



Original: **French**

No.: ICC-01/04-01/06
Date: 22 February 2007

PRE-TRIAL CHAMBER I

Before: Judge Claudia Jorda, Presiding Judge
Judge Akua Kuenyehia
Judge Sylvia Steiner

Registrar: Mr Bruno Cathala

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

Public Document

Public redacted version of the Defence “Request for Leave to Appeal the Pre-Trial Chamber I’s ‘*Décision sur la confirmation des charges*’ of 29 January 2007” in accordance with the Pre-Trial Chamber’s decisions of 7 and 16 February 2007

Office of the Prosecutor
Mr Luis Moreno Ocampo
Ms Fatou Bensouda
Mr Ekkehard Withopf

Counsel for the Defence
Mr Jean Flamme
Ms Véronique Pandanzyla

1. On 5 February 2007, the Defence applied to Pre-Trial Chamber I for leave to appeal the Chamber's decision of 29 January 2007 confirming the charges ("Leave to Appeal").¹
2. On 7 February 2007, Pre-Trial Chamber I, with Single Judge Steiner presiding, issued a "Decision Ordering the Defence to File a Public Redacted Version of its 'Application for Leave to Appeal the Pre-Trial Chamber I's 29 January 2007 *"Décision sur la confirmation des charges"*" ("Decision"), ordering the Defence to file a public redacted version of its Leave to Appeal Request.
3. On 8 February 2007, the Defence seized Pre-Trial Chamber I with a "*Demande de modification des délais en vertu de la norme 35 du règlement de la Cour*", filed as a confidential document, in which it requested that the deadline for the filing of a public redacted version of its Leave to Appeal Request and its response to the Prosecutor's Leave to Appeal Request be extended for 14 days, subject to medical advice. The Defence further requested that the extension apply also to any other deadlines.

On the same day, Pre-Trial Chamber I responded to the Defence's request by stating that "the filing of a redacted version of the Defence Leave to Appeal Request is not a matter that requires the presence of the lead Counsel in the seat of the Court, since only a few redactions are needed in order to maintain consistency with the public redacted version of the '*Décision sur la confirmation des charges*'", and invited the Office of Public Counsel for the Defence (OPCD) to proceed with the redactions and to file the public redacted version of the Defence Leave to Appeal Request by 4 p.m. on Monday, 12 February 2007.²

4. On 12 February 2007, the OPCD filed its "Observations of the Office of Public Counsel for the Defence on the Decision of Pre-Trial Chamber I". In these

¹ "Request for Leave to Appeal the Pre-Trial Chamber's '*Décision sur la confirmation des charges*'".

² ICC-01/04-01/06-815.

observations, the OPCD analysed its “strictly limited remit defined by regulation 77” and described the nature of its remit,³ which does not allow it “to effect the requested redactions, given the ethical, technical and practical difficulties that might arise,”⁴ suggesting “that an alternative solution be sought from Court Management Services”.⁵

5. On 16 February 2007, Pre-Trial Chamber I consequently granted the Defence an extension of time for the filing of the public version of its Leave to Appeal Request.

The application was accepted in consideration of the fact that the Pre-Trial Chamber had already granted an application by the Defence to seek an extension of time for the filing of its response to the Prosecution’s Leave to Appeal Request⁶ and had set 22 February 2007 as the filing date.

In that decision, the Pre-Trial Chamber did, however, reiterate its position that compliance with its order did not require Lead Counsel’s presence at the seat of the Court and concluded that “the lead Counsel as well as his legal assistant have the *locus standi* to proceed with the redactions in the Defence Leave to Appeal Request that are consistent with the public redacted version of the ‘*Décision sur la confirmation des charges*’”.⁷

³ ICC-01/04-01/06-823-tENG, para. 5, p. 2.

⁴ *Idem*, para. 23, p.5.

⁵ *Idem*, para. 24, p.5.

⁶ ICC-01/04-01/06-806.

⁷ ICC-01/04-01/06-828, p.4.

FOR THESE REASONS,

In accordance with Pre-Trial Chamber I's order and its decisions of 7 and 16 February 2007, the Defence files the public redacted version of its Leave to Appeal Request of 5 February 2007.

[signed]

Véronique Pandanzyla

Dated this 22 February 2007

At The Hague