

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

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

Date: **3 May 2011**

**TRIAL CHAMBER II**

**Before:** Judge Bruno Cotte, Presiding Judge  
Judge Fatoumata Dembele Diarra  
Judge Christine Van den Wyngaert

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO  
IN THE CASE OF  
THE PROSECUTOR  
v. GERMAIN KATANGA AND MATHIEU NGUDJOLO CHUI**

**Confidential**

**with Annex A, Confidential, *ex parte* only available to the Office of the Prosecutor  
and Defence**

**Prosecution's Observations regarding "Requête tendant à obtenir communication du  
résultat des enquêtes menées par le Bureau du Procureur sur l'interview présumée du  
témoin DRC-D02-P-0350 au journal Le Millénaire Info Plus"  
(ICC-01/04-01/07-2848-Conf)**

**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**

Mr Fidel Nsita Luvengika  
Mr Jean-Louis Gilissen

**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**

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**Registrar**

Ms Silvana Arbia

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

1. The Office of the Prosecutor ("Prosecution") herewith submits its Observations on the request of the duty counsel of witness DRC-D02-P-0350 that the Prosecution's investigator's report<sup>1</sup> on the presumed interview of the witness as published on the website of the newspaper "*Le Millénaire*" ("Article")<sup>2</sup>, be made available to the witness.<sup>3</sup>
2. The Prosecution has no objection to the disclosure of the investigator's report subject to an order of the Chamber granting specific protective measures. The Prosecution requests that pursuant to Article 81(4) of the Rome Statute and Regulation 14 of the Regulations of the Registry the names of the journalist and editor of the website not be disclosed to third parties or to the public.
3. In light of new information publicly available on the website of "*Le Millénaire*", the Prosecution does not request that the name of the source of the journalist be protected from the public or third parties.

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<sup>1</sup> The ERN of the investigator's report is DRC-OTP-1062-0092.

<sup>2</sup> The ERN of the Article is DRC-OTP-1062-0078.

<sup>3</sup> ICC-01/04-01/07-2848-Conf, 20 April 2011.

### Request for Confidentiality

4. The Prosecution requests that this submission be classified as "Confidential" since it contains information not accessible to the public. The Prosecution submits the investigator's report in Annex A, which is Confidential, *ex parte* only available to the Prosecution and Defence. The Prosecution submits that the disclosure of the investigator's report should take place by a reclassification of Annex A if the duty counsel's request is granted.



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Luis Moreno-Ocampo, Prosecutor

Dated this 3<sup>rd</sup> day of May 2011

At The Hague, The Netherlands