



Original: **French**

No.: **ICC-01/04**
Date: **19 June 2007**

PRE-TRIAL CHAMBER I

Before: Judge **Sylvia Steiner, Single Judge**

Registrar: **Mr Bruno Cathala**

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

Public Redacted Version

**Decision on matters of confidentiality and the Request for extension of the page
limit**

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
Mr Ekkehard Withopf

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

**The Office of Public Counsel for the
Defence**

Mr Xavier-Jean Keita

Legal Representatives of the Applicants

Ms Carine Bapita Buyagandu
Mr Sylvestre Bismwa
Mr Michael Verhaeghe
REDACTED

I, **Sylvia Steiner**, Judge at the International Criminal Court (“the Court”),

NOTING the Application for participation in the proceedings a/0106/06, filed in the record of the investigation in the Situation in the Democratic Republic of the Congo (DRC) on 7 December 2006,¹ Applications for participation in the proceedings a/0107/06,² a/0108/06,³ a/0109/06,⁴ and a/0110/06,⁵ filed on 16 October 2006, Application for participation in the proceedings a/0188/06, filed on 21 March 2007,⁶ Applications for participation in the proceedings a/0128/06 to a/0162/06, a/0199/06, a/0203/06, a/0209/06 and a/0214/06, filed on 11 April 2007,⁷ Applications for participation in the proceedings a/0220/06 to a/0222/06, a/0224/06, a/0227/06 to a/0230/06, a/0234/06 to a/0236/06 and a/0240/06, filed on 23 April 2007,⁸ and Applications for participation in the proceedings a/0225/06, a/0226/06, a/0231/06 to a/0233/06, a/0237/06 to a/0239/06 and a/0241/06 to a/0250/06, filed on 25 April 2007 (collectively referred to as “the Applications”),⁹ whereby all the applicants seek to be granted the right to participate in the proceedings as victims;

NOTING the decision rendered by Pre-Trial Chamber I (“the Chamber”) on 11 May 2007¹⁰ appointing Ms Sylvia Steiner as Single Judge for the Situation in the Democratic Republic of the Congo;

NOTING the decision authorising the filing of observations on the applications for participation in the proceedings rendered on 24 May 2007,¹¹ in which the Single Judge ordered the Registrar to provide the Prosecution and the Office of Public

¹ ICC-01/04-264-Conf-Exp, ICC-01/04-264-Conf-Exp-Anx.

² ICC-01/04-265-Conf-Exp, ICC-01/04-265-Conf-Exp-Anx.

³ ICC-01/04-266-Conf-Exp, ICC-01/04-266-Conf-Exp-Anx.

⁴ ICC-01/04-267-Conf-Exp, ICC-01/04-267-Conf-Exp-Anx.

⁵ ICC-01/04-268-Conf-Exp.

⁶ ICC-01/04-324-Conf-Exp-Anx1.

⁷ ICC-01/04-325-Conf-Exp, Annexes 1 to 40.

⁸ ICC-01/04-326-Conf-Exp, Annexes 1 to 13.

⁹ ICC-01/04-327-Conf-Exp, Annexes 1 to 20.

¹⁰ ICC-01/04-328.

¹¹ ICC-01/04-329.

Counsel for the Defence with an unredacted version of the Applications, and gave them until 25 June 2007 to present their observations;

NOTING the application submitted on behalf of Applicants a/0231/06 to a/0233/06 and a/0242/06 to a/0250/06, filed in the record of the Situation in the DRC on 4 June 2007,¹² in which the Legal Representatives of the said applicants requested the Single Judge: i) to order the Prosecution and the Office of Public Counsel for the Defence to respect the confidentiality of their applications, in particular by referring to the applicants solely by their identification number, and ii) to be heard on matters related to the protection and safety of the applicants;

NOTING the application submitted on behalf of Applicants a/0107/06 to a/109/06, a/0128/06 to a/0162/06, a/0188/06, a/0199/06, a/0203/06, a/0209/06 to a/0214/06, a/0220/06 to a/0222/06, a/0224/06 to a/0230/06 and a/0234/06 to a/0241/06, filed in the record of the Situation in the DRC on 5 June 2007,¹³ in which the Legal Representative of the said applicants requests the Single Judge: i) to order the Prosecution and the Office of Public Counsel for the Defence to respect the confidentiality of the applications, in particular by referring to the applicants solely by their identification number, ii) to ensure that the identity of the Legal Representative remains confidential and is removed from public documents at this early stage, and iii) to be heard on matters related to the protection and safety of the applicants;

NOTING the Prosecution's Observations on the "Demande du représentant legal des victimes a/0231/06 to a/0233/06 and a/0242/06 to a/0250/06", filed in the record of the situation in the DRC on 6 June 2007,¹⁴ in which the Prosecution states: i) that it

¹² ICC-01/04-330.

¹³ ICC-01/04-332, ICC-01/04-331-Conf-Exp.

¹⁴ ICC-01/04-334.

undertakes to continue to refer to the applicants solely by the numbers allocated to them by the Victims Participation and Reparations Section and to redact any information in public filings that could reveal the identity of the victims, and ii) supports the request of the Legal Representative of the said victims to be heard on matters related to their protection and safety prior to any decision being taken that could potentially affect their safety and security;

NOTING the Prosecution's Observations on the "Demande du représentant légal des victimes a/0107/06 à a/0109/06, a/0128/06 à a/0162/06, a/0188/06, a/0199/06, a/0203/06, a/0209/06 à a/0214/06, a/0220/06 à a/0222/06, a/0224/06 à a/0230/06 et a/0234/06 à a/0241/", filed in the record of the Situation in the DRC on 11 June 2007,¹⁵ in which the Prosecution stated that it: i) undertakes to continue to refer to the applicants solely by the numbers allocated to them by the Victims Participation and Reparations Section and to redact any information in public filings that could reveal the identity of the victims, ii) does not oppose the request of the Legal Representative that his or her identity remain confidential and redacted in all public filings at this stage of the proceedings, and iii) supports the request of the Legal Representative of the said victims to be heard on matters related to their protection and safety prior to any decision being taken that could potentially affect their safety and security;

NOTING the requests submitted by the Office of Public Counsel for the Defence in its "Response to the 'Demande du représentant légal des victimes a/0231/06 à a/0233/06 et a/0242/06 à a/0250/06, ICC-01/04-330'", filed in the record of the Situation in the DRC on 12 June 2007,¹⁶ in which the Office of Public Counsel for the Defence requested the Chamber to : i) allow it to file a confidential version of its observations, and subsequently a public redacted version of those same observations, ii) order the

¹⁵ ICC-01/04-335.

¹⁶ ICC-01/04-336.

Legal Representatives of the victims to re-file their request for security measures on a confidential (as opposed to *ex parte*) basis; and iii) permit the Office of Public Counsel for the Defence to file supplementary observations on the arguments provided by the Legal Representative of Applicants a/0107/06 to a/0109/06, a/0128/06 to a/0162/06, a/0188/06, a/0199/06, a/0203/06, a/0209/06 to a/0214/06, a/0220/06 to a/0222/06, a/0224/06 to a/0230/06 and a/0234/06 to a/0241/06 in support of its request for the redaction of the Legal Representative's name in the documents;

NOTING the "Request for extension of the page limit" filed on 13 June 2007,¹⁷ in which the Office of Public Counsel for the Defence requested leave to file a response of 57 pages;

NOTING articles 54(1)b, 54(3)(f) and 68 of the *Rome Statute* ("the Statute"), rules 6, 17 and 89 of the *Rules of Procedure and Evidence* ("the Rules"), regulations 37 and 77(2) of the *Regulations of the Court* and regulations 86, 144(2) and 144(3) of the *Regulations of the Registry*;

CONSIDERING that under article 68 of the Statute, the Court is required to take appropriate measures to protect the safety and privacy of victims;

CONSIDERING that under rule 17 of the Rules, the Victims and Witnesses Unit has adopted a victim protection system which also includes the allocation of an identification number for the protection of the identities of victims and that such a measure has also been extended to applicants;

¹⁷ ICC-01/04-337.

CONSIDERING that under regulation 77(2) of the *Regulations of the Court*, the Office of Public Counsel for the Defence functions as a wholly independent office and falls within the remit of the Registry solely for administrative purposes, and that under regulations 144(2) and (3) of the *Regulations of the Registry*, in discharging their responsibilities, the members of the Office of Public Counsel for the Defence are bound by the *Code of Professional Conduct for counsel* and by the provisions which are applicable to all staff;

CONSIDERING that under articles 54(1)(b) and 54(3)(f) of the Statute, the Prosecutor has, amongst other obligations, the obligation to ensure the protection of victims and the confidentiality of information;

CONSIDERING that under rule 6 of the Rules, every staff member of the Office of the Prosecutor and the Registry is required to make the solemn undertaking to respect the confidentiality of investigations and prosecutions;

CONSIDERING that under the Statute, the Rules, the *Regulations of the Court* and the *Regulations of the Registry*, staff members of the Office of the Prosecutor and the Office of Public Counsel for the Defence are legally bound by a confidentiality obligation;

CONSIDERING, moreover, that in proceedings before the Chamber, it is customary to refer to victims by their identification number;

CONSIDERING that under regulation 37 of the *Regulations of the Court*, the Chamber may, in exceptional circumstances, extend the page limit for a document,

that the number of applications concerned is relatively high and that this may justify the filing of a request based on the above-mentioned regulation 37;

CONSIDERING that the Chamber does not consider it necessary at the present time for the Office of Public Counsel for the Defence to file supplementary observations on the request for redaction of the name of the Legal Representative of Applicants a/0107/06 to a/0109/06, a/0128/06 to a/0162/06, a/0188/06, a/0199/06, a/0203/06, a/0209/06 to a/0214/06, a/0220/06 to a/0222/06, a/0224/06 to a/0230/06 and a/0234/06 to a/0241/06 and that the issue may be addressed in the observations which must be filed on 25 June;

FOR THESE REASONS,

INVITE the Office of the Prosecutor and the Office of Public Counsel for the Defence to respect the confidentiality of the applications and to refer to the applicants solely by the numbers which have been allocated to them by the Victims Participation and Reparations Section;

DECIDE that, if it considers it necessary, the Chamber will decide on a case-by-case basis whether it will hear the applicants' Legal Representatives on issues pertaining to their protection and security;

PARTIALLY GRANT the request of the Office of Public Counsel for the Defence, which is authorised to file a response of 40 pages;

GRANT the request of the Legal Representative of Applicants a/0107/06 to a/0109/06, a/0128/06 to a/0162/06, a/0188/06, a/0199/06, a/0203/06, a/0209/06 to a/0214/06, a/0220/06 to a/0222/06, a/0224/06 to a/0230/06 and a/0234/06 to a/0241/06 for his or her identity to remain confidential and redacted in public filings at this stage in the proceedings until the Chamber decides otherwise;

DIRECT the Office of Public Counsel for the Defence to file only a confidential version of its observations until the Chamber decides otherwise;

REJECT the request of the Office of Public Counsel for the Defence that it be allowed to file supplementary observations on the arguments provided by the Legal Representatives of the applicants in support of the redaction of their names in the documents.

[*signed*]

Judge Sylvia Steiner

Single Judge

Done in both English and French, the French version being authoritative.

Dated this Tuesday 19 June 2007

At The Hague, The Netherlands