

No.: ICC-01/04-01/07-632

Date: 23 June 2008

Decision on the Application for Participation of Witness 166

Headline

DRC, *The Prosecutor v. v. Germain Katanga and Mathieu Ngudjolo Chui*—Single Judge (Pre-Trial Chamber I) grants application by victim witness for participation at pre-trial stage of the case and investigation stage of the situation.

Brief Summary

On 23 June 2008, the Single Judge (Pre-Trial Chamber I) granted the application of one victim witness for participation at the pre-trial stage of the case and the investigation stage of the situation.

The Single Judge examined rule 85(1)¹ of the Rules of Procedure and Evidence and found that there are four criteria that must be met before the status of victim may be recognised, namely: (i) the victim must be a natural person; (ii) he/she has suffered harm; (iii) the crime from which the harm resulted must fall within the jurisdiction of the Court; and (iv) there must be a causal link between the crime and the harm.

The Single Judge determined that Witness 166 met the requirements under rule 85(1) and therefore the application was complete. The Single Judge granted Witness 166 the procedural status of victim at the pre-trial stage of the case.

The Single Judge then considered the set of procedural rights and found that neither the Statute nor the Rules expressly prohibit the recognition of the procedural status of victim to an individual who is also a witness in the case. However, the Single Judge noted that she must act cautiously in deciding on the dual status of victims and witnesses. Therefore, the Single Judge found that adequate precautionary measures required that (i) Witness 166 be prevented from having access to the confidential part of the case record; and (ii) Witness 166 be prevented from attending any hearing of a witness in the present case, even if such hearing is public.

The Single Judge granted Witness 166 the procedural status of victim at the pre-trial stage of the case and at the investigation stage of the situation. Moreover, Witness 166 was granted the set of procedural rights of an anonymous victim as

¹ Rule 85(a) of the Rules of Procedure and Evidence

provided for in Section VII of the Single Judge's 13 May 2008 decision² on the set of procedural rights attached to victim status at the pre-trial stage of a case.

² 13 May 2008 Single Judge (Pre-Trial Chamber I) Decision (ICC-01/04-01/07-47).