

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 26 August 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**

**Order for a defence response to the "Prosecution's application to lift the stay of proceedings" and the subsequent related filings**

**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 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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**Registrar**

Ms Silvana Arbia

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

1. On 13 June 2008 the Trial Chamber imposed a stay on the proceedings.<sup>1</sup> The Office of the Prosecutor (“prosecution”) filed confidentially and *ex parte* an application to lift the stay of proceedings on 10 July 2008 (“Application”).<sup>2</sup> A public redacted version of the Application, which was notified to the defence, was filed the next day.<sup>3</sup> Subsequently, the prosecution filed publicly additional information relevant to the Application on 30 July 2008,<sup>4</sup> 8 August 2008,<sup>5</sup> and 22 August 2008.<sup>6</sup>
2. On 31 July 2008, the defence informed the Chamber that it intended to file a consolidated response to the Application within 21 days of the last prosecution’s supplemental filing.<sup>7</sup> In its filing of 8 August 2008, the prosecution noted that the defence failed to file a timely response to its Application and submitted that its supplemental filings should be viewed independently of the formal application to lift the stay.<sup>8</sup>
3. Regulation 34 of the Regulations of the Court provides that a response shall be filed within 21 days of notification “unless otherwise ordered”. In determining an appropriate time-limit for the defence to respond to the Application and subsequent filings, the Chamber has borne in mind, *inter alia*, the following matters: the time limit to respond to the Application elapsed

<sup>1</sup> Decision on the consequences of non-disclosure of exculpatory materials covered by Article 54(3)(e) agreements and the application to stay the prosecution of the accused, together with certain other issues raised at the Status Conference on 10 June 2008, 13 June 2008, ICC-01/04-01/06-1401

<sup>2</sup> Prosecution’s application to lift the stay of proceedings, 10 July 2008 (notified on 11 July 2008), ICC-01/04-01/06-1430-Conf-Exp

<sup>3</sup> Prosecution’s application to lift the stay of proceedings, 11 July 2008, ICC-01/04-01/06-1431

<sup>4</sup> Prosecution’s provision of information supplementing the “Prosecution’s application to lift the stay of proceedings”, 30 July 2008 (notified on 31 July 2008), ICC-01/04-01/06-1451, with 2 public annexes and 2 confidential *ex parte* prosecution only annexes.

<sup>5</sup> Prosecution’s provision of further information supplementing the “Prosecution’s application to lift the stay of proceedings”, 8 August 2008 (notified on 11 August 2008), ICC-01/04-01/06-1454, with 2 public annexes and 2 confidential *ex parte* prosecution only annexes.

<sup>6</sup> Prosecution’s additional provision of further information supplementing the “Prosecution’s application to lift the stay of proceedings”, 22 August 2008, ICC-01/04-01/06-1462, with 2 public annexes and 2 confidential *ex parte* prosecution only annexes

<sup>7</sup> Email communication through the Legal Adviser to the Trial Division

<sup>8</sup> ICC-01/04-01/06-1454, paragraphs 9-11.

during the Court's recess and the prosecution subsequently filed 3 documents providing information supplementing the Application and the Application and the subsequent 3 filings are essentially inextricably linked; there is potential significant prejudice to the defence, given the importance of the issue raised and its impact on the continued detention of the accused; and there is a need to consider the Application and the subsequent filings expeditiously and without a hearing.

4. In all the circumstances, the Chamber orders the defence to file a consolidated response to the Application and supplemental filings by 16.00 on Monday 1 September 2008. Thereafter the Chamber will issue its Decision on the Application.

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

*A B Fulford*

Judge Adrian Fulford

*E. Odio Benito*

Judge Elizabeth Odio Benito

*René Blattmann*

Judge René Blattmann

Dated this 26 August 2008

At The Hague, The Netherlands