



Original: **French**

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

Date: **24 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 Instructing the Prosecutor to Submit a Reply (Regulation 24(5) of the
Regulations of the Court)**

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 Massida

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

Trial Chamber II of the International Criminal Court (“the Chamber”), pursuant to regulation 24(5) of the Regulations of the Court, orders as follows:

1. On 5 June 2009, the Prosecutor submitted an application (“Application”) for protective measures and for the redaction of evidence falling within the ambit of rule 77.¹ In the Application, the Prosecutor requests, inter alia, leave to withhold from Defence investigators the transcripts of recordings made during medical examinations conducted by Doctor Baccard.²
2. Germain Katanga’s Defence replied on 15 June 2009 that it objected to such a restriction.³ It considered that these documents must be made available to its investigators because they might affect the witnesses’ credibility.⁴ It also noted that the Prosecutor had not given any reasons for such a restriction⁵ and it recalled that the Defence investigators are bound by confidentiality agreements which they have so far respected.⁶
3. In order that it may issue a ruling on this Application in full knowledge of the facts, the Chamber considers it necessary to order the Prosecutor to submit a reply to the Defence observations.

¹ Office of the Prosecutor, “*Requête de l’Accusation aux fins de mesures de protection et aux fins d’expurgation d’informations dans des éléments de preuve relevant de la règle 77 (témoins P-132, P-249 et P-287)*”, 5 June 2009, ICC-01/04-01/07-1194.

² ICC-01/04-01/07-1194, para. 8.

³ Germain Katanga’s Defence Team, “Defence Response to the Prosecution’s ‘*Requête de l’Accusation aux fins de mesures de protection et aux fins d’expurgation d’informations dans des éléments de preuve relevant de la règle 77 (témoins P-132, P-249 et P-287)*’”, 15 June 2009, ICC-01/04-01/07-1210, para. 3.

⁴ ICC-01/04-01/07-1210, paras. 3 and 4.

⁵ ICC-01/04-01/07-1210, para. 5.

⁶ Ibid.

FOR THESE REASONS, THE CHAMBER

INSTRUCTS the Prosecutor to submit a reply to the Defence observations by 4 p.m.
on 26 June 2009.

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

[signed]

Judge Bruno Cotte
Presiding Judge

[signed]

Judge Fatoumata Dembele Diarra

[signed]

Judge Hans-Peter Kaul

Dated this 24 June 2009

At The Hague, The Netherlands