Cour Pénale Internationale

International Criminal Court

Original: English

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

Date: 9 May 2008

TRIAL CHAMBER I

Before:

Judge Adrian Fulford, Presiding Judge

Judge Elizabeth Odio Benito

Judge René Blattmann

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

Public Document

Order on "Prosecution's Application for Non-disclosure of Information"

Decision/Order/Judgment to be notified in accordance with regulation 31 of the Regulations of the Court to:

The Office of the Prosecutor

Ms Fatou Bensouda Mr Ekkehard Withopf **Counsel for the Defence**

Ms Catherine Mabille Mr Jean-Marie Biju Duval

Legal Representatives of the Victims

Mr Luc Walleyn Mr Franck Mulenda Ms Catherine Bapita Buyangandu Legal Representatives of the Applicants

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. On 24 April 2008 the Chamber ordered, *inter alia*, the Office of the Prosecutor ("prosecution") to disclose the statements of eight witnesses and other related material by 6 May 2008, with such redactions as were necessary to protect the identity and whereabouts of those witnesses.¹ In the event further redactions were necessary, the prosecution was directed to file an application setting out those redactions and to request a hearing.²
- 2. The Chamber, following a request from the prosecution on 29 April 2008, extended the deadline for disclosure from 6 May to 9 May 2008.³
- 3. On 8 May 2008 the prosecution filed an application for further redactions in addition to those already authorised by the Chamber in relation to some of the statements and materials and for non disclosure of parts of the materials.⁴ In its application the prosecution submits that the redactions and non-disclosure were sought pursuant to Articles 54(3)(f) and 68 of the Statute and Rules 81(2) and (4) of the Rules of Procedure and Evidence ("Rules"). The prosecution submits that, in order to comply with the Trial Chamber's deadline, it will disclose the statements and material in redacted form, and not disclose those documents for which non-disclosure is sought, pending a decision of the Chamber.
- 4. In its application, the prosecution also informs the Chamber that it made redactions to some of the material pursuant to Rule 81(1) of the Rules.⁵

⁵ *Ibid.*, footnote 5 and paragraph 25.

¹ Decision on Disclosure Issues, Responsibilities for Protective Measures and Other Procedural Matters, 24 April 2008, ICC-01/04-01/06-1295-US-Exp, page 53 and Annex C.

² ICC-01/04-01/06-1295-US-Exp, pages 53-54.

³ Email communications to the Trial Chamber through the Legal Advisor to the Trial Division on 29 April 2008.

⁴ Prosecution's Application for Non-disclosure of Information, ICC-01/04-01/06-1309-Conf-Exp, 8 May 2008.

- 5. In order to enable the defence to respond to the prosecution's application and provide the Chamber with sufficient time for its consideration of the application, the Chamber hereby:
 - i) Authorises the redactions and non-disclosure requested by the prosecution in its application on a temporary basis until the next Status Conference (28 May 2008) when the Chamber will fully consider the matter;
 - ii) Orders the prosecution to file an *inter partes* version of its application by 13 May 2008; and
 - iii) Orders the defence to file its response, if any, to the prosecution's application by 26 May 2008.

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

Judge Adrian Fulford

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Judge Elizabeth Odio Benito

Judge René Blattmann

Dated this 9 May 2008

At The Hague, The Netherlands