

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-01/06 OA8

Date: 11 May 2007

THE APPEALS CHAMBER

Before: Judge Georghios M. Pikis (Presiding Judge)
Judge Philippe Kirsch
Judge Navanethem Pillay
Judge Sang-Hyun Song
Judge Erkki Kourula

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 of the Appeals Chamber on Mr. Thomas Lubanga Dyilo's Request of
4 May 2007**

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
Ms Fatou Bensouda
Mr Fabricio Guariglia
Mr Ekkehard Withopf

Mr. Thomas Lubanga Dyilo

**Legal representative of victims a/0001/06,
a/0002/06 and a/0003/06**

Mr Luc Walley
Mr Franck Mulenda

Legal representative of victim a/0105/06

Ms Carine Bapita Buyangandu

The Appeals Chamber of the International Criminal Court (hereinafter the “Court”),

In the appeal of Mr. Thomas Lubanga Dyilo (the “Appellant”) of 30 January 2007 entitled “Defence Appeal Against the Pre-Trial Chamber’s ‘*Décision sur la confirmation des charges*’ of 29 January 2007” (ICC-01/04-01/06-797),

In the request of the Appellant entitled “*Demande d’extension de délai en vertu de la Norme 35-1 du Règlement de la Cour*” of 4 May 2007 (ICC-01/04-01/06-883-Conf-Exp)

Renders unanimously the following

DECISION

The request of the Appellant is dismissed.

REASONS

1. On 3 April 2007 the Appeals Chamber determined that the gap in the representation of the Appellant should be filled by duty counsel to be appointed by the Registrar under the provisions of regulation 73 (2) of the Regulations of the Court. The appointment should be confined to counseling the Appellant and helping him in the preparation and submission of the two documents he wishes to file in proceedings pending before the Appeals Chamber, notably the Appellant’s response to “Directions of the Appeals Chamber” (ICC-01/04-01/06-805) of 5 February 2007 and the Appellant’s supplementation of the document entitled “Defence submissions on the scope of the right to appeal within the meaning of article 82 (1) (b) of the Statute” (ICC-01/04-01/06-812) filed on 7 February 2007.¹

2. Time for the submission of the aforesaid documents was sequentially extended to allow a wider time interval than the one earlier ordained for the submission of the relevant documents, bringing the total of the extended period to ten weeks.

¹ See *Prosecutor v. Lubanga Dyilo* “Appeals Chamber’s Decision to Extend Time Limits for Defence Documents” (ICC-01/04-01/06-857) 3 April 2007.



3. By a request of 4 May 2007 the Appellant moved² the Appeals Chamber to
- i. “Grant an extension to the time limit for the appointment of a duty counsel”³
 - ii. “Grant a corresponding extension to the time limit for the filings of documents with the Chamber.”⁴

4. In the body of his application the Appellant explains that the process of appointment of duty counsel has not been completed and that he is still considering the credentials of those who might be appointed. He also informs the Appeals Chamber that the Registry acted independently with a view to determining which person would meet the criteria, and in this regard, to his knowledge, three persons were selected; and that it was his wish, communicated to the Registry, that he be consulted on the matter.⁵

5. In another paragraph of his application he informs that he understood from the decision⁶ of the Appeals Chamber of 4 May 2007 that the Presidency is the appropriate organ to examine the Registry’s actions with regard to the appointment of Counsel.⁷ Hence, he is confining his application to the extension of time for the appointment of duty counsel. All that was said by the Appeals Chamber in the aforesaid decision, it must be clarified, was to itemize the provisions of rule 21 (3) of the Rules of Procedure and Evidence as a species of decisions of the Registrar liable to be reviewed by the Presidency.⁸

² *Prosecutor v. Lubanga Dyilo* “Demande d’extension de délai en vertu de la Norme 35-1 du Règlement de la Cour” (ICC-01/04-01/06-883-Conf-Exp) 4 May 2007.

³ *Ibid.*, paragraph 24; draft translation of the phrase “Accorder un extension de délai pour la désignation d’un Conseil de permanence”.

⁴ *Ibid.*, paragraph 24; draft translation of the phrase “Accorder un extension de délai corrélative pour la déposition des documents auprès de la Chambre. ”.

⁵ *Ibid.*, paragraph 16.

⁶ *Prosecutor v. Lubana Dyilo* “Decision of the Appeals Chamber upon the Registrar’s Request of 5 April 2007” 27 April 2007 (ICC-01/04-01/06-873).

⁷ *Prosecutor v. Lubanga Dyilo* “Demande d’extension de délai en vertu de la Norme 35-1 du Règlement de la Cour” (ICC-01/04-01/06-883-Conf-Exp) 4 May 2007, para 21.

⁸ *Prosecutor v. Lubana Dyilo* “Decision of the Appeals Chamber upon the Registrar’s Request of 5 April 2007” 27 April 2007 (ICC-01/04-01/06-873), paragraph 8.



6. On the same date, shortly after the filing of the aforesaid document, the Registrar transmitted a notice⁹ to the Appeals Chamber to the effect that duty counsel had been appointed after providing the Appellant with an opportunity to express his views as to the possible choice to be made from among the list of counsel furnished to him.

7. As the appointment of duty counsel has been made, the need for the extension of time for such appointment no longer exists. The Appeals Chamber therefore deems the application of the Appellant to have been overtaken by events, depriving it of its essence.

8. Appellant's application was filed as a confidential document. No aspect of this decision merits confidentiality. Hence, the decision is made public. This decision does not entail the removal of the seal of confidentiality from the application itself which shall remain confidential.

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



Judge Georghios M. Pikis
Presiding Judge

Dated this 11th day of May 2007

At The Hague, The Netherlands

⁹ *Prosecutor v. Lubanga Dyilo* "Désignation de Maître Annick Mongo comme conseil de permanence conformément à la Décision de la Chambre d'appel du 3 avril 2007" (ICC-01/04-01/06-882) 4 May 2007.