



Original: **French**

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

Date: **15 May 2009**

TRIAL CHAMBER II

Before: Judge Bruno Cotte, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Hans-Peter Kaul

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

IN THE CASE OF

***THE PROSECUTOR v. GERMAIN KATANGA AND MATHIEU NGUDJOLO
CHUI***

Public Document

**Order Postponing the Hearing Relating to the Challenge to Admissibility
(Rule 58(2) of the Rules of Procedure and Evidence)**

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

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
Mr Éric MacDonald, Senior Trial Lawyer

**Counsel for the Defence of Germain
Katanga**

Mr David Hooper
Mr Andreas O'Shea
Ms Caroline Buisman

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

Mr Jean-Pierre Kilenda Kakengi Basila
Mr Jean-Pierre Fofé Djofia Malewa

Legal Representatives of the Victims

Ms Carine Bapita Buyangandu
Mr Joseph Keta
Mr Jean-Louis Gilissen
Mr Hervé Diakiese
Mr Jean Chrysostome Mulamba
Nsokoloni
Mr Fidel Nsita Luvengika
Mr Vincent Lurquin
Ms Flora Ambuyu Andjelani

Legal Representatives of the Applicants

**The Office of Public Counsel for
Victims**

Ms Paolina Massida

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

**Victims Participation and Reparations
Section**

TRIAL CHAMBER II of the International Criminal Court (the “Chamber”), acting pursuant to rule 58(2) of the Rules of Procedure and Evidence (“the Rules”), orders the following.

1. On 10 February 2009, the Defence for Germain Katanga submitted to the Chamber a challenge to the admissibility of the case as provided for in article 19(2)(a) of the Statute and on the grounds set forth in article 17 thereof¹ (“the Challenge to Admissibility”). This motion, originally filed as “confidential, *ex parte* only available to the Defence for Germain Katanga”, was transmitted to the Prosecutor on 25 February 2009, pursuant to rule 58(3) of the Rules of Procedure and Evidence (“the Rules”) after the Registry had reclassified it as a confidential document at the Chamber’s request.²

2. On 7 May 2009, the Chamber considered it necessary to convene a hearing where the authorities of the Democratic Republic of the Congo (“the DRC”) would be present.³ It scheduled that hearing for 18 May 2009 at 2.00 p.m.

3. On 15 May 2009, the Registry transmitted to the Chamber a copy of an e-mail of 14 May 2009 signed by the Minister of Justice of the DRC.⁴ This message acknowledges receipt of the Chamber’s order convening the hearing, and states that the Congolese authorities wish to be present at it, but explain that they will not be

¹ Defence for Germain Katanga, “Motion Challenging the Admissibility of the Case by the Defence of Germain Katanga, pursuant to Article 19(2)(a) of the Statute”, 10 February 2009, ICC-01/04-01/07-891-Conf-Exp.

² ICC-01/04-01/07-T-59-CONF-EXP-ENG ET 24-02-2009, p. 35, lines 7 and 8.

³ Order to Convene a Hearing (rule 58(2) of the Rules of Procedure and Evidence), 7 May 2009, ICC-01/04-01/07-1112-tENG.

⁴ Registry, “Communication par le Greffe de la réponse des autorités de la République Démocratique du Congo à la convocation à l’audience du 18 mai 2009 (règle 58-2 du Règlement de procédure et de preuve)”, 15 May 2009, ICC-01/04-01/07-1138.

able to travel on the date indicated, and that they would like a postponement to early June 2009.

4. As it considers the presence of the Congolese authorities to be indispensable, the Chamber decides that it is appropriate to postpone this hearing to the next possible date.

FOR THESE REASONS,

CANCELS the public hearing scheduled for 18 May 2009 at 2.00 p.m.

A new hearing will be convened shortly and a new agenda will then be communicated to the participants.

Done in both English and French, the French version being authoritative.

[signed]
Judge Bruno Cotte
Presiding Judge

[signed]
Judge Fatoumata Dembele Diarra

[signed 15/5/09]
Judge Hans-Peter Kaul

Dated this 15 May 2009

At The Hague, The Netherlands