

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original : English

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

Date: 17 July 2007

**THE PRESIDENCY**

**Before:** Judge Philippe Kirsch, President  
Judge Akua Kuenyehia, First Vice-President  
Judge René Blattmann, Second Vice-President

**Registrar:** Mr Bruno Cathala

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

**Public**

**Decision ordering the Registrar to re-file, as a public document, the Presidency's  
Decision on the "Demande urgente en vertu de la Règle 21-3 du Règlement de  
procédure et de preuves" and on the "Urgent Request for the Appointment of a Duty  
Counsel" filed by Thomas Lubanga Dyilo before the Presidency on 7 May 2007 and 10  
May 2007, respectively**

**The Office of the Prosecutor**  
Mr Luis Moreno Ocampo, Prosecutor  
Ms Fatou Bensouda, Deputy Prosecutor

**Counsel for the Defence**  
Ms Catherine Mabilie

**Legal representatives of victims**

**Office of Public Counsel for Victims**  
Mr Xavier-Jean Keïta

**Office of Public Counsel for Defence**  
Ms Paolina Massidda

1. In its confidential ex parte decision of 29 June 2007 on the Applications filed by Mr Thomas Lubanga Dyilo ("the Applicant") on 7 May 2007 and 10 May 2007, respectively<sup>1</sup>, ("the Decision"), the Presidency ordered the Applicant to state whether it remained his view that the classification of the Decision should be maintained and, if so, to set out the factual and legal basis for retaining the classification by 9 July 2007. The Presidency also ordered the Registrar to file any observations that he might have on the Applicant's submissions by 12 July 2007<sup>2</sup>.
2. The Registrar filed his observations on the classification of the Decision on the due date, therein requesting the Presidency to lift the confidential ex parte label of the Decision<sup>3</sup>. Notwithstanding the fact that, to date, no submissions have been received from the Applicant, the Presidency will consider the arguments currently before it in determining whether the classification of the Decision should be maintained.
3. In his observations on the classification of the Decision, the Registrar contends that, on the one hand, the Decision concerns the appointment of duty counsel before the Court and, on the other hand, contains no information concerning privileged communications between the Applicant and his counsel, nor does it contain information which would endanger the protection of victims and witnesses or the preservation of evidence.
4. Taking into account the arguments of the Registrar in his observations, the Presidency finds nothing in the Decision that touches upon legal professional privilege and finds nothing else in the Decision that warrants the retention of the confidential ex parte classification.

<sup>1</sup> ICC-01/04-01/06-887-Conf-Exp and ICC-01/04-01/06-893-Conf-Exp-ITN.

<sup>2</sup> *Decision on the "Demande urgente en vertu de la Règle 21-3 du Règlement de procédure et de preuves" and on the "Urgent Request for the Appointment of a Duty Counsel" filed by Thomas Lubanga Dyilo before the Presidency on 7 May 2007 and 10 May 2007, respectively*, 29 June 2007, ICC-01/04-01/06-931-Conf-Exp

<sup>3</sup> *Observations du Greffier suite à la décision de la Présidence du 29 juin 2007 concernant la "Demande urgente en vertu de la Règle 21-3 du Règlement de procédure et de preuves" et la "Demande Urgente pour la désignation d'un conseil de permanence" déposée par Thomas Lubanga Dyilo, respectivement, le 7 et le 10 mai 2007*, 12 July 2007, ICC-01/04-01/06-933-Conf-Exp

**Decision**

5. The Registrar is therefore ordered to re-file the decision as a public document.

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

A handwritten signature in black ink, consisting of several overlapping, stylized strokes, positioned above the printed name and title.

**Judge René Blattmann**

**Second Vice-President**

Dated this 17 July 2007

At The Hague, The Netherlands