

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **4 June 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

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 Carine Bapita

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

Background

1. On 2 June 2008, the Office of the Prosecutor (“prosecution”) filed a “Prosecution’s information on documents that were obtained by the Office of the Prosecutor from the United Nations pursuant to Article 54(3)(e) on the condition of confidentiality and solely for the purpose of generating new evidence and that potentially contain evidence that falls under Article 67(2)”,¹ which informed the Trial Chamber that the United Nations “will not respond favorably to the procedure that the Trial Chamber was prepared to apply” and that discussions between the Prosecutor and officials at the United Nations are ongoing.² With regard to the documents obtained by the prosecution pursuant to Article 54(3)(e) from other providers, the prosecution filed on 3 June 2008 a “Prosecution’s provision of 32 documents and further information on documents that were obtained by the Office of the Prosecutor from the United Nations pursuant to Article 54(3)(e) on the condition of confidentiality and solely for the purpose of generating new evidence and that potentially contain evidence that falls under Article 67(2)”,³ which informed the Chamber that 4 providers agreed to the communication of documents to the Chamber on condition of redaction of their identity; 1 provider does not agree that the Chamber may be furnished with the documents, and 1 provider has not responded yet.⁴

2. The defence filed on 2 June 2008 a “Requête de la Défense aux fins de cessation des poursuites”,⁵ in which the following requests are made : that the Chamber orders the discontinuance of the prosecution and the release of the accused; that the Chamber orders the immediate disclosure of potentially exculpatory material; that the Chamber orders that, in the current

¹ ICC-01/04-01/06-1364.

² *Ibid.*, paragraphs 4 and 5.

³ ICC-01/04-01/06-1373.

⁴ *Ibid.*, paragraphs 6-11.

⁵ ICC-01/04-01/06-1366.

circumstances, the defence is not obliged to notify its lines of defence; and the Chamber states that further charges investigated in the context of the Democratic Republic of the Congo situation will not be brought against the accused.⁶

3. As requested during the Status Conference on 28 May 2008, the defence also filed supplementary observations on material communicated to the defence pursuant to Rule 77 which is referenced in the prosecution's summary of presentation of evidence as incriminatory material.⁷
4. In addition, during the Status Conference on 28 May 2008, the Trial Chamber requested the legal representatives of the victims currently participating in the proceedings and the parties to file submissions on the interpretation of the Appeals Chamber's "Decision on the requests of the Prosecutor and the Defence for suspensive effect of the appeals against Trial Chamber I's Decision on Victim's Participation of 18 January 2008",⁸ and the further participation of victims pending a decision from the Appeals Chamber.⁹ The legal representatives filed a joint submission on 30 May 2008.¹⁰ The prosecution and the defence filed their respective submissions on 3 June 2008.¹¹

⁶ *Ibid*, pages 7-8.

⁷ Observations complémentaires de la Défense à la suite des observations présentées à la Chambre lors de l'audience du 28 mai 2008, 3 June 2008 (notified on 4 June 2008), ICC-01/04-01/06-1375, with confidential Annexes 1 and 2.

⁸ ICC-01/04-01/06-1347 OA9 OA10.

⁹ Transcript of hearing on 28 May 2008, ICC-01/04-01/06-T-88-ENG, page 52, line 11 to page 57, line 10.

¹⁰ Observations conjointes des représentants des victimes sur les conséquences de l'effet suspensif accordé aux appels contre la décision du 18 janvier 2008, ICC-01/04-01/06-1362.

¹¹ Prosecution's Response to "Observations conjointes des représentants des victimes sur les conséquences de l'effet suspensif accordé aux appels contre la décision du 18 janvier 2008", 3 June 2008, ICC-01/04-01/06-1370; Réponse de la Défense aux "Observations conjointes des représentants des victimes sur les conséquences de l'effet suspensif accordé aux appels contre la décision du 18 janvier 2008" datées du 30 mai 2008, 3 June 2008 (notified on 4 June 2008), ICC-01/04-01/06-1374.

Order

5. A Status Conference to hear submissions on these matters will be held on Tuesday morning 10 June 2008 commencing at 10.00 and will continue on Wednesday afternoon 11 June 2008 at 14.30.

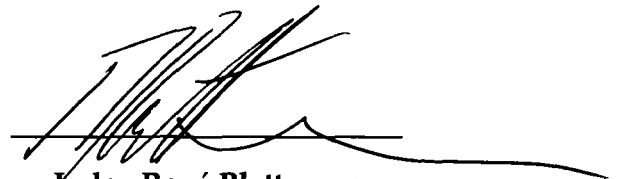
Done in both English and French, the English version being authoritative.



Judge Adrian Fulford



Judge Elizabeth Odio Benito



Judge René Blattmann

Dated this 4 June 2008

At The Hague, The Netherlands