

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 16 June 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 Observations on the Request for Anonymity of Applicants a/0009/08, a/0022/08, a/0038/08, a/0039/08, a/0043/08, a/0044/08, a/0046/08, a/0049/08 to a/0051/08, a/0055/08 to a/0057/08, a/0060/08, a/0061/08, a/0066/08, a/0067/08, a/0070/08, a/0071/08, a/0073/08, a/0076/08 to a/0080/08, a/0083/08, a/0085/08, a/0088/08, a/0090/08, a/0092/08, a/0095/08, a/0096/08, a/0100/08, a/0101/08, a/0103/08, a/0104/08 and a/0110/08

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

Counsel for the Defence of Germain Katanga

Mr David Hooper

Mr Göran Sluiter

Counsel for the Defence of Mathieu Ngudjolo Chui

Mr Jean-Pierre Kilenda Kakengi Basila

Ms Maryse Alié

Legal Representatives of Victims

Ms Carine Bapita Buyangandu

Mr Joseph Keta

Mr Jean-Louis Gilissen

Mr Hervé Diakiese

Mr Jean-Chrisostome Mulamba

Nsokoloni

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 Defence

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Other

The Office of the Prosecutor ("Prosecution") respectfully submits its Observations on the request made by Applicants *a/0009/08, a/0022/08, a/0038/08, a/0039/08, a/0043/08, a/0044/08, a/0046/08, a/0049/08 to a/0051/08, a/0055/08 to a/0057/08, a/0060/08, a/0061/08, a/0066/08, a/0067/08, a/0070/08, a/0071/08, a/0073/08, a/0076/08 to a/0080/08, a/0083/08, a/0085/08, a/0088/08, a/0090/08, a/0092/08, a/0095/08, a/0096/08, a/0100/08, a/0101/08, a/0103/08, a/0104/08 and a/0110/08* for non-disclosure of their identities.

Background

1. On 10 June 2008, the Single Judge issued the "Decision on the 97 Applications for Participation at the Pre-Trial Stage of the Case" (Decision granting the procedural status of victim at the pre-trial stage of the case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* to Applicants *a/0009/08, a/0011/08, a/0012/08, a/0013/08, a/0015/08, a/0016/08, a/0022/08, a/0024/08, a/0025/08, a/0027/08, a/0028/08, a/0029/08, a/0032/08, a/0033/08, a/0034/08, a/0035/08, a/0038/08, a/0039/08, a/0043/08, a/0044/08, a/0046/08, a/0049/08, a/0050/08, a/0051/08, a/0055/08, a/0056/08, a/0057/08, a/0060/08, a/0061/08, a/0066/08, a/0067/08, a/0070/08, a/0071/08, a/0073/08, a/0076/08, a/0077/08, a/0079/08, a/0080/08, a/0083/08, a/0085/08, a/0088/08, a/0090/08, a/0092/08, a/0095/08, a/0096/08, a/0100/08, a/0101/08, a/0103/08, a/0104/08 and a/0110/08* as well as to the person who submitted the applications for participation *a/0078/08 and a/0109/08*) ("Decision").¹

2. In the Decision, the Single Judge requested the Prosecution and the Defence, pursuant to Rule 89(1) of the Rules, to submit observations on the request for anonymity of *a/0009/08, a/0022/08, a/0038/08, a/0039/08, a/0043/08, a/0044/08, a/0046/08, a/0049/08 to a/0051/08, a/0055/08 to a/0057/08, a/0060/08, a/0061/08, a/0066/08, a/0067/08, a/0070/08, a/0071/08, a/0073/08, a/0076/08 to a/0080/08, a/0083/08, a/0085/08, a/0088/08, a/0090/08, a/0092/08, a/0095/08, a/0096/08,*

¹ ICC-01/04-01/07-578-Conf, pp. 51 and 52.

a/0100/08, a/0101/08, a/0103/08, a/0104/08 and a/0110/08 no later than 16 June 2008.²

Prosecution's position

3. In their Applications, Victims *a/0038/08, a/0039/08, a/0060/08, a/0066/08, a/0077/08 and a/0101/08* did not request the non-disclosure of their identities.³ However, in the Decision, the Single Judge gave notice that the Legal Representative of these applicants [...] "do not wish to request anonymity vis-à-vis the Defence Counsels, but request that their identities not to be disclosed to the suspects"⁴. In this respect, the Single Judge decided that their requests for anonymity should be treated as requests for anonymity vis-à-vis the Defences for Katanga and Ngudjolo:

[...] in light of the fact that the above-mentioned applicants maintain their request for anonymity vis-à-vis both suspects, their requests amount to requests for anonymity vis-à-vis the Defences for Germain Katanga and Mathieu Ngudjolo Chui, and shall be treated as such.⁵

4. The Prosecution will therefore consider these Applicants as Applicants requesting anonymity.

Security situation in Ituri and Kinshasa

5. The security situation in Ituri and Kinshasa remains unsafe. The Single Judge in the "Decision on the Set of Procedural Rights Attached to Procedural Status of Victim at the Pre-Trial Stage of the Proceedings" ("Decision on the Set of Procedural Rights") stated:

As the Single Judge has recently affirmed in the Sixth Decision on Redactions, issued on 18 April 2008, the security situation in the DRC,

² ICC-01/04-01/07-578-Conf, pp. 53 and 54.

³ ICC-01/04-01/07-510-Conf.

⁴ ICC-01/04-01/07-578, para. 149.

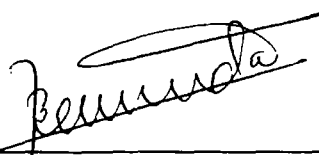
⁵ ICC-01/04-01/07-578, para. 150.

and particularly in the Ituri and Kinshasa areas, remains as volatile as the one described in the First Decision on Redactions.⁶

6. Furthermore, when deciding on the anonymity request of Victim a/0333/07 in the Decision on the Set of Procedural Rights, the Single Judge was of the view that the security situation in the DRC “has repercussions on the range of protective measures currently available and which might be implemented to protect Victim a/0333/07”.⁷ Under these circumstances, the Single Judge considered that:

Victim a/0333/07 can participate in the proceedings effectively only if his anonymity is preserved.⁸

7. The Applicants requesting anonymity live either in Ituri, or in surrounding areas and in Kinshasa. Because of the security situation in these areas, as outlined above, the Prosecution does not oppose the anonymity request of Victims a/0009/08, a/0022/08, a/0038/08, a/0039/08, a/0043/08, a/0044/08, a/0046/08, a/0049/08 to a/0051/08, a/0055/08 to a/0057/08, a/0060/08, a/0061/08, a/0066/08, a/0067/08, a/0070/08, a/0071/08, a/0073/08, a/0076/08 to a/0080/08, a/0083/08, a/0085/08, a/0088/08, a/0090/08, a/0092/08, a/0095/08, a/0096/08, a/0100/08, a/0101/08, a/0103/08, a/0104/08 and a/0110/08.



Fatou Bensouda, Deputy Prosecutor
on behalf of
Luis Moreno-Ocampo, Prosecutor

Dated this 16th day of June 2008

At The Hague, The Netherlands

⁶ ICC-01/04-01/07-474, para. 176.

⁷ ICC-01/04-01/07-474, para. 177.

⁸ ICC-01/04-01/07-474, para. 178.