

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No: ICC-01/04-01/06

Date: 22 August 2006

PRE-TRIAL CHAMBER I

Before: Judge Sylvia Steiner, Single Judge

Registrar: Mr Bruno Cathala

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

**URGENT
Public Document**

Decision on the agenda of the hearings of 23 and 24 August 2006

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
Mrs Fatou Bensouda, Deputy Prosecutor
Mr Ekkehard Withopf, Senior Trial Lawyer
Legal Representatives for the Victims
a/0001/06 to a/0003/06
Mr Luc Walley
Mr Franck Mulenda

Counsel for the Defence

Mr Jean Flamme
Ms Véronique Pandanzyla
**Office of Public Counsel for the
Defence**
Ms Melinda Taylor

I, Judge Sylvia Steiner, judge at the International Criminal Court (“the Court”);

NOTING the “Decision on the Temporary Substitution of the Single Judge”,¹ issued by Pre-Trial Chamber I (“the Chamber”) on 11 August 2006, in which the Chamber decided *inter alia* to postpone the date of the status conference of 17 August 2006 to Thursday 24 August 2006 at 11h00;

NOTING the “Prosecution’s Request for an extension of a time limit”,² filed by the Prosecution on 16 August 2006;

NOTING the “Decision on the Prosecution Urgent Request for *Ex Parte* Hearing”,³ issued by the Chamber on 18 August 2006, in which (i) an *ex parte* hearing with the Prosecution and the Victims and Witnesses Unit (“the VWU”) is convened for 23 August 2006 and 15h00; and (ii) an agenda for such a hearing is established;

NOTING the “Prosecution’s request to order the Defence to inform the Pre-Trial Chamber by 24 August 2006 at the latest whether the Defence will request the postponement of the Confirmation Hearing” (“the Prosecution First Request”),⁴ filed by the Prosecution on 18 August 2006;

NOTING the “Prosecution’s Application pursuant to Rules 81 (2) and 81 (4)” (“the Prosecution Second Request”),⁵ filed by the Prosecution on 21 August 2006;

¹ ICC-01/04-01/06-321.

² ICC-01/04-01/06-333-Conf-Exp.

³ ICC-01/04-01/06-336-US-Exp.

⁴ ICC-01/04-01/06-339-Conf.

⁵ ICC-01/04-01/06-341-Conf, and the *ex parte* only available to the Prosecution annexes attached to it.

NOTING the “Request for suspension of time-limits for three pending filings” (“the Defence Request”),⁶ filed by the Defence on 22 August 2006;

NOTING the “Requête urgente des victimes en rapport avec l’audience *ex parte* du 23 août et en obtention de mesures de protection” (“the Request of Victims a/0001/06 to a/0003/06”),⁷ filed by the legal representatives of Victims a/0001/06 to a/0003/06, in which they request: (i) the adoption of certain protective measures in the proceedings leading to the confirmation hearing and during the hearing, (ii) access to the “Prosecution’s Request for an extension of a time limit” of 16 August 2006 insofar as it affects to Victims a/0001/06 to a/0003/06; and (iii) that Victims a/0001/06 to a/0003/06 be allowed to present their observations on the “Prosecution’s Request for an extension of a time limit”;

NOTING articles 57 (3) (c), 61 (3) (b), 67 (2) and 68 (1) of the Rome Statute (“the Statute”) and rules 76 to 83, 87, 88 and 121 of the Rules of Procedure and Evidence (“the Rules”);

CONSIDERING that the Prosecution Second Request must be dealt with on an *ex parte* basis because both rule 81 (2) of the Rules and the personal circumstances of the witnesses referred to in the Prosecution Second Request so requires;

CONSIDERING that the hearing scheduled for 23 August 2006 is an adequate *forum* to deal with the Prosecution Second Request;

CONSIDERING that the “Prosecution’s Request for an extension of time limit” of 16 August 2006 does not refer to Victims a/0001/06 to a/0003/06 and does not include

⁶ ICC-01/04-01/06-343-Conf.

⁷ ICC-01/04-01/06-344-Conf.

any request to suspend the 18 May 2006 order by which the Prosecution is prohibited to have any direct contact with Victims a/0001/06 to a/0003/06; and that, therefore, the personal interests of Victims a/0001/06 to a/0003/06 are not affected by any matter included in the agenda of the hearing of 23 August 2006;

CONSIDERING that the protective measures requested in the Request of Victims a/0001/06 to a/0003/06 are all related to the issue of non-disclosure of their identity during the proceedings leading to the confirmation hearing and during the hearing; and that, as stated in the “the Decision on the Defence Motion for Leave to Appeal”⁸ issued by the Chamber on 18 August 2006, the Prosecution and the Defence have until 25 August 2006 to address the issue of non-disclosure of identity of Victims a/0001/06 to a/0003/06 during the proceedings leading to the confirmation hearing and during the hearing;

CONSIDERING that the status conference of 24 August 2006 is an adequate *forum* to deal with the Prosecution First Request, the Defence Request and other pending issues;

FOR THESE REASONS

DECIDE to amend the agenda of the hearing scheduled for 23 August 2006 to include the Prosecution Second Request of 21 August 2006.

DECIDE to reject the Request of Victims a/0001/06 to a/0003/06 in relation to the “Prosecution’s Request for an extension of time limit” of 16 August 2006 and the hearing of 23 August 2006.

⁸ ICC-01/04-01/06-338.


DECIDE that the Prosecution and the Defence shall have until 25 August 2006 to respond to the request for protective measures contained in the Request of Victims a/0001/06 to a/0003/06.

DECIDE that the status conference of 24 August 2006 shall start at 14h00.

DECIDE that the agenda of the status conference of 24 August 2006 shall be as follows:

- (i) The disclosure process and the filing of evidence with the Registry;
- (ii) The final submissions of the parties on the Prosecution practice to disclose to the Defence redacted versions of documents without having previously secured the authorisation of the Chamber;
- (iii) The draft protocol for the presentation of evidence;
- (iv) The Defence Request of 22 August 2006;
- (v) The Prosecution First Request of 18 August 2006; and
- (vi) Other matters.

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



Judge Sylvia Steiner
Single Judge

Dated this Tuesday 22 August 2006

At The Hague

The Netherlands