

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

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

Date: 13 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

**Order setting out the schedule for submissions and hearing on further subjects
which require determination prior to trial**

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. Following the status conferences on 1-2 and 29-30 October, and 20 November 2007, and pursuant to Article 64(3)(a) of the Statute, Rules 132(2) and 134 of the Rules of Procedure and Evidence, and Regulation of the Court 54, the Trial Chamber has identified further subjects which need to be considered prior to the commencement of trial. The timetable for the filing of submissions and for a hearing on these issues is set out hereunder.

A. The role of the Office for Public Counsel for Victims

Role of the Office of Public Counsel for Victims in its capacity as legal representative of victim applicants and as an independent body established to "provide support and assistance to the legal representatives for victims and to victims".¹

B. Disclosure by the defence²

1) Generally, the interpretation to be given to Rule 79(4).

2) The extent to which the defence should be required to disclose the material listed below, and timing of that disclosure (if any):

- *The lines of defence and the details of the facts and issues underpinning the lines of defence;*
- *The names of witnesses to be called and the statements of those witnesses;*
- *The identity and the content of any documents the defence intends to rely on;*
- *Instructions to expert witnesses; the contents of any report to be relied on when the defence is permitted to instruct an expert separately;*

¹Regulation of the Court 81(4). See Order on the Office of Public Counsel for Victims' request filed on 21 November 2007, 27 November 2007, ICC-01/04-01/06-1046, paragraph 5.

² See Decision on the procedures to be adopted for instructing expert witnesses, 10 December 2007, ICC-01/04-01/06-1069, paragraph 27

- *Objections to the admissibility of prosecution evidence, including reasons, in accordance with Rule 64(1), and in particular the point at which the procedure set out in Rule 64(1) is triggered;*
- *Rule 79(1)(a): whether the defence is required to notify the Trial Chamber of the existence of an alibi;*
- *Rule 80(1): timing of disclosure of a ground for excluding criminal responsibility.*

C. Scope of examination by a party not calling a witness

- *The scope of "other relevant matters" (see Rule 140(2)(b));*
- *The extent to which the parties are to disclose lines of questioning in advance and the timing of that disclosure (if any);*
- *Whether the parties are to disclose in advance, or at all, the documents which will be used in questioning witnesses.*

D. Statements by the prosecution and the defence

- *Whether the prosecution and the defence should be required to make an opening statement in order to explain their respective cases;*
- *If opening statements are required, whether they should be disclosed in advance and the timing of that disclosure;*
- *Whether closing statements in accordance with Rule 141 should be disclosed in advance.*

E. Live testimony by means of audio or video-link technology

The extent to which the parties and participants are to notify the Chamber in advance of any proposed use of audio or video-link technology for witnesses.

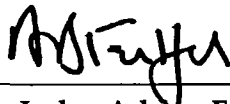
F. Agreements on facts and evidence

The procedure to be adopted for agreement by the parties on facts or evidence pursuant to Rule 69 and whether such an agreement has an impact on the Chamber's duty to determine the truth in accordance with Article 69(3).

G. Manner in which traumatised and vulnerable witnesses shall present their evidence (see Rules 88(5) and 140(2)).

4. The parties and participants shall file written submissions on the issues set out above on or by 7 January 2008. In addition, a hearing on these matters is scheduled on 9 January (starting at 14.00), and 10 and 11 January 2008 (starting at 10.00) as necessary.

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



Judge Adrian Fulford



Judge Elizabeth Odio Benito



Judge René Blattmann

Dated this 13 December 2007

At The Hague, The Netherlands