

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-01/04-01/07 OA7

Date: 17 June 2008

THE APPEALS CHAMBER

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

**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 "Requête sollicitant la prorogation des délais conformément à la Norme 35 du Règlement de la Cour pour permettre à la Défense de soumettre ses observations sur l'Acte d'appel du Procureur relatif à la Décision intitulée 'Decision on the Evidentiary Scope of the Confirmation Hearing and Preventive Relocation'"

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-Christostome 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

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".¹
2. On 28 April 2008, the Prosecution applied for leave to appeal against the Decision in respect of two issues.² On 20 May 2008, the Single Judge certified two issues for which the Prosecution had sought leave to appeal.³
3. On 2 June 2008, the Prosecution filed the "Prosecution's Document in Support of Appeal against the Decision on the Evidentiary Scope of the Confirmation Hearing and Preventive Relocation".⁴
4. On 12 June 2008, the Defence of Mathieu NGUDGOLO CHUI ("the Defence") requested that the time limit for the filing of the response to the Prosecution Appeal Brief be extended.⁵
5. The Prosecution hereby responds to the Defence Application for Extension of Time.

Submissions

6. The Prosecution opposes the Defence Application for Extension of Time, and submits that the Defence has not demonstrated good cause for such an extension. The Defence Application for Extension of Time appears to be based on arguments regarding the resources available to the Defence and the demands of the

¹ ICC-01/04-01/07-411-Conf-Exp. Confidential redacted 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-Corr), (the "Decision").

² ICC-01/04-01/07-453 ("Prosecution Application"). On 2 May 2008, the Defence filed a response to the Prosecution Application (ICC-01/04-01/07-462). The Defence also applied for leave to appeal against the Decision (ICC-01/04-01/07-456), to which the Prosecution responded on 2 May 2008 (ICC-01/04-01/07-464)

³ ICC-01/04-01/07-483 ("Decision Granting Leave").

⁴ ICC-01/04-01/07-541 OA7 ("Prosecution Appeal Brief"). In its document in support of appeal, the Prosecution discontinued its appeal in respect of the Second Issue for which leave had been granted (paras. 8-9).

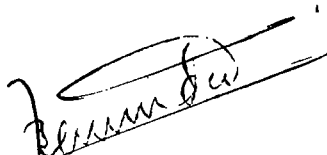
⁵ ICC-01/04-01/07-586 OA7 ("Defence Application for Extension of Time"). The Prosecution notes that the Defence of Germain KATANGA filed its Response to the Document in Support of Appeal on 13 June 2008 – ICC-01/04-01/07-591 OA7 and corrigendum.

preparing for the upcoming confirmation hearing.⁶ The Prosecution notes that an application for extension of time based on similar grounds was recently rejected by the Single Judge of Pre-Trial Chamber I.⁷

7. The Prosecution further notes that the Defence has requested an extension of time until after the conclusion of the confirmation hearing in this case.⁸ Therefore in the alternative, even if the Appeals Chamber finds that the Defence has established good cause for an extension of time, the Prosecution submits that the extension requested is excessive.⁹

Conclusion

8. For the above reasons, the Prosecution respectfully requests that the Appeals Chamber deny the Defence Application for Extension of Time.



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

Dated this 16th day of June, 2008

At The Hague, The Netherlands

⁶ Defence Application for Extension of Time, paras. 7-9.

⁷ ICC-01/04-01/06-528, 29 May 2008, p. 4. This appears to be consistent with prior jurisprudence of Pre-Trial Chamber I (see e.g. *Prosecutor v. Lubanga*, ICC-01/04-01/06-493, 29 September 2006 - rejecting an application based on *inter alia* overlapping deadlines for the submissions of responses, ongoing work relating to the case, the short time limit for filing a reply). In contrast, the Prosecution notes that the extensions of time previously granted by the Appeals Chamber have focussed on the extent of the preparation and complexity of the issues on the instant appeal, rather than the commitments of the parties in other proceedings (see e.g. *Prosecutor v. Lubanga*, ICC-01-04-01/06-190 OA3, 11 July 2006, paras. 4 – 5; see also *Prosecutor v. Lubanga*, ICC-01/04-01/06-129 OA2, 30 May 2006, Dissenting Opinion of Judge Pikis para. 7).

⁸ Defence Application for Extension of Time, para. 10.

⁹ The Prosecution notes that the Appeals Chamber has previously considered the length of the extension requested in determining whether to grant an application for extension of time, and if so to what extent (see e.g. *Prosecutor v. Lubanga*, ICC-01/04-01/06-190 OA3, 11 July 2006, paras. 2, 4 and 5; see also *Prosecutor v. Lubanga*, ICC-01/04-01/06-562 OA3, 12 October 2006, para. 5)