

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

No.: ICC-01/04-01/06
Date: 10 December 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
URGENT**

Prosecution's request to schedule a hearing on disclosure

The Office of the Prosecutor

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

Legal Representatives of Victims

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

Counsel for the Defence

Ms Catherine Mabilie
Mr Jean-Marie Biju-Duval
Mr Marc Desalliers
Ms Caroline Buteau

Background

1. On 9 November 2007, the Trial Chamber issued its "Decision Regarding the Timing and Manner of Disclosure and the Date of the Trial"¹ (Decision). In the Decision, the Trial Chamber ordered the Prosecution to serve the entirety of their evidence by 16:00 hours on 14 December 2007, including *inter alia* the incriminatory material in the form of witness statements.² Simultaneously, the Trial Chamber ruled that "[I]f the prosecution wishes to serve any of this material in a redacted form, each proposed redaction must be explained and justified to the bench."³

Information

2. The Prosecution has filed applications for the authorization of redactions⁴ pursuant to Rule 81(2), Articles 54(3)(f), 61(5), 61(11), 64(6)(a), 64(6)(c), 64(7), 68 and/or Rules 81(4) and 87 (Applications) to a significant number of witness statements. At least one further such application will be filed in near future, covering additional witness statements.

Request for scheduling a hearing

3. The Prosecution anticipates that due to the volume of the materials concerned, the Trial Chamber will not likely be in a position to rule on the respective applications for redactions prior to 14 December 2007.

¹ ICC-01/04-01/06-1019.

² ICC-01/04-01/06-1019, at para. 25.

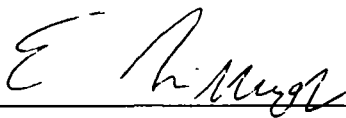
³ ICC-01/04-01/06-1019, at para. 27.

⁴ ICC-01/04-01/06-1008 and Prosecution's Application for Lifting of Redactions, Non-Disclosure of Information and Disclosure of Summary Evidence, 7 December 2007. The latter application is not yet notified.

4. Against this background, the Prosecution seeks direction from the Trial Chamber whether or not it should disclose the redacted or summarized witness statements that were submitted with the pending Applications or will be submitted in near future.

Request

5. In light of the complexity of the matter and its potential implications, the Prosecution pursuant to Article 64(3)(c) requests the Trial Chamber to schedule a hearing on disclosure, with the Prosecution, the Defence and VWU.⁵
6. The Prosecution draws the attention of the Trial Chamber to the fact that the technical preparation of the disclosure of redacted witness statements to the extent concerned is anticipated to require two days.



 Luis Moreno-Ocampo
Prosecutor

Dated this 10th day of December 2007

At The Hague, The Netherlands

⁵ VWU is likely to be in a position to contribute to some aspects of Prosecution's suggestions on disclosure of redacted statements.