



Original: English

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

Date: 3 June 2008

TRIAL CHAMBER I

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

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

Public Document

With Confidential – *ex parte* – Prosecution only Annexes

Prosecution's provision of 32 documents and further information on documents that were obtained by the Office of the Prosecutor pursuant to Article 54(3)(e) on the condition of confidentiality and solely for the purpose of generating new evidence and that potentially contain evidence that falls under Article 67(2)

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

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Mr Jean-Marie Biju-Duval

Legal Representatives of Victims

Mr Luc Walley

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Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Purpose of the filing

1. The Prosecution submits 32 documents and provides information on the situation in respect of the documents that the Office of the Prosecutor (OTP) obtained from information providers other than the United Nations (UN) pursuant to Article 54(3)(e) on the condition of confidentiality and solely for the purpose of generating new evidence and that potentially contain evidence that falls under Article 67(2).
2. Information on the materials that were obtained from the UN was provided on 2 June 2008 pursuant to the "Prosecution's information on documents that were obtained by the Office of the Prosecutor from the United Nations pursuant to Article 54(3)(e) on the condition of confidentiality and solely for the purpose of generating new evidence and that potentially contain evidence that falls under Article 67(2)".¹

Background

3. The Prosecution makes reference to the background section of the "Prosecution's additional information on the Undisclosed Evidence"² and to the submissions and discussions during the Status Conferences of 6 May 2008³ and of 28 May 2008.⁴

Information and submission of documents

4. There are 210 documents (List of Documents) that potentially contain evidence that falls under Article 67(2) or fall within the ambit of Rule 77. Of those, 52 documents stem from six information providers other than the UN.

¹ ICC-01/04-01/06-1364.

² ICC-01/04-01/06 at paras.1 to 5.

³ ICC-01/04-01/06-T-86-ENG, at pages 2 to 37, in particular at page 35, lines 20 to 25, page 36 and page 37, lines 1 to 23.

⁴ ICC-01/04-01/06-T-88-ENG, at pages 1 to 3, 43 to 48.

5. Subsequent to the status conference on 28 May 2008, the OTP contacted each of these information providers to enquire if they would consent to the procedure that the Trial Chamber was prepared to apply,⁵ namely that the OTP provides the Trial Chamber with the documents concerned subject to the condition that they will remain *ex parte* throughout the proceedings and will not be disclosed to the Defence or any other participant.
6. One of the information providers has informed the OTP that it is not prepared to consent to the OTP providing the 19 documents concerned to the Trial Chamber. Accordingly, the Prosecution is not in a position to submit these 19 documents to the Trial Chamber. The Prosecution will, however, explore alternative solutions with the information provider concerned.
7. A second information provider has not responded yet to the respective inquiries of the OTP. Accordingly, at this juncture, the OTP cannot provide for the one document concerned nor can it provide information on the position of this information provider. The Prosecution undertakes to inform the Trial Chamber immediately once the information provider concerned has informed the OTP about its position.
8. A third information provider has consented to the OTP providing the three documents concerned to the Trial Chamber. The consent was provided under the pre-condition that the identity of the information provider, its staff and other partners will be redacted. Accordingly, the Prosecution submits the three documents concerned with respective redactions.⁶

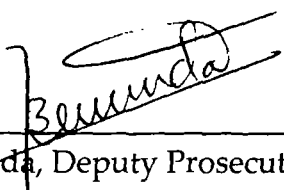
⁵ ICC-01/04-01/06-T-86-ENG, at page 35, lines 20 to 25 and at page 36, lines 1 to 10.

⁶ As confidential – *ex parte* – Prosecution only Annexes 1 to 3.

9. A fourth information provider has consented to the OTP providing the 22 documents concerned to the Trial Chamber. The consent was provided under the pre-condition that the identity of the information provider, its staff and other partners will be redacted. Accordingly, the Prosecution submits the 22 documents concerned with respective redactions.⁷

10. A fifth information provider has consented to the OTP providing the six documents concerned to the Trial Chamber. The consent was provided under the pre-condition that the identity of the information provider, its staff and other partners will be redacted. Accordingly, the Prosecution submits the six documents concerned with respective redactions.⁸

11. The sixth information provider has consented to the OTP providing the one document concerned to the Trial Chamber. The consent was provided under the pre-condition that the identity of the information provider, its staff and other partners will be redacted. Accordingly, the Prosecution submits the document concerned with respective redactions.⁹



 Fatou Bensouda, Deputy Prosecutor (Prosecutions)
 on behalf of
 Luis Moreno-Ocampo, Prosecutor

Dated this 3rd day of June 2008
 At The Hague, The Netherlands

⁷ As confidential – *ex parte* – Prosecution only Annexes 4 to 25.

⁸ As confidential – *ex parte* – Prosecution only Annexes 26 to 31.

⁹ As confidential – *ex parte* – Prosecution only Annex 32.