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No.: ICC-01/04
Date: 18 October 2007

PRE-TRIAL CHAMBER I

Before: Judge Akua Kuenyehia, Single judge

Registrar: Mr Bruno Cathala

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

Public Document

Request of the OPCV to access documents in the situation record related to applicants a/0004/06 to a/0008/06, a/0019/06, a/0020/06, a/0022/06 to a/0024/06, a/0026/06, a/0027/06, a/0029/06, a/0030/06, a/0033/06, a/0035/06, a/0036/06, a/0039/06 to a/0041/06, a/0043/06, a/0046/06 to a/0052/06, a/0072/06 to a/0080/06 and a/0110/06

The Office of the Prosecutor

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I. PROCEDURAL HISTORY

1. On 17 August 2007, the Pre-Trial Chamber I issued the “Decision on the Requests of the Legal Representative of Applicants on application process for victims’ participation and legal representation”.¹ The said decision directed the Registrar to automatically appoint the OPCV as legal representatives for unrepresented applicants in the situation in the Democratic Republic of the Congo.²

2. Pursuant to this decision, on 24 August 2007 and on 13 September 2007, the Registrar appointed the Principal Counsel of the OPCV as legal representative for the applicants who do not have a legal representative.³ The letters were respectively filed in the situation record on 31 August 2007 and on 27 September 2007.⁴

II. ACCESS TO DOCUMENTS IN THE SITUATION RECORD

3. The Office respectfully submits that in order to fulfill its mandate and to be able to adequately protect the rights and interests of the applicants, it is necessary that access to certain documents be granted to the Principal Counsel.

4. Due to the fact that the Office has had, to date, no access to the index of the situation record, the OPCV is not in the position to identify all documents which may

¹ See the “Decision on the Requests of the Legal Representative of Applicants on application process for victims’ participation and legal representation” (Pre-Trial Chamber I), No. ICC-01/04-374, 17 August 2007.

² *Ibid*, p 24.

³ See the letters of the Registrar, VPRS/A/037/fm, 24 August 2007 and VPRS/A/044/fm-ig, 13 September 2007.

⁴ See the “Enregistrement d’un courrier du représentant legal retirant sa demande d’anonymat et d’autres documents relatifs à la représentation legale de demandeurs aux fins de participation”, No. ICC-01/04-380, 31 August 2007. See also the “Registration of appointment of the OPCV and amendment to appointment”, No. ICC-01/04-401-Conf, 27 September 2007.

be of interest for the fulfillment of its mandate on behalf of the applicants. Moreover, the Office submits that it may be relevant for the Office to have access to certain confidential and/or under seal documents and/or materials relating to the warrants of arrest and/or to the security and protection of the applicants.

5. Therefore, the Office respectfully requests the Single Judge to grant the Principal Counsel access to the full index of the record of the situation and to reserve her the right to submit proposals regarding the disclosure of documents and/or materials after she has had the opportunity to examine the index of the situation record, if she considers it necessary for the fulfilment of her mandate on behalf of the applicants.

6. Despite the fact that the full index of the situation record is not available to the Principal Counsel, the Office – through the reading of public documents – has been able to identify some documents which are important for the fulfilment of its mandate as legal representative.

7. Therefore, the Principal Counsel respectfully requests the Single Judge to be notified of the portions of the following documents dealing with applicants a/0004/06 to a/0008/06, a/0047/06 to a/0052/06, a/0072/06 to a/0080/06 and a/0110/06³:

- Document No. ICC-01/04-314 Conf dated 28 November 2006 concerning *ad hoc* Defence Counsel submissions under rule 89-1 related to victims a/0004/06 to a/0009/06; a/0016/06 to a/0063/06 a/0071/06 à a/0080/06 and a/0105/06;

³ In this sense, see the “Decision on the request by the OPCD for access to previous filings” (Pre-Trial Chamber I), No. ICC-01/04-389, 11 September 2007.

- Document No. ICC-01/04-01/06-315 Annex- Conf-Exp dated 30 November 2006 concerning Prosecution's observations under rule 89-1 related to victims a/0004/06 to a/0009/06; a/0016/06 to a/0063/06 a/0071/06 , a/0072/06 à a/0080/06 and a/0105/06.

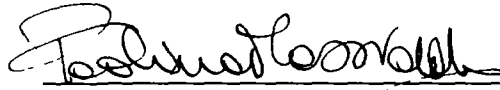
8. The Office notes that in the practice of the Pre-Trial Chambers I and II the submissions under rule 89-1 of the Rules have always been notified to the legal representatives of the applicants.

FOR THE FOREGOING REASONS

The Principal Counsel respectfully requests the Single Judge:

- a) to grant the Principal Counsel full access to the index of the situation record and consequently to order the Registry to provide the Principal Counsel with a copy of the said index;
- b) to reserve the Principal Counsel the right to submit proposals regarding the disclosure of documents and/or materials after she has had the opportunity to examine the index of the situation record, if she considers it necessary for the fulfilment of her mandate on behalf of the applicants; and

- c) to order the Registry to notify the Principal Counsel of the documents listed in paragraph 7 of the request in the part related to the applicants represented by her.



Paolina Massidda
Principal Counsel
Office of Public Counsel for Victims

Dated this 18th October 2007

At The Hague

The Netherlands