

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No. ICC-01/04-01/06 A 4 A 5 A 6

Date: 25 March 2014

THE APPEALS CHAMBER

Before:
Judge Erkki Kourula, Presiding Judge
Judge Sang-Hyun Song
Judge Sanji Mmasenono Monageng
Judge Anita Ušacka
Judge Ekaterina Trendafilova

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

IN THE CASE OF THE PROSECUTOR v. THOMAS LUBANGA DYILO

Public document

Further order regarding the conduct of the hearing of the Appeals Chamber



Order to be notified in accordance with regulation 31 of the Regulations of the Court to:

The Office of the Prosecutor
Ms Fatou Bensouda, Prosecutor
Mr Fabricio Guariglia

Counsel for the Defence
Ms Catherine Mabile
Mr Jean-Marie Biju-Duval

Legal Representatives of Victims V01
Mr Luc Walley
Mr Franck Mulenda

Legal Representatives of Victims V02
Ms Carine Bapita Buyangandu
Mr Paul Kabongo Tshibangu
Mr Joseph Keta Orwinyo

REGISTRY

Registrar
Mr Herman von Hebel

The Appeals Chamber of the International Criminal Court,

In the appeal of Mr Thomas Lubanga Dyilo against Trial Chamber I's decision entitled "Judgment pursuant to Article 74 of the Statute" of 14 March 2012 (ICC-01/04-01/06-2842),

In the appeals of Mr Thomas Lubanga Dyilo and the Prosecutor against the decision of Trial Chamber I entitled "Decision on Sentence pursuant to Article 76 of the Statute" of 10 July 2012 (ICC-01/04-01/06-2901),

Noting the "Scheduling order for a hearing before the Appeals Chamber" of 21 March 2014 (ICC-01/04-01/06-3067), in which the Appeals Chamber informed the parties and participants that a hearing would be held on 14 and 15 April 2014 for the purposes of hearing: 1) the testimony of witnesses D-0040 and D-0041 and 2) submissions and observations by the parties and participants, as well as also informing the parties and participants that the timetable and arrangements for the hearing will be stipulated in due course,

Pursuant to article 83 of the Statute, rules 149, 140, 132 (2) and 91 of the Rules of Procedure and Evidence, and regulation 30 of the Regulations of the Court,

Issues the following

ORDER

1. Regarding the evidentiary portion of the hearing in respect of witnesses D-0040 and D-0041,
 - a. Mr Thomas Lubanga Dyilo is directed to provide the Appeals Chamber, by 16h00 on 28 March 2014, with estimates as to the time needed for his questioning of witnesses D-0040 and D-0041.
 - b. The Prosecutor is directed to provide, by 16h00 on 31 March 2014, the estimated amount of time needed for her examination of each witness.
 - c. The parties may address in their above-mentioned submissions other issues related to the conduct of the hearing of witnesses D-0040 and D-0041, including their views on the procedure for the

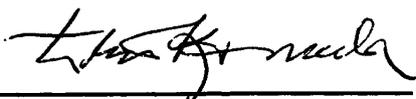


use of material during questioning, the timing of advance notification of such material and the procedure for any objections thereto.

- d. The Legal Representatives of Victims V01 and V02 are directed, if they wish to question the witnesses, to request authorisation to do so pursuant to rule 91 of the Rules of Procedure and Evidence by 16h00 on 28 March 2014. The parties may respond to the request, if any, by 16h00 on 31 March 2014.
2. Regarding the hearing of submissions and observations by the parties and participants,
- a. the Appeals Chamber informs the parties and participants that it is considering to invite them to address the Appeals Chamber in the following order and within the timeframe indicated in brackets:
 - i. Counsel for Mr Thomas Lubanga Dyilo (maximum 45 minutes);
 - ii. The Prosecutor (maximum 45 minutes);
 - iii. Legal Representatives of Victims V01 (maximum 20 minutes);
 - iv. Legal Representatives of Victims V02 (maximum 20 minutes);
 - v. The Prosecutor in response to the Legal Representatives of Victims V01 and V02 (maximum 10 minutes);
 - vi. Counsel of Mr Thomas Lubanga Dyilo in response to the Legal Representatives of Victims V01 and V02 and in response to the Prosecutor (maximum 20 minutes).
 - b. The parties may address the above order and time-frame for the hearing of the submissions and observations in their written submissions as directed in paragraph 1 above.
 - c. The submissions of the parties referred to in paragraph 2 a. shall address, without prejudice to a determination as to its admissibility, the testimony of witnesses D-0040 and D-0041 and any related evidence, an assessment of this evidence, insofar as it is relevant to Mr Thomas Lubanga Dyilo's grounds of appeal.

- d. The submissions of the parties may also address the additional following issues:
- i. Those addressed in paragraph 3 of the “Prosecution’s motion to strike sections of the Defence’s reply and request, in the alternative, to file additional submissions”, of 6 February 2014 (ICC-01/04-01/06-3064); as well as additional arguments relevant to the newly added ground of appeal and evidence related thereto;
 - ii. Those addressed in paragraph 10 of the “Prosecution’s request to strike Thomas Lubanga’s Reply or, alternatively, for leave to respond to its new argument” of 6 March 2013 (ICC-01/04-01/06-2992);
 - iii. The reasons that the evidence of witnesses D-0040 and D-0041 was not presented at trial;
 - iv. Without exceeding their prior written submissions, any other relevant issues arising in the appeals.
- e. The Legal Representatives of Victims V01 and V02 may address the issues enumerated in paragraphs 2 c. and d. above insofar as the personal interests of the victims are affected and their views and concerns are related to the submissions of counsel for Mr Thomas Lubanga Dyilo or the Prosecutor.
- f. Mr Thomas Lubanga Dyilo may address the Appeals Chamber at the closure of the hearing (maximum 30 minutes).
3. An order setting out a precise timetable for the hearing, including for the hearing of witnesses D-0040 and D-0041, will be issued in due course.

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



Judge Erkki Kourula
Presiding Judge

Dated this 25th day of March 2014

At The Hague, The Netherlands

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