

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra and Judge
4 Christine Van den Wyngaert
5 Situation in the Democratic Republic of the Congo - ICC-01/04-01/07
6 In the case of The Prosecutor v. Germain Katanga
7 and Mathieu Ngudjolo Chui
8 Open session
9 Monday, 23 November 2009

10 (The hearing starts at 2.00 p.m.)

11 THE COURT USHER: All rise.

12 PRESIDING JUDGE COTTE: (Interpretation) Court is now in session. Mr Katanga
13 is in attendance. Now, after a misunderstanding, I believe that it was not necessarily
14 mentioned that you did not need to wear your legal gowns, and I see that some of you
15 are dressed in business attire, others have your legal gowns on.

16 I will not ask you to introduce yourselves because we have a number of time -- pardon
17 me, restrictions having to do with courtrooms. And first of all, we will render the oral
18 decision that I mentioned this morning, asking the courtroom officer to be so kind as
19 to reclassify it immediately, so that as quickly as possible the other Defence team,
20 the legal representatives of victims and the OTP will be able to benefit from the ruling
21 as well. I'll read slowly.

22 Ruling on application 1653 issued 19 November 2009 by the Katanga Defence team,
23 the Chamber hereby declares that it is not going to accept the application. It reminds
24 all that the summary of charges that was filed on an exceptional basis by the Prosecutor
25 in this case does not constitute a new accusation, but rather a mere summary of the decision

1 confirming the charges that was handed down by the Pre-Trial Chamber.

2 Furthermore, the Chamber reminds all that the only document defining the charges
3 and the decision of Confirmation of Charges issued by the Pre-Trial Chamber. However,
4 the Chamber is sensitive to the needs expressed by the Defence team of Mr Katanga. They
5 would like the exact limits or the specific framework of the case before the Pre-Trial
6 Chamber to be entirely delineated.

7 However, the Chamber is sensitive to the needs expressed by the Katanga Defence
8 team; they would like the exact limits or the specific framework to be defined for the
9 case that has been brought before the trial division. The Defence of Mr Katanga did indicate,
10 however, that this wish was not conclusive because the team is willing to bring in a
11 plea of guilt or innocence tomorrow.

12 For the Chamber, the limits or the framework that the Katanga Defence team would
13 like to have defined is found in two documents: The first is the decision of Confirmation
14 of Charges, and the conclusive paragraphs set out clearly that the case that the Chamber
15 will be seized of has to do with facts that were committed in Bogoro on 24 February 2003.

16 I am referring to paragraphs five-hundred-and -- the only -- the second document
17 and its value is lesser in comparison with the DCC is the table of charges that was prepared
18 by the Prosecution, a table that includes all the items of evidence that the Prosecution
19 intends to base itself on. This table is exhaustive. Consequently, within the framework
20 of this case -- or more specifically, it results that the framework of this case is well
21 defined today, and it is proper to refer to these two documents to obtain a reply to
22 the question that you have asked.

23 Furthermore, the Chamber would remind you that disclosure of items of evidence
24 has been completed, which once again allows the Defence teams to find answers to some
25 of their concerns. The Chamber did note that during the hearing held this morning that

1 the Prosecution was willing to provide you -- and I am referring to the Katanga Defence
2 team -- with a number of specific items of information having to do with facts, as long
3 as these items do not lead to a discussion of the substantive matters.

4 I repeat: The Prosecutor was willing to provide additional factual information
5 as long as such information does not lead to a debate as to the substantive matters,
6 and the Chamber would urge the Defence team and the OTP to consult one another as necessary
7 with a view to sharing, basing yourselves on the two documents mentioned with all and
8 any information that could provide the clarifications that you wish to have.

9 The Defence of Mr Ngudjolo should take part in such discussions as well, if
10 that team does want to do so. In any event, if that team does not want to take part in
11 such discussions, they should benefit from the results, as should the Chamber, and we
12 would like to be informed of such discussions as well. Thus, Madam Courtroom Officer,
13 thank you very much for dealing with the reclassification of that document so that it
14 could be shared as quickly as possible.

15 Closed session and ex parte hearing with Registry and Katanga Defence expunged from page
16 3 line 15 to page 22 line 25.

17 Expunged

18 Expunged

19 Expunged

20 Expunged

21 Expunged

22 Expunged

23 Expunged

24 Expunged

25 (The hearing ends at 3.15 p.m.)

1 RECLASSIFICATION REPORT

2 Pursuant to the oral order of Trial Chamber II, dated on the 23rd November 2009, the following
3 part of the transcript from page 1 line 1 to page 3 line 14 held in ex parte closed session
4 is reclassified as "Public."

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