



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

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.¹

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.² 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.³

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.

¹ 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.

² *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.

³ 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