

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 16 January 2009

TRIAL CHAMBER I

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

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

Public

**Prosecution's Observation following the status conference regarding
defence position on post-testimony contact with witnesses**

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

Counsel for the Defence

Ms Catherine Mabilie

Mr Jean-Marie Biju Duval

Legal Representatives of Victims

Legal Representatives of Applicants

Mr Luc Walley

Mr Franck Mulenda

Ms Carine Bapita Buyangandu

Mr Joseph Keta Orwinyo

Mr Jean Louis Gilissen

Mr Jean Chrysostome Mulamba

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Mr Paul Kabongo Tshibangu

Mr Hervé Diakiese

Ms Paolina Massida

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

Defence Support Section

Ms Silvana Arbia

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. At the 12 January 2009 Status Conference, at p. 24, lines 7 to 15, counsel for the Defence made the following observation:

The last point I would like to raise has to do with the observations made by the VWU. They propose that after the witness has finished giving his or her testimony that witness can discuss with the party or the entity that called him or her. I think it would be important to say that this should be done at the end of the trial. If the Chamber decides to call the witness again, it would be important to make sure that the testimony that will be given would be spontaneous testimony. So the proposal I would like to make, therefore, is that the witness can speak with the entity that called him or her at the end of the trial and not at the end of the testimony that he or she gives.

2. The Prosecution wishes to recall that Trial Chamber has already addressed this point. In May 2008 it directed: "Once the witness's evidence in court is completed, the prohibition on discussions between the party introducing the evidence and the witness is lifted, unless the Chamber directs otherwise."¹



Luis Moreno-Ocampo
Prosecutor

Dated this 16th day of January 2009

At The Hague, The Netherlands

¹ *Decision Regarding the Protocol on the practices to be used to prepare witnesses for trial*, ICC - 01/04-01/06-1351, 23 May 2008, para. 42.