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No.: ICC-01/04
Date: 4 September 2007

PRE-TRIAL CHAMBER I

Before: Judge Sylvia Steiner, Single judge

Registrar: Mr Bruno Cathala

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

Public Document

Response to Order on the request by the OPCD for access to previous filings and for extension of page and time limit

The Office of the Prosecutor

Mr Luis Moreno Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
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Legal Representatives of the Applicants

Ms Carine Bapita Buyangandu
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Legal Representative of Applicants
a/0026/06, a/0027/06, a/0038/06, a/0144/06,
a/0145/06, a/0148/06, a/0203/06, a/0214/06,
a/0220/06, a/0221/06, a/0224/06, a/0227/06 to
a/0230/06, a/0234/06, a/0235/06, a/0237/06
and a/0238/06

Office of Public Counsel for the Defence

Mr Xavier-Jean Keïta, Principal Counsel

Office of Public Counsel for Victims

Ms Paolina Massida, Principal Counsel

1. On 24 August 2007, the Honourable Single Judge issued an ‘Order concerning the transmission of further information on victims’ applications’ (Order of 24 August 2007), in which the Single Judge referred firstly to the fact that the Victims Participation and Reparation Section (VPRS) had transmitted to the Chamber additional information pertaining to applicants a/0009/06, a/0018/06, a/0026/06, a/0027/06, a/0038/06, a/0144/06, a/0145/06, a/0148/06, a/0203/06, a/0214/06, a/0220/06, a/0221/06, a/0224/06, a/0227/06, a/0228/06, a/0229/06, a/0230/06, a/0231/06, a/0232/06, a/0233/06, a/0234/06, a/0235/06, a/0237/06, a/0238/06, a/0242/06, a/0243/06, a/0244/06, a/0245/06, a/0246/06, a/0247/06, a/0248/06, a/0249/06, a/0250/06, and secondly, that this information had not been transmitted to the Prosecution, *ad hoc* counsel for the defence, or the Office of Public Counsel for the Defence (OPCD).
2. The Honourable Single Judge therefore ordered VPRS to extract this information from the *ex parte* Reports submitted to the Chamber, and transmit it to the OTP and the OPCD, together with a copy of the applications concerned, within ten days from the notification of the decision.
3. The Honourable Single Judge also authorised the OTP and the OPCD to file observations on the applications for which further information had been sent, within ten days of notification.
4. On 29 August 2007, the OPCD filed a motion requesting, *inter alia*, access to all filings concerning the applications which are the subject of the Order of 24 August 2007, and an extension of the time limit and the page limit.
5. On 31 August 2007, the Honourable Single Judge issued an ‘Order on the request by the OPCD for access to previous filings and for extension of page and time limit’,¹ in which the Single Judge noted that “only five of the sixty five applications concerning prior proceedings, and for which observations have been previously submitted by the former *ad hoc* counsel for the defence, were subject to the Order of 24 August, namely a/0009/06, a/0018/06, a/0026/06, a/0027/06 and a/0038/06”, and therefore requested the OPCD to clarify the basis for its request for an extension of the page limit and time limit.
6. In response, the OPCD expresses its appreciation to the Single Judge for this point of clarification, and hereby withdraws its request for an extension of the page limit and time limit based on the OPCD’s erroneous calculation of the number of applications.

¹ ICC-01/04-383

7. The OPCD nonetheless respectfully maintains its request for access to all filings which concern the applications which are the subject of dispositive section of the Order of 24 August 2007, namely, applications a/0009/06, a/0018/06, a/0026/06, a/0027/06 and a/0038/06, and reiterates its proposition that if necessary, any extraneous information concerning other applications could be redacted from these filings.
8. The OPCD further respectfully requests that the deadline for filing the OPCD's observations be stayed pending the Single Judge's adjudication of the OPCD's request for access to filings.
9. Finally, the OPCD respectfully requests the assistance of the Honourable Single Judge in relation to the following matter. In the Order of 24 August 2007, the Single Judge observed that the Registrar had requested further information from Applicants a/0009/06, a/0018/06, a/0026/06, a/0027/06, a/0038/06, a/0144/06, a/0145/06, a/0148/06, a/0203/06, a/0214/06, a/0220/06, a/0221/06, a/0224/06, a/0227/06, a/0228/06, a/0229/06, a/0230/06, a/0231/06, a/0232/06, a/0233/06, a/0234/06; a/0235/06; a/0237/06, a/0238/06, a/0242/06, a/0243/06, a/0244/06, a/0245/06, a/0246/06, a/0247/06, a/0248/06, a/0249/06 and a/0250/06, and that "these further information received pursuant to regulation 86 (4) of the Regulations, although brought to the attention of the Chamber through the Reports, has not been appended to the related Applications and transmitted to the Prosecution and to the defence".²
10. In its filings of 3 September 2007, the Registry stated that it had not received any further information from applicants a/0027/06 and a/0144/06. The Registry therefore did not transmit the application of a/0027/06.³
11. The OPCD therefore respectfully requests the Honourable Single Judge to confirm whether any additional information was provided to the Chamber with respect to applicants a/0027/06 and a/0144/06.

Relief Sought:

12. In light of the aforementioned submissions, the OPCD respectfully requests the Honourable Single Judge to:

² At page 5.

³Transmission au Bureau du Procureur et au Bureau du Conseil public pour la Défense d'informations supplémentaires sur des demandes de participation, en application de l'ordonnance de la Chambre préliminaire I du 24 août 2007, ICC-01-4-384-Conf-Exp at pp. 2-3.

- i. disregard the OPCD's request for an extension of the page limit and time limit;
- ii. order the Registry to transmit any court filings pertaining to the applications which are the subject of the Order of 24 August 2007;
- iii. suspend the deadline for filing observations pending a judicial determination as to the OPCD's request for access to court filings; and
- iv. confirm whether any additional information was provided to the Chamber with respect to applicants a/0027/06 and a/0144/06.



Xavier-Jean Keïta
Principal Counsel of the OPCD

Dated this 4th day of September 2007

At The Hague

The Netherlands