Cour Pénale Internationale



International Criminal Court

Original: English

No: ICC-01/04-01/06

Date: 5 September 2006

PRE-TRIAL CHAMBER I

Before:

Judge Sylvia Steiner, Single Judge

Registrar:

Mr Bruno Cathala

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

Public Redacted Version

Decision concerning the compliance by the Prosecution with the pre-requisites to file rule 81 (4) motions

The Office of the Prosecutor

Mr Luis Moreno Ocampo Ms Fatou Bensouda

Mr Ekkehard Withopf

Counsel for the Defence

Mr Jean Flamme

Ms Véronique Pandanzyla

Legal Representatives of Victims a/0001/06

to a/0003/06

Mr Luc Walleyn Mr Franck Mulenda Office of Public Counsel for the Defence

Ms Melinda Taylor

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

NOTING the "Decision Establishing General Principles Governing Applications to

Restrict Disclosure pursuant to Rule 81 (2) and (4) of the Statute" ("the Decision

Establishing General Principles"),1 issued by the single judge on 19 May 2006, in

which it is stated that the assessment of the Victims and Witnesses Unit ("the VWU")

on the availability and feasibility of the protective measures for a given witness

constitutes a pre-requisite for any motion for non-disclosure of identity under rule 81

(4) of the Rules of Procedure and Evidence ("the Rules");

NOTING the ex parte hearing of 1 September 2006, in which the Prosecution

informed the single judge that some of the witnesses for which [REDACTED] for the

purpose of the confirmation hearing had not been previously referred to the Victims

and Witnesses Unit for assessment of the available and feasible protective measures;

NOTING article 68 (1) of the Statute and rule 81 of Rules;

CONSIDERING that the Prosecution has not complied with the pre-requisites

provided for in the Decision Establishing General Principles for the filing of rule 81

(4) motions [REDACTED] of some of the witnesses on which the Prosecution intends

to rely at the confirmation hearing;

¹ ICC-01/04-01/06-108.

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FOR THESE REASONS

ORDERS the Prosecution, unless it intends to withdraw its rule 81 (4) motion in relation to the relevant witnesses, to immediately:

- (i) Inform the single judge what the annexes containing the applications for those witnesses are;
- (ii) Refer those witnesses, including all relevant information, to the Victims and Witness Unit for assessment of the available and feasible protective measures;

ORDERS the Victims and Witnesses Unit to conduct such an assessment as a matter of urgency and to file its conclusions no later than 11 September 2006 at 16h00.

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

Judge Sylvia Steiner Single Judge

Dated this Tuesday 5 September 2006

At The Hague

The Netherlands