



Original : English

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

Date: 17 November 2006

PRE-TRIAL CHAMBER I

Before: Judge Claude Jorda, Presiding Judge
Judge Akua Kuenyehia
Judge Sylvia Steiner

Registrar: Mr Bruno Cathala

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

Public Document

**Defence's Information on the access to the public documents on the Defence's List
of Evidence granted to the Legal Representatives of the Victims**

The Office of the Prosecutor

Mr. Luis Moreno-Ocampo, Prosecutor
Ms. Fatou Bensouda, Deputy Prosecutor
Mr. Ekkehard Withopf, Senior Trial
Attorney

Legal Representatives of Victims

Mr Luc Walley Mr Franck Mulenda
Me Carine Bapita Buyangandu

Counsel for the Defence

Mr. Jean Flamme
Ms. Véronique Pandanzyla

1. On 10 November 2006, the legal representatives of victims a/0001/06 to a/0003/06 and a/0105/06 jointly filed the "Demande conjointe des représentants légaux des victimes aux fins de recevoir les documents publics contenues dans les listes de preuves".¹
2. On 13 November 2006, the Pre-Trial Chamber orally delivered its decision and ordered the Prosecution and the Defence to identify the documents on its respective lists of evidence that are not confidential. The Defence was ordered to provide a list of such documents to the legal representatives of the victims by 17 November 2006 at 4:00 p.m. The Defence has complied with this request.
3. The Defence hereby files in the record the list of evidence that was provided to the legal representatives of the victims. The list is attached at Confidential Annex A. For ease of reference this list is copied directly from the Defence list of evidence filed on 2 November 2006² (first list) and the Defence list of additional evidence filed on 7 November 2006³ (second list).
4. As the Chamber will note, items 23, 24 and 28 from the first list and items 1, 2 and 3 from the second list have not been disclosed to the representatives of the victims. For item 28, protective measures were sought by the Defence on 13 November 2006.⁴ Items 23 and 24 are confidential pursuant to a decision of the Pre-Trial Chamber on 7 November 2006.⁵ Regarding items 1, 2 and 3 from the second list, the Defence has contacted the Prosecution regarding this matter who has confirmed that these documents should remain confidential. Therefore, it is not able to provide these to the legal representatives of the victims.⁶
5. On 2 November 2006 the Defence requested protective measures for a document⁷ and at the same time expressly advised the Chamber and Prosecution that it wished to use

¹ ICC-01/04-01/06-691

² Submission of List of Additional Evidence, 2 November 2006, ICC-01/04-01/06-644

³ Submission of additional items to be added to the Defence list of evidence, 7 November 2006, ICC-01/04-01/06-673

⁴ ICC-01-04-01-06-699-Conf

⁵ Decision on the Request to alter the status of documents and Request for protective measures for a document. ICC-01-04-01-06-669-Conf, 7 November 2006 (hereafter 7 November Decision)

⁶ See correspondence between the Prosecution and Defence on this issue, attached at Confidential Annex B. The Defence wishes to note however that the information provided during the closed session hearing on 10 November was correct regarding the fact that the person in question had consented to his identity and that he had given a statement to the Prosecution being disclosed to the public.

⁷ Request for Protective Measures for a Document, 2 November 2006, ICC-01/04-01/06-643-Conf (hereafter Defence Protective Measures Request)

this document in evidence at the confirmation hearing.⁸ A copy of the document was attached to the request and was transmitted to the Prosecutor on that day. The document was not expressly included in the list of evidence filed on 2 November. The request for protective measures was granted on 7 November 2006.⁹ The Defence therefore confirms that this document is to be included in the evidence that the Defence wishes to use during the confirmation hearing and that since it is subject to protective measures it has not been disclosed to the legal representatives.

6. Therefore the Defence hereby files in the record of the case, the list of documents on the Defence List of Evidence and Defence List of Additional Evidence to which the legal representatives of victims a/0001/06 to a/0003/06 and a/0105/06 have been given access.



Jean Flamme, Counsel for Thomas Lubanga Dyilo

Dated this 17th day of November, 2006

At The Hague

⁸ See Defence Protective Measures Request, at paragraph 10 “The Defence requests that the document be tendered into the confirmation hearing”

⁹ 7 November Decision, at page 4