

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No. ICC-01/04-02/12 A

Date: 13 March 2013

THE APPEALS CHAMBER

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

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

IN THE CASE OF THE PROSECUTOR v. MATHIEU NGUDJOLO CHUI

Public Document

Decision on the Prosecution's Urgent Request for an Extension of the Page Limit

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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
Mr Jean Pierre Kilenda
Mr Jean-Pierre Fofé Djofia Malewa

Legal Representatives of Victims
Mr Jean-Louis Gilissen
Mr Fidel Nsita Luvengika

REGISTRY

Registrar
Ms Silvana Arbia

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The Appeals Chamber of the International Criminal Court,

In the appeal of the Prosecutor against the decision of Trial Chamber II entitled “Jugement rendu en application de l’article 74 du Statut” of 18 December 2012 (ICC-01/04-02/12-3),

Having before it the “Prosecution’s Urgent Request for an Extension of the Page Limit” of 8 March 2013 (ICC-01/04-02/12-33),

Renders unanimously the following

DECISION

1. The page limit for the document to be filed in this appeal under regulation 58 of the Regulations of the Court is extended by 50 pages.
2. The page limit for the Defence’s response pursuant to regulation 59 of the Regulations of the Court is also extended by 50 pages and the victims’ observations, as stipulated in the Appeals Chamber decision ICC-01/04-02/12-30, is extended by 20 pages.

REASONS

1. On 18 December 2012, Trial Chamber II issued its “*Judgment rendu en application de l’article 74 du Statut*” (hereinafter: “Acquittal Decision”),¹ in the case of *The Prosecutor v. Mathieu Ngudjolo Chui* (hereinafter: “Mr Ngudjolo”). The Trial Chamber found Mr Ngudjolo not guilty for the crimes charged by the Prosecution.²

2. On 20 December 2012, the Prosecutor lodged her appeal against the Acquittal Decision.³

3. On 8 March 2013, the Prosecutor filed the “Prosecution’s Urgent Request for an Extension of the Page Limit”⁴ (hereinafter: “Request”) pursuant to

¹ ICC-01/04-02/12-3.

² Acquittal Decision, para. 502.

³ “Prosecution’s Appeal against Trial Chamber II’s ‘Jugement rendu en application de l’article 74 du Statut’”, ICC-01/04-02/12-10.

regulation 37 (2) of the Regulations of the Court. The Prosecutor submits that exceptional circumstances exist in the present case within the meaning of regulation 37 (2) of the Regulations of the Court, and requests that the Appeals Chamber grant her an additional 50 pages for the document in support of the appeal against the Acquittal Decision.⁵ Referring to the Appeals Chamber decision of 28 November 2012 in the case of the *Prosecutor v. Thomas Lubanga Dyilo*,⁶ where the Appeals Chamber granted an extension of 20 pages on the basis that “this is the first appeal directed against a decision under article 74 of the Statute, which might raise complex and novel issues”,⁷ the Prosecutor submits that similar circumstances apply in this case also.⁸

4. In particular, the Prosecutor submits that in order to meet her burden as an appellant, and to meaningfully assist the Appeals Chamber, the Prosecutor must conduct a thorough analysis of the factual and legal findings of the Trial Chamber, its assessment of the credibility and reliability of evidence, as well as the relevant evidence itself. According to the Prosecutor, in order to conduct this analysis, she must refer not only to the evidence that was discussed by the Trial Chamber in the Acquittal Decision, but also to other relevant evidence that is in the record of the case. The Prosecutor also submits that in support of the legal and/or procedural errors that will be raised in the document in support of the appeal, she must conduct, *inter alia*, a comprehensive analysis of the law and the jurisprudence of other international or domestic courts and explain how they are relevant to the adjudication of the matters raised by the Prosecution. The Prosecutor avers that this cannot be done within the existing page limit of 100 pages.⁹

5. The Appeals Chamber considers that, in the specific circumstances of the case, namely in light of the fact that this is the first appeal directed against an acquittal under article 74 of the Statute, which might raise complex and novel issues, and also in view of the Prosecutor’s submissions in her Request, there are “exceptional circumstances” in terms of regulation 37 (2) of the Regulations of the Court, which

⁴ ICC-01/04-02/12-33.

⁵ Request, para 4.

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

⁷ ICC-01/04-01/06-2946, para. 5.


⁸ Request, para 6.

⁹ Request, para 7.

justify the extension of the page limit for the Prosecutor's document in support of the appeal. The Appeals Chamber considers that the length of the extension sought (50 pages) is reasonable. The Appeals Chamber therefore grants the Request.

6. Consequently, the page limit for the Defence's response pursuant to regulation 59 of the Regulations of the Court is also extended by 50 pages and the victims' observations, as stipulated in the Appeals Chamber's decision ICC-01/04-02/12-30, is extended by 20 pages.

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



Judge Sang-Hyun Song
on behalf of the Presiding Judge

Dated this 13th day of March 2013

At The Hague, The Netherlands