

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

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

Date: 5 March 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

**The Trial Chamber's Agenda for the Status Conference on 12 March 2008 and
scheduling order**

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. In order to facilitate the preparation for the Status Conference on 12 March 2008 of the Office of the Prosecutor (“prosecution”) the defence, and of the participants in the proceedings, the Trial Chamber issues the following agenda. The Status Conference will commence at 10.00. It may continue on 13 March as necessary. The issues listed below will be addressed:

A. Whether two judges may hold a hearing;¹

B. The protocol on the practices used to prepare and familiarise witnesses for giving testimony at trial² and the Victims and Witnesses Unit recommendations on psycho-social in-court assistance;³

C. The admissibility of annexes 46 to 52 to the “Prosecution’s application for lifting of redactions, non-disclosure of information and disclosure of summary evidence”.⁴ The documents included in the annexes in particular raise the issue of the admissibility of hearsay evidence. The

¹ Order for submissions on whether two judges of the Trial Chamber may hold a hearing, 14 February 2008, ICC-01/04-01/06-1168; Prosecution’s submission on whether two judges of the Trial Chamber may hold a hearing, 27 February 2008, ICC-01/04-01/06-1192; Conclusions de la Défense relatives à l’ “Order for submissions on whether two judges of the Trial Chamber may hold a hearing” du 14 février 2008, 27 February 2008, ICC-01/04-01/06-1194; Observations communes des représentants des victimes sur la question de tenir une audience en présence de deux juges, 27 February 2008, ICC-01/04-01/06-1193.

² Victims and Witnesses Unit protocol on the practices used to prepare and familiarize witnesses for giving testimony at trial, 31 January 2008, ICC-01/04-01/06-1150-Conf; Prosecution’s observations on the Victims and Witnesses Unit protocol on the practices used to prepare and familiarize witnesses for giving testimony at trial, 25 February 2008, ICC-01/04-01/06-1189-Conf; Observations de la Défense sur le “Victims and Witnesses Unit protocol on the practices used to prepare and familiarize witnesses for giving testimony at trial”, 25 February 2008, ICC-01/04-01/06-1188-Conf; see also Decision regarding the practices used to prepare and familiarise witnesses giving evidence at trial, 30 November 2007, ICC-01/04-01/06-1049, paragraphs 53-55 and Decision on various issues related to witnesses’ testimony during trial, 29 January 2008, ICC-01/04-01/06-1140, paragraphs 38 and 44 (i).

³ Victims and Witnesses Unit recommendations on psycho-social in-court assistance, 31 January 2008, ICC-01/04-01/06-1149; Decision on various issues related to witnesses’ testimony during trial, 29 January 2008, ICC-01/04-01/06-1140, paragraphs 39 and 44 (ii).

⁴ 12 December 2007 (notified on 13 December 2007), ICC-01/04-01/06-1081 and Réponse de la Défense à la “Prosecution’s application for lifting of redactions, non-disclosure of information and disclosure of summary evidence”, à la “Prosecution’s application for non-disclosure of information on the basis of Article 54(3)(f)” et à la “Prosecution’s application for lifting of redactions and non-disclosure of information”, 4 January 2008, ICC-01/04-01/06-1104; see also transcript of hearing on 12 February 2008, ICC-01/04-01/06-T-74-CONF-EXP-ENG, pages 101-107; transcript of hearing on 13 February 2008, ICC-01/04-01/06-T-75-ENG, pages 38-39.

annexes were filed “confidential - *Ex parte* – Prosecution Only”. The prosecution confirmed orally during the Status Conference on 13 February 2008 that they had been disclosed to the defence in redacted form.⁵ However, for the ease of reference of the defence, the Chamber requests the prosecution to re-disclose these documents separately to the defence within 24 hours of the issue of the present Order.

- D. The prosecution’s application for redactions pursuant to Rule 81(2) filed on 14 February 2008;⁶
- E. The joint instruction of experts;⁷
- F. The proposed mechanisms for exchange of information on persons who have the dual status of witnesses and victims;⁸
- G. Remote access to the e-court facilities using Citrix;⁹ the Registry is requested to organise a separate presentation demonstrating access to the e-court systems using Citrix from the Democratic Republic of the Congo following the Status Conference on 12 or 14 March 2008. The demonstration should be coordinated directly by the Registry with the defence and participants.

⁵ ICC-01/04-01/06-T-75-ENG, page 38.

⁶ ICC-01/04-01/06-1165; Réponse de la Défense à la “Prosecution’s application for redactions pursuant to Rule 81(2)” datée du 14 février 2008, 29 February 2008, ICC-01/04-01/06-1201; Order on prosecution’s application for redactions pursuant to Rule 81(2) filed on 14 February 2008, 15 February 2008, ICC-01/04-01/06-1172.

⁷ See Prosecution’s application for variation of time limits for disclosure of expert witnesses’ evidence, 29 February 2008 (notified on 3 March 2008), ICC-01/04-01/06-1204.

⁸ Confidential Second Joint Report – Proposed mechanisms for exchange of information on individuals enjoying dual status, 18 February 2008, ICC-01/04-01/06-1177-Conf; see also transcript of hearing on 4 December 2007, ICC-01/04-01/06-T-62-ENG, pages 24-29; Decision on victims’ participation, 18 January 2008, ICC-01/04-01/06-1119, paragraphs 135 and 138(h); Confidential Joint Report – Proposed mechanisms for exchange of information on individuals enjoying dual status, 16 January 2008, ICC-01/04-01/06-1117-Conf.

⁹ See ICC-01/04-01/06-T-75-ENG, pages 10-14; Soumission du représentant legal de la victime a/0105/06 suite aux difficultés d’accès au logiciel CITRIX, 14 February 2008, ICC-01/04-01/06-1166; Observations de la Défense sur l’utilisation du logiciel Citrix et les propositions d’amélioration de l’accès au dossier à distance, 15 February 2008, ICC-01/04-01/06-1171; Confidential Report of the Court Management Section on the use of Citrix, 20 February 2008, ICC-01/04-01/06-1180-Conf; Requête de la Défense en vue d’organiser un test du programme informatique Citrix lors des simulations de videoconferences prévues pour les 12 et 14 mars 2008, 28 February 2008, ICC-01/04-01/06-1198-Conf.

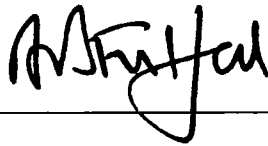
H. The views of the parties and participants on further subjects which may need to be determined prior to the commencement of trial.

2. In addition, as announced orally on 13 February 2008, a video-link presentation will take place on 12 and 14 March from two different locations in the Democratic Republic of the Congo.¹⁰ The presentation will not form part of the Status Conference.

3. Following the Status Conferences on 1-2 October, 29-30 October and 20 November 2007, and 9-10 January and 13 February 2008 and pursuant to Article 64(3)(a) of the Statute, Rules 132(2) and 134(1) of the Rules of Procedure and Evidence, and Regulation of the Court 54, the Trial Chamber has identified a further subject which needs to be considered prior to the commencement of trial: the interpretation and application of Article 76 of the Statute. The parties and participants are requested to file written submissions on this issue by 2 April 2008. A Status Conference to hear oral submissions on this issue may be scheduled in due course.

¹⁰ See Decision on various issues related to witnesses' testimony during trial, 29 January 2008, ICC-01/04-01/06-1140, paragraphs 43 and 44 (vi) and ICC-01/04-01/06-T-75-ENG, page 43.


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



Judge Adrian Fulford



Judge Elizabeth Odio Benito



Judge René Blattmann

Dated this 5 March 2008

At The Hague, The Netherlands