

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 23 June 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

Urgent

Public Version of Document ICC-01/04-01/07-622-Conf

**Information regarding the Discovery and Examination of Additional Material in
the Possession of the Prosecutor**

Source: Office of the Prosecutor

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

The Office of the Prosecutor

Counsel for the Defence of Germain Katanga

Mr David Hooper
Mr Göran Sluiter

Counsel for the Defence of Mathieu Ngudjolo Chui

Mr Jean-Pierre Kilenda Kakengi Basila
Ms Maryse Alié

Legal Representatives of Victims

Ms Carine Bapita Buyangandu
Mr Joseph Keta
Mr Jean-Louis Gilissen
Mr Hervé Diakiese
Mr Jean Chrysostome Mulamba
Nsokoloni

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

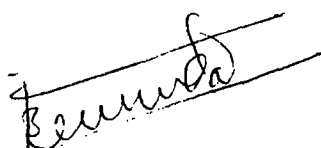
Other

The Office of the Prosecutor ("OTP" or "Prosecution") informs the Pre-Trial Chamber and the Defence of the following:

1. In the "Prosecution's Seventh Report on the Status of the Procedures Initiated Pursuant to 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 or as Material to the Defence under Rule 77 of the Rules", the Prosecution notified the Pre-Trial Chamber and the Defence that "The Prosecutor has requested a new general search of material to ensure that no document has been overseen; the inquiry is being completed. Any relevant information will be provided to the Chamber."¹ The Prosecution advises the Pre-Trial Chamber and the Defence that on 4 June 2008, a member of the OTP, while conducting a search for material relating to W-12, located several unregistered CD-ROMs and items relating to the DRC situation, mostly generated by the UN. A binder with unregistered hard-copy items and an item that appeared to be a map drawn by a witness was also discovered.
2. The OTP conducted an inventory and assessment of this material and determined that these items were obtained in the course of the investigation into the situation.
3. In total, 1172 items were registered for the purpose of review. The Prosecution has reviewed all of these items in order to determine whether they contained information that is subject to disclosure under Article 67(2) or should be provided for inspection by the Defence pursuant to Rule 77 ("Materials for disclosure or inspection").

¹ ICC-01/04-01/07-596, footnote 5.

4. Of these items, 19 have been identified as items that should be provided for inspection by the Defence pursuant to Rule 77. No items have been identified as subject to disclosure under Article 67(2).
5. Of the 19 Rule 77 items, 9 have no restrictions and can be disclosed forthwith.
6. Of the 19 Rule 77 items, 7 were provided by the UN and are subject to Article 54(3)(e) restrictions. The Prosecution is now determining whether analogous information to that which is contained in any of these Article 54(3)(e) items has already been or can be disclosed to the Defence in another form. However, the Prosecution is requesting, in parallel, the urgent lifting of the confidentiality restrictions to the UN. Finally, the agreement by the UN referred to in "Prosecution's Response to "Observations on behalf of Mr. Germain Katanga on the Prosecutor's Disclosure Obligations, together with a related Application for a Stay of Proceedings"" should apply to those documents.
7. Furthermore, of the 19 Rule 77 items, 3 were provided by other information providers under the condition that necessary measures will be taken to ensure the confidentiality of the information and the protection of any person at risk. The underlying material can be provided to the Judges confidentially and *ex parte* if the Chamber so requests. The Prosecution would propose to provide redacted versions or summaries of the items to the Defence if the Judges so agree.



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

Dated this 23rd day of June 2008

At The Hague, The Netherlands