

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original : English

N° : ICC-01/04-01/07
Date : 14 January 2008

PRE-TRIAL CHAMBER I

Before : Judge Sylvia Steiner, Single Judge

Registrar : Mr Bruno Cathala

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

Confidential

**Motion Requesting Rights of Audience for Members of Mr. Katanga's Defence
Team during a Status-Conference in absence of the Lead Counsel**

The Office of the Prosecutor

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

Defence for Mr. Katanga

Mr David Hooper
Mr Göran Sluiter
Ms Caroline Buisman

1. Lead Defence Counsel for Mr. Katanga regrets to inform Pre-Trial Chamber I that he cannot be present during the Status Conference initially scheduled for 15 January 2008 but re-scheduled for 21 January 2008. Defence Counsel has a prior commitment as Co-Counsel in a Defence team representing an accused before the International Criminal Tribunal for Rwanda (« ICTR »). At present, he is in Arusha, Tanzania, for the purpose of attending the final session of the Prosecution's case. Counsel has the role, as an experienced trial lawyer, of cross examining the remainder of the prosecution witnesses. It would, therefore, have been impossible for him to cancel his attendance in Arusha for this session.
2. As he also emphasised during the Status Conference of 14 December 2007, Counsel is well aware of the obligations he has to the International Criminal Court (« ICC »). Given that the ICTR case he is involved in as Co-Counsel is at its close and that he has very clear agreements with the Lead Counsel in that case, Counsel does not anticipate that his ICTR commitment will create any future difficulty in respect of the case against Mr. Katanga. Upon completion of this session in Arusha, his primary function there will have been discharged and Mr. Katanga's case will be his priority.
3. In order not to delay the proceedings and as an exceptional measure, Lead Counsel for Mr. Katanga, Mr. David Hooper, fully authorises Professor Göran Sluiter, newly appointed legal consultant in the Katanga Defence team, assisted by Ms Caroline Buisman, legal assistant, to represent Mr. Katanga during the Status Conference on 21 January 2008 on his behalf. Counsel requests Pre-Trial Chamber I to approve this authorisation and allow the proposed representation of Mr. Katanga by these members of Mr. Katanga's defence team during the said Status Conference. For that purpose, Counsel for Mr. Katanga requests that both Professor Göran Sluiter and Ms Caroline Buisman be granted rights of audience during the said Status Conference.
4. Professor Göran Sluiter and Ms Caroline Buisman are both fully qualified to represent Mr. Katanga during the above Status Conference. Professor Göran Sluiter is an expert in international criminal law. Not only is this his specialisation at the University of Amsterdam and has he written many articles and books on the topic, he is also a judge before a Special Chamber in The Netherlands dealing exclusively with cases with an international criminal character. Ms Caroline Buisman is highly experienced in the field of international criminal law due to her involvement in Defence cases before the ICTR, the International Criminal Tribunal for the former Yugoslavia ("ICTY"), the

Special Court for Sierra Leone (“SCSL”), and now the ICC. Therefore, they are both fully capable of serving Mr. Katanga’s best interests.

5. There is precedent in support of this request. Both Pre-Trial Chamber I and the Trial Chamber have permitted legal assistants to appear in Court, and present oral observations notwithstanding the absence of counsel.¹
6. The Appeals Chamber, moreover, although clearly distinguishing between the qualifications of Counsel and assistants, both in terms of legal expertise and years of experience, left open the possibility for legal assistants to stand in for Counsel on the authorisation of the latter.² As aforementioned, Lead Counsel for Mr. Katanga, Mr. David Hooper, fully authorises both Professor Göran Sluiter and Ms Caroline Buisman to represent him during the Status Conference on 21 January 2008.
7. Mr. Katanga is fully informed of the situation and has given his consent. On these grounds, Counsel prays Pre-Trial Chamber I to grant this request. Provided that Pre-Trial Chamber I will indeed grant the request, Counsel also requests that Mr. Katanga’s legal team be provided with a list of topics that will be discussed during the Status Conference on 21 January 2008 and the specific questions, if any, that will be addressed to the Defence of Mr. Katanga. Such information well in advance of the Status Conference would greatly facilitate the task of legal representation by the legal consultant and legal assistant and would allow them to thoroughly discuss these items with the Lead Counsel.
8. Counsel apologises for any inconvenience his absence may cause to Pre-Trial Chamber I. Counsel strongly hopes that Pre-Trial Chamber I will accommodate the Defence and grant the request. Given the fact that this Motion concerns the management of Mr. Katanga’s Defence team and Counsel’s other commitments, which are of no concern or interest to the public at large, it has been filed on a confidential basis.

¹ *Prosecutor v. Thomas Lubanga Dyilo*, ICC-01/04-01/06-T-65-ENG ET WT 13-12-2007 1/22 NB T, Transcript of 13 December 2007.

² *Prosecutor v. Thomas Lubanga Dyilo*, Appeals Chamber’s Decision of 22 February 2007, ICC-01/04-01/06-834 21-02-2007 1/9 CB PT OA8, para. 124.

Respectfully submitted,



Mr David Hooper, Defence Counsel

The 14th day of January 2008
At Arusha, Tanzania