

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

No.: ICC-01/04
Date: 17 July 2008

PRE-TRIAL CHAMBER I

Before: Judge Sylvia Steiner, Single judge

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

Public Document

**Decision unsealing and reclassifying Pre-Trial Chamber I's Decision of 10 February
2006**

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

The Office of the Prosecutor
 Mr Luis Moreno Ocampo, Prosecutor
 Mr Éric MacDonald, Senior Trial Lawyer

Counsel for the Defence

Legal Representatives of the Victims
 Mr Emmanuel Daoud
 Mr Luc Walley
 Mr Frank Mulenda
 Ms Carine Bapita Buyangandu
 Mr Michel Shebele
 Mr Patrick Baudoin
 Mr Michael Verhaeghe
 Mr Sylvestre Bisimwa
 Mr Joseph Keta

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
 Participation/Reparation**

**The Office of Public Counsel for
 Victims**
 Ms Paolina Massida

**The Office of Public Counsel for the
 Defence**
 Mr Xavier-Jean Keïta, Principal Counsel

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, Judge Sylvia Steiner, judge at the International Criminal Court (“the Court”);

NOTING the “Prosecution’s Application for Warrants of Arrest, article 58”¹ filed by the Prosecution on 12 January 2006 in which the Prosecution indicated that it has a strong preference for the Prosecution’s Application for a warrant of arrest pursuant to article 58 and the decision of Pre-Trial Chamber I (“the Chamber”) on the Prosecution’s Application for the warrant of arrest against Bosco Ntaganda to remain under seal;

NOTING the “Decision on the Prosecutor’s Application for Warrants of Arrest, Article 58”² (“the Decision of 10 February 2006”) issued on 10 February 2006;

NOTING the “*Décision relative à la requête de l’Accusation aux fins de délivrance d’un mandat d’arrêt*”³ issued on 22 August 2006;

NOTING the warrant of arrest against Bosco Ntaganda⁴ issued by the Chamber on 22 August 2006;

NOTING the “Prosecution’s Application for Unsealing the Arrest Warrant against Bosco Ntaganda”⁵ filed by the Prosecution on 29 February 2008;

NOTING the “Decision on the Designation of a Single Judge”⁶ issued by the Chamber on 11 March 2008 and by which the Chamber confirmed that Judge Sylvia

¹ ICC-01/04-98-US-Exp.

² ICC-01/04-118-US-Exp-Corr.

³ ICC-01/04-02/06-1-US.

⁴ ICC-01/04-02/06-2-US.

⁵ ICC-01/04-02/06-15-US-Exp.

⁶ ICC-01/04-487.

Steiner shall remain the Single Judge concerning the situation in the DRC and any related case;

NOTING the “Decision to unseal the warrant of arrest against Bosco Ntaganda” issued by the Single Judge on 28 April 2008⁷ and in which the Single Judge *inter alia* (i) decided to unseal the warrant for arrest against Bosco Ntaganda and (ii) informed that she will decide on the Prosecution's extended request for unsealing the decisions of 10 February 2006 and of 22 August 2006 in a separate decision;

NOTING articles 57(3)(c), 67(1) and 68 of the Rome Statute, Rules 87 and 88(4) of the Rules of Procedure and Evidence and Regulation 8(c) of the Regulations of the Court;

CONSIDERING at the outset that the present decision only deals with the Prosecution's extended request for unsealing the decision of 10 February 2006; and that the Single Judge will decide on the Prosecution's extended request for unsealing the decision of 22 August 2006 in a separate decision;

CONSIDERING that the warrant of arrest against Bosco Ntaganda has been unsealed and made public on 28 April 2008;

CONSIDERING that, in light of the above-mentioned, it is the view of the Single Judge that it is no longer necessary for the Decision of 10 February 2006 to remain under seal;

⁷ ICC-01/04-02/06-18.

CONSIDERING that regulation 8(c) of the Regulations of the Court requires publication on the website of the Court of all “decisions and orders of the Court and other particulars of each case brought before the Court as described in rule 15;”

CONSIDERING however, that the protection of witnesses whose statements were cited in the Decision requires that any information concerning (i) their identity be redacted at this stage from the public and (ii) their current whereabouts be redacted at this stage from the public as well as from the Defence;

CONSIDERING further that the confidentiality of certain information requires additional redactions in the relevant document before it becomes public;

CONSIDERING that those documents in the record of the situation in the DRC directly related to the cases against Thomas Lubanga Dyilo and Bosco Ntaganda should also be part of the record of the cases against Thomas Lubanga Dyilo and Bosco Ntaganda;

CONSIDERING nevertheless that, the Chamber is no longer seized of the case of *The Prosecutor v. Thomas Lubanga Dyilo*; that therefore, the Registry shall inform the competent Trial Chamber of the present decision in order to enable it to take the appropriate measures;

FOR THESE REASONS

DECIDE to unseal the document ICC-01/04-118-US-Exp-Corr and to reclassify it as confidential and *ex parte* only available to the Prosecution.

DECIDE to include in Annex I of this decision a confidential redacted version of the Decision of 10 February 2006 in which all information concerning the whereabouts of the six witnesses whose statements were cited in the Decision is redacted.

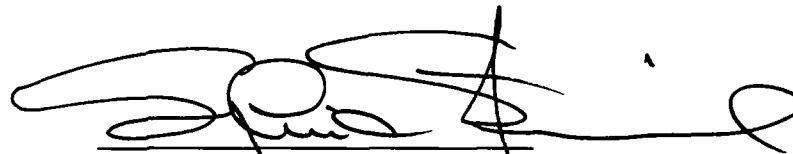
DECIDE to include in Annex II of this decision a public redacted version of the Decision of 10 February 2006 in which all confidential information as well as information concerning the identity and current whereabouts of the six witnesses whose statements were cited in the Decision is redacted.

DECIDE to incorporate in the record of the case of *The Prosecutor v. Bosco Ntaganda* a copy of:

- (i) Confidential *ex parte* only available to the Prosecution version of the document ICC-01/04-118-US-Exp-Corr;
- (ii) the confidential redacted version of document ICC-01/04-118-US-Exp-Corr also annexed to the present decision; and
- (iii) the public redacted version of document ICC-01/04-118-US-Exp-Corr annexed to the present decision.

ORDER the Registry to inform Trial Chamber I of the present decision.

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



Judge Sylvia Steiner
Single judge

Dated this Thursday 17 July 2008

At The Hague, The Netherlands