

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **28 April 2010**

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 Confidential Annexes A and B**

**Prosecution's Communication of Pre-Inspection Report for Material Provided to
the Defence under Rule 77 on 28 April 2010**

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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Katanga**

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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

The Office of the Prosecutor ("Prosecution") hereby submits the pre-inspection report regarding the disclosure to the Defence teams of Germain Katanga and Mathieu Ngudjolo Chui of seventy-eight documents pursuant to Rule 77 of the Rules of Procedure and Evidence ("Rule 77"), on 28 April 2010.

Disclosure of new material

1. The Prosecution disclosed, based on the new, simplified procedure set out by the Chamber regarding the disclosure of Rule 77 and potentially exonerating material,¹ seventy-eight new documents that relate to witnesses 157, 219, 279 and 280.

Documents related to P-157

2. The Defence team of Germain Katanga requested the Prosecution to disclose a number of additional documents related to Witness P-157 that were disclosed to the Defence in the case of the *Prosecutor v. Thomas Lubanga Dyilo*.² Further to the above request, the Prosecution disclosed today sixty-nine documents related to this witness.
3. Out of the sixty-nine documents disclosed, sixty-two are receipts of expenses incurred by the Prosecution in relation to this witness. The Prosecution had already disclosed, via email, to the Defence teams of Katanga and Ngudjolo the total amount of the expenses incurred in relation to its incriminating witnesses, including P-157.³

¹ ICC-01/04-01/07-T-105-CONF-FRA ET, 22 February 2010, p. 3, lines 16-25 and p. 4, lines 1-4

² Email from the Defence team of Germain Katanga, dated 22 April 2010, at 18:03 ("*The Defence for Mr Katanga requests that all the documents mentioned in the Chart [...] relative to W-157, already disclosed to the Defence for Lubanga but not to us yet, be disclosed to us as soon as possible.*")

³ An updated version of a chart containing the total amount of expenses per witness was sent via email to the Defence teams on Thursday, 15 April 2010, at 12:35.

4. Three additional documents are translations into Lingala and French of already disclosed material. The remaining four documents were not previously disclosed to the Defence as they were not directly relevant to the proceedings in the present case and are being disclosed further to the above-mentioned request by the Defence.

Documents related to P-279 and P-280

5. The Prosecution disclosed five documents related to Witnesses P-279 and P-280. Three documents are translations into Swahili of the statements of each witness, disclosed for the purposes of inclusion into their respective familiarization packages. The Chamber authorized, in an email dated 19 January 2010, the disclosure of translations of documents related to Prosecution witnesses who will be testifying before this Court.
6. The additional two documents are investigator's notes describing the circumstances of collection of certain documents related to these two witnesses.

Documents related to P-219

7. The Prosecution disclosed four documents related to Witness P-219. Witness P-219 is the original provider of the above-mentioned documents. At the beginning of its investigation into the DRC situation, Witness P-219 was identified by the code number DRC-SS03. The Ringtail Metadata for these four documents indicates DRC-SS03 (or P-219) as the original provider. In light of this, the Prosecution considers that the said documents may be material pursuant to Rule 77 since Witness P-219 will testify in the present case.

Request for confidentiality

Annexes A⁴ and B⁵ appended to this communication contain the “List of Disclosed Material” provided to each Defence team. The Prosecution requests that these annexes be received as “Confidential” since they relate to *inter partes* disclosure.



Luis Moreno-Ocampo, Prosecutor

Dated this 28th day of April 2010

At The Hague, The Netherlands

⁴ List of Disclosed Material provided to the Defence of Germain Katanga on 28 April 2010.

⁵ List of Disclosed Material provided to the Defence of Mathieu Ngudjolo Chui on 28 April 2010.