

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

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

Date: 13 July 2006

PRE-TRIAL CHAMBER I

Before: Judge Claude Jorda, Presiding Judge
Judge Akua Kuenyehia
Judge Sylvia Steiner

Registrar: Mr Bruno Cathala

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
THE PROSECUTOR
*v. Thomas Lubanga Dyilo***

Public Document

Order relating to the Application for Release

The Office of the Prosecutor
Mr Luis Moreno Ocampo
Mrs Fatou Bensouda
Mr Ekkehard Withopf

Counsel for the Defence
Mr Jean Flamme
Ms Veronique Pandanzvilla

PRE-TRIAL CHAMBER I (“the Chamber”) of the International Criminal Court (“the Court”);

NOTING the “Application for Release”¹ filed by the Defence on 23 May 2006, in which the Defence requested the release of Thomas Lubanga Dyilo without specifying the procedural remedy pursuant to which the application was filed;

NOTING the “Ordonnance relative à la requête aux fins de mise en liberté”² issued by the Chamber on 29 May 2006;

NOTING the “Submissions relative to the Order of 29.5.2006”³ filed by the Defence on 31 May 2006, in which the Defence specified that the request was not an application for interim release pursuant to article 60 of the Rome Statute (“the Statute”) but rather an application for release under rule 185 of the Rules of Procedure and Evidence (“the Rules”);

NOTING the “Prosecution’s Response to Application for Release”⁴ filed by the Prosecution on 13 June 2006, whereby the Prosecution submitted its observations on the Application for Release and in which it assumed that the application was a challenge to the jurisdiction of the Court pursuant to article 19 of the Statute;

¹ ICC-01/04-01/06-121.

² ICC-01/04-01/06-128.

³ ICC-01/04-01/06-131.

⁴ ICC-01/04-01/06-149-Conf.

NOTING the “Demande de Réplique à la Réponse du Procureur du 13 juin 2006 à la Requête de mise en liberté”⁵ filed by the Defence on 19 June 2006;

NOTING the “Décision sur la requête de la Défense sollicitant l'autorisation de déposer une réplique”⁶ issued by the Chamber on 29 June 2006;

NOTING the “Conclusions en réplique à la réponse du Procureur à la demande de mise en liberté”⁷ filed by the Defence on 10 July 2006, in which the Defence states that the Application for Release is grounded, on the one hand, on article 55 (1) (d) *juncto* article 85 of the Statute, and, on the other hand, on the inadmissibility of the case against Thomas Lubanga Dyilo;

NOTING articles 19, 55, 59, 60 and 85 of the Statute, rule 185 of the Rules and regulation 28 (1) of the Regulations of the Court (“the Regulations”);

CONSIDERING that in the various documents submitted to the Chamber regarding the Application for Release, the Defence has resorted to a variety of procedural remedies;

⁵ ICC-01/04-01/06-159-Conf.

⁶ ICC-01/04-01/06-173.

⁷ ICC-01/04-01/06-188-Conf.

CONSIDERING that each procedural remedy must be dealt with by a different procedure;

FOR THESE REASONS

ORDERS the Defence to make clear which procedural remedy it is using for the Application for Release of Thomas Lubanga Dyilo within 10 days from the notification of the present decision.

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



Judge Claude Jorda
Presiding Judge



Judge Akua Kuenyehia



Judge Sylvia Steiner

Dated this Thursday 13 July 2006

At The Hague

The Netherlands