

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 25 March 2008

PRE-TRIAL CHAMBER I

Before: Judge Akua Kuenyehia, Single Judge

Registrar: Mr. Bruno Cathala

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
*THE PROSECUTOR v. GERMAIN KATANGA and MATHIEU NGUDJOLO CHUI***

Public

**First Prosecution's Report on the Status of the Procedures Initiated under Articles
54(3)(e), 73 and 93 in Relation to Those Items Identified as of a Potentially
Exculpatory Nature under Article 67(2) of the Statute**

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The Prosecution ("Prosecution" or "OTP"), in compliance with the Single Judge's Decision Establishing a Calendar in the Case against Germain KATANGA and Mathieu NGUDJOLO CHUI of 10 March 2008,¹ respectfully submits its first report in the case of the *Prosecutor v. Germain KATANGA and Mathieu NGUDJOLO CHUI* on the status of the procedures initiated under Articles 54(3)(e), 73 and 93 of the Rome Statute of the International Criminal Court ("Statute") in relation to those items identified as of a potentially exculpatory nature under Article 67(2) of the Statute.

Update on the Procedures Initiated under Article 54(3)(e), 73 and 93 of the Statute

1. In its Second Status Report in the case of the *Prosecutor v. Germain KATANGA*,² the Prosecution informed the Single Judge that, until that date, it reviewed a total of 1366 documents that were collected under the condition of confidentiality as set forth in Article 54(3)(e) of the Statute and that were considered to be relevant for the case of the *Prosecutor v. Germain KATANGA*.³ To date, the total number of documents covered by Article 54(3)(e) of the Statute, reviewed and considered to be relevant for the case of the *Prosecutor v. Germain KATANGA and Mathieu NGUDJOLO CHUI* totals a number of 1628 documents.
2. From the set of documents identified as of potentially exculpatory nature or as containing potentially exculpatory elements and covered by Article 54(3)(e) of the Statute, the OTP has sent additional requests for the lifting of confidentiality restrictions to the providers and will send out requests for another set of documents.

¹ ICC-01/04-01/07-259, p. 12.

² ICC-01/04-01/07-122.

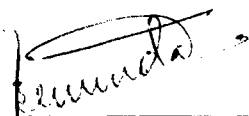
³ *Ibid*, p. 2, para. 2.

3. The Prosecution respectfully submits that it is reviewing on a continuous basis documents collected pursuant to Article 54(3)(e) of the Statute in order to identify potentially exculpatory elements. The Prosecution will continue to request the lifting of confidentiality as soon as such documents are identified. Disclosure of such documents occurs as soon as the Prosecution is notified of the lifting of the confidentiality restrictions by the providers.

4. As to date, the confidentiality restrictions of four documents which contain potentially exculpatory elements have been lifted. Two documents have been lifted without any conditions imposed by the provider and they have already been disclosed to the Defences of Germain KATANGA and Mathieu NGUDJOLO CHUI.⁴ For the other two documents, the confidentiality restriction was lifted but redactions to the documents were applied by the provider. These documents will be disclosed in the next disclosure packages to the Defences for Germain KATANGA and Mathieu NGUDJOLO CHUI. The Prosecution informs the Single Judge that these two documents are not tagged as potentially exculpatory for the purposes of the disclosure classification, since they are predominantly of incriminating or Rule 77 of the Rules of Procedure and Evidence ("Rules") nature, and only contain certain potentially exculpatory elements. The Prosecution, when disclosing documents, diligently informs the Defence that the material disclosed as incriminating or provided for inspection under Rule 77 of the Rules may also contain elements of potentially exculpatory nature.

⁴ ICC-01/04-01/07-157-Conf-AnxA (disclosure to defence of Germain KATANGA) and ICC-01/04-01/07-337-Conf-AnxD (disclosure to defence of Mathieu NGUDJOLO CHUI).

5. The Prosecution submits that to date there are no delays in the disclosure of potentially exculpatory material caused by the procedure under Articles 73 or 93 of the Statute. Furthermore, the Prosecution did not identify to date any documents containing potentially exculpatory elements that would warrant a request under Rule 81 of the Rules.



Luis Moreno-Ocampo
Prosecutor

Dated this 25th day of March 2008

At The Hague, The Netherlands