



Original: English

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

Date: 10 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

Application for extension of time pursuant to Regulation 35 of the Court

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 Germain Katanga

Mr David Hooper
Mr Andreas O'Shea

Counsel for the Defence of Mathieu Ngudjolo Chui

Mr Jean-Pierre Kilenda Kakengi Basila
Mr Jean-Pierre Fofé Djofia Malewa

Legal Representatives of Victims

Ms Carine Bapita Buyangandu
Mr Hervé Diakiese
Mr Vincent Lurquin
Mr Jean Chrysostome Mulamba Nsokoloni
Ms Flora Mbuyu Anjelani
Mr Fidel Nsita Luvengika
Mr Jean-Louis Gilissen
Mr Joseph Keta

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

Deputy Registrar

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Other

Background

1. In its “Ordonnance fixant le calendrier de communication des éléments de preuve à charge et à décharge avant le procès et la date d’une conférence de mise en état (règle 132 du Règlement de procédure et de preuve) », ¹ Trial Chamber II (“the Chamber”) had ordered the Prosecution to disclose to the Defence by 30 January 2009, the evidence on which it intended to rely for trial and directed the Prosecution to file applications for redactions to evidentiary material not yet disclosed to the Defence by the same date.

Submissions

2. The Prosecution is submitting an urgent request for an extension of time pursuant to Regulation 35 of the Regulations of the Court to disclose Witness P-267’s statement and related documents described in its Application for Authorization to disclose Redacted Incriminating Evidence and Rule 77 Material to the Defence (P-267) (“Application”). ²
3. The Prosecution argues that it was unable, at the time of the set deadline, to request a variation of such because of the fact that the security issues were still pending before the Chamber. The rolling disclosure of the witness’s statement was granted by the Chamber on 20 May 2009. On that date, the Chamber ordered the Prosecution to disclose a non-redacted version of P-267’s statement to the Defence, 45 days before the start of the trial. ³
4. In its Application of 7 August 2009 the Prosecution moved to have that witness’s statement and some of the related documents, intrinsically linked to

¹ ICC-01/04-01/07-846.

² ICC-01/04-01/07-1356.

³ ICC-01/04-01/07-1156-Conf-Exp.

and referenced in the statement of witness P-267, disclosed to the Defence in redacted form.⁴

5. The Prosecution has petitioned the Chamber to apply redactions pursuant to Rule 81(2) and Rule 81(4).
6. The Prosecution submits this request for an extension of the time limit because disclosure cannot be effectuated before the Chamber rules on the matter.
7. The Prosecution, therefore, submits that these factors constitute good cause justifying an extension of time to disclose the above-mentioned material to the Defence, after the redactions submitted to the Chamber are ruled upon.

Conclusion

8. The Prosecution respectfully requests that the Chamber grant, pursuant to Regulation 35 an extension of time to disclose Witness P-267's statement and related material described in the Application.



Luis Moreno-Ocampo, Prosecutor

Dated this 10 August 2009

At The Hague, The Netherlands

⁴ ICC-01/04-01/07-1356