

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

**Original: English**

**No. ICC-01/04-01/06 A5**

**Date: 1 February 2013**

**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**

**Decision on the “Prosecution’s Urgent Request for an Extension of the Page  
Limit”**

**Decision 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 Mabilie  
Mr Jean-Marie Biju-Duval

**REGISTRY**

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**Registrar**  
Ms Silvana Arbia

The Appeals Chamber of the International Criminal Court,

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

Having before it the “Prosecution’s Urgent Request for an Extension of the Page Limit”, filed on 31 January 2013 (ICC-01/04-01/06-2963),

*Renders the following*

## DECISION

The page limit for the document to be filed in this appeal under regulation 59 of the Regulations of the Court is extended by 20 pages.

## REASONS

1. On 14 March 2012, Trial Chamber I delivered the “Judgment pursuant to Article 74 of the Statute”<sup>1</sup> (hereinafter: “Conviction Decision”) in which it found Mr Thomas Lubanga Dyilo (hereinafter: “Mr Lubanga”) guilty “of the crimes of conscripting and enlisting children under the age of fifteen years into the FPLC and using them to participate actively in hostilities within the meaning of Articles 8(2)(e)(vii) and 25(3)(a) of the Statute from early September 2002 to 13 August 2003”.<sup>2</sup>

2. On 3 October 2012, Mr Lubanga filed the “Notice of Appeal lodged by the Defence for Mr Thomas Lubanga against Trial Chamber I’s *Judgment pursuant to Article 74 of the Statute* of 14 March 2012”.<sup>3</sup>

3. On 26 November 2012, Mr Lubanga filed his “Defence application to present additional evidence in the appeals against the *Judgment pursuant to Article 74 of the*

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<sup>1</sup> ICC-01/04-01/06-2842.

<sup>2</sup> Conviction Decision, para. 1358.

<sup>3</sup> ICC-01/04-01/06-2934-tENG (A 5).

*Statute and the Decision on sentence pursuant to Article 76 of the Statute*”<sup>4</sup> (hereinafter: “Additional Evidence Request”).

4. On 28 November 2012, the Appeals Chamber granted Mr Lubanga’s “Requête de la Défense aux fins d’augmentation du nombre de pages autorisées pour son Mémoire déposé dans le cadre de son appel à l’encontre du ‘Jugement rendu en application de l’Article 74 du Statut’”,<sup>5</sup> extending the page limit for his document in support of the appeal by 20 pages.<sup>6</sup>

5. On 3 December 2012, Mr Lubanga filed his document in support of the appeal against the Conviction Decision.<sup>7</sup>

6. On 21 December 2012, the Appeals Chamber issued its “Directions under regulation 62 of the Regulations of the Court”<sup>8</sup> (hereinafter: “Directions”), in which it, *inter alia*, extended the page limit for the Prosecutor’s responses to Mr Lubanga’s documents in support of both his appeals against the Conviction Decision and against the “Decision on Sentence pursuant to article 76 of the Statute”<sup>9</sup> by 25 pages each,<sup>10</sup> on the basis that the Prosecutor’s responses may also include her response to the Additional Evidence Request. The Prosecutor’s responses to the documents in support of the appeals are due to be filed by 4 February 2013.

7. On 31 January 2013, the Prosecutor filed the “Prosecution’s Urgent Request for an Extension of the Page Limit”<sup>11</sup> (hereinafter: “Request”), in which she requests that the Appeals Chamber grant her an additional extension of 20 pages for her response to Mr Lubanga’s document in support of his appeal against the Conviction Decision.<sup>12</sup> The Prosecutor points out that her response to Mr Lubanga’s document in support of his appeal against the Conviction Decision, which is 116 pages long, will include her submissions on both Mr Lubanga’s request for additional evidence and his grounds of

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<sup>4</sup> ICC-01/04-01/06-2942-Conf-tENG (A 5 A 6).

<sup>5</sup> ICC-01/04-01/06-2943 (A 5), filed on 27 November 2012.

<sup>6</sup> “Decision on Mr Lubanga’s request for an extension of the page limit”, ICC-01/04-01/06-2946 (A 5).

<sup>7</sup> « Mémoire de la Défense de M. Thomas Lubanga relatif à l’appel à l’encontre du « Jugement rendu en application de l’Article 74 du Statut » rendu le 14 mars 2012 », ICC-01/04-01/06-2948-Red (A 5).

<sup>8</sup> ICC-01/04-01/06-2958 (A 5 A 6).

<sup>9</sup> ICC-01/04-01/06-2901.

<sup>10</sup> Directions, p. 3.

<sup>11</sup> ICC-01/04-01/06-2963 (A 5).

<sup>12</sup> Request, para. 10.

appeal.<sup>13</sup> Additionally, the Prosecutor highlights that Mr Lubanga's Additional Evidence Request is the first such request under regulation 62 of the Regulations of the Court in the context of an appeal of a decision under article 74 of the Statute.<sup>14</sup> In this respect, the Prosecutor states that her submissions in relation to the Additional Evidence Request "will solely be included in [her] response to the Article 74 appeal" and, consequently, she "will not use the additional 25 pages already granted by the Appeals Chamber for [her] response to the Sentencing appeal".<sup>15</sup>

8. On 31 January 2012, the Appeals Chamber issued an order inviting a response to the Request by Mr Lubanga,<sup>16</sup> who filed no response to the Request.

9. The Appeals Chamber considers that in the specific circumstances of the case, "exceptional circumstances" exist within the meaning of regulation 37 (2) of the Regulations of the Court that justify an extension of the page limit as in the Request. The Appeals Chamber considers that an extension is justified for the following reasons: (i) this is the first request for additional evidence and the first appeal directed against a decision under article 74 of the Statute, which might both raise complex and novel issues; (ii) the length of the Conviction Decision, the Request for Additional Evidence and Mr Lubanga's document in support of his appeal against the Conviction Decision. The Appeals Chamber also recalls that it granted a 20-page extension to Mr Lubanga for his document in support of his Appeal against the Conviction Decision.<sup>17</sup> The Appeals Chamber considers that the length of the extension sought (20 pages) is reasonable in the specific circumstances of the case. The Appeals Chamber therefore grants the Request.

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<sup>13</sup> Request, paras 11-12.

<sup>14</sup> Request, para. 13.

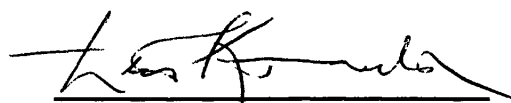
<sup>15</sup> Request, para. 13.

<sup>16</sup> "Order on the filing of a response to the 'Prosecution's Urgent Request for an Extension of the Page limit'", ICC-01/04-01/06-2964 (A 5).

<sup>17</sup> "Decision on Mr Lubanga's request for an extension of the page limit", ICC-01/04-01/06-2946 (A 5).



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

  
**Judge Erkki Kourula**  
**Presiding Judge**

Dated this 1st day of February 2013

At The Hague, The Netherlands