



Original: English

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

Date: 12 June 2008

PRE-TRIAL CHAMBER I

Before: Judge Akua Kuenyehia, Presiding Judge
Judge Sylvia Steiner, Judge
Judge Anita Ušacka, Judge

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
THE PROSECUTOR
*v. GERMAIN KATANGA AND MATHIEU NGUDJOLO CHUI***

**Public Document
with Public, Confidential – *Ex Parte* – Prosecution Only
and Confidential Annexes**

**Prosecution's Submission of Amended Document Containing the Charges and
Additional List of Evidence**

Source: The 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
Mr Göran Sluiter

**Counsel for the Defence of Mathieu
Ngudjolo Chui**

Mr Jean-Pierre Kilenda Kakengi Basila
Ms Maryse Alié

Legal Representatives of Victims

Ms Carine Bapita Buyangandu
Mr Joseph Keta
Mr Jean-Louis Gilissen
Mr Hervé Diakiese
Mr Jean-Christostome Mulamba
Nsokoloni

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 (the "Prosecution") submits, in appended annexes to this document, an amended document containing the charges against GERMAIN KATANGA and MATHIEU NGUDJOLO CHUI ("amended Document Containing the Charges") and additional list of evidence ("additional List of Evidence") which the Prosecution intends to rely on at the confirmation hearing scheduled to commence on 27 June 2008. This amended Document Containing the Charges and additional List of Evidence is submitted pursuant to Article 61(6) of the Statute of Rome (the "Statute") as well as Rule 121(4) of the Rules of Procedure and Evidence (the "Rules") and Regulation 52 of the Regulations of Court.¹ In addition to the offences alleged against GERMAIN KATANGA and MATHIEU NGUDJOLO CHUI in the previous charging document,² the Prosecution also alleges the commission of the offences of sexual slavery, rape and outrages against personal dignity.

**Request for the Receipt of Certain Annexes as Confidential - *Ex Parte* -
Prosecution Only and Certain Other Annexes as Confidential**

The Prosecution requests that Annex 1D, appended to this document, be received by the Chamber as "Confidential – *Ex Parte* – Prosecution Only" as this annex contains identifying information of all witnesses. The Prosecution also requests that Annexes 1B, 1C, 1E, 2B and 2C appended to this document, be received by the Chamber as "Confidential – Prosecution, Defence and Entitled³ Legal Representatives of Victim

¹ The annexes appended to this document are the following: Annex 1A: Amended Document Containing the Charges - Public (English); 1B: Additional List of Evidence – (English) (**CONFIDENTIAL PROSECUTION, DEFENCE AND ENTITLED LEGAL REPRESENTATIVES FOR VICTIM PARTICIPANTS ONLY**); Annex 1C: List of Additional Evidence added to the Additional List of Evidence (ICC-01/04-01/07-422-Conf-Anx1D) (English) (**CONFIDENTIAL PROSECUTION, DEFENCE AND ENTITLED LEGAL REPRESENTATIVES FOR VICTIM PARTICIPANTS ONLY**); Annex 1D: Full List of Witnesses (**CONFIDENTIAL EX PARTE PROSECUTION ONLY**); Annex 1E: Confidential List of Witnesses (**CONFIDENTIAL PROSECUTION, DEFENCE AND ENTITLED LEGAL REPRESENTATIVES FOR VICTIM PARTICIPANTS ONLY**); Annex 2A: Amended Document Containing the Charges – Public (French); Annex 2B: Additional List of Evidence (French) (**CONFIDENTIAL PROSECUTION, DEFENCE AND ENTITLED LEGAL REPRESENTATIVES VICTIM PARTICIPANTS ONLY**); Annex 2C: List of Additional Evidence added to the Additional List of Evidence (ICC-01/04-01/07-422-Conf-Anx2D) (French) (**CONFIDENTIAL PROSECUTION, DEFENCE AND ENTITLED LEGAL REPRESENTATIVES VICTIM PARTICIPANTS ONLY**).

² ICC-01/04-01/07-422.

³ The term "Entitled" is employed to refer to Legal Representatives for Victim Participants who have been granted procedural rights to participate pursuant to Section V.1.4.2 of the "Decision on the Set of Procedural Rights Attached to Procedural Status of Victim at the Pre-Trial Stage of the Case", ICC-01/04-01/07-474, which includes access to the confidential case record.

Participants Only” as this list contains identifying information of witnesses who are known to the Defence, but not to the public. These requests are made to protect the victims and witnesses pursuant to Article 68(1) of the Statute.

Background

1. On 29 January 2008, the Prosecution filed the document containing the charges against Germain KATANGA in the case of the *The Prosecutor v. Germain KATANGA*.⁴ On 10 March 2008, the Pre-Trial Chamber I joined the cases of *The Prosecutor v. Germain KATANGA* and *The Prosecutor v. Mathieu NGUDJOLO CHUI* and scheduled the hearing for the confirmation of charges to take place on 21 May 2008.⁵

2. On 21 April 2008, the Prosecution filed the “Prosecution’s Submission of the Document Containing the Charges and List of Evidence” pursuant to Article 61(3) of the Statute, Rule 121(3) of the Rules and Regulation 56 of the Regulation of Court, in compliance with the calendar established for the confirmation hearing date of 21 May 2008.⁶ In that charging document, the Prosecution notified the Chamber and the Defence that it intended to reintroduce charges of sexual slavery and add the charges of rape and outrages upon personal dignity if it was successful in an appeal against the Chamber’s ruling of 18 April 2008 excluding evidence of two witnesses (witnesses 132 and 287) from the confirmation hearing.⁷

3. As a result of a request made by the Defence for Mathieu NGUDJOLO,⁸ on 25 April 2008 the Chamber postponed the confirmation hearing until 27 June 2008.⁹ On 20 May 2008, the Single Judge granted the Prosecution leave to appeal *inter alia* the

⁴ ICC-01/04-01/07-170.

⁵ ICC-01/04-01/07-257, pp.11-12.

⁶ ICC-01/04-01/07-422.

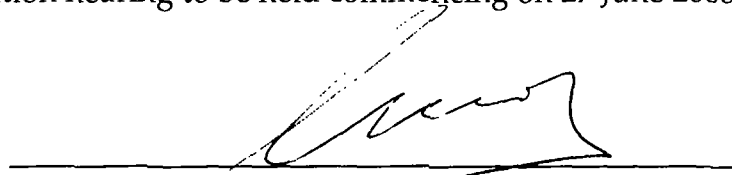
⁷ ICC-01/04-01/07-422, pp. 3, 5-6.

⁸ ICC-01/04-01/07-410.

⁹ ICC-01/04-01/07-446.

exclusion of the evidence of witnesses 132 and 287.¹⁰ Eight days later, following an urgent application brought by the Prosecution on 27 May 2008¹¹, the Single Judge ruled that the evidence of witnesses 132 and 287 was admissible for the purpose of the confirmation hearing due to a change in the witnesses' security situations.¹² In that decision, the Single Judge noted "the Prosecution has until 12 June 2008 to file the Prosecution Amended Charging Document in which, if the Prosecution so decides, it may introduce the charges of sexual slavery, rape and outrages upon personal dignity."¹³

4. Accordingly, the Prosecution herein submits an amended Document Containing the Charges, which includes the offences of sexual slavery, rape and outrages upon personal dignity, and an accompanying additional List of Evidence¹⁴ for the confirmation hearing to be held commencing on 27 June 2008.



Luis Moreno-Ocampo
Prosecutor

Dated this 12th day of June 2008

At The Hague, The Netherlands

¹⁰ ICC-01/04-01/07-483-Conf.

¹¹ ICC-01/04-01/07-516-Conf.

¹² ICC-01/04-01/07-523.

¹³ ICC-01/04-01/07-523, p.8.

¹⁴ As noted in footnote 1 above, the Prosecution includes with this document two annexes relating to the additional List of Evidence. Annexes 1B (English) and 2B (French) are the additional Lists of Evidence containing the complete list of evidence for the confirmation hearing. The Prosecution has also included Annexes 1C and 2C to assist the Chamber, the defence teams and the Legal Representatives for Victim Participants in determining which evidence has been added to the additional list of evidence as compared to ICC-01/04-01/07-422-Conf-Anx1D and Anx2D.