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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

Prosecution's Request for an Extension of the Page Limit for its Response to Germain Katanga's "Defence Objections to Admissibility in Principal and in Substance" (ICC-01/04-01/07-1558) and Mathieu Ngudjolo Chui's « Requête de la Défense en vue d'obtenir une décision d'irrecevabilité des documents liés aux témoins décédés référencés sous les numéros T-167 et T-258» (ICC-01/04-01/07-1556)

Source: Office of the Prosecutor

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

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Section**

The Prosecution seeks an extension of the page limit for its response to Germain Katanga's "Defence Objections to Admissibility in Principal and in Substance" ("Katanga Motion")¹ and Mathieu Ngudjolo Chui's «Requête de la Défense en vue d'obtenir une décision d'irrecevabilité des documents liés aux témoins décédés référencés sous les numéros T-167 et T-258» ("Ngudjolo Motion").² The Prosecution submits that such an extension of the page limit is necessary in order to sufficiently address the arguments raised by both Defence teams.

Request for an Extension of Page Limit

1. Pursuant to Regulation 37(2) of the Regulations of the Court, a party may apply for an extension of the page limit in exceptional circumstances. The Prosecution submits that such exceptional circumstances exist in the present case to warrant this request.
2. The Katanga Motion is divided in three parts, each addressing a separate issue in a detailed and lengthy manner, comprising a totality of 44 pages. Each of these issues demands a thorough examination. The Ngudjolo Motion comprises 26 pages. A Prosecution response will lack the necessary depth, if confined to a 20-page limit. The Prosecution requires an additional 20 pages to enable it to sufficiently respond to the arguments advanced by both Defence teams, in particular in response to the following three aspects of the Katanga Motion:
 - a. Part I of the Katanga Motion (as well as the Ngudjolo Motion) deals with admissibility of a number of documents related to the two deceased witnesses in the Prosecution's case (P-167 and P-258). The

¹ ICC-01/04-01/07-1558, 23 October 2009.

² ICC-01/04-01/07-1556, 23 October 2009.

two Defence teams make a number of factual and legal assertions related to these documents. The principles behind the admission of these documents, as well as the documents themselves, need to be thoroughly discussed and analyzed in the Prosecution's response.

- b. Part II of the Katanga Motion also challenges the admissibility of one document, the *Procès-verbal d'audition à Kinshasa daté du 20 janvier 2006*. The Defence makes a number of factual assertions as to the circumstances surrounding the taking of the *Procès-verbal* as well as a number of legal assertions including those on the validity of the Pre-Trial Chamber's ruling on the admissibility of the document and the relevant jurisprudence.
 - c. Finally in Part III, the Katanga Motion asserts that certain principles should apply when assessing admissibility of evidence during trial. This is an important issue and the Prosecution wishes to make its own views on the matter known.
3. The Prosecution submits that it will serve the interests of justice and enable a proper determination of the admissibility of the aforementioned documents, if it can sufficiently respond to the arguments advanced by the Defence. The Prosecution believes that it can best present its response in a document not exceeding 40 pages, excluding the two cover pages. The additional pages will facilitate its task of presenting clear arguments for each document in question, and thereby assist the Chamber in its decision.

Conclusion

4. For the foregoing reasons, the Prosecution submits that the reasons set out above constitute exceptional circumstances within the meaning of Regulation 37(2). While the Prosecution will endeavour to restrict the length of its filing, it respectfully requests an extension of 20 pages to the page limit for its response to the Defence motions.



Luis Moreno-Ocampo, Prosecutor

Dated this 10th day of November 2009

At The Hague, The Netherlands