

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

No.: ICC-01/04-01/06
Date: 16 February 2007

PRE-TRIAL CHAMBER I

Before: Judge Sylvia Steiner, Single judge

Registrar: Mr Bruno Cathala

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

Public Document

Supplementary Decision on the Defence request for extension of time limit

The Office of the Prosecutor

Mr Luis Moreno Ocampo
Ms Fatou Bensouda
Mr Ekkehard Withopf

Counsel for the Defence

Mr Jean Flamme
Ms Véronique Pandanzyla
**The Office of Public Counsel for the
Defence**
Mr Xavier-Jean Keita

I, Judge Sylvia Steiner, judge at the International Criminal Court (“The Court “);

NOTING the “Application for Leave to Appeal Pre-Trial Chamber I’s 29 January 2007« Décision sur la confirmation des charges » ” (“the Prosecution Leave to Appeal Request”), filed by the Prosecution on 5 February 2007¹;

NOTING the “Request for Leave to Appeal the Pre-Trial Chamber’s « Décision sur la confirmation des charges» of 29 January 2007” (the “Defence Leave to Appeal Request”) filed by the Defence on 5 February 2007²;

NOTING the “Decision Ordering the Defence to File a Public Redacted Version of Its Application for leave to Appeal the Pre-Trial Chamber’s 29 January 2007 «Décision sur la confirmation des charges»”(the “ Pre-Trial Order”)³;

NOTING the « Demande de modification des délais en vertu de la norme 35 du règlement de la Cour » (« Defence Request for Extension of Time Limits »), filed by the Defence on 8 February 2007⁴, by which the Defence requests that the deadline for the filing of a redacted version of its Leave to Appeal Request, the deadline for its response to the Prosecution Leave to Appeal Request, and any other deadlines be extended for at least 14 days, subject to further medical advice;

¹ ICC-01/04-01/06-806.

² ICC 01/04-01/06-807-Conf.

³ ICC-01/04-01/06-813.

⁴ ICC-01/04-01/06-814-Conf.

NOTING the “Decision on the Defence request for an extension of time limit”⁵ filed on 8 February 2007 by which the Chamber *inter alia* invites the Office of the Public Counsel for the Defence to proceed with the redactions and to file the public redacted version of the Defense Leave to Appeal Request by Monday, 12 February by 16:00;

NOTING the “Observations du Bureau du Conseil Public pour la Défense sur la décision de la Chambre Préliminaire I ‘Decision on the defence request for extension of time’” filed on the 12 February 2007⁶;

NOTING regulation 35 and 77(5) of the Regulations of the Court (“the Regulations”);

CONSIDERING that the Office of the Public Counsel for Defence in its “Observations du Bureau du Conseil Public pour la Défense sur la décision de la Chambre Préliminaire I ‘Decision on the defence request for extension of time’” has *inter alia* argued that its mandate under regulation 77(5) of the Regulations is limited and therefore does not permit it to comply with the Chamber’s invitation to proceed with the redactions and to file the public redacted version of the Defense Leave to Appeal Request;

CONSIDERING that the Chamber reiterates its position that compliance with its order for the filing of a redacted version of the Defence’s 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”;

⁵ ICC-01/04-01/06-815.

⁶ ICC-01/04-01/06-823.

CONSIDERING that whilst the Chamber notes the submissions of the Office of the Public Counsel for Defence in its “Observations du Bureau du Conseil Public pour la Défense sur la décision de la Chambre Préliminaire I ‘Decision on the defence request for extension of time’”, the Chamber does not necessarily agree with the Office of the Public Counsel for Defence’s interpretation of Regulation 77 (5)(b) of the Regulations of the Court;

CONSIDERING however that, in any case the lead Counsel in the case *The Prosecutor v. Thomas Lubanga Dyilo*, in accordance with rule 22 of the Rules of Procedure and Evidence and regulation 68 of the Regulations of the Court, has been assisted throughout the proceedings by other assisting Counsel, who may be mandated by the lead Counsel to represent him in his absence;

CONSIDERING further that in addition to lead Counsel, Ms. Veronique Pandanzyla has always received notification of all confidential filings including the « Décision sur la confirmation des charges⁷ »⁸;

CONSIDERING 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 ICC-01/04-01/06-796-Conf.

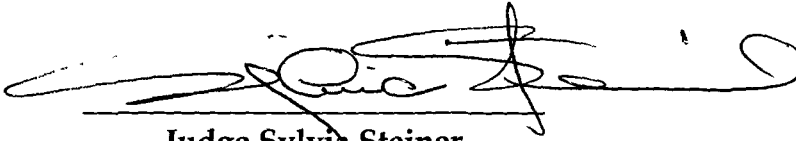
⁸ The Chamber is mindful of the fact that not all members of the Defence team might have access to confidential documents in the proceedings. However since Ms Pandanzyla, at least, receives notification of all confidential documents in the proceedings, the Chamber considers that she is well able to comply, if need be, with this order of the Chamber in lead Counsel’s absence.

CONSIDERING further that the Chamber has already authorized an extension of time limit for the filing by the Defence of its Response to the Prosecution Leave to Appeal Request, by 22 February 2007;

FOR THESE REASONS

DECIDES to grant the Defence an extension of time limit for the filing of the redacted version of its Leave to Appeal Request that is consistent with the public redacted version of the "Décision sur la confirmation des charges", and to file the public redacted version by 22 February 2007.

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



Judge Sylvia Steiner
Single Judge

Dated this **Friday 16 February 2007**

At **The Hague**

The Netherlands