

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

No.: ICC-01/04-01/06
Date: 20 October 2006

PRE-TRIAL CHAMBER I

Before: Judge Claude Jorda, Single Judge

Registrar: Mr Bruno Cathala

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

Public Document

Decision on Defence's request of 16 October 2006

The Office of the Prosecutor

Mr Luis Moreno Ocampo

Ms Fatou Bensouda

Mr Ekkehard Withopf

Legal representatives of victims

a/0001/06 to a/0003/06

Mr Luc Walley

Mr Franck Mulenda

Counsel for the Defense

Mr Jean Flamme

Ms Véronique Pandanzyla

I, Judge Claude Jorda, judge at the International Criminal Court (“the Court”);

NOTING the “Request for further information regarding the confirmation hearing and for the appropriate relief to safeguard the rights of the Defence and Thomas Lubanga Dyilo” (“the Defence First Request”) filed by the Defence on 20 September 2006 in which the Defence requests the Chamber to *inter alia* i) order the Prosecution to file any legal submissions it intends to make in written form, as soon as possible; ii) grant the Defence the right to file legal and factual submissions in written form after the confirmation hearing;¹

NOTING the “Decision establishing a Deadline in Relation to the Defence Request for the Interim Release of Thomas Lubanga Dyilo” issued by the single Judge on 22 September 2006 whereby the single Judge gives the Prosecution and the Legal Representatives of Victims a/0001/06 to a/0003/06 until 9 October 2006 to file a response to the Defence request for interim release of Thomas Lubanga Dyilo;²

NOTING the “Prosecution’s Response to the Defence Request for Interim Release” filed on 9 October 2006 (“the Prosecution First Response”);³

NOTING the “Defence’s Request for an Order of the Pre-Trial Chamber to the Prosecution to provide legal argument to the Defence in advance of the confirmation

¹ ICC-01/04-01/06-452.

² ICC-01/04-01/06-465.

³ ICC-01/04-01/06-531.

hearing and for a variation of the time limit" ("the Defence Second Request")⁴ filed on 16 October 2006 in which it reiterates its First Request that the Chamber order the Prosecution to provide the following information to the Defence at least twenty days before the confirmation hearing:

- 1) A copy of the skeleton legal argument that will be used by the Prosecution
- 2) A list of any cases, laws, conventions, books or articles cited by the Prosecution
- 3) Copies of any cases, laws, conventions, books or articles cited by the Prosecution (including the section referred to and the entire decision or case to verify the context in which it is used);

NOTING the Prosecution's Response to the Defence Second Request ("the Prosecution Second Response")⁵;

NOTING the decision on the date of the confirmation hearing⁶ filed on the 5 October 2006 in which the Chamber decides that "pursuant to rule 122(1) a hearing will be held on 26 October at 10.00am to determine how the confirmation hearing is to be conducted";

⁴ ICC-01/04-01/06-573.

⁵ ICC-01/04-01/06-592.

⁶ ICC-01/04-01/06-521.

NOTING articles 61, of the Rome Statute of the International Criminal Court (“the statute”) and rule 121 and 122 (1) of the Rules of Evidence and Procedure (“the Rules”);

CONSIDERING that the two Requests for legal argument by the Defence are not recognized by any of the laws of the ICC;

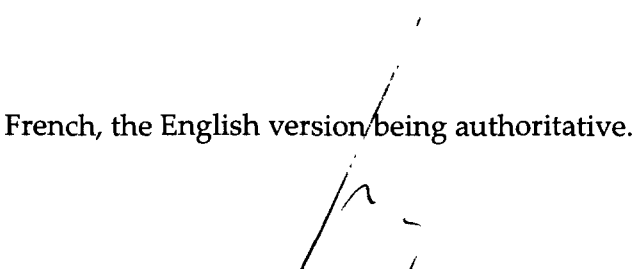
CONSIDERING that the hearing of 26 October 2006 to determine how the confirmation hearing is to be conducted is the appropriate forum to discuss the Defence request to file legal and factual submissions in written form after the confirmation hearing;

FOR THESE REASONS,

DECIDES to reject the Defence request for an order of the Chamber to the Prosecution to provide legal argument to the Defence in advance of the confirmation hearing;

INVITES the Defence to place its request to file legal and factual submissions in written form after the confirmation hearing on the agenda of the hearing of 26 October 2006.

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



Judge Claude Jorda
Single Judge

Dated this Friday 20 October 2006

At The Hague

The Netherlands