

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 27 March 2009

TRIAL CHAMBER II

Before: Judge Bruno Cotte , Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Fumiko Saiga

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
THE PROSECUTOR
*v. Germain KATANGA and Mathieu NGUDJOLO CHUI***

Public Document

**Submission by the Registrar of a revised version of the E-Court Protocol of Trial
Chamber I**

Source: The Registrar

Document 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
Mr Eric MacDonald, Senior Trial Lawyer

Counsel for Germain Katanga

Mr David Hooper
Mr Andreas O'Shea
Counsel for Mathieu Ngudjolo Cui
Mr Jean-Pierre Kilenda Kakengi Basila
Mr Jean-Pierre Fofé Djofia Malewa

Legal Representatives of 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 Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

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

States Representatives

Amicus Curiae

REGISTRY

Registrar & Deputy Registrar

Ms Silvana Arbia & Mr Didier Preira

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Ms Charlotte Dahuron-Jacoby
Mr Ian Blacker

The Registrar of the International Criminal Court (the “Court”);

NOTING the “Order concerning the Presentation of Incriminating Evidence and the E-Court Protocol” (the “Order”) issued by Trial Chamber II (the “Chamber”) on 13 March 2009¹;

NOTING the “Decision on the E-Court Protocol” issued by Trial Chamber I in the case the *Prosecutor v. Thomas Lubanga Dyilo* (the “Lubanga case”) on 24 January 2008²;

NOTING the “Second Decision on the E-Court Protocol” issued by Trial Chamber I in the Lubanga case on 13 March 2008³;

NOTING the “Registry’s Consolidated E-Court Protocol” submitted by the Registry in the Lubanga case on 4 April 2008⁴;

NOTING the “Decision on the Evidence Disclosure System and Setting a Timetable for Disclosure between the Parties” and the “Technical protocol for the provision of evidence, material and Witness Information in electronic form for the confirmation of charges”⁵ issued by Pre-trial chamber III in the case *the Prosecutor v. Jean-Pierre Bemba Gombo* on 31 July 2008;

NOTING the “suggestions” mentioned in the Order, in light of which the Registry has been instructed to review the E-court protocol⁶;

¹ ICC-01/04-01/07-956

² ICC-01/04-01/06-1127

³ ICC-01/04-01/06-1223

⁴ ICC-01/04-01/06-1263 and ICC-01/04-01/06-1263-Anx1

⁵ ICC-01/05-01/08-55 and ICC-01/05-01/08-55-Anx

⁶ ICC-01/04-01/07-956, para. 20, p 11

NOTING the proposals directly communicated to the Registry by the Office of Public Counsel for Defence (OPCD) on 20 March 2009 and by the Office of Public Counsel for Victims (OPCV) on 23 March 2009⁷;

NOTING regulation 26 of the Regulations of the Court;

CONSIDERING that in its Order Trial Chamber II has ordered the Registry “to revise the E-Court Protocol of Trial Chamber I, ICC-01/04-01/07-1263-Anx1, in order to eliminate any technical errors and imprecision, and submit a revised version for approval by the Chamber” and has authorised the Registry “to consult directly with appropriate services of the Office of the Prosecutor”;

CONSIDERING that the Chamber has invited “the accused, the legal representatives of the victims as well as the OPCD and OPCV to communicate any specific proposals relating to the technical improvement of the E-Court Protocol directly to the Registry, no later than Monday 23 March at 4 p.m.”;

CONSIDERING that the Registry did not receive any other direct proposal from parties or participants than the ones transmitted by the OPCV and OPCD;

CONSIDERING that the Chamber has stressed in its Order that the sole purpose of the revision was “to iron out any small errors and imprecision in the Protocol”;

⁷ See annex 2 attached

CONSIDERING that the Registry in order to comply with this Order has restricted its proposal to technical changes and has not introduced any substantial changes to the E-Court Protocol submitted in the Lubanga case;

CONSIDERING that the changes suggested by the OPCV and OPCD are of a substantial nature and, therefore, can not be introduced into the E-Court Protocol without a specific request from the Chamber;

CONSIDERING the consultations with the Knowledge Base Unit ("KBU") of the Office of the Prosecutor⁸ following which an agreement on the E-Court Protocol attached was reached;

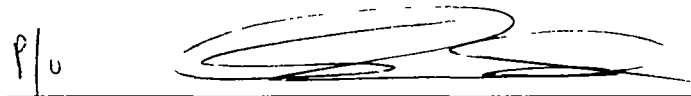
CONSIDERING that the addition of specification in relation to the video file sizes⁹ has raised some concerns on the KBU of the Office of the Prosecutor side; namely the KBU of the Office of the Prosecutor has noted that compliance with this requirement will not be possible until the participants receive a functioning software tool that supports the separation of videos in a manner that is forensically sound and consistent with the remaining provisions of the E-Court Protocol¹⁰ and has suggested that the position of the other Case participants be noted in relation to this particular provision;

⁸ A meeting between the Registry representatives and representatives of the KBU of the Office of the Prosecutor was held on 20 March 2009, followed by a series of e-mail communication between the attendees

⁹ p. 4 of the annex I attached

RESPECTFULLY SUBMITS:

- A revised version of the E-Court Protocol of Trial Chamber I (as annex 1 to the present document);
- The direct proposals sent by the OPCD and the OPCV to the Registry for the attention of the chamber (as annex 2).

A handwritten signature in black ink, appearing to be 'P/u' followed by a stylized, cursive signature.

Marc Dubuisson, Director, Division of Court Services
on behalf of
Silvana Arbia, Registrar

Dated this 27 March 2009

At The Hague, The Netherlands