

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 21 May 2008

TRIAL CHAMBER I

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

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

Public Document

Agenda for Status Conference on 28 May 2008 and 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 Mabilie
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

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Agenda

1. In order to facilitate the preparation for the Status Conference on 28 May 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 29 May in the afternoon as necessary.

2. Pursuant to Article 64(3)(a) of the Statute and Regulation 54 of the Court, the following issues will be addressed to the extent that is necessary:¹
 - Number of witnesses who the prosecution proposes to rely on (Regulation 54(e)) and the order in which they will be called;
 - Length of the evidence to be relied on (Regulation 54(c) and (g));
 - Length of the questioning of the witnesses (Regulation 54(d));
 - Length and content of the opening statement(s) (Regulation 54(a));
 - Time-line for the filing of applications for protective measures for witnesses at trial;
 - Update on languages used by the witnesses (Article 64(3)(b)).

3. As the trial is scheduled to commence on 23 June 2008, and although the deadline for the filing of responses pursuant to Regulation 34 of the Court expires in early June, oral submissions on the following applications and filings will be heard as necessary:
 - Prosecution's application for admission of prior recorded statements of 2 witnesses, filed on 16 May 2008;²

¹ An updated version of the prosecution's summary of presentation of evidence will be filed by 23 May 2008 (see Order for an updated "Prosecution's summary of presentation of evidence", 6 May 2008, ICC-01/04-01/06-1307).

² ICC-01/04-01/06-1334-Conf; see also Prosecution's application for a preliminary ruling on the admission of prior recorded statements, 4 April 2008, ICC-01/04-01/06-1262; Réponse de la Défense à la "Prosecution's

- Prosecution's information on incriminating evidence unlikely to be relied on at trial and on 2 expert witnesses on age determination which the prosecution will not call, filed on 13 May 2008.³

4. On 4 April 2008, the prosecution filed "Prosecution's submissions on the use of audio/video material and on Rule 140(2)(d)",⁴ to which the defence responded on 18 April.⁵ The Registry is hereby ordered to make oral observations on the technical aspects of the prosecution's submission to the extent that is necessary at the Status Conference. Further oral submissions from the parties and participants may be heard at the Status Conference.
5. The Trial Chamber issued a "Decision on Disclosure Issues, Responsibilities for Protective Measures and other Procedural Matters" on 24 April 2008 with 4 Annexes.⁶ Judge René Blattmann filed a partly separate and partly dissenting opinion to this Decision on 28 April 2008.⁷ The prosecution was ordered *inter alia* to disclose certain potentially exculpatory material to the defence in redacted form and if additional redactions were necessary, to request a hearing, having first provided the Chamber with the relevant material and suggested redactions.⁸ The prosecution filed a confidential *ex parte* prosecution only application for non-disclosure of information on 7 May

application for a preliminary ruling on the admission of prior recorded statements" date du 4 avril 2008, 28 April 2008, ICC-01/04-01/06-1297.

³ ICC-01/04-01/06-1323-Conf

⁴ ICC-01/04-01/06-1260.

⁵ ICC-01/04-01/06-1285.

⁶ ICC-01/04-01/06-1295-US-Exp and Annexes A-D: ICC-01/04-01/06-1295-US-Exp-AnxA, ICC-01/04-01/06-1295-US-Exp-AnxB, ICC-01/04-01/06-1295-US-Exp-AnxC, and ICC-01/04-01/06-1295-US-Exp-AnxD. Confidential and public redacted versions of the decision and separate and dissenting opinion were issued on 8 May 2008: ICC-01/04-01/06-1311, ICC-01/04-01/06-1311-Conf-Anx1, ICC-01/04-01/06-1311-Anx2, ICC-01/04-01/06-1311-Anx3.

⁷ Separate and Dissenting Opinion of Judge Blattmann attached to Decision on Disclosure Issues, Responsibilities for Protective Measures and Other Procedural Matters, 28 April 2008, ICC-01/04-01/06-1295-US-Exp-Anx1.

⁸ ICC-01/04-01/06-1311-Anx2, paragraph 102, and relevant sections of ICC-01/04-01/06-1295-US-Exp-AnxC.

2008 (a public redacted version of the application was filed on 13 May 2008).⁹ The Trial Chamber authorised the redactions sought and the non-disclosure requested by the prosecution on a temporary basis pending a response by the defence and a full consideration of the matter at the Status Conference on 28 May 2008.¹⁰ This application will therefore be the subject of further oral submissions, *inter partes* and *ex parte* as appropriate, at the Status Conference.

6. The prosecution filed a "Submission of Information as Ordered in the Trial Chamber's Decision dated 24 April 2008" on 2 May 2008 (confidential and public redacted versions of the submission were filed on 14 May 2008),¹¹ which informed the Chamber that the prosecution was not in a position to disclose a document and proposed two admissions to reflect the potentially exculpatory material of two witnesses discussed in Annex C to the "Decision on Disclosure Issues, Responsibilities for Protective Measures and other Procedural Matters". Finally, the prosecution filed confidentially and *ex parte* a further "Application for Non-disclosure of Information" on 14 May 2008 (a public redacted version of the application was filed on the same day) which seeks the non-disclosure of some information in the material of four witnesses discussed in Annex C.¹² These application will be the subject of oral submissions, *inter partes* and *ex parte* as appropriate, at the Status Conference.
7. Finally, oral submissions will be heard on the interpretation and application of Article 76 of the Statute, following the written submissions filed by the parties and participants at the Chamber's request.¹³

⁹ Prosecution's application for non-disclosure of information, 7 May 2008 (notified on 8 May 2008), ICC-01/04-01/06-1309-Conf-Exp; Prosecution's application for non-disclosure of information, 13 May 2008, ICC-01/04-01/06-1324.

¹⁰ Order on « Prosecution's Application for Non-disclosure of information, 9 May 2008, ICC-01/04-01/06-1316.

¹¹ ICC-01/04-01/06-1301-Conf-Exp, ICC-01/04-01/06-1327-Conf, and ICC-01/04-01/06-1328.

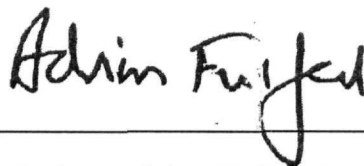
¹² ICC-01/04-01/06-1330-Conf-Exp, and ICC-01/04-01/06-1331.

¹³ The Trial Chamber's Agenda for the Status Conference on 12 March 2008 and scheduling order, 5 March 2008, ICC-01/04-01/06-1209; Prosecution's submissions on the interpretation and application of Article 76 of the Statute, 2 April 2008, ICC-01/04-01/06-1256; Observations de la Défense sur l'interprétation et l'application de l'Article 76, 31 March 2008, ICC-01/04-01/06-1250; Observations sur l'interprétation de l'Article 76 du

Scheduling order

8. During the Status Conference on 12 March 2008, the prosecution raised the issue of the use of visual aids during trial and was ordered to discuss the issue with the defence. The prosecution, and the defence, are hereby ordered to file written submissions with the Chamber on this issue by 3 June 2008, if they wish to pursue this matter.

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



Judge Adrian Fulford



Judge Elizabeth Odio Benito



Judge René Blattmann

Dated this 21 May 2008

At The Hague, The Netherlands

Statut de Rome, 2 April 2008, ICC-01/04-01/06-1257; Observations du représentant legal de la victime a/0105/06 a l'interprétation de l'article 76 du Statut de Rome, 1 April 2008, ICC-01/04-01/06-1252.