

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No: ICC-01/04-01/06

Date: 5 September 2006

PRE-TRIAL CHAMBER I

Before: Judge Sylvia Steiner, Single Judge

Registrar: Mr Bruno Cathala

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

Public Redacted Version

**Decision concerning the compliance by the Prosecution with the pre-requisites to
file rule 81 (4) motions**

The Office of the Prosecutor

Mr Luis Moreno Ocampo
Ms Fatou Bensouda
Mr Ekkehard Withopf

Counsel for the Defence

Mr Jean Flamme
Ms Véronique Pandanzyla

**Legal Representatives of Victims a/0001/06
to a/0003/06**

Mr Luc Walley
Mr Franck Mulenda

Office of Public Counsel for the Defence

Ms Melinda Taylor

I, Judge Sylvia Steiner, judge at the International Criminal Court (“the Court”);

NOTING the “Decision Establishing General Principles Governing Applications to Restrict Disclosure pursuant to Rule 81 (2) and (4) of the Statute” (“the Decision Establishing General Principles”),¹ issued by the single judge on 19 May 2006, in which it is stated that the assessment of the Victims and Witnesses Unit (“the VWU”) on the availability and feasibility of the protective measures for a given witness constitutes a pre-requisite for any motion for non-disclosure of identity under rule 81 (4) of the Rules of Procedure and Evidence (“the Rules”);

NOTING the *ex parte* hearing of 1 September 2006, in which the Prosecution informed the single judge that some of the witnesses for which [REDACTED] for the purpose of the confirmation hearing had not been previously referred to the Victims and Witnesses Unit for assessment of the available and feasible protective measures;

NOTING article 68 (1) of the Statute and rule 81 of Rules;

CONSIDERING that the Prosecution has not complied with the pre-requisites provided for in the Decision Establishing General Principles for the filing of rule 81 (4) motions [REDACTED] of some of the witnesses on which the Prosecution intends to rely at the confirmation hearing;

¹ ICC-01/04-01/06-108.

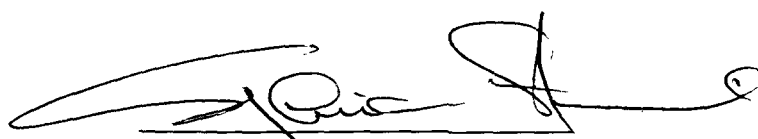
FOR THESE REASONS

ORDERS the Prosecution, unless it intends to withdraw its rule 81 (4) motion in relation to the relevant witnesses, to immediately:

- (i) Inform the single judge what the annexes containing the applications for those witnesses are;
- (ii) Refer those witnesses, including all relevant information, to the Victims and Witness Unit for assessment of the available and feasible protective measures;

ORDERS the Victims and Witnesses Unit to conduct such an assessment as a matter of urgency and to file its conclusions no later than 11 September 2006 at 16h00.

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



Judge Sylvia Steiner
Single Judge

Dated this Tuesday 5 September 2006

At The Hague

The Netherlands