

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 7 July 2009

TRIAL CHAMBER II

Before: Judge Bruno Cotte, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Hans-Peter Kaul

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

***IN THE CASE OF
THE PROSECUTOR***

v. Germain KATANGA and Mathieu NGUDJOLO CHUI

URGENT

Public

Prosecution request for re-classification of Report of the Registrar

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

**Counsel for the Defence of Mathieu
 Ngudjolo Chui**
 Mr Jean-Pierre Kilenda Kakengi Basila

Legal Representatives of Victims

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 Other
 Section**

Introduction

1. On 2 July 2009, the Defence of Germain Katanga filed a “Public Redacted Version of the Defence motion for a declaration on unlawful detention and stay of proceedings” (“Defence Motion”).¹
2. The Defence Motion states, among other things, that the original and unredacted “motion is filed confidential and *ex parte* due to the reference to the confidential and *ex parte* Registrar Report on the execution of the warrant of arrest for Germain Katanga”.²
3. On 3 July 2009, Trial Chamber II instructed that the original Defence Motion be reclassified as confidential and *ex parte*, only available to Katanga’s Defence Team and Prosecution.³ On the same date, the Prosecution was provided with the original Defence Motion.⁴
4. The original Defence Motion includes a number of references to the confidential and *ex parte* “Report of the Registrar on the execution of the warrant of arrest for Germain Katanga” (“Report of the Registrar” - ICC-01/04-01/07-497-Conf-Exp).⁵
5. It appears that one of the core arguments of the Defence Motion is based on information included in the Report of the Registrar. In order for the Prosecution to file a response that addresses all the arguments raised therein, it must have access to a complete and unredacted version of the Report of the Registrar, and not only to those portions of the Report that are quoted in the original Defence Motion.

¹ ICC-01/04-01/07-1263.

² Defence Motion, para. 4.

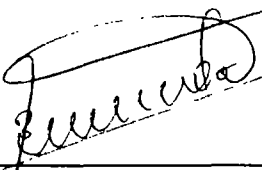
³ See ICC-01/04-01/07-1258-Conf-Exp, 30 June 2009.

⁴ ICC-01/04-01/07-1258-Conf-Exp, 30 June 2009.

⁵ See in particular original Defence Motion, paras. 31, 32 and 108.

Request

6. For the above reasons, the Prosecution requests the Trial Chamber, pursuant to Regulation 23*bis* of the Regulations of the Court, to reclassify the Report of the Registrar so as to permit the Prosecution access to it.
7. Given the Prosecution's time limit under Regulation 34(b) to file a response to the Defence Motion, the Prosecution further requests the Trial Chamber to rule on the matter on an urgent basis.



Fatou Bensouda,
Deputy Prosecutor

Dated this 7th day of July 2009

At The Hague, The Netherlands