

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-01/07

Date: 2 May 2008

PRE-TRIAL CHAMBER I

Before: Judge Sylvia Steiner, Single Judge

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
THE PROSECUTOR
*v. GERMAIN KATANGA AND MATHIEU NGUDJOLO CHUI***

Public Document

**Prosecution's Response to "Demande d'autorisation d'interjeter appel contre la
'Application for Leave to Appeal the Decision on Evidentiary Scope of the
Confirmation Hearing, Preventive Relocation and Disclosure under
Article 67(2) of the Statute and Rule 77 of the Rules'", filed on 29 April 2008**

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

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Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
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Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

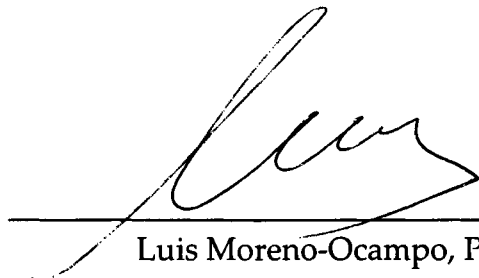
Other

Procedural Background

1. On 18 April 2008, the Single Judge issued the "Decision on Evidentiary Scope of the Confirmation Hearing, Preventive Relocation and Disclosure under Article 67(2) of the Statute and Rule 77 of the Rules" ("the Decision").¹
2. On 29 April 2008, the Defence of Mathieu NGUDJOLO CHUI ("the Defence") sought leave to appeal the Decision.²
3. The Prosecution hereby files its response pursuant to Regulation 65(3).

The Application for Leave to Appeal is out of time

4. The Decision was notified to the Defence on 21 April 2008. As the Defence recognises, the time limit to file any application for leave to appeal therefore expired on 28 April 2008.³
5. Pursuant to the jurisprudence of the Court, no variation may be granted for the time limit to apply for leave to appeal, which is set out in Rule 155(1).⁴
6. The Prosecution therefore requests that the Single Judge deny the Application for Leave to Appeal.



Luis Moreno-Ocampo, Prosecutor

Dated this 2nd day of May, 2008

At The Hague, The Netherlands

¹ ICC-01/04-01/07-411-Conf-Exp. Confidential and public redacted versions of the Decision were issued on 21 April 2008 (ICC-01/04-01/07-423-Conf; ICC-01/04-01/07-428).

² ICC-01/04-01/07-457 ("Application for Leave to Appeal").

³ Application for Leave to Appeal, paras. 8 and 9.

⁴ *Prosecutor v Kony et al*, ICC-02/04-01/05-18-US-Exp, 18 July 2005 (unsealed pursuant to ICC-02/04-01/05-52, 13 October 2005), noting that Regulation 35 only empowers the Chamber to vary a time limit prescribed in the Regulations or an order of the Chamber, whereas the time limit for filing an application for leave to appeal is prescribed in the Rules of Procedure and Evidence. See also *Prosecutor v Katanga*, ICC-01/04-01/07-188, 8 February 2008.