

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 24 April 2008

PRE-TRIAL CHAMBER I

Before: Judge Sylvia Steiner, Single Judge

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

Public Document

**Third 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**

Source: Office of the Prosecutor

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

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Other

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 third Prosecution's 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 potentially exculpatory nature under Article 67(2) of the Statute ("Third Status Report").

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 and Mathieu NGUDJOLO CHUI*,² the Prosecution informed the Single Judge that, until that date, it reviewed a total of 1631 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 and Mathieu NGUDJOLO CHUI*.³ To date, the number of such documents amounts to 1632 documents. By the time of this report, 154 documents have been identified as of potentially exculpatory nature or containing potentially exculpatory elements.⁴

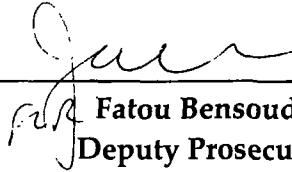
¹ ICC-01/04-01/07-259, p. 12.

² ICC-01/04-01/07-381.

³ *Ibid*, p. 3, para. 1.

⁴ During the Public hearing held on 22 April 2008, the Prosecution informed the Single Judge that 158 documents covered by Article 54(3)(e), had been identified as of potentially exculpatory nature or containing potentially exculpatory elements (ICC-01/04-01/07-T-26-ENG ET, p. 26, line 25; p. 27, lines 1-4). The Prosecution submits that it continued to review the documents that were identified as of potentially exculpatory nature or containing potentially exculpatory elements in preparing the requests for the lifting of confidentiality restrictions to be sent to the providers. In its previous report, the Prosecution had identified 177 of such documents. Upon a new review of these documents, it appears that a number of them were listed inaccurately as of potentially exculpatory nature or containing potentially exculpatory elements. The Prosecution continues to apply the same standards to identify potentially exonerating information as stated at the last hearing (ICC-01/04-01/07-T-26-ENG ET, p. 32, lines 3-5); the decrease in the number of documents is due to clerical errors by the reviewers.

2. From the 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 or is about to send requests for the lifting of confidentiality restrictions to the providers for all the documents.



Fatou Bensouda
Deputy Prosecutor
on behalf of
Luis Moreno-Ocampo
Prosecutor

Dated this 24th day of April 2008

At The Hague, The Netherlands

The Prosecution submits that this number might decrease in the period between the Third and the Fourth Status Report since it is currently finalising its review of these 154 documents in light of the aforementioned clerical errors. The Prosecution further submits that this number continues to vary since all the documents reviewed to date are being subjected to a secondary review in light of the joinder of the cases against Germain KATANGA and Mathieu NGUDJOLO CHUI, the ongoing investigations and the continuous evaluation of the Prosecution evidence.