

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-01/04-01/07 OA3

Date: 4 April 2008

**THE APPEALS CHAMBER**

**Before:** Judge Erkki Kourula, Presiding Judge  
Judge Philippe Kirsch  
Judge Georghios M. Pikis  
Judge Navi Pillay  
Judge Sang-Hyun Song

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

**Public Document**

**Prosecution Request for Leave to Present Additional Authority  
Regarding Defence Appeal against  
“Decision on the Defence Request Concerning Languages”**

**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**

**Counsel for the Defence**

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**

**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**

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**Registrar**  
Mr Bruno Cathala

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

**Procedural background**

1. On 21 December 2007, the Single Judge rendered the “Decision on the Defence Request Concerning Languages” (“the Decision”),<sup>1</sup> in which she found that Mr KATANGA's competency in French meets the standards of Articles 67(1)(a) and (f) of the Statute.<sup>2</sup>
2. On 27 December 2007, the Appellant sought leave to appeal the Decision,<sup>3</sup> which the Prosecution did not oppose.<sup>4</sup>
3. On 18 January 2008, the Single Judge granted leave to appeal the issue of whether the Decision “incorrectly found that Mr. Katanga's competency in French meets the standards of articles 67(1)(a) and (f) of the Statute”.<sup>5</sup>
4. On 31 January 2008, the Defence filed its document in support of appeal,<sup>6</sup> which raised two errors:
  - a. a legal error, regarding the interpretation of the standard in the Statute for the level of competency in French required of Mr KATANGA; and
  - b. a factual error, regarding the assessment of the Single Judge that Mr KATANGA meets that standard.
5. The Prosecution filed its response to the document in support of appeal on 14 February 2008.<sup>7</sup>

### **Request to Present Additional Authority**

6. Recently, and after the filing of all submissions by both parties, the Appeals Chamber of the ICTY has issued a decision which goes to the core issue in this appeal, namely the interpretation and application of the right of an accused person to be provided with relevant material in a language that they understand.

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<sup>1</sup> ICC-01/04-01/07-127.

<sup>2</sup> ICC-01/04-01/07-127, paras. 32 and 37.

<sup>3</sup> ICC-01/04-01/07-130.

<sup>4</sup> ICC-01/04-01/07-137, 8 January 2008.

<sup>5</sup> ICC-01/04-01/07-149.

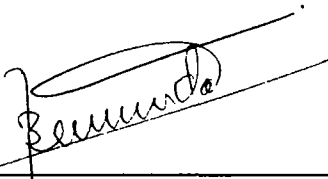
<sup>6</sup> ICC-01/04-01/07-175 OA3.

<sup>7</sup> ICC-01/04-01/07-194 OA3.

7. The Prosecution submits that this authority is relevant to the present appeal, and may assist the Appeals Chamber in its consideration and resolution of the issue before it. The Prosecution therefore seeks leave to place this authority, which was unavailable to either party at the time of filing their submissions, before the Appeals Chamber.<sup>8</sup>
8. The Prosecution is not seeking leave to present any additional arguments in support of its response to the appeal.

### Relief Sought

9. For the reasons set out above, the Prosecution respectfully requests that the Appeals Chamber authorise it to file a supplementary list of authorities to its response to the Appeal Brief, and to consider the additional authority in its determination of this appeal.



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Luis Moreno-Ocampo  
Prosecutor

Dated this 4<sup>th</sup> day of April, 2008

At The Hague, The Netherlands

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<sup>8</sup> The Prosecution notes that the Appeals Chamber has previously permitted a party to present additional authorities, as well as additional details, after the presentation of the primary submissions (albeit in different circumstances) – see ICC-01/04-01/07-164 OA2, 24 January 2008. The reasons for this order have not yet been delivered.