Cour
Pénale
Internationale

International
Criminal
Court

Original: **English**

No.: **ICC-01/04-01/06**
Date: **9 May 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

Order on "Prosecution's Application for Non-disclosure of Information"

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 Mabille Mr Jean-Marie Biju Duval
Legal Representatives of the Victims Mr Luc Walleyn 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

Registrar Ms Silvana Arbia	**Defence Support Section**
Victims and Witnesses Unit	**Detention Section**
Victims Participation and Reparations Section	**Other**

1. On 24 April 2008 the Chamber ordered, *inter alia*, the Office of the Prosecutor ("prosecution") to disclose the statements of eight witnesses and other related material by 6 May 2008, with such redactions as were necessary to protect the identity and whereabouts of those witnesses.[1] In the event further redactions were necessary, the prosecution was directed to file an application setting out those redactions and to request a hearing.[2]

2. The Chamber, following a request from the prosecution on 29 April 2008, extended the deadline for disclosure from 6 May to 9 May 2008.[3]

3. On 8 May 2008 the prosecution filed an application for further redactions in addition to those already authorised by the Chamber in relation to some of the statements and materials and for non disclosure of parts of the materials.[4] In its application the prosecution submits that the redactions and non-disclosure were sought pursuant to Articles 54(3)(f) and 68 of the Statute and Rules 81(2) and (4) of the Rules of Procedure and Evidence ("Rules"). The prosecution submits that, in order to comply with the Trial Chamber's deadline, it will disclose the statements and material in redacted form, and not disclose those documents for which non-disclosure is sought, pending a decision of the Chamber.

4. In its application, the prosecution also informs the Chamber that it made redactions to some of the material pursuant to Rule 81(1) of the Rules.[5]

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[1] Decision on Disclosure Issues, Responsibilities for Protective Measures and Other Procedural Matters, 24 April 2008, ICC-01/04-01/06-1295-US-Exp, page 53 and Annex C.
[2] ICC-01/04-01/06-1295-US-Exp, pages 53-54.
[3] Email communications to the Trial Chamber through the Legal Advisor to the Trial Division on 29 April 2008.
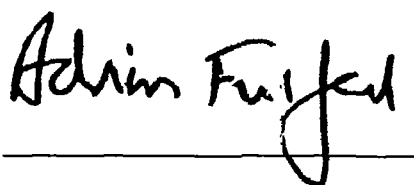[4] Prosecution's Application for Non-disclosure of Information, ICC-01/04-01/06-1309-Conf-Exp, 8 May 2008.
[5] *Ibid.*, footnote 5 and paragraph 25.

5. In order to enable the defence to respond to the prosecution's application and provide the Chamber with sufficient time for its consideration of the application, the Chamber hereby:

    i)   Authorises the redactions and non-disclosure requested by the prosecution in its application on a temporary basis until the next Status Conference (28 May 2008) when the Chamber will fully consider the matter;

    ii)   Orders the prosecution to file an *inter partes* version of its application by 13 May 2008; and

    iii) Orders the defence to file its response, if any, to the prosecution's application by 26 May 2008.

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

Adrian Fulford

Judge Adrian Fulford

E. Odio B.   *R. Blattmann*

Judge Elizabeth Odio Benito   **Judge René Blattmann**

Dated this 9 May 2008

At The Hague, The Netherlands