



Original: French

**No.: ICC-01/04-01/07
Date: 13 November 2007**

PRE-TRIAL CHAMBER I

Before: Judge Akua Kuenyehia, Presiding Judge
Judge Anita Ušacka
Judge Sylvia Steiner

Registrar: Mr Bruno Cathala

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

Public Document

**Decision Appointing Mr Jean Pierre Fofé as Duty Counsel for Mr Germain
Katanga**

The Office of the Prosecutor
Mr Luis Moreno Ocampo
Ms Fatou Bensouda
Mr Eric MacDonald

Duty Counsel for Mr Katanga
Mr Jean Pierre Fofé

THE REGISTRAR of the International Criminal Court,

PURSUANT to article 67(1) of the *Rome Statute*;

PURSUANT to rules 21 and 22 of the *Rules of Procedure and Evidence*;

PURSUANT to regulations 67, 73 and 75 of the *Regulations of the Court*;

NOTING the document entitled “*Désignation de conseil de permanence*”, filed by the Registrar on 19 October 2007, by which Mr Germain Katanga appointed the Office of Public Counsel for the Defence as his duty counsel;¹

NOTING the decision of Pre-Trial Chamber I of 5 November 2007 on the appointment of a duty counsel,² which ordered the Registrar to appoint, as soon as possible and in consultation with Germain Katanga, a new duty counsel to represent him until he exercises his right to choose a counsel under article 67(1) of the Statute;

CONSIDERING that on 6 November 2007 Mr Germain Katanga sought legal assistance paid by the Court by submitting to the Registry an application in a language other than one of the working or official languages of the Court;

CONSIDERING that, that same day, Mr Katanga sent to the Registry a letter in a language other than one of the working or official languages of the Court, by which it appears that he wishes to be represented by a specific counsel;

CONSIDERING that Mr Germain Katanga’s submission of the information related to his application for legal assistance paid by the Court in a language other than one of the working or official languages of the Court does not facilitate the Registry’s review of the said application;

¹ ICC-01/04-01/07-39-Anx1.

² ICC-01/04/01-07-52.

CONSIDERING that it seems as if the counsel chosen by Mr Katanga may obviously have language problems in communicating with Mr Katanga, inasmuch as Mr Katanga maintains that he is not proficient in French and is able to communicate only in Lingala, whereas the information contained in the file of the chosen counsel indicates that the said counsel is not proficient in French and neither speaks nor understands Lingala;

CONSIDERING that following his letter of 9 November 2007 and at the meetings of 12 November 2007, the Registry drew Mr Katanga's attention, in the interests of the rights of the defence and the proper administration of justice, to the significant language communication problems which might arise with the prospective counsel and to the existence on the list of counsel authorised to act before the Court of counsel who have indicated a perfect mastery of French and Lingala;

CONSIDERING that, to date, Mr Katanga has yet to confirm his choice of counsel as the Registry invited him to do in the letter of 9 November 2007 and thereafter at the two meetings of 12 November 2007 with representatives of the Registry on this matter;

CONSIDERING that during those same meetings of 12 November 2007, Mr Katanga's opinion was sought on the possibility of appointing a duty counsel and that he appeared reluctant to be assisted again by a duty counsel;

CONSIDERING that pending finalisation of the appointment of Mr Katanga's counsel to represent him in the proceedings before the Court, it is in the interests of justice and the rights of the defence that a duty counsel assist him provisionally;

CONSIDERING that the Registry has been able to identify among the counsel authorised to act before the Court a counsel who fulfils all of the required criteria under rule 22 of the *Rules of Procedure and Evidence* and regulation 67 of the

Regulations of the Court and who indicated proficiency in French and Lingala and defence experience before the international criminal courts;

CONSIDERING that that counsel, Mr Jean Pierre Fofé, has indicated his availability to act immediately before the Court as duty counsel;

CONSIDERING further that Mr Jean Pierre Fofé resides in France, thereby fulfilling the criterion of geographical proximity;

CONSIDERING, moreover, that Mr Jean Pierre Fofé fulfils all of the conditions for acting before the Court, that he has defence experience before the international criminal courts and that he has a perfect mastery of French and Lingala;

For these reasons,

DECIDES:

Pursuant to regulation 73(2) of the *Regulations of the Court*, to appoint Mr Jean Pierre Fofé as duty counsel to represent Mr Germain Katanga until the appointment of his counsel under article 67(1) of the Statute is finalised.

Notifies this decision to Mr Germain Katanga and Mr Jean Pierre Fofé, Duty Counsel;

[signed]
The Registrar
Bruno Cathala

Dated this 13 November 2007

At The Hague