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No.: ICC-01/04-01/07
Date: 5 November 2009

TRIAL CHAMBER II

Before: Judge Bruno Cotte, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Christine Van den Wyngaert

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
THE PROSECUTOR
*v. GERMAIN KATANGA AND MATHIEU NGUDJOLO CHUI***

**Public Document
with Annexes - Confidential, *ex parte*, only available to the Office of the
Prosecutor**

**Prosecution's request to disclose a new summary of document DRC-OTP-0085-0003
obtained pursuant to the confidentiality restrictions of Article 54(3)(e)**

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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**Counsel for the Defence of Mathieu
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Legal Representatives of the Victims

Mr Jean-Louis Gilissen

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Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(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

Deputy Registrar

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

The Prosecution hereby seeks permission to disclose, under Article 67(2) of the Statute, a new summary of document DRC-OTP-0085-0003 obtained pursuant to the confidentiality restriction of Article 54(3)(e).

Confidentiality

1. The Prosecution requests that the Annexes to this filing be received by Trial Chamber II ("Chamber") as confidential, *ex parte*, only available to the Office of the Prosecutor as they contain material that was obtained pursuant to conditions of confidentiality.

Request

2. On 5 January 2009, the Prosecution submitted its « Rapport de l'Accusation sur les documents ou renseignements obtenus en vertu d'accords de confidentialité conclus sur la base de l'article 54(3)(e) suite à « l'Ordonnance enjoignant au participants et au Greffe de déposer des documents complémentaires » » (« Report »).¹
3. In this Report, the Prosecution informed the Chamber that the provider of document DRC-OTP-0085-0003 had agreed to the lifting of the confidentiality restrictions by way of the disclosure of a summary ("first summary").² In compliance with the Chamber's order³, the Prosecution has been waiting for the Chamber's authorisation before proceeding to the disclosure of this first

¹ ICC-01/04-01/07-811. See Confidential, *ex parte* Annex 1A, line 91, for the reference to document DRC-OTP-0085-0003.

² See ICC-01/04-01/07-811-Conf-Exp-Anx1A, item 91 for the reference to original document DRC-OTP-0085-0003. The summary bears the registration number DRC-OTP-0204-0391.

³ See ICC-01/04-01/07-819, para. 7, « À cet égard, la Chambre lui demande instamment de mettre fin à la pratique d'expurgations faites *proprio motu*, telle qu'elle a pu encore le constater dans de récentes communications » and the Chamber specifically referred in footnote 17 to the Report of the Prosecution (ICC-01/04-01/07-811).

summary.⁴ Document DRC-OTP-0085-0003 is provided in Annex A and the first summary in Annex B.

4. Since the submission of its Report, the Prosecution has been seeking a more comprehensive summary ("New summary") of document DRC-OTP-0085-0003 from the provider.
5. On 26 October 2009, the Prosecution received from the provider this New summary⁵ which is being submitted as Annex C. The Prosecution has no objection to the immediate reclassification of Annex C as confidential, *ex parte*, available to the Office of the Prosecutor and the Defence, if the Chamber so approves.
6. The Prosecution respectfully requests permission to disclose this New summary pursuant to its obligations under Article 67(2).



Luis Moreno-Ocampo, Prosecutor

Dated this 5th day of November 2005

At The Hague, The Netherlands

⁴ DRC-OTP-0204-0391.

⁵ DRC-OTP-1050-0861.