

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

No.: ICC-01/04-01/06
Date: 28 August 2006

PRE-TRIAL CHAMBER I

Before: Judge Claude 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

Decision on the Defence's Request to file a Reply

The Office of the Prosecutor

Mr Luis Moreno Ocampo

Mrs Fatou Bensouda

Mr Ekkehard Withopf

Counsels for the Victims

a/0001/06 to a/0003/06

Mr Luc Walley

Mr Franck Mulenda

Counsel for the Defence

Mr Jean Flamme

Ms Véronique Pandanzyla

Other Participant

Democratic Republic of the Congo

PRE-TRIAL CHAMBER I (“the Chamber”) of the International Criminal Court (“the Court”);

NOTING the “*Décision invitant la République démocratique du Congo et les victimes de l’affaire en cause à présenter leurs observations sur les procédures menées en vertu de l’article 19 du Statut*”¹ issued by the Chamber on 24 July 2006, whereby the Chamber invites the Democratic Republic of the Congo (“the DRC”) and the victims of the case to present their observations by 25 August 2006 on (i) the alleged illegal detention of Thomas Lubanga Dyilo by the Congolese authorities; and (ii) the alleged irregularities of the arrest and surrender of Thomas Lubanga Dyilo at the behest of the Court on 16 March 2006;

NOTING the “*Request to file a reply to any observations filed by the Government of the Democratic Republic of Congo and Victims*”² filed by the Defence on 28 July 2006, by which the Defence requested that the Chamber (i) grant leave to the Defence to file a reply to any observations filed by the DRC and the victims; (ii) extend the deadline for the reply to 21 days; (iii) order that the deadline start to run from the date on which the last observation is filed; and (iv) order that the page limit shall be – whichever is greater – 20 pages, or the combined page-count of all observations filed;

NOTING the “*Observations des Autorités Judiciaires Militaires Congolaises en rapport avec le mémoire déposé à la Cour pénale internationale par le Conseil de Monsieur Thomas Lubanga Dyilo*”³ filed by the DRC on 25 August 2006;

¹ ICC-01/04-01/06-206.

² ICC-01/04-01/06-215.

³ ICC-01/04-01/06-348-Conf.

NOTING the “Observations des victimes a/0001/06, a/0002/06 et a/0003/06 quant à l'exception d'incompétence soulevée par la défense dans la requête du 23 mai 2006”⁴ filed by the Legal Representatives of the victims on 25 August 2006;

NOTING article 19 (2) (a) of the Rome Statute (“the Statute”), rule 59 of the Rules of Procedure and Evidence (“the Rules”) and regulations 24, 34, 35, 36 and 37 of the Regulations of the Court (“the Regulations”);

CONSIDERING that pursuant to regulation 24 (5) of the Regulations, a reply may be made towards a response, whereas, in application of regulation 24 (1) of the Regulations, a response is made to “any document filed by any participant in the case in accordance with the Statute, Rules, these Regulations and any order of the Chamber”;

CONSIDERING that the Chamber invited the DRC and the victims to submit their observations; that this invitation was made by an order of the Chamber pursuant to regulation 34 (a) of the Regulations; that, at this point, a document filed by the Defence would be considered a response; and that therefore, both the Defence and the Prosecution are entitled to file such response;

CONSIDERING that both the DRC and the victims filed their observations on 25 August 2006;

⁴ ICC-01/04-01/06-349.

CONSIDERING that the confirmation hearing in the case of Thomas Lubanga Dyilo is scheduled for 28 September 2006 and that a decision of the Chamber on a challenge to the jurisdiction of the Court must be issued before the beginning of such hearing;

CONSIDERING that the Defence has not demonstrated the exceptional circumstances required in application of regulation 37 (2) of the Regulations for the Chamber to grant an extension of page limit;

CONSIDERING that the Defence has not shown good cause required in application of regulation 35 (2) of the Regulations for the Chamber to grant an extension of time limit;


CONSIDERING moreover that according to the *chapeau* of regulation 34 of the Regulations, a time limit other than the 21 days provided for in paragraph (b) of this regulation may be set by the Chamber;

FOR THESE REASONS

DECIDES to give the Defence and the Prosecution ten days from the notification of the present decision to respond to the observations of the DRC and the victims on the procedure in application of article 19 of the Statute.

REJECTS the requests of the Defence for an extension of time limit and for an extension of page limit.

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



Judge Claude Jorda
Presiding Judge



Judge Akua Kuenyehia



Judge Sylvia Steiner

Dated this Monday 28 August 2006

At The Hague

The Netherlands