

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04
Date: 18 January 2008

PRE-TRIAL CHAMBER I

Before: Judge Sylvia Steiner, Single Judge

Registrar: Mr Bruno Cathala

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**Public Document
URGENT**

Decision on the Application for Leave to Appeal the *Decision on the Requests of the OPCV*

The Office of the Prosecutor

Mr Luis Moreno Ocampo, Prosecutor
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Mr Emmanuel Daoud
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Office of Public Counsel for Victims

Ms Paolina Massidda, Principal Counsel

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

NOTING the “Decision on the Requests of OPCV” (“the Decision of 10 December 2007”),¹ issued by the Single Judge on 10 December 2007, in which the Single Judge rejected the three requests made by the Office of Public Counsel for Victims (“the OPCV”);

NOTING the “OPCV’s Application for Leave to Appeal Against the Decision Rendered on 10 December 2007 on the Application Filed by the OPCV on 18 October 2007”² filed on 14 December 2007, in which the OPCV sought leave to appeal the Decision of 10 December 2007 in relation to the following issues:

- (a) “whether the rights of the victims to be informed of the proceedings – which also includes the right to be notified of any document related to their applications in the proceedings – is infringed by the refusal to grant their legal representative access to those documents filed in the record of the situation which affect their personal interests”; and
- (b) whether “the reversal of the practice hitherto available before Pre-Trial Chamber I is an infringement of a right acquired by the legal representatives by virtue of this practice”.

NOTING the “Prosecution’s Response to OPCV’s Application for Leave to Appeal the Single Judge’s 10 December 2007 Order”,³ filed on 21 December 2007, in which the Prosecution submits that the application for leave to appeal should be denied on

¹ ICC-01/04-418.

² ICC-01/04-420-tEN.

³ ICC-01/04-422.

the grounds that the applicants lack standing to seek leave to appeal under article 82(1)(d) of the *Rome Statute* ("the Statute");

NOTING articles 68 and 82(1)(d) of the Statute, rules 85, 89, 91 and 155 of the *Rules of Procedure and Evidence* ("the Rules") and regulations 65 and 86 of the *Regulations of the Court* ("the Regulations");

CONSIDERING that victim participation in situation or case proceedings before the Pre-Trial Chamber is subject to the prior granting of the procedural status of victim; and that Pre-Trial Chamber I has already stated in several decisions that:

[T]he process to decide upon applications for the procedural status of victim in situation and case proceedings before the Pre-Trial Chamber ("the application process") is a specific procedural feature provided for in rule 89 of the Rules and regulation 86 of the Regulations. Its object and purpose is limited to the determination of whether such procedural status should be granted to applicants. Hence, the application process is prior to, distinct and separate from, the determination and exercise of the modalities of participation by those to whom the procedural status of victim has been granted.⁴

CONSIDERING, moreover, that due to the specific object and purpose of the application process, applicants "are neither entitled to reply to the observations of the Prosecution and the Defence nor to request leave to appeal the decision of the Chamber on the merits of their applications";⁵ and that, pursuant to rule 89(2) of the Rules, applicants are only entitled "to submit new applications should their applications be rejected."⁶

CONSIDERING, therefore, that if applicants do not have procedural standing to seek leave to appeal the decisions of the Chamber on the merits of their applications, they do not have standing to seek leave to appeal interlocutory decisions of the

⁴ ICC-01/04-417, para. 5; ICC-02/05-110, para. 5. See also ICC-01/04-417, para. 8.

⁵ ICC-01/04-418, para. 16.

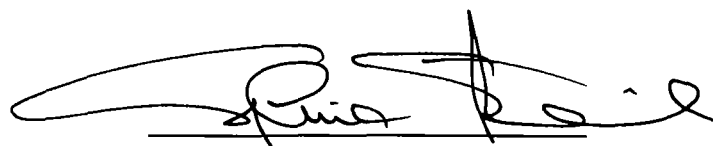
⁶ ICC-01/04-418, para. 16.

Chamber addressing potential procedural matters relating to the application process prior to a decision on the merits of their applications;

FOR THESE REASONS,

REJECT the OPCV's request for leave to appeal.

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



Judge Sylvia Steiner
Single Judge

Dated this Friday 18 January 2008

At The Hague, the Netherlands