



Original : English

No.: ICC-01/04
Date: 3 October 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

Decision on the request for clarification by the OPCD

The Office of the Prosecutor

Mr Luis Moreno Ocampo, Prosecutor

Mrs Fatou Bensouda, Deputy Prosecutor

Mr Ekkehard Withopf, Senior Trial
Lawyer

Legal Representatives of the Applicants

Ms Carine Bapita Buyangandu

Mr Sylvestre Bismwa

Mr Michael Verhaeghe

Mr Joseph Keta

**Office of Public Counsel for the
Defence**

Mr Xavier-Jean Keïta, Principal Counsel

Office of Public Counsel for Victims

Mrs Paolina Massidda, Principal Counsel

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

NOTING the “*Order concerning the transmission of further information on victims’ applications*” rendered by the Single Judge on 24 August 2007 (“the Order”)¹, by which the Single Judge: (i) ordered the Victims Participation and Reparations Section (“VPRS”) to extract from the reports submitted to the Chamber pursuant to Regulation 86(4) of the Regulations of the Court the further information related to a number of applications, and to transmit them to the OPCD and Prosecution together with a copy of the applications concerned; and (ii) gave the OPCD and the Prosecution ten days from the notification of the further information to submit observations on these applications;

NOTING the “Request for access to previous filings and an extension of the page limit” submitted by the OPCD on 29 August 2007, by which the OPCD requested *inter alia* to have access to all previous filings concerning the applications referred to in the Order;²

NOTING the “Decision on the request by the OPCD for access to previous filings” (“the Decision”)³ rendered by the Single Judge on 11 September 2007, whereby the Single Judge granted the OPCD access to the confidential filings strictly related to the applications subject to the Order of 24 August 2007;

¹ ICC-01/04-376.

² ICC-01/04-379.

³ ICC-01/04-389.

NOTING the “Request for Clarification” (“the Request”)⁴ submitted by the OPCD on 12 September 2007, whereby the OPCD requests the Single Judge to clarify the scope of some statements contained in the Decision, namely:

- i. that the mandate of the OPCD is not a continuation of the mandate of the former ad hoc counsel for the defence (as regards the specific applications which were transmitted to the OPCD pursuant to the Order of 24 August 2007);
- ii. that “only the Chamber can decide whether to allow parties to disclose confidential information regarding victims and witnesses”; and,
- iii. that the OPCD should abstain from directly contacting ad hoc counsel for the Defence.

NOTING article 21(1)(a) and (2) of the Rome Statute (“the Statute”);

CONSIDERING that the Statute, the Rules of Procedure and Evidence and the Regulations of the Court do not provide for request for clarification to be submitted before the Court; and that only in exceptional circumstances where clarification is necessary will this Chamber allow it⁵;

CONSIDERING that in its Request the OPCD expresses concern regarding the scope of the Decision and seeks clarification from the Single Judge on the aforementioned statements taking them away from the overall context of the Decision;

⁴ ICC-01/04-390.

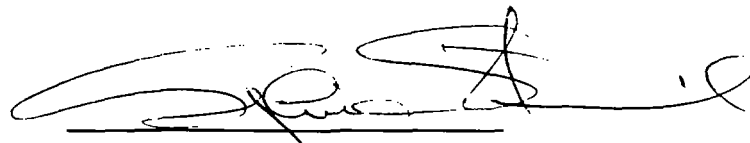
⁵ ICC-01/06-01/06-376-Corr, p. 4.

CONSIDERING that the statements, if read properly, within the context of the entire Decision and within the context of the Chamber's previous decisions are clear and do not require further clarification;

FOR THESE REASONS,

REJECTS the request for clarification submitted by OPCD.

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



Judge Sylvia Steiner
Single judge

Dated this Wednesday 3 October 2007

At The Hague, The Netherlands.