

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 16 April 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

Scheduling Order

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 Mabilie
Mr Jean-Marie Biju Duval

Legal Representatives of the Victims

Mr Luc Walley
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

Acting Registrar
Mr Ralph Martens

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. During the Status Conference on 13 March 2008, the Chamber raised the issue of the limitations on the disclosure of potentially exculpatory material following agreements with information providers made pursuant to Article 54(3)(e) of the Statute. The Chamber ordered the Office of the Prosecutor ("prosecution") to file a written submission by 28 March 2008, identifying the areas of evidence which were potentially exculpatory and which could not be disclosed due to the information provider's restrictions, whilst at the same time identifying the alternative evidence which the prosecution had been able to disclose.¹
2. On 28 March 2008, the prosecution filed written submissions as ordered.² In accordance with Regulations of the Court 33 and 34, any responses to this document are required to be filed by 22 April 2008.
3. On 3 April 2008, the Chamber issued an order requesting additional information from the prosecution to enable the Chamber to consider the issue fully.³ At an *ex parte* Status Conference on 9 April 2008, the prosecution was requested to file a written submission on the matters which needed to be dealt with *ex parte* and the Chamber adjourned all other issues to an *inter partes* hearing.⁴ The prosecution filed further *ex parte* submissions on 10 and 15 April 2008,⁵ and a public submission on 15 April 2008,⁶ as ordered by the Chamber.
4. In order to consider the issue fully, the Trial Chamber hereby schedules a

¹ ICC-01/04-01/06-T-79-ENG, page 6, line 4 to page 9, line 14.

² Prosecution's submission on undisclosed documents containing potentially exculpatory information, 28 March 2008, ICC-01/04-01/06-1248.

³ Order on the "Prosecution's submission on undisclosed documents containing potentially exculpatory information", 3 April 2008, ICC-01/04-01/06-1259.

⁴ ICC-01/04-01/06-T-81-Conf-Exp-ENG, page 19, lines 16-22, and page 24, line 15 to page 25, line 5.

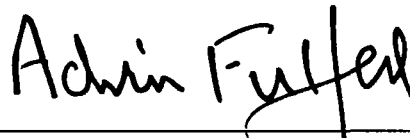
⁵ Prosecution's submission of alternative potentially exonerating evidence further to the Trial Chamber's *ex parte* order of 9 April 2008, 10 April 2008, ICC-01/04-01/06-1272-Conf-Exp, and Prosecution's supplementary submission of alternative potentially exonerating evidence further to the Trial Chamber's *ex parte* order of 9 April 2008, 15 April 2008, ICC-01/04-01/06-1277-Conf-Exp.

⁶ Prosecution's additional information on the undisclosed evidence, 15 April 2008, ICC-01/04-01/06-1281.

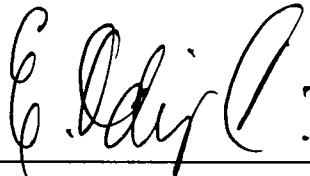
public Status Conference on 24 April 2008 at 14.00 to hear submissions on the following issues:

- i) The interpretation to be given to Article 67(2) of the Statute and whether the obligation of the prosecution at this stage is to disclose all materials that the prosecution “believes shows or tends to show the innocence of the accused, or to mitigate the guilt of the accused, or which may affect the credibility of prosecution evidence”.
- ii) Consequences of the non-disclosure of potentially exculpatory material due to limitations to disclosure imposed by information providers pursuant to article 54(3)(e) of the Statute.

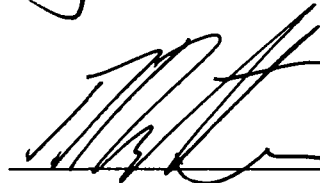
Done in both English and French, the English version being authoritative.



Judge Adrian Fulford



Judge Elizabeth Odio Benito



Judge René Blattmann

Dated this 16 April 2008

At The Hague, The Netherlands