

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No: ICC-01/04-01/07
Date: 13 December 2007

PRE-TRIAL CHAMBER I

Before: Judge Sylvia Steiner, Single judge

Registrar: Mr Bruno Cathala

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

Public Redacted Version

**Corrigendum to the Decision Establishing Time Limits for Decisions on Protective
Measures and Requests for Redactions**

The Office of the Prosecutor

Mr Luis Moreno Ocampo, Prosecutor
Mrs Fatou Bensouda, Deputy Prosecutor
Mr Éric MacDonald, Trial Lawyer
Mrs Florence Darques-Lane, Legal Adviser

Counsel for the Defence

Mr David Hooper

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

NOTING the initial appearance of Germain Katanga held on 22 October 2007, in which the date of the confirmation hearing in the case of *The Prosecutor v. Germain Katanga* was set for 28 February 2007;¹

NOTING the “Decision Modifying the Calendar for the Disclosure of the Supporting Materials of the Prosecution Application for a Warrant of Arrest against Germain Katanga” issued by the Single Judge on 18 October 2007;²

NOTING the oath taken by Defence Counsel on 6 December 2007;³

NOTING the “First Decision on the Prosecution Request for Authorization to Redact Witnesses Statements” (“the First Decision on Redactions”)⁴ by which the Single Judge partially granted the Prosecution’s request for authorisation to redact information in the interview notes and statements of witnesses 1, 3, 7, 8, 12, 13 and 14, and ordered the Prosecution to disclose such interview notes and statements to the Defence by 12 December 2007;

NOTING the “Prosecution’s Application for Leave to Appeal and Urgent Application for Confined Variation of the First Decision on Redaction of Witness Statements” filed by the Prosecution on 10 December 2007;⁵

¹ ICC-01-04-01-07-T5-ENG, p. 29, line 12.

² ICC-01/04-01/07-28-Conf.

³ ICC-01/04-01/07-85 and ICC-01/04-01/07-85-AnxI-II.

⁴ ICC-01/04-01/07-84-US-Exp, filed on 3 December 2007, and its “confidential, ex parte only available to Office of Prosecution and the Defence” version, ICC-01/04-01/07-88-Conf.Exp., issued on 6 December 2007, and its “public redacted version”, ICC-01/04-01/07-90, filed on 7 December 2007.

⁵ ICC-01/04-01/07-92-Conf.

NOTING the “Decision on the Urgent Request for Confined Variation of the First Decision on Redactions” (“the Decision on the Urgent Application”)⁶ issued by the Single Judge on 11 December 2007;

NOTING the hearing held *ex parte* and in closed session with the Prosecution and the Representatives of the Victims and Witnesses Unit (“the VWU”) on 10 December 2007 (“the Hearing of 10 December 2007”);

NOTING article 61 of the Rome Statute (“the Statute”) and rules 76 to 83 and 121 of the Rules of Procedure and Evidence (“the Rules”);

CONSIDERING that interview notes and statements of witnesses 1, 3, 7, 8, 12, 13 and 14 will be disclosed to the Defence in the manner authorised by the First Decision on Redactions and the Decision on the Urgent Application by 13 December 2007 at 16.00 hours;

CONSIDERING that, at the Hearing of 10 December 2007, the Prosecution explained that (i) Witness 4 does not wish for his statement to be used as evidence against Germain Katanga for the purpose of the confirmation hearing; (ii) therefore, the Prosecution will not rely on the statement of Witness 4 for the purpose of the confirmation hearing; and (iii) the Prosecution will file, as soon as possible, a request for authorisation for redactions to the statement of Witness 4 in order to be disclosed to the Defence pursuant to rule 77 of the Rules;

CONSIDERING that, at the Hearing of 10 December 2007, the Prosecution explained that it intended to rely at the confirmation hearing on the interview notes and statements of Witness 2, Witness 5, Witness 6, Witness 9, Witness 10, Witness 11, Witness [REDACTED], Witness [REDACTED], Witness [REDACTED], [REDACTED]

⁶ ICC-01/04-01/07-94.

and, perhaps, one more witness who will be [REDACTED] and one or two additional witnesses of [REDACTED] who are [REDACTED];

CONSIDERING that Witness 9 has already been [REDACTED]; and that the Prosecution has already filed its request for redactions;

CONSIDERING that, at the Hearing of 10 December 2007, the VWU explained that the problems regarding the [REDACTED] to Witness 11 had been solved; and that the Prosecution has already filed its request for redactions;

CONSIDERING that, at the Hearing of 10 December 2007, the VWU explained that a [REDACTED] to Witness 2 in the coming days; and that the Prosecution has already filed its request for redactions;

CONSIDERING that, at the Hearing of 10 December 2007, the VWU explained that a [REDACTED] to Witness 10;

CONSIDERING that, at the Hearing of 10 December 2007, the VWU explained that Witness [REDACTED] and Witness [REDACTED] have already been assessed by the VWU;

CONSIDERING that at the Hearing of 10 December 2007, the Prosecution explained that the VWU has rejected the referral of Witness [REDACTED]; and that the Prosecution has requested the Registrar to reconsider such a decision;

CONSIDERING that, in the view of the Single Judge, absent unforeseen exceptional circumstances, the Registrar is in a position to (i) to complete by 10 January 2008 the implementation of those protective measures already granted to witnesses 2, 10 and 11; (ii) decide by 10 January 2008 on those pending applications for protective measures relating to Witness [REDACTED], and Witness [REDACTED], who have

been already assessed by the VWU; (iii) decide by 10 January 2008 on the Prosecution's request to reconsider his decision in relation to Witness [REDACTED]; and (iv) to complete by 25 January 2008 the implementation of those protective measures, if any, granted pursuant to his decision under (ii) and (iii);

CONSIDERING, therefore, that the only witnesses on which the Prosecution may intend to rely at the confirmation hearing, and who have not been assessed yet by the VWU are Witness [REDACTED], Witness [REDACTED] and those two or three potential witnesses who are [REDACTED], or who are [REDACTED];

CONSIDERING that, at the Hearing of 10 December 2007, the VWU informed the Single Judge that the next mission to assess Prosecution witnesses located [REDACTED] is scheduled to take place in the [REDACTED] 2008; and that, therefore, the requests for protective measures concerning these witnesses cannot be decided upon before 10 January 2008 and those protective measures granted, if any, cannot be implemented before 25 January 2008;

CONSIDERING that, according to article 61(3) of the Statute and rule 121 of the Rules, except as provided for in rule 121(4) and (5) of the Rules, the Defence shall have access to the evidence on which the Prosecution intends to rely at the confirmation hearing 30 days prior to the commencement of the hearing; and that such a deadline expires on 29 January 2008;

CONSIDERING, therefore, that all requests for authorisation to redact information in the interview notes and statements of those witnesses on which the Prosecution intends to rely at the confirmation hearing, and in any other item of evidence on which the Prosecution intends rely at such a hearing, must be decided upon prior to 29 January 2008; and that in order for the Single Judge to properly assess the Prosecution requests for authorisation for redactions, they must be made, at least, two weeks before 29 January 2008;

CONSIDERING that, by 10 January 2008, the Registry must inform the Single Judge and the Prosecution about (i) whether the implementation of the protective measures already granted to witnesses 2, 10 and 11 has been completed; (ii) which protective measures, if any, have been granted to Witness [REDACTED], Witness [REDACTED] and Witness [REDACTED]; and (iii) whether the implementation of such protective measures will be completed by 25 January 2007;

CONSIDERING that, once the above-mentioned information is given to the Prosecution, the Prosecution will be in a position to finalise its requests for redactions pursuant to rule 81 of the Rules;

FOR THESE REASONS

ORDER the Registrar to implement by 10 January 2008 those protective measures already granted to witnesses 2, 10 and 11;

ORDER the Registrar to decide by 10 January 2008 on the pending requests for protective measures for Witness [REDACTED], and Witness [REDACTED];

ORDER the Registrar to decide by 10 January 2008 on the Prosecution's request for reconsideration of his decision in relation to Witness [REDACTED];

ORDER the Registrar to inform the Single Judge and the Prosecution by 10 January 2008 of those protective measures, if any, granted to Witness [REDACTED], Witness [REDACTED] and Witness [REDACTED];

ORDER the Registrar to implement by 25 January 2008 all protective measures, if any, granted in relation to Witness [REDACTED], Witness [REDACTED] and Witness [REDACTED];

ORDER the Registrar to bring to the attention of the Single Judge and the Prosecution as soon as practicable, and no later than 10 January 2008, any unforeseen exceptional circumstances that might prevent the Registrar from complying with the deadlines set out in the present decision;

DECIDE that, except for those cases falling under rule 121(4) and (5) of the Rules, all requests for authorisation to redact information in the evidence on which the Prosecution intends to rely at the confirmation hearing shall be made at the latest by Monday 14 January 2008 at 16.00 hours.

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



Judge Sylvia Steiner
Single judge

Dated this Thursday 13 December 2007

At The Hague (the Netherlands)