

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

No.: ICC-01/04-01/07
Date: 24 January 2008

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

Prosecution's Submission of Information on Witness Protection

The Office of the Prosecutor

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

Counsel for the Defence

Mr. David Hooper
Ms. Caroline Buisman

The Office of the Prosecutor ("Prosecution") submits the following Information on Witness Protection to inform the Single Judge of the Prosecution's views and intentions on the issue. The Prosecution respectfully submits that, although witness protection remains at this stage one of its primary challenges in preparation of the confirmation hearing, the Prosecution nevertheless intends to file the document containing the charges and its list of evidence according to the timetable set by the Pre-Trial Chamber.¹

Prosecution's Views and Intentions

1. The Prosecution submits that in order to fulfil its duty to protect the [REDACTED] witnesses who are currently not in the protection program ("ICCPP"), it has reviewed and will continue to review each statement, and assesses in each case the possible measures that will have to be taken to protect the witness. This is done by actively looking into a number of available solutions in consultation with the Victims and Witnesses Unit ("VWU") as provided for in the Statute. In order to implement such measures, however, the Prosecution relies on the services provided by the VWU.²

¹ ICC-01/04-01/07-103, p. 5.

² The OTP is granted no budget specifically dedicated to the protection of witnesses. This is a decision taken by States Parties, pursuant to the principle expressed on different occasions by the CBF, that there is a need to avoid duplication of activities between the three organs of the Court and to integrate services and accepted increases in the area of victim and witnesses because they are servicing directly the Chamber's proceedings and the OTP. CBF Report April 2004 (ICC-ASP/3/22) - Duplication in the area of administration: "25. The Committee expressed concern over a certain fragmentation between the three Organs and the apparent lack of unanimity on a strategy to centralize administrative duties in the Registry, which may result in the possible duplication of activities"; CBF Report August 2004 (ICC-ASP/3/18) - Duplication in the areas of administration and outreach: "12. A common administrative strategy has not yet been fully achieved and duplication of functions still exists beyond those areas where it might be warranted by independence considerations. The Committee expects the Court, under the leadership of its President, to continue battling fragmentation and upholding the "One Court" principle." ...There appeared to be a mindset of independence in each of the organs which inhibited cooperation on a holistic strategy for the Court and which could lead to duplication of efforts. CBF Report October 2005 (ICC-ASP/4/27) - Statement of the CBF re the service of VWU for OTP: "48. The Committee concluded that increases in certain areas are necessary for the effective functioning of the Court, in particular in those Sections servicing directly the pre-trials and trials proceedings and the activities and operations of the Office of the Prosecutor in the field, such as security, information and communication technologies, court management interpretation and translation, and victims and witnesses."

2. The VWU has so far rejected the applications of [REDACTED] witnesses³ and decisions are pending for [REDACTED] other witnesses the Prosecution intends to rely on for the purposes of the Confirmation Hearing.⁴ The implementation of the ICCPP is pending for [REDACTED] witnesses the Prosecution intends to rely on for the purposes of the Confirmation Hearing.⁵ The Prosecution assesses that all those witnesses require protection.
3. The Prosecution will propose, as an alternative protective measure to the ICCPP, redactions to the statements of [REDACTED] witnesses for whom a decision from the Registrar is pending or the implementation of the protective measures is not completed.⁶
4. For [REDACTED] witnesses, proposed redactions have already been submitted while a decision from the Registrar was pending.⁷
5. The Prosecution submits that redactions to the statements of [REDACTED] witnesses out of the [REDACTED] mentioned above, is not possible.⁸ The Prosecution is currently discussing with the Registrar the inclusion of these [REDACTED] witnesses into the ICCPP or the implementation of alternative measures such as preventative resettlement, with financial assistance.
6. The Prosecution will request a hearing with the Single Judge, if by Friday 25 January 2008, the issue regarding the protection of the [REDACTED] witnesses referred to above is not resolved with the Registrar.

³ [REDACTED].

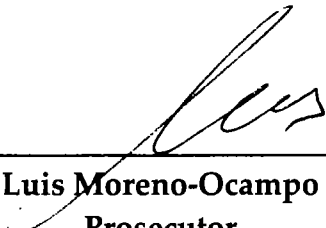
⁴ [REDACTED].

⁵ [REDACTED].

⁶ [REDACTED].

⁷ [REDACTED].

⁸ [REDACTED].



Luis Moreno-Ocampo
Prosecutor

Dated this 24th day of January 2008
At The Hague, The Netherlands