

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: **30 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

URGENT

**with Annexes - Confidential, *ex parte*, only available to the Office of the
Prosecutor**

Prosecution's Submission of Proposed Redactions and Provision of a Summary

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

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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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Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

The Office of the Prosecutor ("Prosecution") hereby submits the redacted statements and/or summaries as requested by Trial Chamber II ("Chamber").

Request for Receipt of Annexes as Confidential Ex Parte

The Prosecution requests that the Annexes to this filing be received by the Chamber as confidential, *ex parte*, only available to the Office of the Prosecutor to protect the identity of the persons regarding whom redactions are sought.

Background

1. On 23 March 2009, the Prosecution filed an application for protective measures for twelve witnesses pursuant to Articles 54(3)(f), 64(2), 64(6)(e), 68(1) of the Statute and Rule 81(4) of the Rules of Procedure and Evidence.¹
2. On 26 June 2009, the Chamber submitted an instruction to the Prosecution requesting that it submit redacted versions of the statements or screenings of the interviews of these twelve witnesses. In some cases, it also requested the submission of summaries to the statements of these 12 witnesses.² These instructions can be found in Annex 1 to the present submission.

Description of the Annexes

Screenings

3. The Prosecution proposes redactions to the screening of Witnesses 90, 169, 175, 178³, 179 and 282. Corresponding charts describing the legal basis for the

¹ ICC-01/04-01/07-985.

² The instructions of the Chamber were received by way of an email from the Legal Adviser of the Trial Division.

³ Also known as Witness 253.

proposed redactions are also submitted for each screening. The Prosecution would like to indicate that specific protective measures have been ordered by Trial Chamber I for all the above-mentioned witnesses apart from Witness 90.⁴

Statements

4. The Prosecution proposes redactions to the statements of Witnesses 243, 271 and 288. Corresponding charts detailing the legal basis for the proposed redactions are also submitted for each statement. The Prosecution would like to add that specific protective measures have also been ordered by Trial Chamber I for these witnesses.⁵ The Prosecution is seeking most of the same protective measures including for the witnesses identified in paragraph 3 above. The Prosecution has identified, in the charts submitted with this submission, when it believes that such measures are not warranted in the present case.

Suspect Interviews

5. The Prosecution submits a summary in lieu of the transcript⁶ of the interview of Witness 337. The Prosecution believes that the information provided by this vulnerable witness is very specific and that the redactions necessary to protect the identity of the witness would render the transcripts incomprehensible. The summary provided by the Prosecution contains all relevant information falling under Article 67(2) of the Statute.

⁴ See ICC-01/04-01/06-1814-Conf.

⁵ See ICC-01/04-01/06-1814-Conf.

⁶ The draft transcripts were provided to the Chamber on 23 March 2009, see Annex A to ICC-01/04-01/07-985. The last transcript is still under review by the Language Unit of the Office of the Prosecutor. The Prosecution would like to add that because of the delay afforded in the instructions of the Chamber, the Prosecution was not able to provide a redacted version of the transcripts of the interview of W-337. Redacting statements is an intensive exercise that has to be performed cautiously. Each transcript has to be closely and carefully read, and then re-read, to make sure that any information that could lead indirectly to the disclosure of a witness's identity is redacted.

6. The Prosecution submitted with its initial application filed on 23 March 2009, the transcripts of the interviews of 292⁷. The Prosecution hereby provides unredacted copies of all the transcripts of the interview of Witness 270.⁸ The Prosecution submits that the information provided by these two witnesses is very specific and that the redactions necessary to protect their identity would render their respective transcripts incomprehensible. The Prosecution provides to the Chamber a summary⁹ of the interview of Witness 270 and two summaries¹⁰ for the two interviews of Witness 292.¹¹
7. The Prosecution will be able to provide further details and comments on the information provided above during the closed session hearing to be held on 8 July 2009.¹²



Luis Moreno-Ocampo, Prosecutor

Dated this 30th day of June 2009

At The Hague, The Netherlands

⁷ See Annex A to ICC-01/04-01/07-985.

⁸ In its filing ICC-01/04-01/07-985, the Prosecution had only provided transcript DRC-OTP-1015-0292.

⁹ Disclosed on 29 April 2008 to both Defence teams,

¹⁰ Both summaries were also disclosed on 29 April 2008.

¹¹ The Prosecution would like to add that because of the delay afforded in the instructions of the Chamber, the Prosecution was not able to provide a redacted version of the transcripts of the interview of W-270 and 292. The Prosecution also refers to the reasons stated in footnote 6 above, *in fine*.

¹² ICC-01/04-01/07-1250.