

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 16 April 2008

**TRIAL CHAMBER I**

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

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

**Public Document**

**Scheduling Order**

**Decision/Order/Judgment to be notified in accordance with regulation 31 of the *Regulations of the Court* to:**

**The Office of the Prosecutor**

Ms Fatou Bensouda  
Mr Ekkehard Withopf

**Counsel for the Defence**

Ms Catherine Mabile  
Mr Jean-Marie Biju Duval

**Legal Representatives of the Victims**

Mr Luc Walley  
Mr Franck Mulenda  
Ms Catherine Bapita Buyangandu

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**The Office of Public Counsel for  
Victims**

**The Office of Public Counsel for the  
Defence**

**States Representatives**

**Amicus Curiae**

**REGISTRY**

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**Acting Registrar**  
Mr Ralph Martens

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

1. During the Status Conference on 13 March 2008, the Chamber raised the issue of the limitations on the disclosure of potentially exculpatory material following agreements with information providers made pursuant to Article 54(3)(e) of the Statute. The Chamber ordered the Office of the Prosecutor (“prosecution”) to file a written submission by 28 March 2008, identifying the areas of evidence which were potentially exculpatory and which could not be disclosed due to the information provider’s restrictions, whilst at the same time identifying the alternative evidence which the prosecution had been able to disclose.<sup>1</sup>
  
2. On 28 March 2008, the prosecution filed written submissions as ordered.<sup>2</sup> In accordance with Regulations of the Court 33 and 34, any responses to this document are required to be filed by 22 April 2008.
  
3. On 3 April 2008, the Chamber issued an order requesting additional information from the prosecution to enable the Chamber to consider the issue fully.<sup>3</sup> At an *ex parte* Status Conference on 9 April 2008, the prosecution was requested to file a written submission on the matters which needed to be dealt with *ex parte* and the Chamber adjourned all other issues to an *inter partes* hearing.<sup>4</sup> The prosecution filed further *ex parte* submissions on 10 and 15 April 2008,<sup>5</sup> and a public submission on 15 April 2008,<sup>6</sup> as ordered by the Chamber.
  
4. In order to consider the issue fully, the Trial Chamber hereby schedules a

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<sup>1</sup> ICC-01/04-01/06-T-79-ENG, page 6, line 4 to page 9, line 14.

<sup>2</sup> Prosecution’s submission on undisclosed documents containing potentially exculpatory information, 28 March 2008, ICC-01/04-01/06-1248.

<sup>3</sup> Order on the “Prosecution’s submission on undisclosed documents containing potentially exculpatory information”, 3 April 2008, ICC-01/04-01/06-1259.

<sup>4</sup> ICC-01/04-01/06-T-81-Conf-Exp-ENG, page 19, lines 16-22, and page 24, line 15 to page 25, line 5.

<sup>5</sup> Prosecution’s submission of alternative potentially exonerating evidence further to the Trial Chamber’s *ex parte* order of 9 April 2008, 10 April 2008, ICC-01/04-01/06-1272-Conf-Exp, and Prosecution’s supplementary submission of alternative potentially exonerating evidence further to the Trial Chamber’s *ex parte* order of 9 April 2008, 15 April 2008, ICC-01/04-01/06-1277-Conf-Exp.

<sup>6</sup> Prosecution’s additional information on the undisclosed evidence, 15 April 2008, ICC-01/04-01/06-1281.

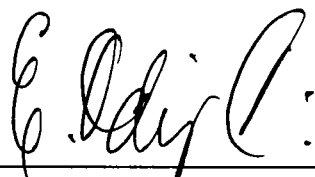
public Status Conference on 24 April 2008 at 14.00 to hear submissions on the following issues:

- i) The interpretation to be given to Article 67(2) of the Statute and whether the obligation of the prosecution at this stage is to disclose all materials that the prosecution “believes shows or tends to show the innocence of the accused, or to mitigate the guilt of the accused, or which may affect the credibility of prosecution evidence”.
- ii) Consequences of the non-disclosure of potentially exculpatory material due to limitations to disclosure imposed by information providers pursuant to article 54(3)(e) of the Statute.

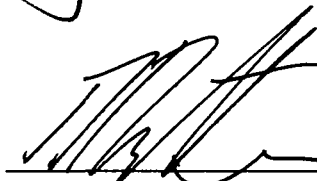
Done in both English and French, the English version being authoritative.



Judge Adrian Fulford



Judge Elizabeth Odio Benito



Judge René Blattmann

Dated this 16 April 2008

At The Hague, The Netherlands