

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

No.: ICC-01/04-01/06
Date: 1 December 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 THE CONGO
IN THE CASE OF THE PROSECUTOR vs. THOMAS LUBANGA DYILO**

Public Redacted Version

**Prosecution's Information on the Defence's Inquiry on the Current Status of
Documents Obtained by the Prosecution under the Condition of Confidentiality
pursuant to Article 54(3)(e) of the Rome Statute**

The Office of the Prosecutor

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

Legal Representatives for the Victims

Mr Luc Walley
Mr Franck Mulenda
Ms Carine Bapita Buyangandu

Counsel for the Defence

Mr Jean Flamme
Ms Véronique Pandanzyla

**Office of Public Counsel
for the Defence**

Ms Melinda Taylor

Background

1. Pursuant to the order of the Single Judge in the 28 September 2006 “Decision on the Prosecution Information in respect of the Second Decision on Rule 81 Motions”¹, the Prosecution informed the Single Judge on 25 October 2006 of the disclosure-related status of documents the Prosecution obtained under the condition of confidentiality under Article 54(3)(e) that fall under Article 67(2) of the Rome Statute or Rule 77 of the Rules.
2. Pursuant to the order of the Single Judge in the 30 October 2006 “Décision suite aux informations fournies par le Procureur le 25 octobre 2006”², the Prosecution provided the Single Judge on 6 November 2006 with additional information in respect of documents that the Prosecution obtained under the condition of confidentiality pursuant to Article 54(3)(e) of the Statute³.
3. In the course of the Confirmation Hearing, the Defence on 24 November 2006 made further inquiries into the status of Article 54(3)(e) documents.⁴ The Prosecution orally provided initial information at the occasion of the Court session on 28 November 2006.⁵

¹ Prosecution’s Information pursuant to the 28 September 2006 Decision on the Prosecution Information in respect of the Second Decision on Rule 81 Motions, 25 October 2006.

² Décision suite aux informations fournies par le Procureur le 25 octobre 2006, public, 30 October 2006.

³ Prosecution’s Information in respect of the “Decision suite aux informations fournies par le Procureur le 25 octobre 2006”, public, 6 November 2006.

⁴ See (English) transcript of the hearing on 24 November 2006, pp. 73-75.

⁵ See (English) transcript of the hearing on 28 November 2006, pp. 2-3.

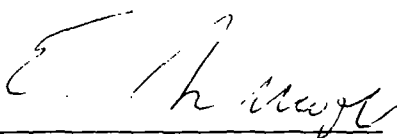
Information

4. In relation to the two Article 54(3)(e) documents that contain information about REDACTED, the Prosecution has noted that these two documents are identical duplicates of two documents in respect of which the Prosecution requested lifting of the Article 54(3)(e) restrictions on 3 November 2006. In addition, the Prosecution sent a reminder email to the information provider on 29 November 2006. To date, the Prosecution has not received a response.
5. In relation to the two NGO reports under Article 54(3)(e) restriction that are covered by the 2 November 2006 Decision of the Single Judge,⁶ the Prosecution provides the following information:
 - (i) As to one of these two NGO reports, the Prosecution requested lifting of restriction on 3 November 2006. In addition, the Prosecution sent a reminder email to the information provider on 29 November 2006. To date, the Prosecution has not received a response.
 - (ii) As to the other NGO report, the information provider has refused to lift the confidentiality restriction under Article 54(3)(e).
6. In relation to the thirty-three Article 54(3)(e) documents falling under Article 67(2) or Rule 77, the Prosecution sent reminders to all the information providers concerned on 29 November 2006. To date, the Prosecution has not received a response.

⁶ ICC-01/04-01/06-647-Conf.

7. In relation to the seven Article 54(3)(e) documents falling under Article 67(2) or Rule 77 that were disclosed to the Defence in a redacted form, the Prosecution provides the following information:

- (i) As to six of these seven documents, the information providers have refused to lift the redactions;
- (ii) As to one of these seven documents, the Prosecution requested lifting of the redaction on 25 October 2006. In addition, the Prosecution sent a reminder email to the information provider on 29 November 2006. To date, the Prosecution has not received a response.



 **Luis Moreno-Ocampo**
Prosecutor

Dated this 1st day of December 2006
At The Hague, The Netherlands