

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-01/07 (OA)

Date: 18 January 2008

THE APPEALS CHAMBER

Before: Judge Philippe Kirsch, Presiding Judge
Judge Georgios M. Pikis
Judge Navanethem Pillay
Judge Sang-Hyun Song
Judge Erkki Kourula

Registrar: Mr. Bruno Cathala

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

Public document

Decision on the Prosecution's Request for Leave to Reply

The Office of the Prosecutor

Mr. Luis Moreno-Ocampo, Prosecutor
Mrs. Fatou Bensouda, Deputy Prosecutor
Mr. Fabricio Guariglia, Senior Appeals Counsel
Mr. Eric Macdonald, Trial Lawyer

Counsel for the Defence

Mr. David Hooper
Ms. Caroline Buisman

The Appeals Chamber of the International Criminal Court,

In the appeal of the Prosecutor against the decision entitled “First Decision on the Prosecution Request for Authorisation to Redact Witness Statements” (public redacted version dated 7 December 2007, ICC-01/04-01/07-90),

Having before it the “Prosecution’s Request for Leave to Reply to Defence Response to Confidential Prosecution’s Document in support of Appeal against the First Decision on the Prosecution Request for Authorisation to Redact Witness Statements” (ICC-01/04-01/07-144) (hereinafter “Prosecution’s Request for Leave to Reply”)

Renders unanimously the following

DECISION

The Prosecution’s Request for Leave to Reply is denied.

REASONS

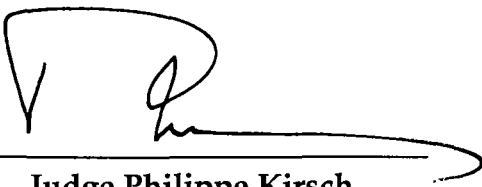
1. This appeal is brought by the Prosecution pursuant to rule 155 of the Rules of Procedure and Evidence (“the Rules”).
2. On 15 January 2008, the Appeals Chamber received the present application from the Prosecution, requesting leave to reply to one aspect of the Defence response to the Prosecution’s document in support of the appeal.¹ The Prosecution made this request pursuant to regulation 24(5) of the Regulations of the Court (“the Regulations”).
3. The Appeals Chamber refers to its “Decision on the Prosecutor’s “Application for Leave to Reply to ‘Conclusions de la défense en réponse au mémoire d’appel du Procureur’”” of 12 September 2006 (ICC-01/04-01/06-424). In that Decision the Appeals

¹ ICC-01/04-01/07-144. The Prosecution wished to counter an argument raised by the Defence that the Prosecution should not be permitted to raise an allegation before the Appeals Chamber for which, in the contention of the Defence, leave to appeal had not been requested.

Chamber held that an appellant does not have a right to apply for leave to reply to a participant's response to the document in support of the appeal pursuant to regulation 24(5) of the Regulations in appeals brought under rule 154 or 155 of the Rules.² The Prosecution's present application therefore cannot be entertained.

4. The Appeals Chamber also does not deem it necessary to order, pursuant to regulation 28 of the Regulations,³ any further submissions from the Prosecution on the matter in relation to which leave to reply was sought.

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



Judge Philippe Kirsch
Presiding Judge

Dated this 18th day of January 2008

At The Hague, The Netherlands

² ICC-01/04-01/06-424, paragraphs 5 and 6.

³ See ICC-01/04-01/06-424, paragraph 7.