

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 5 May 2008

PRE-TRIAL CHAMBER I

Before: Judge Sylvia Steiner, Single Judge

**SITUATION IN THE DEMOCRATIC REPUBLIC OF CONGO
IN THE CASE OF
THE PROSECUTOR
*v. GERMAIN KATANGA AND MATHIEU NGUDJOLO CHUI***

Public Document

Decision on the Defence Application for Leave to Appeal the "Decision on Evidentiary Scope of the Confirmation Hearing, Preventive Relocation and Disclosure under Article 67(2) of the Statute and Rule 77 of the Rules"

Decision 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 of Germain

Katanga
Mr David Hooper
Ms Caroline Buisman

Counsel for the Defence of Mathieu

Ngudjolo Chui
Mr Jean-Pierre Kilenda Kakengi Basila
Ms Maryse Alié

Legal Representatives of the Victims

Ms Carine Bapita Buyagandu
Mr Joseph Keta
Mr J.L. Gilissen

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

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

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

NOTING the “Decision on the Evidentiary Scope of the Confirmation Hearing, Preventive Relocation and Disclosure under Article 67(2) of the Statute and Rule 77 of the Rules”¹ (“the Decision”), issued by the Single Judge on 17 April 2001;

NOTING the “*Demande d’autorisation d’interjeter appel contre la ‘Decision on Evidentiary Scope of the Confirmation hearing, Preventive Relocation and Disclosure under Article 67(2) of the Statute and Rule 77 of the Rules’*”² (“the Defence’s Application for Leave to Appeal”) filed on 29 April 2008;

NOTING the notification to the Defence of Mathieu Ngudjolo Chui of the Decision, served on 21 April 2008, as certified by the Registry and acknowledged by the Defence;³

NOTING the “Prosecution’s Response to ‘*Demande d’autorisation d’interjeter appel contre la ‘Decision on Evidentiary Scope of the Confirmation Hearing, Preventive Relocation and Disclosure under Article 67(2) of the Statute and Rule 77 of the Rules’*”⁴ (“the Prosecution’s Response”) filed by the Prosecution on 2 May 2008;

NOTING article 82(1)(d) of the *Rome Statute* (“the Statute”), rule 155 of the *Rules of Procedure and Evidence* (“the Rules”) and regulations 31(2), 33 and 35 of the *Regulations of the Court* (“the Regulations”);

¹ ICC-01/04-01/07-411-Conf-Exp; ICC-01/04-01/07-423-Conf; ICC-01/04-01/07-428-Corr

² ICC-01/04-01/07-457

³ Defence’s Application for Leave to Appeal, para 9

⁴ ICC-01-04/01-07-465

CONSIDERING that in the present case, the time-limit provided for in rule 155 of the Rules for the filing by the Defence of a motion for leave to appeal against the Decision started running from the notification to the Defence of the Decision;

CONSIDERING that the Defence, in the Defence's Application for Leave to Appeal, recognises that (i) the deadline for the filing of the application for leave to appeal expired on Monday 28 April 2008; (ii) the Defence made an erroneous calculation of the deadline for filing the application; (iii) the Defence has been overburdened with a number of filings, has not yet completed its Defence team, and has already pointed out its difficulties in understanding all decisions since they are issued in English; and that (iv) therefore, the Single Judge should grant the Defence an extension of time-limit, as provided for in regulation 35 of the Regulations and, as a consequence, receive the Defence's Application for Leave to Appeal;⁵

CONSIDERING that, according to the Statute, Rules and Regulations, the Defence's Application for Leave to Appeal pursuant to article 82(1)(d) of the Statute has been filed after the expiry of the time-limit provided in rule 155 of the Rules; that, according to the precedents mentioned in the Prosecution's Response, regulation 35 of the Regulations only applies to time-limits prescribed in the Regulations or ordered by the Chamber;⁶ and that consequently, no extension or reduction of time-limits can be granted in relation to time-limits established by the Statute or the Rules, which are preclusive;

⁵ Defence Application for Leave to Appeal, para 10

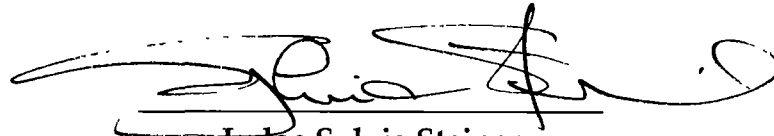
⁶ Prosecution's Response, para.5 and footnote 4

CONSIDERING therefore, that the Single Judge need not address the merits of the two grounds for appeal raised in the Defence's Application for Leave to Appeal;

FOR THESE REASONS,

REJECT the Defence's Application for Leave to Appeal *in limine*.

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



Judge Sylvia Steiner
Single Judge

Dated this Monday 5 May 2008

At The Hague, The Netherlands