

Legal Representatives of Victims V02
Ms Carine Bapita Buyangandu
Mr Paul Kabongo Tshibangu
Mr Joseph Keta Orwinyo

REGISTRY

Registrar
Ms Silvana Arbia



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), and

In the appeals of Mr Thomas Lubanga Dyilo and the Prosecutor against the decision of Trial Chamber I entitled “Decision on Sentence pursuant to Article 76 of the Statute” of 10 July 2012 (ICC-01/04-01/06-2901),

Having before it the “Demande de délai de grâce de l’équipe V02 de représentants légaux de victimes, pour soumettre leurs observations consolidées conformément à la décision ICC 01/04 01/06-2951”, filed by the Legal Representatives of Victims V02 on 5 February 2013 (ICC-01/04-01/06-2971),

Renders the following

DECISION

The Legal Representatives of Victims V02 may file their observations on the documents in support of the appeals (ICC-01/04-01/06-2948-Conf; ICC-01/04-01/06-2949; ICC-01/04-01/06-2950) by 16h00, on Thursday 7 February 2013.

REASONS

1. On 13 December 2012, the Appeals Chamber rendered the “Decision on the participation of victims in the appeals against Trial Chamber I’s conviction and sentencing decisions”¹, which, *inter alia*, instructed the Legal Representatives of Victims V02 to file by 16h00 on 4 February 2013 consolidated observations, no longer than 100 pages each, on the documents in support of the appeals filed by Mr Lubanga (appeals A 4 and A 6) and the Prosecutor (appeal A 5) on 3 December 2012.²

¹ ICC-01/04-01/06-2951 (A 4 A 5 A 6).

² See “Mémoire de la Défense de M. Thomas Lubanga relatif à l’appel à l’encontre du « Jugement rendu en application de l’Article 74 du Statut » rendu le 14 mars 2012”, ICC-01/04-01/06-2948-Red

2. On 5 February 2013, the Legal Representatives of Victims V02 filed the “Demande de délai de grâce de l’équipe V02 de représentants légaux de victimes, pour soumettre leurs observations consolidées conformément à la décision ICC 01/04 01/06-2951”³ (hereinafter: “Request for Extension of Time”), in which they request the Appeals Chamber to extend the time limit for the submission of their observations by 72 hours, i.e. until 16h00 on 7 February 2013.⁴ The Prosecutor and Mr Thomas Lubanga Dyilo did not submit any response to the request within the time limit set by the Appeals Chamber.⁵

3. The Legal Representatives of Victims V02 submit that their ability to file their observations by 16h00 on 4 February 2013 was greatly hindered by defective internet connections in the Democratic Republic of the Congo and by difficulties encountered in accessing documents, particularly documents which are confidential, and thus inaccessible on the website of the Court, and which must therefore be emailed by a member of the team who is on site in The Hague.⁶

4. The Appeals Chamber notes that, pursuant to regulation 35 of the Regulations of the Court, a request for extension of time should, as a rule, be filed before the expiry of the time limit in question. The Appeals Chamber recalls that it has previously held that, pursuant to regulation 35 (2), last sentence, of the Regulations of the Court, a document that was not filed within the time limit may be submitted thereafter only in “exceptional circumstances [...] namely for reasons outside the control of a person”.⁷

5. The Appeals Chamber accepts the submissions of the Legal Representatives of Victims V02 that they could not finalise their consolidated observations on the three

(A 5); “Prosecution’s Document in Support of Appeal against the ‘Decision on Sentence pursuant to Article 76 of the Statute’ (ICC-01/04-01/06-2901)”, ICC-01/04-01/06-2950 (A 4); “Mémoire de la Défense de M. Thomas Lubanga relatif à l’appel à l’encontre de la «*Décision relative à la peine, rendue en application de l’article 76 du Statut* » rendue par la Chambre de première instance I le 10 juillet 2012”, ICC-01/04-01/06-2949 (A 6).

³ ICC-01/04-01/06-2971 (A 4 A 5 A 6).

⁴ Request for Extension of Time, p. 5.

⁵ See “Order relevant to the request for an extension of time filed by the Legal Representatives of Victims V02”, 5 February 2013, ICC-01/04-01/06-2974 (A 4 A 5 A 6).

⁶ Request for Extension of Time, para. 10.

⁷ See *Prosecutor v. Thomas Lubanga Dyilo*, “Reasons for the ‘Decision of the Appeals Chamber on the request of counsel to Mr. Thomas Lubanga Dyilo for modification of the time limit pursuant to regulation 35 of the Regulations of the Court of 7 February 2007’ issued on 16 February 2007”, ICC-01/04-01/06-834 (OA 8), para. 9.

documents in support of the appeal for technical reasons related to their presence in the Democratic Republic of the Congo at that time. The Appeals Chamber finds that such technical problems amount to reasons outside a participant's control, as required by the last sentence of regulation 35 (2) of the Regulations of the Court. The Appeals Chamber also accepts that those problems hindered them from filing the application for an extension of time, and in this case, also the observations, within the time limit stipulated by the Appeals Chamber. The very limited extension sought, i.e. three days, is appropriate to remedy the difficulties described by the Legal Representatives of Victims V02. Therefore, exceptionally, the Appeals Chamber grants the Request for Extension of Time.

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



Judge Erkki Kourula
Presiding Judge

Dated this 7th day of February 2013

At The Hague, The Netherlands