

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 24 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

**Prosecution's Submission pursuant to the "Decision concerning the Prosecution's
Further Information in relation to Article 67(2) of the Statute and Rule 77 of the
Rules"**

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

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Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
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Amicus Curiae

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Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Pursuant to the Single Judge's 23 June 2008 "Decision concerning the Prosecution's Further Information in relation to Article 67(2) of the Statute and Rule 77 of the Rules"¹ ("23 June 2008 Decision"), the Office of the Prosecutor ("Prosecution") respectfully submits this filing to address the delay in informing the Single Judge of the materials referred to in the "Information regarding the Discovery and Examination of Additional Material in the Possession of the Prosecutor"² ("the Prosecution's Information") and to bring to the attention of the Single Judge additional uncovered material of potential Rule 77 nature which has yet to be disclosed.

Clarification regarding lapse of time

1. In the 23 June 2008 Decision, the Single Judge observed that the unregistered items that formed the subject matter of the Prosecution's Information were found on 4 June 2008, and that no reference to such items was made in several Prosecution filings made after that date.³
2. The Prosecution respectfully submits that disclosure to the Defence within the 16 June 2008 deadline was not practicable due to the steps required, as per standard practice of the Office, prior to disclosure, to : 1) identify the sources of the materials 2) review the materials in light of the evidence already registered in the OTP's collection in order to determine whether the newly discovered items were duplicates 3) register the material in the "Ringtail" database in order to conduct analysis of such to determine whether they contained potentially exculpatory material or elements that were material to the preparation of the defence, as specified in Article 67(2) and Rule 77.

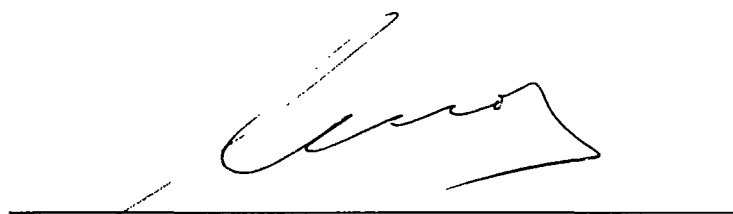
¹ ICC-01/04-01/07-630.

² ICC-01/04-01/07-622-Conf.

³ ICC-01/04-01/07-630, p. 7.

Information on formerly public material which may contain Rule 77 elements

3. In the 23 June 2008 Decision, the Single Judge ordered the Prosecution to immediately bring to the attention of the Single Judge any additional article 67(2) and/or rule 77 issues that the Single Judge has not yet been informed of in relation to the confirmation hearing in the present case.⁴ In this regard, the Prosecution has completed its search and has not uncovered any new material. It wishes however to bring to the attention of the Single Judge that it is in possession of public material from a UPC website, downloaded on a CD-Rom. The Prosecution is not relying on the material and since it is public information, it might be available already to the Defence. However it seems that the website is now defunct. Therefore, in order to fully assist the Defence, the Prosecution will disclose today a copy of this CD-Rom.



Luis Moreno-Ocampo
Prosecutor

Dated this 24th day of June 2008

At The Hague, The Netherlands

⁴ ICC-01/04-01/07-630, p. 9.