

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No: ICC-01/04-01/07  
Date: 16 October 2007

**PRE-TRIAL CHAMBER I**

**Before: Judge Akua Kuenyehia, Single Judge**

**Registrar: Mr Bruno Cathala**

**SITUATION IN THE DEMOCRATIC REPUBLIC OF CONGO  
IN THE CASE OF  
*THE PROSECUTOR v. GERMAIN KATANGA***

**Under seal  
Ex parte only available to the Office of the Prosecutor**

**URGENT**

**Order relating to the Formatted and Redacted Formatted Versions of the  
Prosecution Application for a Warrant of Arrest**

**The Office of the Prosecutor  
Mr Luis Moreno Ocampo  
Mrs Fatou Bensouda  
Mr Éric MacDonald**

**I, Judge Akua Kuenyehia, judge at the International Criminal Court (the “Court”);**

**NOTING** the “Decision Requesting the Prosecution to Provide a Formatted Version of the Prosecution Requests of 22 and 25 June 2007 and Convening a Hearing,” issued by the Single Judge on 29 June 2007;<sup>1</sup>

**NOTING** the Warrant of Arrest for Germain Katanga, issued by Pre-Trial Chamber I (“the Chamber”) on 2 July 2007;<sup>2</sup>

**NOTING** the “*Ordonnance relative à l’exécution du mandat d’arrêt à l’encontre de Germain Katanga*” issued by Pre-Trial Chamber I on 2 July 2007;<sup>3</sup>

**NOTING** the *ex parte* hearing held by the Single Judge in closed session with the Prosecution and the Representatives of the Victims and Witnesses Unit (“the VWU”) on 4 July 2007;

**NOTING** the “Urgent Request for the Formatting of the Arrest Warrant issued against Germain Katanga”<sup>4</sup> (“the Prosecution Urgent Request”), filed by the Prosecution on 5 July 2007;

**NOTING** the “Decision on the evidence and information provided by the Prosecution for the issuance of a warrant of arrest for Germain Katanga”<sup>5</sup> (“the Decision”), issued by the Chamber on 6 July 2007;

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<sup>1</sup>ICC-01/04-355-Conf.-Exp.

<sup>2</sup>ICC-01/04-01/07-1-US.

<sup>3</sup>ICC-01/04-01/07-2-US.

<sup>4</sup>ICC-01/04-01/07-3-US

**NOTING** the “Decision Rejecting the Prosecution Urgent Request and Establishing a Calendar for the Disclosure of the Supporting Materials of the Prosecution Application for a Warrant of Arrest against Germain Katanga”<sup>6</sup> (“Decision Establishing the Calendar on Disclosure”) issued by the Single Judge on 6 July 2007;

**NOTING** the “Prosecution’s Request for the Variation of the Calendar for the Submission of a Formatted Version of the Arrest Warrant and Redacted Witness Statements”<sup>7</sup> filed by the Prosecution on 10 July 2007;

**NOTING** the “Decision Altering the Calendar for the Submission of Formatted Version of the Arrest Warrant Application and Redacted Witness Statements”<sup>8</sup> issued by the Single Judge on 10 July 2007;

**NOTING** the “Submission of Formatted and Redacted Formatted Version of the Arrest Warrant Application”<sup>9</sup> (“the Prosecution’s Submission of Formatted Versions”) filed by the Prosecutor on 18 July 2007;

**NOTING** the “Prosecution’s Request for the Variation of the Calendar for Requesting Redactions to Statements or Interview Notes of Witnesses”<sup>10</sup> filed by the Prosecution on 24 August 2007;

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<sup>5</sup> ICC-01/04-01/07-4-US.

<sup>6</sup> ICC-01/04-01/07-5-US-Exp.

<sup>7</sup> ICC-01/04-01/07-7-US-Exp.

<sup>8</sup> ICC-01/04-01/07-9-US-Exp.

<sup>9</sup> ICC-01/04-01/07-11-US-Exp.

<sup>10</sup> ICC-01/04-01/07-15-US-Exp.

**NOTING** the “Decision of the Prosecution’s Request for the Variation of the Calendar for Requesting Redactions to Statements or Interview Notes of Witnesses”<sup>11</sup> issued by the Single Judge on 29 August 2007;

**NOTING** the “Information on the Status of the Referrals and on the Assessments”<sup>12</sup> filed by the Registry on 13 September 2007;

**NOTING** articles 57, 67 and 68 of the Rome Statute (“the Statute”) and rules 76 to 83 and 121(1) of the Rules of Procedure and Evidence (“the Rules”);

**CONSIDERING** that in the Decision Establishing the Calendar on Disclosure, the Single Judge decided that the unredacted formatted version of the Prosecution Application for a warrant of arrest shall only expunge the information identifying the fact that the Prosecution Application for a warrant of arrest is not limited to Germain Katanga;

**CONSIDERING** that the formatted version of Annex 6 of the Prosecution Application for a warrant of arrest does not comply with the Decision Establishing the Calendar on Disclosure insofar as it removes the dialogue box containing the names of the *Front des Nationalistes et Integrationnistes* (“the FNI”) camps and FNI commanders, and thus leaving only the names of the camps and commanders names of the *Force de résistance patriotique en Ituri* (“the FRPI”);

**CONSIDERING** that the Single Judge rejected the Prosecution Urgent Request to format the warrant of arrest for Germain Katanga in order to remove all references to the *Front des Nationalistes et Integrationnistes* or the FNI because “there are reasonable

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<sup>11</sup> ICC-01/04-01/07-17-US-Exp.

<sup>12</sup> ICC-01/04-01/07-19-US-Exp.

grounds to believe that the attack on Bogoro was the object of a common plan by Germain Katanga and other senior FRPI and FNI commanders; that the warrant of arrest for Germain Katanga is based on his alleged responsibility as a co-perpetrator for the crimes committed during and in the aftermath of the attack on Bogoro; and that authorizing the type of redactions proposed by the Prosecution would infringe the rights of Germain Katanga under article 67(2) of the Statute insofar as it would prevent him from having access to a key component of the case against him”;<sup>13</sup>

**CONSIDERING** further that in paragraph 2, footnote 4 of the Prosecution’s Submission of Formatted Versions, the Prosecution expressly stated that it can provide the Chamber “a formatted version showing the track changes from the Arrest Warrant Application”;

**CONSIDERING** that, since the Prosecution’s Submission of Formatted Versions on 18 July 2007, a number of protective measures have been adopted, and in some instances implemented, in relation to witnesses whose statements are annexed to the Prosecution Application for a warrant of arrest;

**FOR THESE REASONS**

**ORDER** the Prosecution to submit, by Wednesday 17 October 2007 at 16h00, the formatted version of the Prosecution Application for a warrant of arrest showing the track changes;

**ORDER** the Prosecution to revise the redactions proposed to the Redacted Formatted Version of the Prosecution Application for a warrant of arrest in light of the

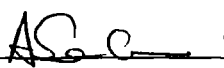
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<sup>13</sup> ICC-01/04-01/07-5-US-Exp, page 4.

protective measures adopted and implemented since 18 July 2007; and to accordingly amend the Prosecution's proposed Redacted Formatted Version of the Prosecution Application at the latest by Wednesday 17 October 2007 at 16h00;

**ORDER** the Prosecution to reinstate the names of the FNI camps and FNI commanders in Annex 6 of the Formatted Version of the Prosecution Application for a warrant of arrest.

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

  
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**Judge Akua Kuenyehia**  
**Single Judge**

Dated this Tuesday 16 October 2007

At The Hague

The Netherlands