

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 8 July 2008

PRE-TRIAL CHAMBER I

Before: Judge Akua Kuenyehia, Presiding Judge
Judge Anita Ušacka
Judge Sylvia Steiner

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

Public Document

**Third report of the OPCV on the implementation of the Decision
dated 10 June 2008**

Source: Office of Public Counsel for Victims

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

The Office of the Prosecutor

Mr Louis Moreno-Ocampo, Prosecutor
Mr Éric Macdonald, Senior Trial Lawyer

Counsel for the Defence of Germain Katanga

Mr David Hooper
Ms Caroline Buisman

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
Ms Paolina Massidda

Unrepresented Victims

Legal Representatives of Applicants

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

Ms Paolina Massidda

The Office of Public Counsel for the Defence

Mr Xavier-Jean Keïta

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Other

I. PROCEDURAL BACKGROUND

1. During the status conference held on 10 June 2008, the Presiding Judge of Pre-Trial Chamber I issued an oral decision on the assistance to be provided by the Office of Public Counsel for Victims (the “Office” or the “OPCV”) to the legal representatives of the victims (the “Legal Representatives”) during the confirmation of the charges hearing in the case *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* (the “Decision”)¹.

2. During the status conference held on 19 June 2008, the Single Judge of Pre-Trial Chamber I ordered the OPCV to file a Report on the implementation of the Decision by Tuesday 24 June 2008, at 16.00².

3. On 24 June 2008, the OPCV filed its “Report of the OPCV on the implementation of the oral decision dated 10 June 2008”³.

4. On 25 June 2008, the Single Judge issued the “Order to Submit Additional Reports on the Implementation of the 10 June 2008 Decision”⁴ (the “Order”).

5. On 26 June 2008, the Office filed its additional report on the implementation of the oral decision dated 10 June 2008⁵.

6. In its Order, Pre-Trial Chamber I also requested the OPCV, *inter alia*, to file an additional report on the implementation of the 10 June 2008 Decision as soon as

¹ See the transcript of the hearing held on 10 June 2008, No. ICC-01/04-01/07-T-35-ENG, 10 June 2008, pp. 14 and 15.

² See the transcript of the hearing held on 19 June 2008, No. ICC-01/04-01/07-T-36-ENG, p. 5. Please note that the date of 24 May in the transcript is understood as 24 June for the purpose of this report.

³ See the “Report of the OPCV on the implementation of the oral decision dated 10 June 2008”, No. ICC-01/04-01/07-635, 24 June 2008.

⁴ See the “Order to the OPCV and the OPCD to Submit Additional Reports on the Implementation of the 10 June 2008 Decision”, No. ICC-01/04-01/06-647, 25 June 2008.

practicable after receiving a request for assistance (regardless of whether it is limited to legal research and advice) from Legal Representatives who have not yet requested such assistance⁶.

7. The Office hereby files its Third report on the implementation of the Decision.

II. REQUEST OF ASSISTANCE BY MS CARINE BAPITA BUYANGANDU

8. On 3 July 2008, Ms Carine Bapita Buyangandu requested the assistance of the Office for the provision of two legal advices.

9. In the additional report dated 26 June 2008, the Principal Counsel informed the Chamber that Ms Caroline Walter was assigned to assist Ms Carine Bapita Buyangandu during the status conferences preceding the confirmation of the charges hearing.

10. During the hearing held on 27 June 2008, the Presiding Judge announced that the Decision referred "*not only to the Confirmation Hearing but also to the proceedings leading to the Confirmation Hearing*"⁷. Consequently, Ms Caroline Walter was assigned to Ms Carine Bapita Buyangandu for the purpose of providing her assistance during the confirmation of the charges hearing, as announced in the additional report filed by the OPCV on 26 June 2008⁸.

11. On 2nd July 2008, the Principal Counsel was requested by the Chamber to provisionally, and exceptionally, represents victims 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, originally

⁵ See the "Additional report of the OPCV on the implementation of the Decision dated 10 June 2008", No. ICC-01/04-01/07-651, 26 June 2008.

⁶ See the "Order to the OPCV and the OPCD to Submit Additional Reports on the Implementation of the 10 June 2008 Decision", *supra* note 4, page 8.

⁷ See the transcript of the hearing held on 27 June 2008, No. ICC-01/04-01/07-T-38-ENG, 27 June 2008, p. 14, lines 9-11.

represented by Mr Jean-Chrisostome Mulamba Nsokoloni, because of an alleged conflict of interests which is currently being investigated by the Registry⁹.

12. During the hearing held the same day and following this appointment, the Principal Counsel informed the Chamber that a change in the organisation of the Office was needed in order for her to be able to fulfill the task of representing the victims previously represented by Mr Jean-Chrisostome Mulamba Nsokoloni and that, as a consequence, Ms Caroline Walter was requested to assist the Principal Counsel for the purposes of such representation¹⁰.

13. During the same hearing, the Principal Counsel also informed the Chamber that, should Ms Carine Bapita Buyangandu request the assistance of the Office, Mr Ugur Sevgili could be assigned to her for this purpose¹¹.

14. Following the formal request of assistance made by Ms Carine Bapita Buyangandu, the Principal Counsel therefore informs the Chamber, in accordance with the Order, that Mr Ugur Sevgili is assigned to Ms Carine Bapita Buyangandu for the purpose of providing her assistance during the confirmation of the charges hearing. The Principal Counsel also informs the Chamber that Mr Sevgili is only able to provide assistance in English and that Ms Bapita Buyangandu has been informed accordingly.

⁸ See the "Additional report of the OPCV on the implementation of the Decision dated 10 June 2008", *supra* note 5, p. 8.

⁹ See the transcript of the hearing held on 2nd July 2008, No. ICC-01/04-01/07-T-41-ENG, 2nd July 2008, p. 1, lines 10 to 13. See also the "Decision on the provisional separation of Legal Representative of Victims a/0015/08, 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 and a/0035/08", No. ICC-01/04-01/07-660, 3 July 2008, p. 10.

¹⁰ See the transcript of the hearing held on 2nd July 2008, *supra* note 9, p. 1, line 17 to page 2, line 11.

¹¹ *Ibid.*

III. REQUEST OF ASSISTANCE BY MR HERVÉ DIAKIESE

15. On 3 July 2008, Mr Hervé Diakiese also requested the assistance of the Office for the provision of four legal advices.

16. The Principal Counsel informs the Chamber that the OPCV has no more staff member available and therefore, at present, cannot assign anyone for the purpose of providing assistance to Mr Diakiese.

17. Except for the Principal Counsel, out of the six legal staff members composing the Office, three are already assigned to the case *The Prosecutor v Germain Katanga and Mathieu Ngudjolo Chui*, which reduces the number of the other staff members available for the others situations and cases to three.

18. In this regard, the Office recalls that, at present, staff members of the OPCV provide support and assistance to 13 legal representatives in the situation in the Democratic Republic of the Congo and cases related to it, as well as to two legal representatives in the Darfur, Sudan situation and in the case related to it. Moreover, the Office is currently providing directly legal assistance to and representation of victims in the Democratic Republic of the Congo situation/cases and in the Uganda situation/case¹².

19. The Principal Counsel informs the Chamber that Mr Diakiese has been informed accordingly.

¹² See the "Report of the OPCV on the implementation of the oral decision dated 10 June 2008", *supra* note 3, para. 15.

IV. PRACTICAL DIFFICULTIES IN THE PROVISION OF ASSISTANCE IN ACCORDANCE WITH THE ORAL DECISION TO DATE

20. Last, the Office wishes to inform the Chamber of the following practical difficulties met, to date, linked with the implementation of the Decision.

21. The possibility for the staff members of the Office to assist the Legal Representatives and to communicate with them depends on the proper functioning of LiveNote and/or Ringtail and on Outlook¹³.

22. Since the beginning of the confirmation of the charges hearing, several technical problems occurred, affecting the ability of the staff members of the Office concerned to follow the proceedings and consequently to assist the Legal Representatives, in the event they would have requested such assistance. In particular :

- on 27 June 2008, the staff members of the Office concerned did not have access to LiveNote until 9.39 – 34 minutes after the start of the hearing;
- on 30 June 2008, the public session resumed at 10.45. However, on the screen of the staff members of the Office concerned nothing appeared and they found out about the continuation of the hearing after having read the French transcripts of the day (the English real-time transcripts in fact did not contain the time at which the session resumed).
- On 3 July 2008, Outlook was not working from 14.00 to 14.50.

¹³ *Ibid.*, par. 16.



Paolina Massidda
Principal Counsel
Office of Public Counsel for Victims

Dated this 8th day of July 2008

At The Hague, The Netherlands