

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 17 July 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

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

Prosecution's Resubmission of the Statements of Witnesses 101 and 44

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

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

Mr Jean-Pierre Kilenda Kakengi Basila

Mr Jean-Pierre Fofé Djofia Malewa

Legal Representatives of Victims

Legal Representatives of Applicants

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

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

On 23 March 2009, the Prosecution filed a request seeking protective measures for witnesses 44 and 101 seeking redactions to their identity since they could not be located.¹ On 8 July 2009, Trial Chamber II (the “Chamber”) requested that the Prosecution attempt again to locate witnesses 44 and 101 to obtain their observations on the disclosure of their statements and identity to the Defence.²

Confidentiality

The Prosecution requests that the Annexes to this submission be received by the Chamber as Confidential, *ex parte*, only available to the Office of the Prosecutor since they describe the information for which redactions are requested.

Prosecution’s Request

1. On 14 July 2009, the Prosecution was able to communicate with witnesses 44 and 101. Both witnesses consented to the disclosure of their identity.
2. The Prosecution hereby seeks redactions to the statements of witnesses 44 and 101 before they can be disclosed to the defence.
3. The Prosecution request redactions to the identity of the family members of the witnesses pursuant to Rule 81(4) of the Rules of Procedure and Evidence (“Rules”). The Prosecution also seeks to redact the name of a support person that was present during the interview of witness 44. These redactions are sought to protect the identity of the persons identified. The family members and the support persons are not material to the preparation of the Defence. The families are named in passing in the narrative of the witness. The support

¹ ICC-01/04-01/07-985.

² ICC-01/04-01/07-T-68-Conf-Exp-FRA-ET of 8 July 2009

person was present only for the purpose of moral support and did not participate any further in the interview.

4. The Prosecution also seeks to redact pursuant to Rule 81(2), the name of a source of witness 101. The name of this source is not material to the preparation of the defence or to understand the narrative of the witness. Additionally, if the Defence believes the statement to be relevant, they can always seek further information from the witness himself, including the source of the witness' information.

Conclusion

The Prosecution respectfully requests the Chamber to grant the redactions as requested.

A handwritten signature in blue ink, appearing to read 'Luis Moreno-Ocampo', is centered on the page. The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Luis Moreno-Ocampo, Prosecutor

Dated this 17th day of July 2009

At The Hague, The Netherlands