

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original : English

No.: ICC-01/04-01/06  
Date: 29 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 vs. THOMAS LUBANGA DYILO**

**Public with Confidential - *Ex Parte* - Prosecution Only Annexes**

**Provision of Summary Evidence to the Pre-Trial Chamber**

**The Office of the Prosecutor**

Mr Luis Moreno-Ocampo, Prosecutor  
Ms Fatou Bensouda, Deputy Prosecutor  
Mr Ekkehard Withopf, Senior Trial Lawyer

**Legal Representatives of 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

## Background

1. On Friday, 15 September 2006, the Single Judge of the Pre-Trial Chamber (Single Judge) issued the "First Decision on the Prosecution Request and Amended Requests for Redactions under Rule 81"<sup>1</sup> (First Decision).
2. In the First Decision, the Prosecution was ordered to inform the Chamber by Monday, "25 September 2006 at 10h00 whether it: (i) withdraws from the Prosecution List of Evidence any of the witness statement and investigators' notes and reports of witness interviews included in Annex I to the present decision, along with the documents attached to those statement, transcripts, notes and reports; or (ii) assures the Chamber that the relevant witnesses, or some of those witnesses, have freely consented to the immediate disclosure of their identities to the Defence after having been adequately informed of the risks for their security inherent to such disclosure; or (iii) seeks the authorisation of the Chamber to rely on summary evidence of the above mentioned witness statements, transcripts of witness interviews and investigators' notes and reports of witness interviews."<sup>2</sup>
3. In respect of those materials the Prosecution decided to provide summaries, the First Decision gave the Prosecution until Monday, "25 September 2006 at 10h00 to file proposed summary evidence in a language which Thomas Lubanga Dyilo fully understands and speaks" witness statements, transcripts of witness interviews and investigator's notes and reports of witness interviews, in which all

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<sup>1</sup> First Decision on the Prosecution Request and Amended Requests for Redactions under Rule 81, public, 15 September 2006.

<sup>2</sup> See First Decision, at pages 9 and 10.

identifying information of the relevant witnesses shall be excluded and in which the following information shall be included: (i) a brief introduction of the relevance and probative value of the summary evidence without identifying the witness; (ii) any information on which the Prosecution intends to rely at the confirmation hearing, in particularly the information included in the paragraphs referred to in the Prosecution Charging Document and List of Evidence; and (iii) any information that could be potentially exculpatory or otherwise material for the Defence's preparation of the confirmation hearing."

4. Furthermore, in the First Decision, the Single Judge gave the Prosecution until Monday, "25 September 2006 at 10h00 to re-file the documents attached to those witness statements, transcripts of witness interviews and investigator's notes and reports of witness interviews for which the Prosecution intends to request the authorisation of the Chamber to rely in summary evidence pursuant to the present decision. The redactions should be revised in light of the concerns raised by the single judge at the hearings held on 8 September 2006 and 12 September 2006."

#### **Prosecution's decision on the alternatives**

5. The Prosecution has decided to provide summary evidence in respect of all witness statements, transcripts of witness interviews and investigator's notes and reports of the witnesses interviewed as detailed in Annex I attached to the First Decision.

## Request for extension of time

6. On 22 September 2006, the Prosecution sought an extension of time in order to prepare adequately for the provision of summary evidence to the Pre-Trial Chamber.<sup>3</sup> The Prosecution advised the Pre-Trial Chamber that it would make every effort to provide for the summaries as soon as possible, and anticipated filing a number of summaries on Monday, 25 September 2006.
7. On 22 September 2006, the Pre-Trial Chamber granted the Prosecution's request and extended the deadline for provision of summary evidence to 29 September 2006 at 10h00.<sup>4</sup>
8. On 25 September 2006, the Prosecution filed the Provision of Summary Evidence to the Pre-Trial Chamber<sup>5</sup> in which it sought authorization for the summary of eight witness statements and transcripts.

## Present Submission

9. The Prosecution attaches to the present submission the final set of thirteen summaries representing nine witness statements and four transcripts of interviews taken pursuant to Article 55(2).<sup>6</sup> The Prosecution also attaches a

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<sup>3</sup> Request for Extension of Time, 22 September 2006.

<sup>4</sup> Decision on the Prosecution's Application for Extension of Time, 22 September 2006.

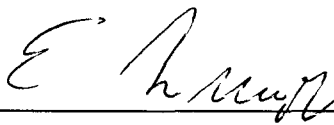
<sup>5</sup> Provision of Summary Evidence to the Pre-Trial Chamber, Public with Confidential – *Ex Parte* – Prosecution Only Annexes, filed 25 September 2006.

<sup>6</sup> They are attached as confidential – *ex parte* – Prosecution Only Annexes 1-13.

number of documents that are attached to the summaries for which the Prosecution seeks redactions or authorization for complete non-disclosure.<sup>7</sup>

## Request

10. The Prosecution requests authorization to disclose to the Defence the summaries of witness statements and transcripts, with pseudonyms to protect the identities of the witnesses, as annexed hereto.

  
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**Luis Moreno-Ocampo**  
**Prosecutor**

Dated this 29<sup>th</sup> day of September 2006  
At The Hague, The Netherlands

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<sup>7</sup> Please see a chart of related documents attached hereto as confidential – *ex parte* – Prosecution only Annex 14.