



Original: **French**

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

Date: **9 November 2007**

PRE-TRIAL CHAMBER I

Before: Judge Akua Kuenyehia, Presiding Judge
Judge Anita Ušacka
Judge Sylvia Steiner

Registrar: Mr Bruno Cathala

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
*THE PROSECUTOR v. GERMAIN KATANGA***

**PUBLIC DOCUMENT
CONFIDENTIAL ANNEXES**

**Report of the Registry on the Additional Information Concerning the Languages
Spoken, Written and Understood by Germain Katanga**

The Office of the Prosecutor
Mr Luis Moreno-Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
Mr Eric MacDonald, Trial Lawyer

Mr Germain Katanga

THE REGISTRAR of the International Criminal Court (“the ICC”),

NOTING the document filed on 22 October 2007 by the Director of the Division of Court Services, “Information to the Chamber on the execution of the Request for the arrest and surrender of Germain Katanga”¹ (“the Document”);

NOTING the order issued on 26 October 2007 by Pre-Trial Chamber I, “Order for a Report of Additional Information on the Detention and Surrender of the Detainee Germain Katanga”² (“the Order of 26 October”);

NOTING the “*Requête aux fins de prorogation de délai pour le dépôt du rapport concernant des renseignements supplémentaires sur la détention et le transfert de Germain Katanga*”, filed by the Registry on 1 November 2007;³

NOTING the decision of Pre-Trial Chamber I of 2 November 2007, granting an extension of time, “Decision on the Request for an Extension of Time”;⁴

PURSUANT TO article 50(3) of the *Rome Statute* and regulation 39(3) of the *Regulations of the Court*;

CONSIDERING that, pursuant to the Order of 26 October, the Registrar was requested to provide additional information concerning the languages spoken, written and understood by Germain Katanga;

CONSIDERING that in compliance with the said order, the Registry took steps to collect information concerning, on the one hand, the languages in which the domestic legal proceedings were conducted and the languages used to issue orders and instructions within the Congolese army and, on the other, the languages in which Mr

¹ ICC-01/04-01/07-40-Conf-Exp and Anx1 to Anx9.

² ICC-01/04-01/07-45.

³ ICC-01/04-01/07-46.

⁴ ICC-01/04-01/07-48.

Katanga undertook his schooling, as well as any other relevant information to enable the determination of the languages used by Mr Katanga;

CONSIDERING that the information collected by the Registry reveals that:

1 – Regarding the languages in which the domestic legal proceedings were conducted⁵

The said proceedings were conducted in French in accordance with the choice made by Mr Katanga himself. This information is confirmed by the record of the interview which was held before the *Avocat Général* of the High Military Court, and read, approved and signed by Mr Katanga;⁶

Upon reading the said record of the interview, Mr Katanga insisted that it be therein stated that he was still “dispo EMG FARDC”, that is, that he was still at the disposal of the General Staff of the Forces Armées nationales congolaises [Congolese National Armed Forces];⁷

Mr Katanga’s rights were read to him in French in the presence of counsel of his choosing. On that occasion, having been invited to make observations, he proceeded to make handwritten observations, dated and signed in the presence of his counsel;⁸

2 – Regarding the languages used to issue orders and instructions within the Congolese army

Lingala is the language generally used to issue instructions to troops. Following the *brassage* and integration of demobilised combatants into the Congolese army,⁹ other languages are also used – Swahili, to be specific;

⁵ Annex 1, confidential.

⁶ ICC-01/04-01/07-40-Conf-Exp-Anx3.5.

⁷ ICC-01/04-01/07-40-Conf-Exp-Anx3.5.

⁸ ICC-01/04-01/07-40-Conf-Exp-Anx3.3.

The language generally used by officers is French. Such is the case, *inter alia*, at the swearing-in ceremony. Under Congolese law, Mr Katanga is still considered a brigadier general, since he has not lost his rank as a result of a judgment or decree.¹⁰

3 – Regarding the languages in which Mr Katanga undertook his schooling

Mr Katanga attended the *Institut Badjanga*, an Anglican school in Bunia, and sat his State Examination at the Geti centre, a *localité* 46 km from the city of Bunia, in the Wallendu/Bidi *collectivité*, in Ituri.

In Kinshasa, at the interview on 17 October 2007 before the *Avocat Général* of the High Military Court, Mr Katanga indicated his identity stating that he is a “D6 *Péda Générale*”, which means that he holds the State Diploma in the *Section Pédagogique*.¹¹ This means that he attended and completed secondary school, as attested by his passing the State Examination, an examination organised in French throughout the entire Congolese territory by the Ministry of Primary and Secondary Education and which corresponds to the *baccalauréat*, and gives access to higher and university education;¹²

Furthermore, in the Democratic Republic of the Congo, it is possible that Lingala is used in the first and second years of primary school, but French is the language of instruction from nursery and primary school through to further or university education.

⁹ The *brassage* began in 2003, but the government did not adopt a strategic reform plan until 2005 following the Pretoria Agreement of 17 December 2002, the Transition Constitution of 03 April 2003 and the Dar-es-Salaam Statement of Commitment.

¹⁰ Germain Katanga was appointed General in the FARDC by decree of the President of the Republic, in December 2004.

¹¹ Annex 2, confidential.

¹² ICC-01-04-01-04-40-Conf-Exp-Anx3.5.

4 – Regarding any other relevant information to enable the determination of the languages spoken, read and understood by Mr Katanga

As can be seen in the report submitted to the Chamber on 2 November 2007,¹³ the Defence Support Section had dealings with Mr Katanga on 18, 19 and 23 October 2007 to assist him in his choice of counsel and the determination of his financial situation. During those three meetings, Mr Katanga actively participated in the discussions by asking questions. The only time during the meetings when he referred to issues relating to communication or languages, he expressed his frustration at the fact that most of the staff members at the detention centre did not speak French.

In the alternative, the Registry would also like to bring to the Chamber's attention the fact that, with regard to the various communications which have taken place between Mr Katanga and representatives of the Registry since the first appearance, one cannot but wonder about Mr Katanga's level of proficiency in and comprehension of Lingala, since it would seem that Lingala is one of his languages, but not his main language. It also seems that Mr Katanga may encounter difficulties in understanding a common form of Lingala.

Further to his request for interpretation of 5 November 2007, Mr Katanga explained to the interpreter who was to assist him by providing sight translation of a document from English into French that he did not speak French, but Kingwana.

IN CONCLUSION:

INFORMS the Chamber that, on the basis of the information thus gathered, part of which is already contained in the annexes to the Document, the information provided further to the Order of 26 October must in no way be considered evidence in the proceedings, but as complementary information in order to inform the Chamber about the languages spoken, read and understood by Mr Katanga;

¹³ ICC-01/04-01/07-49-Conf.

NOTES that it may be considered that Mr Katanga can speak, write, understand and read French, given that issues concerning the understanding of legal texts are related more to assistance by counsel, rather than to the proper understanding of a language;

IN THE ALTERNATIVE, INFORMS the Chamber that if, following this report, it orders the Registry to take the necessary measures to provide translation and interpretation services from the Court's working languages into Lingala or Kingwana and vice versa,

- 1– it would be advisable, initially, to appoint an expert to determine which of the two languages – Lingala or Kingwana – is better understood by Mr Katanga;
- 2 – the steps the Registry would undertake to provide translation and interpretation services in Lingala would not only have financial and technical implications, but would also impact upon the time limits related to the ongoing proceedings;

FURTHER INFORMS the Chamber that, at this stage, the Registry does not wish to enter into the consequences which such a decision may have, at the risk of calling into question its neutrality, and remains at the Chamber's disposal to provide more extensive information at a later stage.

_____[signed]____

**On behalf of the Registrar,
Marc Dubuisson, Director, Division of Court Services**

Dated this 9 November 2007,
At The Hague, The Netherlands