

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original : English

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

Date: 15 February 2008

**TRIAL CHAMBER I**

**Before:** Judge Adrian Fulford, Presiding Judge  
Judge Elizabeth Odio Benito  
Judge René Blattmann

**Registrar:** Mr Bruno Cathala

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

**Public**

**Order on prosecution's application for redactions pursuant to Rule 81(2) filed on  
14 February 2008**

**Office of the Prosecutor**

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

**Counsel for the Defence**

Ms Catherine Mabilie  
Mr Jean-Marie Biju-Duval

**Legal Representatives of Victims**

a/0001/06 to a/0003/06 and a/0105/06

Mr Luc Walley  
Mr Franck Mulenda  
Ms Carine Bapita Buyangandu

1. The Office of the Prosecutor ("prosecution") filed publicly a "Prosecution's Application for Redactions pursuant to Rule 81(2)" on 14 February 2008, together with confidential *ex parte* prosecution only annexes.<sup>1</sup> Pursuant to Rule 81(2) of the Rules of Procedure and Evidence ("Rules") the prosecution requests authorisation to redact information in two paragraphs of a witness statement, which the Chamber ordered the prosecution to disclose to the defence by Friday 15 February 2008.<sup>2</sup> The prosecution had not objected to this disclosure deadline.
2. The defence are entitled to respond to the application before it is finally resolved by the Chamber. As matters relating to disclosure and redactions should be dealt with expeditiously, the Chamber orders that any defence response to the application shall be filed by 29 February 2008.
3. As expressed during the Status Conference on 13 February 2008, the Chamber considers that, in future, applications to the Chamber which impact on deadlines should be made sufficiently in advance to permit the parties and participants to file a response.<sup>3</sup> If applications of this kind are made unjustifiably late, thereby forcing the Trial Chamber to extend or lift deadlines in order to allow the parties and participants to respond, or to deal with applications on a temporary basis, the failure to act in a timely fashion will be taken into consideration in deciding whether it is in the interests of justice to grant the application.
4. The Chamber notes that the prosecution recognises in its application that an incorrect statement was made in a previous application filed on 7 December

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<sup>1</sup> ICC-01/04-01/06-1165.

<sup>2</sup> ICC-01/04-01/06-T-74-CONF-EXP-ENG, page 68 lines 8 and 21-22; this order was confirmed the next day: ICC-01/04-01/06-T-76-CONF-EXP-ENG, page 6 line 10.

<sup>3</sup> ICC-01/04-01/06-T-75-ENG, page 42 line 20 to page 43 line 5.

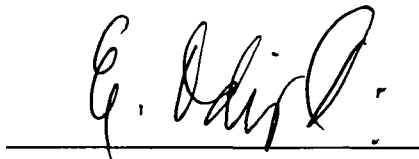
2007<sup>4</sup> regarding the redactions sought. As a result an issue which could have been dealt with by the Chamber at the hearing on 11 December 2007 was not considered then.<sup>5</sup>

5. Redactions to material disclosed to the defence must be authorised by the Chamber. The Chamber, for the reasons set out in paragraph 9 of the confidential *ex parte* Attachment A to the application and pursuant to Rule 81(2) of the Rules, grants the redactions sought on a temporary basis. The Chamber notes that similar redactions were authorised in relation to the statement of another witness on 13 December 2007.<sup>6</sup>
6. The application will be addressed substantively at the Status Conference on 12 March 2008, both in public and *ex parte* as necessary.

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



Judge Adrian Fulford



Judge Elizabeth Odio Benito



Judge René Blattmann

Dated this 15 February 2008

At The Hague, The Netherlands

<sup>4</sup> ICC-01/04-01/06-1067 and confidential *ex parte* annexes.

<sup>5</sup> ICC-01/04-01/06-1165-Conf-Exp-AnxA.

<sup>6</sup> ICC-01/04-01/06-T-66-CONF-EXP-ENG, page 2 lines 7-10.