

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

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

Date: 19 November 2007

TRIAL CHAMBER I

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

Registrar: Mr Bruno Cathala

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

Public

Order on notification of filings

Office of the Prosecutor

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

Counsel for the Defence

Ms Catherine Mabilie
Mr Jean-Marie Biju-Duval

Legal Representatives of Victims

a/0001/06 to a/0003/06 and a/0105/06
Mr Luc Walley
Mr Franck Mulenda
Ms Carine Bapita Buyangandu

Office of Public Counsel for Victims

Ms Paolina Massidda

1. On 9 November 2007, the Office of Public Counsel for Victims filed a confidential version of its "Observations du Bureau du conseil public suite à l'invitation de la Chambre de première instance"¹ ("Filing"), which included in the intended recipients listed on its front page the legal representatives of the victims.
2. Upon receipt of the Filing, the Registry contacted the Legal Adviser to the Trial Division requesting guidance as to whether the Filing should be communicated in accordance with the directions as indicated by the Office of Public Counsel for Victims or whether it should, as a confidential filing, be withheld from the legal representatives of victims. The reason given for possibly withholding the Filing from the legal representatives of victims was based in the practice established by Pre-Trial Chamber I in its "Decision on the Arrangements for Participation of Victims a/0001/06, a/0002/06 and a/0003/06" which provided:
 - i) Unless the Chamber decides otherwise in light of exceptional circumstances, the representatives of victims a/0001/06 to a/0003/06:
 - a. will receive notification only of the public documents contained in the record of the case *The Prosecutor vs. Thomas Lubango Dyilo*.²
3. A similar issue arose in relation to the "Victims and Witnesses Unit Report on Security Issues Relating to the dual status of Witnesses and Victims" filed confidentially on 13 November 2007.³ The issue of the notification of filings marked 'confidential' to the legal representatives of the victims was also raised at the hearing on 30 October 2007.⁴

¹ ICC-01/04-01/06-1021-Conf.

² 22 September 2006, ICC-01/04-01/06-462-tENG, pages 7-8.

³ ICC-01/04-01/06-1026-Conf.

⁴ Transcript of hearing on 30 October 2007, ICC-01/04-01/06-T-58-ENG, pages 2-5.

4. Until an agreed court-wide approach is adopted, the Chamber is of the view that the party or participant filing a document bears responsibility for determining the appropriate recipients. That determination should be reflected in the list of parties, participants and other bodies indicated on the front page of all filings. It then falls upon the Registry to communicate the document in accordance with that determination.
5. In addition, for ease of reference the Chamber orders that all future filings should indicate, in a readily visible way in the title of the filing which party, participant or other body is making the filing.

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



Judge Adrian Fulford



Judge Elizabeth Odio Benito



Judge René Blattmann

Dated this 19 November 2007

At The Hague, The Netherlands