

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 28 May 2012

**TRIAL CHAMBER I**

**Before:** Judge Adrian Fulford, Presiding Judge  
Judge Elizabeth Odio Benito  
Judge René Blattmann

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

**URGENT  
Public**

**Order on the defence request for an extension of time**

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

**The Office of the Prosecutor**

Mr Luis Moreno Ocampo  
Ms Fatou Bensouda

**Counsel for the Defence**

Ms Catherine Mabilille  
Mr Jean-Marie Biju Duval

**Legal Representatives of the Victims**

Mr Luc Walley  
Mr Franck Mulenda  
Ms Carine Bapita Buyangandu  
Mr Joseph Keta Orwinyo  
Mr Paul Kabongo Tshibangu

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**The Office of Public Counsel for  
Victims**

**The Office of Public Counsel for the  
Defence**

**States Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Ms Silvana Arbia

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

Trial Chamber I of the International Criminal Court (“Trial Chamber” or “Chamber”) in the case of *The Prosecutor v. Thomas Lubanga Dyilo* (“Lubanga case”), issues the following Order on the defence request for an extension of time:

1. On 24 April 2012, the Chamber issued its “Order fixing the date for the sentencing hearing”.<sup>1</sup> As part of that order the Chamber instructed the defence

to file submissions on the sentence to be imposed on Mr Lubanga by 16:00 on 28 May 2012, taking into account the submissions of the prosecution and the legal representatives on the sentencing principles to be applied by the Chamber as well as the specific issues addressed in the submissions to be filed on 14 May 2012. In addition, the defence is to notify the Chamber as soon as practicable, and in any event no later than 28 May 2012, as to whether it will seek authorisation to present new evidence during the sentencing hearing.<sup>2</sup>

2. On 25 May 2012, the defence urgently requested leave to extend the 28 May 2012 deadline for filing its request for leave to introduce additional evidence and to file written submissions on sentencing by eleven days.<sup>3</sup> The defence submits the delay by the Registry in allocating additional resources led to the cancellation of an investigation mission that had been planned for 13 – 17 May 2012.<sup>4</sup> It is submitted that thereafter the defence visited the DRC between 17 and 22 May 2012, and it is preparing to conduct an additional mission in the near future.<sup>5</sup> The defence suggests that the eleven extra days would allow it to complete a second mission and to file any request in relation to additional evidence,<sup>6</sup> and to file

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<sup>1</sup> Order fixing the date for the sentencing hearing, 24 April 2012, ICC-01/04-01/06-2871.

<sup>2</sup> ICC-01/04-01/06-2871, paragraph 6.

<sup>3</sup> Requête urgente de la Défense aux fins de prorogation de délais, 25 May 2012, ICC-01/04-01/06-2884.

<sup>4</sup> ICC-01/04-01/06-2884, paragraphs 11-13.

<sup>5</sup> ICC-01/04-01/06-2884, paragraphs 10 and 14.

<sup>6</sup> ICC-01/04-01/06-2884, paragraph 15.

submissions on sentence.<sup>7</sup>

3. On 25 May 2012, the Chamber instructed the prosecution and the legal representatives of victims to file any responses to the defence request, no later than 12.00 on 28 May 2012.<sup>8</sup>
4. On 28 May 2012, the prosecution filed its response.<sup>9</sup> It does not object to the proposed extension of the deadline, but suggests a shorter period would suffice. The prosecution observes that although the defence was obliged to postpone its mission, the delay was only a few days and the defence has not provided any information as to why it requires an additional eleven days to define its position on sentencing.<sup>10</sup>
5. The prosecution further submits that it has not sought leave to present additional evidence, and accordingly the defence is not obliged to address new material that might have justified an eleven day extension to the deadline.<sup>11</sup>
6. Given the hearing on sentence is set for 13 June 2012 and bearing in mind the need to ensure “the efficacy of the Prosecution response and preparation”,<sup>12</sup> the prosecution submits that the deadline should only be extended to 4 June 2012 as opposed to 8 June 2012.<sup>13</sup>
7. In accordance with Regulation 35 of the Regulations of the Court, the

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<sup>7</sup> ICC-01/04-01/06-2884, paragraph 16.

<sup>8</sup> E-mail communication from a Legal Officer of the Trial Chamber to the parties and participants on 25 May 2012 at 15:26.

<sup>9</sup> Prosecution’s Response to « Requête urgente de la Défense aux fins de prorogation de délais », ICC-01/04-01/06-2887.

<sup>10</sup> ICC-01/04-01/06-2887, paragraph 6.

<sup>11</sup> ICC-01/04-01/06-2887, paragraph 6.

<sup>12</sup> ICC-01/04-01/06-2887, paragraph 6.

<sup>13</sup> ICC-01/04-01/06-2887, paragraph 7.

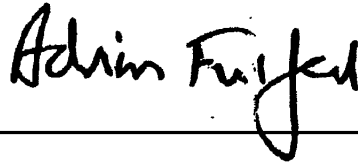
Chamber considers that following the postponement of the defence field mission, it is necessary to extend the 28 May 2012 deadline in order to enable the defence to file its submissions on sentence and to notify the Chamber as to whether it will seek authorisation to present new evidence during the sentencing hearing. However, the Chamber notes that the Registry's decision on additional resources was communicated on 14 May 2012, and that the defence mission was only delayed by only 4 days.

8. The Chamber therefore considers that a 7 day extension of the deadline is sufficient to complete any necessary additional work in order to file submissions on sentence and to notify the Chamber as to whether it will seek authorisation to present new evidence during the sentencing hearing on 13 June 2012.<sup>14</sup>
9. The Chamber hereby extends the time limit for the defence to submit any request to present additional evidence and to file its written submissions on sentencing to 16.00 on 4 June 2012. The Chamber is to be notified immediately if the defence anticipates it will be unable to meet this deadline.
10. The prosecution and the legal representatives of victims are to file their responses to any request by the defence to introduce additional evidence no later than 12.00 on Monday 11 June 2012.

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<sup>14</sup> ICC-01/04-01/06-2871, paragraph 6.

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



**Judge Adrian Fulford**



**Judge Elizabeth Odio Benito**



**Judge René Blattmann**

Dated this 28 May 2012

At The Hague, The Netherlands