



Original: English

No.: ICC-01/04-01/07
Date: 5 December 2008

TRIAL CHAMBER II

Before: Judge Bruno Cotte , Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Fumiko Saiga

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

Public Document

Defence submissions in respect of redactions

Source: Defence for Mr Germain Katanga

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

The Office of the Prosecutor

Mr Luis Moreno Ocampo, Prosecutor
Mr Eric Macdonald, Senior Trial Lawyer

Counsel for the Defence for Germain Katanga

Mr David Hooper
Ms Caroline Buisman

Counsel for the Defence for Mathieu Ngudjolo Chui

Mr Jean-Pierre Kilenda Kakengi Basila
Ms Maryse Alié

Legal Representatives of Victims

Ms Carine Bapita Buyangandu
Mr Hervé Diakiese
Mr Jean-Christostome Mulamba
Nsokoloni
Mr Joseph Keta
Mr J.L. Gilissen

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

1. Following discussions with the Prosecution the Defence for Mr Germain Katanga (“Defence”) is agreeable to the following proposed scheme.
2. It is agreed with the Prosecution that redacted Rule 77 or PEXO materials will be disclosed to the Defence a brief period before the Prosecution applies to the Trial Chamber for authorisation for redactions within those materials.
3. The redacted Rule 77 or PEXO materials will be accompanied by explanations from the Prosecution as to the necessity of the proposed redactions.
4. As soon as practicable thereafter the Defence will indicate to the Prosecution whether it will object to the proposed redactions or not, or whether more time is needed to give the propositions adequate consideration.
5. The Prosecution will subsequently seek the Trial Chamber’s authorisation for the proposed redactions and, in these *ex parte* proceedings, present its views as well as the views of the Defence to the Trial Chamber.
6. The proposal is without prejudice to the essential interests of the defence in having all appropriate material disclosed and without prejudice to any later request for a lifting of redactions.
7. The initial burden to demonstrate the necessity for the redactions and their compliance with the disclosure regime set out in the ICC legislative framework remains with the Prosecution. In practice this will mean that, in the event of the Defence raising an objection to any particular redaction, the Prosecution will be invited to reconsider the redaction and if agreement is not reached, the Prosecution will retain the primary burden of convincing the Chamber of the need for the proposed redaction.

Respectfully submitted,



David HOOPER

Lead Counsel for Mr Germain Katanga

Dated this 5th of December 2008

At Entebbe