

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 21 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

URGENT

Decision on the Prosecution's Urgent Application for Extension of Time

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

Legal Representatives of the Victims

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

NOTING the “Judgment on the appeal of the Prosecutor against the decision of Pre-Trial Chamber I entitled “First Decision on the Prosecution Request for Authorisation to Redact Witness Statements”¹ (“the First Appeals Chamber Judgment”) issued by the Appeals Chamber on 13 May 2008 and by which the Appeals Chamber:

- (i) reversed the Single Judge decision not to authorise redactions for the protection of individuals other than “victims, current or prospective Prosecution witnesses or sources, or members of their families”; and
- (ii) reversed the Single Judge decision not to authorise redactions relating to the locations of interviews of witnesses and identifying information of staff members of the Office of the Prosecutor and of the VWU present at those interviews.

NOTING the “Judgment on the appeal of Mr Germain Katanga against the decision of Pre-Trial Chamber I entitled ‘First Decision on the Prosecution Request for Authorisation to Redact Witness Statements’”² (“the Second Appeals Chamber Judgment”) issued by the Appeals Chamber on 13 May 2008 and by which the Appeals Chamber confirmed the decision of the Single Judge that “redactions relating to the identities and identifying information of potential prosecution witnesses, to whom reference is made in the statements of actual witnesses upon whom the Prosecutor wishes to rely at the hearing confirming the charges, can, in principle, be made so as to avoid prejudicing further or ongoing investigations pursuant to rule 81(2)”;

¹ ICC-01/04-01/07-475.

² ICC-01/04-01/07-476.

NOTING the “Order to the Prosecution to review and resubmit its previous requests for redactions”³ (“the Order”) issued by the Single Judge on 16 May 2008, in which the Single Judge ordered the Prosecution by no later than 21 May at 16h00:

- (i) to identify on which specific redactions, out of those remitted by the Appeals Chamber in the First Appeals Chamber Judgment, the Prosecution persists in its request for the authorisation of the Single Judge for redactions;
- (ii) to identify the specific redactions provisionally authorised in the Second, Third, Fourth, Fifth and Sixth Decisions on Redactions, which are of a similar nature as those remitted by the Appeals Chamber in the First Appeals Chamber Judgment to the Pre Trial Chamber, for which the Prosecution persists in its request for the authorisation of the Single Judge for redactions; and
- (iii) to resubmit its requests for authorization for redactions and provide the Single Judge with the information required by paragraphs 71 to 73, 98, 99 and 111 of the First Appeals Chamber Judgment in relation to those redactions for which the Prosecution persists in its request for the authorisation of the Single Judge for redactions;

NOTING the “Prosecution’s Urgent Application for Extension of Time Pursuant to Regulation 35 to File Application for Redactions in Compliance with Appeals Chamber’s “Judgment on the appeal of the Prosecutor against the decision of Pre-Trial Chamber I entitled “First Decision on the Prosecution Request for Authorisation to Redact Witness Statements”⁴ (“Application for Extension of Time”) filed by the Prosecution on 21 may 2008;

³ ICC-01/04-01/07-479.

⁴ ICC-01/04-01/07-492-Conf-Exp.

NOTING regulation 35 of the *Regulations of the Court* (“the Regulations”);

CONSIDERING that the Prosecution submits, in its Application for Extension of Time, that the review process, as instructed by the Single Judge in the Order, resulted in “having to review approximately 80 documents, totaling in excess of 1465 pages;”

CONSIDERING that the Prosecution must thoroughly justify each of the redactions requested in each of the 1465 identified pages in light of the test set out by the Appeals Chamber in the First Appeals Chamber Judgment; and that in the absence of such a detailed justification the Prosecution’s request for redactions will be rejected *in limine*;

CONSIDERING, therefore, that good cause has been shown by the Prosecution as required by regulation 35 (2) of the Regulations;


FOR THESE REASONS

DECIDE that, in relation to the documents that the Prosecution has already reviewed, the Prosecution shall by Thursday 22 May 2008 at 9h30:

- (i) identify on which specific redactions, out of those remitted by the Appeals Chamber in the First Appeals Chamber Judgment, the Prosecution persists in its request for the authorisation of the Single Judge for redactions;
- (ii) identify the specific redactions provisionally authorised in the Second, Third, Fourth, Fifth and Sixth Decisions on Redactions, which are of a similar nature as those remitted by the Appeals Chamber in the First Appeals Chamber Judgment to the Pre Trial Chamber, for which the Prosecution persists in its request for the authorisation of the Single Judge for redactions; and
- (iii) resubmit its requests for authorization for redactions and provide the Single Judge with the information required by paragraphs 71 to 73, 98, 99 and 111 of the First Appeals Chamber Judgment in relation to those redactions for which the Prosecution persists in its request for the authorisation of the Single Judge for redactions;

DECIDE to grant the Application for Extension of Time in relation to the documents that the Prosecution has not yet reviewed; and therefore extends the time-limit until Thursday 22 May 2008 at 16h00.

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



Judge Sylvia Steiner
Single Judge

Dated this Wednesday 21 May 2008

At The Hague, The Netherlands