

1 International Criminal Court

2 Trial Chamber I

3 Situation Democratic Republic of the Congo, ICC-01/04-01/06

4 ICC-01-04-01-06-T-60-ENG - Open Session

5 Tuesday, 30 October 2007

6 On resuming at 4.39 p.m.

7 COURT USHER: All rise. Please be seated.

8 PRESIDING JUDGE FULFORD: Right. Final issue, no particular
9 order, Mr. Walley, Ms. Bapita, anything else on witnesses who are
10 victims -- victims who are witnesses, rather?

11 MR. WALLEY (interpretation): Thank you, Mr. President. Just to
12 summarise our position, we see no problem with some of our clients
13 being called as witnesses and taking the oath as such, even if they
14 have already been authorised to take part in the proceedings.

15 I think it would be logical for the party that wishes to take
16 such an initiative to ask for our approval. And secondly, if you were
17 to consider at any point that these witnesses would need to be
18 prepared at some point, that is to be proofed, it would also be
19 logical for the legal representative of this victim witness to be
20 present during this proofing, especially if they are minors.

21 Thirdly, if the testimony of the witness can take place within
22 normal conditions, that is examination by the Prosecution and the
23 Defence, it would seem normal for these parties to put questions
24 subsequently to our victim. And this person should also have the
25 opportunity, if the person so wishes, to express other views and

1 concerns. Thank you.

2 PRESIDING JUDGE FULFORD: Ms. Bapita? No.

3 Mr. Withopf, anything to add?

4 MR. WITHOPF: Mr. President, Mr. Bulmer will make our
5 submissions.

6 MR. BULMER: Thank you, Mr. President. With all candour, I don't
7 know whether the Office of the Prosecutor can be much more helpful on
8 this particular issue, however I would be -- to direct my remarks
9 specifically to your question about enhanced views and concerns under
10 68(3), which to be completely candid with the Chamber, is a difficult
11 thing to conceptualise in a factual vacuum. I would just make the
12 remark that it may be that appearing as a substantive witness in the
13 trial proceedings proper and all that entails, may under different
14 appropriate circumstances, the legal representative for the victim may
15 wish to express additional views and concerns arising out of that
16 particular venue of the witness.

17 That's really all I can say on this particular issue. It's one
18 that's factually determinative and difficult to address without a
19 factual underpinning.

20 Thank you very much.

21 PRESIDING JUDGE FULFORD: Thank you very much indeed.

22 And finally, Ms. Mabilille, anything else from the Defence?

23 MS. MABILLE (interpretation): No submissions, Mr. President.

24 What Mr. Walleyne has said raises no problems for us. I think this is
25 what we also concerned. Thank you.

1 PRESIDING JUDGE FULFORD: Thank you very much.

2 Registry?

3 MR. VAATAINEN: Yes, Mr. President, a practical problem which
4 leads to a situation. If we would have a hypothetical situation
5 whereby we have a witness who is in the protection programme, and then
6 that person also happens to be -- happens to have a legal
7 representative. Now, the legal representative and obviously the
8 Prosecutor might not have shared that information. Then the legal
9 representative comes to us, "We want to speak with this person in --
10 in the programme."

11 So I think that -- let me correct myself. The legal
12 representative comes to us and says, "We want to speak with the
13 person." We of course at that stage, we're not going to neither
14 confirm nor deny that we have any involvement with that individual,
15 and it puts us in a sort of a difficult position. There would need to
16 be, in our view, communication between the legal representative and
17 the party calling the witness who is in the programme, and share the
18 information at that level prior any contact through us is made to
19 the -- to the victim or the witness who is in the programme.

20 PRESIDING JUDGE FULFORD: I think one can readily see that there
21 is a security problem that needs to be addressed very carefully in
22 this regard, Mr. Vaatainen. Could we ask you, and it needn't be a
23 long document, but could you put in a short written submission
24 expressing the problem in full and setting out, if you can think of
25 it, a practical solution to it?

1 MR. VAATAINEN: We'll be happy to do that, Your Honour.

2 PRESIDING JUDGE FULFORD: Two weeks?

3 MR. VAATAINEN: Yes, most certainly.

4 PRESIDING JUDGE FULFORD: Fourteen days then.

5 MR. VAATAINEN: Fourteen days.

6 PRESIDING JUDGE FULFORD: Thank you very much.

7 MR. VAATAINEN: Thank you.

8 PRESIDING JUDGE FULFORD: Mr. Withopf, three weeks rather than
9 two for contacting the witnesses.

10 Right. That, then, concludes all of the issues that were on the
11 agenda for this Status Conference, and we therefore needn't trouble
12 the parties with their attendance tomorrow.

13 The date for the next Status Conference is set, I think, and we
14 are going to have to start looking beyond that Status Conference in
15 that the agendas thus far have related to the matters, that I think
16 everyone was agreed, needed attention first of all, but it was not an
17 exhaustive list. There are going to be other issues that are going to
18 be raised.

19 So there will be, from the Bench, a similar document to the first
20 one inviting comments as to other issues that need to be resolved
21 prior to the commencement of the trial, and so we will set out some
22 preliminary views on that, inviting responses from the parties and the
23 participants as to alterations, additions, or deletions. It will be
24 soon, but I'm not going to commit us to a particular time table on
25 that.

1 Now, before we rise is there anything that anyone else wishes to
2 raise? No?

3 Thank you all very much indeed for your attendance and
4 assistance, and that then terminates today's hearing.

5 The hearing ended at 4.46 p.m.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25