

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 1 April 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

Registry report to the Appeals Chamber in compliance with ICC-01/04-01/06-3067

Source: Registry

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

The Office of the Prosecutor

Ms Fatou Bensouda
Mr Fabricio Guariglia

Counsel for the Defence

Ms Catherine Mabilie
Mr Jean-Marie Biju-Duval

Legal Representatives of the Victims V01 Legal Representatives of the Applicants

Mr Luc Walley
Mr Franck Mulenda

Legal Representatives of the Victims V02

Ms Carine Bapita Buyangandu
Mr Paul Kabongo Tshibangu
Mr Joseph Keta Orwinyo

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Deputy Registrar

Victims and Witnesses Unit

Mr Paddy Craig

Detention Section

Victims Participation and Reparations Section Other

The Registrar of the International Criminal Court (the “Court”);

NOTING the “*Scheduling order for a hearing before the Appeals Chamber*” issued by the Presiding Judge of the Appeals Chamber on 21 March 2014;¹

NOTING article 69 (2) of the Rome Statute, rule 67 of the Rules of Procedure and Evidence, regulation 24*bis* of the Regulations of the Court, and regulation 45 of the Regulations of the Registry;

CONSIDERING that in its Scheduling Order of 21 March 2014, the Appeals Chamber has scheduled a hearing to be held on 14 and 15 April 2014, in order to hear the testimony of witnesses D-0040 and D-0041 by means of video-technology as well as the submissions and observations of the parties and participants;

FURTHER CONSIDERING that in its Scheduling Order, the Appeals Chamber has ordered the Registrar to ‘*make the necessary arrangements, in co-operation with counsel for Mr. Thomas Lubanga Dyilo, as necessary, for witnesses D-0040 and D-0041 to give testimony by means of video-link technology*’ and to ‘*inform the Appeals Chamber immediately if any difficulties are encountered that may affect the above schedule*’;²

RESPECTFULLY REPORTS AS FOLLOWS:

1. Following the Chamber’s 21 March order, the Registry set out to make the necessary arrangements to facilitate the video link testimony for witnesses D-0040 and D-0041 on the dates established by the Chamber. In doing so, the Registry proceeded to consult with counsel for the Defence, in particular regarding the whereabouts of the two witnesses in order to initiate the relevant preparations. Likewise, the Registry proceeded to make an

¹ ICC-01/04-01/06-3067.

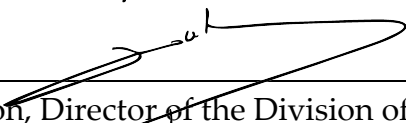
² Idem at para.3, p.4.

assessment of readiness from an operational and technological point of view, for the specified dates, taking into account security and logistical requirements at the location of testimony.

2. In terms of logistics and operations, the Registry would be ready to facilitate a video link on 14 and 15 April 2014 from an appropriate location. However, taking into consideration the steps that need to be taken prior to the video link testimony of witnesses D-0040 and D-0041 taking place, it is unfortunately materially impossible to secure witness appearance on those days, mostly due to circumstances that are outside of the control of the ICC and of the Defence team.
3. In this regard the Registry notes that the Defence would need to first be able to re-establish face-to-face contact with the witnesses. To this end, the Defence is required to make all relevant arrangements to travel to the field and this entails obtaining the necessary visas, which are currently being processed and which will be delivered by the issuing authorities when these are ready. Additional time is required for travel to the field, and this may include travel to remote locations to meet with the witnesses. Therefore, taking into account that the visas are not yet issued and considering the travel and mission days, it is not likely that the Defence would be able to return before 14 April 2014.
4. In addition to this, and once the witnesses are in the care of the VWU, the VWU is required to make the necessary preparations to ensure the appearance of the witnesses at the location of testimony and carry out their familiarization duties.
5. Lastly additional time would be required to ensure that all disclosure obligations are met and in order to allow for consultations between Counsel for the Defence with their client.

6. Whereas both the Defence for Mr. Lubanga and the Registry have endeavoured to ensure the relevant preparations to facilitate the appearance of the witnesses, given the above elements, which do not include other factors that may have an impact on the travel of the defence to the mission area such as any possible flight cancellations and any unforeseen security operations outside of ICC control, it is respectfully submitted that the scheduled dates of 14 and 15 April are not attainable.
7. Therefore, the Registry informs the Chamber that the above elements constitute a real obstacle in the facilitation of the appearance of these two witnesses on those dates. However, the Registry and the Defence continue relevant preparations and it is estimated that the video link can be facilitated at a later date, given that the witnesses are available for testimony.

RESPECTFULLY SUBMITTED,



Marc Dubuisson, Director of the Division of Court Services
per delegation of
Herman von Hebel, Registrar

Dated this 1 April 2014

At The Hague, Netherlands