

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No: ICC-01/04-01/07
Date: 16 October 2007

PRE-TRIAL CHAMBER I

Before: Judge Akua Kuenyehia, Single Judge

Registrar: Mr Bruno Cathala

**SITUATION IN THE DEMOCRATIC REPUBLIC OF CONGO
IN THE CASE OF
*THE PROSECUTOR v. GERMAIN KATANGA***

**Under seal
Ex parte only available to the Office of the Prosecutor**

URGENT

**Order relating to the Formatted and Redacted Formatted Versions of the
Prosecution Application for a Warrant of Arrest**

The Office of the Prosecutor
Mr Luis Moreno Ocampo
Mrs Fatou Bensouda
Mr Éric MacDonald

I, Judge Akua Kuenyehia, judge at the International Criminal Court (the “Court”);

NOTING the “Decision Requesting the Prosecution to Provide a Formatted Version of the Prosecution Requests of 22 and 25 June 2007 and Convening a Hearing,” issued by the Single Judge on 29 June 2007;¹

NOTING the Warrant of Arrest for Germain Katanga, issued by Pre-Trial Chamber I (“the Chamber”) on 2 July 2007;²

NOTING the “*Ordonnance relative à l’exécution du mandat d’arrêt à l’encontre de Germain Katanga*” issued by Pre-Trial Chamber I on 2 July 2007;³

NOTING the *ex parte* hearing held by the Single Judge in closed session with the Prosecution and the Representatives of the Victims and Witnesses Unit (“the VWU”) on 4 July 2007;

NOTING the “Urgent Request for the Formatting of the Arrest Warrant issued against Germain Katanga”⁴ (“the Prosecution Urgent Request”), filed by the Prosecution on 5 July 2007;

NOTING the “Decision on the evidence and information provided by the Prosecution for the issuance of a warrant of arrest for Germain Katanga”⁵ (“the Decision”), issued by the Chamber on 6 July 2007;

¹ICC-01/04-355-Conf.-Exp.

²ICC-01/04-01/07-1-US.

³ICC-01/04-01/07-2-US.

⁴ICC-01/04-01/07-3-US

NOTING the “Decision Rejecting the Prosecution Urgent Request and Establishing a Calendar for the Disclosure of the Supporting Materials of the Prosecution Application for a Warrant of Arrest against Germain Katanga”⁶ (“Decision Establishing the Calendar on Disclosure”) issued by the Single Judge on 6 July 2007;

NOTING the “Prosecution’s Request for the Variation of the Calendar for the Submission of a Formatted Version of the Arrest Warrant and Redacted Witness Statements”⁷ filed by the Prosecution on 10 July 2007;

NOTING the “Decision Altering the Calendar for the Submission of Formatted Version of the Arrest Warrant Application and Redacted Witness Statements”⁸ issued by the Single Judge on 10 July 2007;

NOTING the “Submission of Formatted and Redacted Formatted Version of the Arrest Warrant Application”⁹ (“the Prosecution’s Submission of Formatted Versions”) filed by the Prosecutor on 18 July 2007;

NOTING the “Prosecution’s Request for the Variation of the Calendar for Requesting Redactions to Statements or Interview Notes of Witnesses”¹⁰ filed by the Prosecution on 24 August 2007;

⁵ ICC-01/04-01/07-4-US.

⁶ ICC-01/04-01/07-5-US-Exp.

⁷ ICC-01/04-01/07-7-US-Exp.

⁸ ICC-01/04-01/07-9-US-Exp.

⁹ ICC-01/04-01/07-11-US-Exp.

¹⁰ ICC-01/04-01/07-15-US-Exp.

NOTING the “Decision of the Prosecution’s Request for the Variation of the Calendar for Requesting Redactions to Statements or Interview Notes of Witnesses”¹¹ issued by the Single Judge on 29 August 2007;

NOTING the “Information on the Status of the Referrals and on the Assessments”¹² filed by the Registry on 13 September 2007;

NOTING articles 57, 67 and 68 of the Rome Statute (“the Statute”) and rules 76 to 83 and 121(1) of the Rules of Procedure and Evidence (“the Rules”);

CONSIDERING that in the Decision Establishing the Calendar on Disclosure, the Single Judge decided that the unredacted formatted version of the Prosecution Application for a warrant of arrest shall only expunge the information identifying the fact that the Prosecution Application for a warrant of arrest is not limited to Germain Katanga;

CONSIDERING that the formatted version of Annex 6 of the Prosecution Application for a warrant of arrest does not comply with the Decision Establishing the Calendar on Disclosure insofar as it removes the dialogue box containing the names of the *Front des Nationalistes et Integrationnistes* (“the FNI”) camps and FNI commanders, and thus leaving only the names of the camps and commanders names of the *Force de résistance patriotique en Ituri* (“the FRPI”);

CONSIDERING that the Single Judge rejected the Prosecution Urgent Request to format the warrant of arrest for Germain Katanga in order to remove all references to the *Front des Nationalistes et Integrationnistes* or the FNI because “there are reasonable

¹¹ ICC-01/04-01/07-17-US-Exp.

¹² ICC-01/04-01/07-19-US-Exp.

grounds to believe that the attack on Bogoro was the object of a common plan by Germain Katanga and other senior FRPI and FNI commanders; that the warrant of arrest for Germain Katanga is based on his alleged responsibility as a co-perpetrator for the crimes committed during and in the aftermath of the attack on Bogoro; and that authorizing the type of redactions proposed by the Prosecution would infringe the rights of Germain Katanga under article 67(2) of the Statute insofar as it would prevent him from having access to a key component of the case against him”;¹³

CONSIDERING further that in paragraph 2, footnote 4 of the Prosecution’s Submission of Formatted Versions, the Prosecution expressly stated that it can provide the Chamber “a formatted version showing the track changes from the Arrest Warrant Application”;

CONSIDERING that, since the Prosecution’s Submission of Formatted Versions on 18 July 2007, a number of protective measures have been adopted, and in some instances implemented, in relation to witnesses whose statements are annexed to the Prosecution Application for a warrant of arrest;

FOR THESE REASONS

ORDER the Prosecution to submit, by Wednesday 17 October 2007 at 16h00, the formatted version of the Prosecution Application for a warrant of arrest showing the track changes;

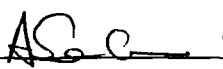
ORDER the Prosecution to revise the redactions proposed to the Redacted Formatted Version of the Prosecution Application for a warrant of arrest in light of the

¹³ ICC-01/04-01/07-5-US-Exp, page 4.

protective measures adopted and implemented since 18 July 2007; and to accordingly amend the Prosecution's proposed Redacted Formatted Version of the Prosecution Application at the latest by Wednesday 17 October 2007 at 16h00;

ORDER the Prosecution to reinstate the names of the FNI camps and FNI commanders in Annex 6 of the Formatted Version of the Prosecution Application for a warrant of arrest.

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



Judge Akua Kuenyehia
Single Judge

Dated this Tuesday 16 October 2007

At The Hague

The Netherlands