

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No: ICC-01/04-01/06
Date: 15 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 Document with confidential ex parte only available to the Prosecution
Annex I**

Decision Inviting the Prosecution to Revise Proposed Redactions under Rule 81

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
Mr Ekkehard Withopf, Senior Trial Lawyer

Counsel for the Defence

Mr Jean Flamme
Ms Véronique Pandanzyla

**The 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 requests of the Prosecution under rule 81 (2) and (4) between 21 August 2006 and 29 August 2006;¹

NOTING the *ex parte* hearing with the Prosecution and the representatives of the Victims and Witnesses Unit held in closed session on 1 September 2006, whereby the single judge *inter alia* ordered the Prosecution to re-file the annexes to the Prosecution First Request, the Prosecution Second Request, the Prosecution Third Request, the Prosecution Fourth Request and the Prosecution Sixth Request, and to address the questions posed and the concerns raised in the Decision on the Supplementary Agenda in relation to the Prosecution Fifth Request;

¹ See: (i) the “Prosecution’s Application pursuant to Rule 81 (2) and 81(4)” (“the Prosecution First Request”), ICC-01/04-01/06-341-Conf, filed by the Prosecution on 21 August 2006, in which it requested the authorization of the Chamber for redactions in some witness statements on which the Prosecution intends to rely at the confirmation hearing; (ii) the “Prosecution’s Application pursuant to Rules 81 (2) and 81 (4)” (“the Prosecution Second Request”), ICC-01/04-01/06-347-Conf, filed by the Prosecution on 23 August 2006, in which it requested the authorization of the Chamber for redactions in certain witness statements on which the Prosecution intends to rely at the confirmation hearing; (iii) the “Prosecution’s Request for Authorization of Redactions in Documents” (“the Prosecution Third Request”), ICC-01/04-01/06-357-Conf, filed by the Prosecution on 28 August 2006, in which it requested the authorization of the Chamber for redactions in some documents on which the Prosecution intends to rely at the confirmation hearing or otherwise subject to inspection pursuant to rule 77 of the Rules of the Procedure and Evidence (“the Rules”); (iv) the “Prosecution’s Application pursuant to Rules 81 (2) and (4)” (“the Prosecution Fourth Request”), filed by the Prosecution on 28 August 2006, ICC-01/04-01/06-358-Conf, in which it requested the authorization of the Chamber for redactions in a number of witness statements and transcripts of interviews on which the Prosecution intends to rely at the confirmation hearing; (v) the “Prosecution’s Request for Authorization of Redactions in Documents Previously Disclosed to the Defence” (“the Prosecution Fifth Request”), ICC-01/04-01/06-363-Conf-Exp, filed by the Prosecution on 29 August 2006, in which it requested the authorizations of the Chamber for redactions in forty-one documents previously disclosed to the Defence in redacted form without the prior authorization of the Chamber; and (vi) the “Prosecution Application pursuant to Rules 81 (2) and 81 (4)” (“the Prosecution Sixth Request”), ICC-0104-01/06-367-Conf-Exp, filed by the Prosecution on 30 August 2006, and the corrigendum to Annexes 1 to 5 of the Prosecution Sixth Request filed by the Prosecution on 31 August 2006, whereby the Prosecution requests authorization for redactions to the transcript of interviews of certain witnesses for which the Prosecution had already requested the non-disclosure of their identity.

NOTING the amended requests of the Prosecution under rule 81 (2) and (4) between 4 September 2006 and 12 September 2006 in compliance with the oral order of the single judge at the *ex parte* hearing of 1 September 2006;²

NOTING the *ex parte* hearings with the Prosecution and the representatives of the Victims and Witnesses Unit held by the single judge on 8 September 2006 and 12 September 2006 on the Prosecution amended requests filed by the Prosecution between 4 and 12 September 2006;

² See: (i) "Prosecution's Amended Application pursuant to Rules 81 (2) and 81 (4)" ("the Prosecution First Amended Request"), ICC-01/04-01/06-381-Conf, and the Addendum to such Application ("the Addendum to the First Amended Request"), ICC-01/04-01/06-382-Conf, both filed by the Prosecution on 4 September 2006, in which the Prosecution requested authorisation for additional redactions to six witness statements which were the subject of the Prosecution First Request and the Prosecution Second Request; (ii) the "Prosecution's Request for Authorisation of Revised Redactions in Documents" ("the Prosecution Second Amended Request"), ICC-01/04-01/06-384-Conf, filed by the Prosecution on 4 September 2006, in which the Prosecution requested revised redactions to the 14 documents that were the subject of the Prosecution Third Request; (iii) the "Re-submission of Confidential-*Ex Parte*-Prosecution Only Annex 9 to the 4 September 2006 Prosecution's Request for Authorisation of Revised Redactions in Documents" ("the Re-submission of Annex 9 to the Prosecution Second Amended Request"), ICC-01/04-01/06-391-Conf-Exp, filed by the Prosecution on 6 September 2006, in which the Prosecution re-submitted Annex 9 to the Prosecution Second Amended Request; (iv) the "Prosecution's Application pursuant to Rules 81 (2) and 81 (4)" ("the Prosecution Third Amended Request"), ICC-01/04-01/06-392-Conf, filed by the Prosecution on 6 September 2006, in which the Prosecution requested authorisation for additional redactions to certain witness statements which were the subject of the Prosecution First Request and the Prosecution Second Request; (v) the "Prosecution's Application pursuant to Rules 81 (2) and 81 (4)" ("the Prosecution Fourth Amended Request"), ICC-01/04-01/06-395-Conf, filed by the Prosecution on 7 September 2006, in which the Prosecution requested additional redactions to a number of witness statements, transcripts of witness interviews and documents which were the subject of the Prosecution Fourth Request; (vi) the "Prosecution's Request for Authorisation of Revised Redactions in Documents" ("the Prosecution Fifth Amended Request"), ICC-01/04-01/06-409-Conf-Exp, filed by the Prosecution on 11 September 2006, in which the Prosecution requested revised redactions to the documents that were the subject of the Prosecution Fifth Request; (vii) the "Prosecution's Application pursuant to Rules 81 (2) and 81(4)" ("the Prosecution Sixth Amended Request"), filed by the Prosecution on 11 September 2006, ICC-01/04-01/06-410-Conf, in which the Prosecution requested additional redactions to the remaining witness statements, transcripts of witness interviews and documents which were the subject of the Prosecution Fourth Request and the Prosecution Sixth Request; (viii) the "Prosecution's Application pursuant to Rules 81 (2) and 81 (4)" ("the Prosecution Amendment to the Prosecution First Amended Request"), ICC-01/04-01-06-431-Conf, filed by the Prosecution on 12 September 2006, in which the Prosecution requested additional redactions to the statement of one witness which was the subject of the Prosecution First Amended Request; and (ix) the "Prosecution's Application pursuant to Rules 81 (2) and 81 (4)" ("the Prosecution Amendment to the Prosecution Fourth Amended Request"), ICC-01/04-01/06-434-Conf-Exp, filed by the Prosecution on 13 September 2006, in which the Prosecution requested additional redactions to the statement of one witness which was the subject of the Prosecution Fourth Amended Request.

NOTING articles 57 (3) (c), 61, 67, 68 and 69 of the Rome Statute (“the Statute”); and rules 81, 87 and 88 of the Rules of Procedure and Evidence (“the Rules”);


CONSIDERING the importance of ensuring consistency in any redaction that might be authorised by the single judge pursuant to rule 81 of the Rules; and the need to adequately guarantee the protection of the relevant witnesses,

FOR THESE REASONS

DECIDES to invite the Prosecution to revise the redactions proposed *inter alia* in the following paragraphs of the witness statements and related documents referred to in Annex I to this decision;

DECIDES to give the Prosecution until 18 September 2006 at 16h00 to make any filing in relation to this matter.

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



Judge Sylvia Steiner
Single Judge

Dated this Friday 15 September 2006

At The Hague

The Netherlands