

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-01/07

Date: 11 April 2008

PRE-TRIAL CHAMBER I

Before: Judge Sylvia Steiner, Single Judge

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
THE PROSECUTOR *v.* Germain Katanga and Mathieu Ngudjolo Chui**

URGENT

Public Document

with Confidential *ex parte* Prosecution only Annex

Order Requesting the Prosecution to Clarify and Review its Application pursuant to Rule 81(2) and (4) of the Rules of Procedure and Evidence in relation to Witness

268

Order to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Mr Luis Moreno Ocampo, Prosecutor
Mr Éric Macdonald, Senior Trial Lawyer

**Counsel for the Defence for Germain
Katanga**

Mr David Hooper
Ms Caroline Buisman

**Counsel for the Defence for Mathieu
Ngudjolo Chui**

Mr Jean-Pierre Kilenda Kakengi Basila
Ms Maryse Alié

Legal Representatives of the Victims

Mr. Joseph Keta
Ms. Carine 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

Mr Ralph Martens acting Registrar

Defence Support Section

Victims and Witnesses Unit

Mr Simo Väätäinen

Detention Section

**Victims Participation and Reparations
Section**

Other

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

NOTING the “Prosecution’s Application Pursuant to Rule 81(2) and Rule 81(4) to Statement of Witness 2”¹ (“the Prosecution’s Application”) and its confidential *ex parte* annexes, filed by the Prosecution on 27 November 2007, in which the Prosecution requested, *inter alia*, the authorisation of the Single Judge to redact certain parts of the statement of Witness 2 (“Witness 268”);

NOTING the “Prosecution’s Application Pursuant to Rule 81(2) and Rule 81(4) for Redactions to Statements of Witnesses and Related Materials to Be Relied Upon at the Confirmation Hearing”² filed by the Prosecution on 15 January 2008, in which the Prosecution requested, *inter alia*, the authorisation of the Single Judge to redact certain parts of a document related to Witness 268;

NOTING the “Amended Submission of Prosecution’s Application Pursuant to Rules 81(1) 81(2) and 81(4) for Redactions to Screening Notes and Transcripts of Witnesses 2, 5, 6, 10, 0163, 0238, 0287, 0233,0267, 0271 and 0132” (“the Amended Prosecution’s Application”) and its confidential *ex parte* annexes filed by the Prosecution on 27 February 2008;³

NOTING articles 57(3) (c), 61(3) and 68 of the *Rome Statute* (“the Statute”), rules 15, 76 to 83, and 121 of the *Rules of Procedure and Evidence* (“the Rules”) and regulation 28(1) of the *Regulations of the Court* (“the Regulations”);

CONSIDERING that, in light of the decisions on redactions issued by the Single Judge since the Prosecution’s Application, there is a need for the Prosecution to review the requested redactions in the Prosecution’s Application; that the Single

¹ ICC-01/04-01/07-82; ICC-01/04-01/07-82-Conf-Exp-AnxA.

² ICC-01/04-01/07-145 and its confidential annexes.

³ ICC-01/04-01/07-240, ICC-01/04-01/07-240 -Conf. Exp. Anx A1

Judge has also found some inconsistencies in the Prosecution's Application in relation to the statement of Witness 268; and that in Annex I to the present decision, which is issued *ex parte* and available only to the Prosecution, the Single Judge has pointed out some of the aforementioned inconsistencies;

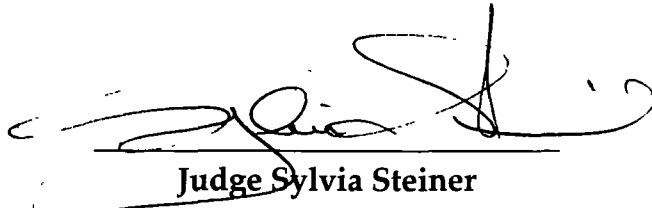
CONSIDERING therefore that, to enable the Single Judge to decide upon the requested redactions in the Prosecution's Application and in the Amended Prosecution's Application, the Prosecution shall clarify and review its requests for redactions in relation of Witness 268's statement and document, pursuant to rule 81 (2) and (4) of the Rules, in light of, but not limited to, Annex I to the present decision;

CONSIDERING further that, for the abovementioned reasons, the Prosecution shall, after the review of its requests for redactions, resubmit the Annex A and Annex A1 to the Prosecution's Application and the Amended Prosecution's Application;

FOR THESE REASONS

ORDER the Prosecution to clarify and review its requests for redactions in the Annex A and Annex A 1 of the Prosecution's Application, and to resubmit such Annexes by Monday 14 April 2008 at 16h00;

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



Judge Sylvia Steiner
Single Judge

Dated this Friday, 11 April 2008

At The Hague, The Netherlands