



Original: **French**

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

Date: **2 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 Document

**Order Convening an *Ex Parte* Hearing on the Protection of
Prosecution Witness 219**

Order 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 the Defence of 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 Ambuyu Andjelani

Legal Representatives of the Applicants

**The Office of Public Counsel for
Victims**

Ms Paolina Massida

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Defence Support Section

Victims and Witnesses Unit

Mr Simo Vaatainen

Detention Section

**Victims Participation and Reparations
Section**

Other

Trial Chamber II of the International Criminal Court (“the Chamber”), acting pursuant to regulation 30 of the Regulations of the Court, orders the following:

1. On 7 April 2009, the Chamber asked the Victims and Witnesses Unit (“the Unit”) to provide it with a report focusing in particular on the situation of a new prosecution witness, Witness 219.¹ On 23 April 2009, the Unit submitted its report.²
2. The situation of this witness was addressed at an *ex parte* hearing confined to the Office of the Prosecutor and the Unit, convened on 5 May 2009³ and held on 8 May 2009.⁴ At that hearing, the Unit was invited to provide the Chamber with further information by 22 May 2009.⁵
3. On that date, the Unit accordingly filed a new report,⁶ to which the Prosecutor responded on 29 May 2009, contesting the Unit’s conclusions and submitting an application for the voluntary relocation of Witness 219.⁷ In light of the documents filed, the Chamber finds that the views expressed differ regarding the protective measures which might be adopted. It therefore considers it necessary to convene a hearing in order to address these issues.

FOR THESE REASONS, the Chamber

CONVENES an *ex parte* hearing confined to the Office of the Prosecutor and the Unit, to be held on 9 June 2009 from 9.30 a.m. to 11.30 a.m.

¹ ICC-01/04-01/07-1037-Conf-Exp-tENG, p. 9.

² The Registry, ‘Report pursuant to “*Ordonnance aux fins de consultation de l’Unité d’aide aux victimes et aux témoins concernant la situation des témoins 219, 267, 353*”’, 23 April 2009, ICC-01/04-01/07-1070-Conf-Exp.

³ *Ordonnance aux fins de consultation de l’Unité d’aide aux victimes et aux témoins concernant la situation des témoins 219, 267, 353*, 5 May 2009, ICC-01/04-01/07-1106.

⁴ ICC-01/04-01/07-T-64-CONF-EXP-ENG ET, pp. 2 to 26.

⁵ ICC-01/04-01/07-T-64-CONF-EXP-ENG ET, p. 25, line 25 to p. 26, line 2 and p. 26, lines 3 to 9.

⁶ The Registry, “Victims and Witnesses Unit’s report on the scope of local protection measures and the situation of witness 219”, 22 May 2009, ICC-01/04-01/07-1165-Conf-Exp.

⁷ Office of the Prosecutor, “Prosecution’s application for an order regarding the voluntary relocation of Witness 219 and request for clarification on the implementation of assisted moves”, 29 May 2009, ICC-01/04-01/07-1183- Conf-Exp.

Done in both English and French, the French version being authoritative.

[signed]

Judge Bruno Cotte
Presiding Judge

[signed]

Judge Fatoumata Dembele Diarra

[signed 2/6/09]

Judge Hans-Peter Kaul

Dated this 2 June 2009

At The Hague, The Netherlands