



Original : **French**

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

Date: **18 August 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**

**Public Version of the Decision of 9 April 2009 on the Prosecution Brief in Response  
to the Chamber's Requests in Four Decisions on Applications for Redactions  
(ICC-01/04-01/07-1047-Conf-Exp)**

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 Germain Katanga**

Mr David Hooper  
 Mr Andreas O'Shea

**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 Mbuyu Anjelani

**Legal Representatives of the Applicants**

**The Office of Public Counsel for  
 Victims**

Ms Paolina Massidda

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

**States' Representatives**

*Amicus curiae*

**REGISTRY**

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**Registrar**

Ms Silvana Arbia

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
 Section**

**Others**

**Trial Chamber II** of the International Criminal Court (“the Chamber” and “the Court” respectively), acting pursuant to articles 54, 67 and 68 of the Rome Statute (“the Statute”) and to rules 77 and 81 of the Rules of Procedure and Evidence (“the Rules”), decides as follows:

## **I. Procedural Background**

1. This Decision follows the brief submitted by the Prosecutor on 14 April 2009 responding to the Chamber’s requests in four decisions concerning the Prosecutor’s applications for redactions of information in certain documents.<sup>1</sup>

2. In that brief, the Prosecutor responds to the Chamber’s requests that he submit to it applications for redactions presented in Prosecution documents by restricting them to those passages that are strictly necessary.<sup>2</sup> The Chamber considered that those four applications for redactions from the Prosecutor did not meet the requirements of necessity and proportionality as stipulated by the Appeals Chamber and on which the Chamber relies in order to conduct its judicial scrutiny of applications for redactions.<sup>3</sup>

## **II. The Chamber’s Analysis**

3. Having reviewed the said application and satisfied itself that disclosing this information would not pose a risk to the safety of the person concerned or of the witness, the Chamber authorises the reinstatement of the passages concerning the name of the wife of Witness 161.

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<sup>1</sup> Office of the Prosecutor, “*Mémoire de l’Accusation en réponse aux demandes de la Chambre formulées dans quatre documents concernant des requêtes du Procureur aux fins d’expurgations d’informations dans certains éléments de preuve* (ICC-01/04-01/07-1038-Conf-Exp, ICC-01/04-01/07-1041-Conf-Exp, ICC-01/04-01/07-1042-Conf-Exp, ICC-01/04-01/07-1046-Conf-Exp), 14 April 2009, ICC-01/04-01/07-1057-Conf-Exp, with confidential, *ex parte* annexes only available to the Prosecutor.

<sup>2</sup> *Decision on the Prosecutor’s Application to Redact Information under Article 67(2) of the Statute or Rule 77 of the Rules of Procedure and Evidence* (ICC-01/04-01/07-934), 8 April 2009, ICC-01/04-01/07-1038-Conf-Exp-tENG, para. 44.

<sup>3</sup> ICC-01/04-01/07-1038-Conf-Exp-tENG, para. 5.

**FOR THESE REASONS, THE CHAMBER**

**ALLOWS** the application for the reinstatement of the redacted passages, and

**ORDERS** the disclosure of the relevant information to the Defence as soon as practicable.

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

[signed]

**Judge Bruno Cotte**  
**Presiding Judge**

[signed]

**Judge Fatoumata Dembele Diarra**

[signed] 18/08/09

**Judge Hans-Peter Kaul**

Dated this 18 August 2009

At The Hague, The Netherlands