



Original: **French**

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

Date: **4 June 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 Convening a Hearing
(rule 144 of the Rules of Procedure and Evidence)**

Order 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

Mr David Hooper
Ms Caroline Buisman

Counsel for 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

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

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

States' Representatives

Representatives of the Democratic
Republic of the Congo

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Trial Chamber II of the International Criminal Court (“the Chamber”), acting pursuant to rule 144 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 thereof (“the Challenge to Admissibility”). That application, 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. The Registry reclassified the application as a confidential document at the Chamber’s request.¹

2. On 19 March 2009, the Prosecutor sent his response² and, on 30 March 2009, the Defence for Germain Katanga filed a reply.³ On 16 April 2009, the Legal Representatives of the Victims submitted their observations⁴ and, on 28 April 2009, the Office of Public Counsel for Victims filed its observations.⁵

3. On 22 May 2009, the Chamber convened a hearing for 9.30 am on 1 June 2009. It considered this hearing to be necessary in the light of the arguments developed in

¹ ICC-01/04-01/07-T-59-CONF-EXP-ENG ET 25-02-2009, p. 35, lines 7 and 8.

² Office of the Prosecutor, “Prosecution Response to Motion Challenging the Admissibility of the Case by the Defence of Germain Katanga, pursuant to Article 19(2)(a)”, 19 March 2009, ICC-01/04-01/07-968- Conf-Exp.

³ Defence for Germain Katanga, “Defence Reply to Prosecution Response to Motion Challenging the Admissibility of the Case by the Defence of Germain Katanga, pursuant to Article 19(2)(a)”, 30 March 2009, ICC-01/04-01/07-1008-Conf-Exp.

⁴ Legal Representatives of Victims a/0330/07 and a/0331/07, “Submission on the Motion Challenging the Admissibility of the Case by the Defence of Mr Germain KATANGA (Article 19 of the Rome Statute)”, 16 April 2009, ICC-01/04-01/07-1058-Conf-tENG; Legal Representatives of Victims a/0333/07 and a/110/08, “Representations of Victims a/0333/07 et a/110/08 on the Challenge to Admissibility filed by the Defence for Mr Katanga (rule 59(3) of the Rules of Procedure and Evidence)”, 16 April 2009, ICC-01/04-01/07-1059-Conf-tENG; Legal Representatives of the Victims, “Observations of the Victims on the Objection to Jurisdiction raised by the Defence for Germain Katanga in its Motion of 10 February 2009”, 16 April 2009, ICC-01/04-01/07-1060-tENG.

⁵ The Registry, “Observations of the OPCV on the Defence for Germain Katanga’s Motion Challenging the Admissibility of the Case with one confidential *ex parte* OPCV only Annex and three Public Annexes”, 28 April 2009, ICC-01/04-01/07-1083.

the various documents it had received and inasmuch as the authorities of the Democratic Republic of the Congo (DRC) had not submitted any written observations.

4. At the hearing of 1 June 2009, all the participants and the DRC Representatives spoke on the Challenge to Admissibility and responded to the questions asked by the Chamber.

5. The Chamber is now in a position to render its decision and, as required under rule 144 of the Rules, is obliged to pronounce that decision in public.

FOR THESE REASONS, THE CHAMBER

CONVENES a public hearing for 12 June 2009 at 9 am.

INSTRUCTS the Registry to notify the DRC authorities of this order.

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

[signed]

Judge Bruno Cotte
Presiding Judge

[signed]

Judge Fatoumata Dembele Diarra

[signed 4/6/09]

Judge Hans-Peter Kaul

Dated this 4 June 2009

At The Hague, The Netherlands