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Date: **5 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**

**Corrigendum of Operative part of the Decision on the 345 applications for  
participation as victims in the proceedings**

**Document to be notified in accordance with regulation 31 of the Regulations of the Court to:**

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**REGISTRY**

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**Registrar**

Ms Silvana Arbia

**Defence Support Section**

**Victims Participation and Reparations  
 Section**

Ms Fiona McKay

**Trial Chamber II** of the International Criminal Court (“the Chamber” and “the Court”) hereby issues the operative part of its decision on the 345 applications for participation of victims in the proceedings (“the Decision”), rendered pursuant to articles 21 and 68 of the Rome Statute (“the Statute”), rules 85, 86 and 89 of the Rules of Procedure and Evidence (“the Rules”) and regulation 86 of the Regulations of the Court.

1. Pursuant to the procedure set out in the 26 February 2009 Decision,<sup>1</sup> the Victims Participation and Reparation Section (“VPRS”) transmitted several reports<sup>2</sup> to the Chamber to which applications for participation were attached.
2. The 345 applicants who thus registered an interest wish to be granted the status of victims authorised to participate in the proceedings in the present case. Five of these applications have not yet been examined by the Chamber because to date they have not been transmitted to the parties.
3. The Prosecutor submitted his observations on the remaining 340 applications on 15<sup>3</sup> and 26 May<sup>4</sup> and 2<sup>5</sup> and 24 June 2009.<sup>6</sup>

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<sup>1</sup> *Decision on the treatment of applications for participation*, 26 February 2009, ICC-01/04-01/07-933, paras. 46-54 (“26 February 2009 Decision”).

<sup>2</sup> Registry, “Filing of proposed redactions on victim’s applications in accordance with decision ICC-01/04-01/07-933”, 3 April 2009, ICC-01/04-01/07-1023-Conf-Exp with confidential, *ex parte* annexes 1-97; Registry, “*Deuxième rapport du Greffe sur des demandes de participation en application de la norme 86-5 du Règlement de la Cour*”, 21 April 2009, ICC-01/04-01/07-1066-Conf-Exp; Registry, “*Troisième rapport du Greffe sur des demandes de participation en application de la norme 86-5 du Règlement de la Cour*”, 4 May 2009, ICC-01/04-01/07-1092-Conf-Exp; Registry, “*Quatrième rapport du Greffe sur des demandes de participation en application de la norme 86-5 du Règlement de la Cour*”, 8 May 2009, ICC-01/04-01/07-1121-Conf-Exp; Registry, “*Rapport sur les informations supplémentaires reçues sur les demandes de participation enregistrées avec les Troisième et Quatrième rapports du Greffe sur des demandes de participation de victimes*”, 29 May 2009, ICC-01/04-01/07-1181-Conf-Exp; Registry, “*Cinquième rapport du Greffe sur des demandes de participation en application de la norme 86-5 du Règlement de la Cour*”, 20 May 2009, ICC-01/04-01/07-1159-Conf-Exp; Registry, “*Dépôt de propositions d’expurgations de documents supplémentaires reçus sur des demandes de participation de victimes conformément à la décision ICC-01/04-01/07-933*”, 4 May 2009, ICC-01/04-01/07-1103-Conf-Exp; see also the corrigendum filed on 8 May 2009, ICC-01/04-01/07-1103-Conf-Exp-Corr; Registry, “*Rapport du Greffe sur la demande de participation a/0114/08 en application de la norme 86-5 du Règlement de la Cour*”, 18 June 2009, ICC-01/04-01/07-1216-Conf-Exp.

<sup>3</sup> Office of the Prosecutor, “Prosecution’s Observation on the Applications for Participation in the Proceedings of 97 Applicants”, 15 May 2009, ICC-01/04-01/07-1139.

4. The Defence team for Mr Mathieu Ngudjolo submitted its observations on 19 May 2007<sup>7</sup> and on 2<sup>8</sup> and 24 June 2009.<sup>9</sup> Mr Germain Katanga's observations were presented on 19<sup>10</sup> and 26 May 2009<sup>11</sup> and on 2<sup>12</sup> and 24 June 2009.<sup>13</sup>
5. The Chamber will issue the grounds for its Decision at a later date. It will include an annex setting forth the Chamber's analysis of each application.
6. In reaching its decision, the Chamber applied the provisions of rule 85(a) and (b) of the Rules as well as the criteria set out by the Appeals Chamber,<sup>14</sup> namely: (i) that the applicant must be a natural person or legal entity; (ii) that he/she must have suffered harm; (iii) that the alleged crime of which he/she is a victim should be within the jurisdiction of the Court and should appear in the decision on the confirmation of charges and (iv) that there should be a causal link between the harm and the crime.
7. In light of the observations of the parties, the Chamber decided:

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<sup>4</sup> Office of the Prosecutor, "Prosecution's Observation on the Applications for Participation in the Proceedings of 70 Applicants", 26 May 2009, ICC-01/04-01/07-1171.

<sup>5</sup> Office of the Prosecutor, "Prosecution's Observation on the Applications for Participation in the Proceedings of 87 Applicants", 2 June 2009, ICC-01/04-01/07-1186.

<sup>6</sup> Office of the Prosecutor, "Prosecution's Observation on the Applications for Participation in the Proceedings of 86 Applicants", 24 June 2009, ICC-01/04-01/07-1246.

<sup>7</sup> Defence for Mathieu Ngudjolo, "*Observations consolidées de la Défense de Mathieu Ngudjolo relatives à 167 demandes de participation de victimes candidates au statut de participants à la procédure (règle 89-1 du Règlement de procédure et de preuve)*", 19 May 2009, ICC-01/04-01/07-1150-Conf-Exp.

<sup>8</sup> Defence for Mathieu Ngudjolo, "*Observations de la Défense de Mathieu Ngudjolo relatives à 87 demandes de participation de victimes candidates au statut de participants à la procédure (règle 89-1 du Règlement de procédure et de preuve)*", 2 June 2009, ICC-01/04-01/07-1184-Conf-Exp.

<sup>9</sup> Defence for Mathieu Ngudjolo, "*Observations consolidées de la Défense de Mathieu Ngudjolo relatives aux demandes de participation de victimes candidates au statut de participants à la procédure reçues pendant la période allant du 15 au 19 juin 2009 (Règle 89-1 du Règlement de procédure et de preuve)*", 24 June 2009, ICC-01/04-01/07-1241-Conf-Exp.

<sup>10</sup> Defence for Germain Katanga, "Defence Observations on the 97 applications for participation as victims", 19 May 2009, ICC-01/04-01/07-1152-Conf.

<sup>11</sup> Defence for Germain Katanga, "Defence Observations on the 70 applications for participation as victims", 26 May 2009, ICC-01/04-01/07-1170-Conf.

<sup>12</sup> Defence for Germain Katanga, "Defence Observations on the 87 applications for participation as victims", 2 June 2009, ICC-01/04-01/07-1187-Conf.

<sup>13</sup> Defence for Germain Katanga, "Defence Observations on the applications for participation as victims notified in June 2009", 24 June 2009, ICC-01/04-01/07-1245-Conf.

<sup>14</sup> ICC-01/04-01/06-1432, paras. 61-65.

- to grant the status of victims authorised to participate in the proceedings to 287 applicants;
- to grant the same status to the person who submitted four (4) different applications for participation on the basis of direct harm caused by the death of the person's family members;
- to deny the status to five (5) applicants;
- to join four (4) new applications for participation with those presented previously by the same persons who were authorised to participate by Pre-Trial Chamber I; and
- to request 39 applicants, whose applications will be decided upon subsequently by the Chamber, to provide additional information.

8. The Chamber will address in a subsequent decision all of the aforementioned additional information, as well as the information from six (6) applicants which was transmitted to the Chamber by the Registry on 17 July 2009.<sup>15</sup>

**FOR THE REASONS which will be issued subsequently, the Chamber,**

**GRANTS** the status of victim authorised to participate in the proceedings to 287 applicants:

a/0010/08, a/0111/08, a/0112/08, a/0136/08, a/0142/08, a/0143/08, a/0144/08, a/0145/08, a/0146/08, a/0147/08, a/0148/08, a/0153/08, a/0154/08, a/0155/08, a/0156/08, a/0157/08, a/0158/08, a/0159/08, a/0160/08, a/0161/08, a/0162/08, a/0163/08, a/0164/08, a/0165/08, a/0166/08, a/0167/08, a/0168/08, a/0169/08, a/0170/08, a/0171/08, a/0172/08, a/0173/08, a/0174/08, a/0175/08, a/0176/08, a/0178/08, a/0179/08, a/0180/08, a/0183/08, a/0186/08, a/0187/08, a/0188/08, a/0189/08, a/0190/08, a/0191/08, a/0192/08, a/0193/08, a/0194/08, a/0195/08, a/0196/08, a/0197/08, a/0198/08, a/0199/08, a/0201/08, a/0202/08, a/0203/08,

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<sup>15</sup> Registry, "Deuxième Rapport sur les informations supplémentaires reçues sur les demandes de participation", 17 July 2009, ICC-01/04-01/07-1311-Conf-Exp.

a/0204/08, a/0205/08, a/0206/08, a/0207/08, a/0208/08, a/0210/08, a/0212/08, a/0213/08, a/0214/08, a/0215/08, a/0216/08, a/0217/08, a/0218/08, a/0219/08, a/0220/08, a/0221/08, a/0222/08, a/0223/08, a/0224/08, a/0225/08, a/0226/08, a/0227/08, a/0228/08, a/0229/08, a/0230/08, a/0231/08, a/0281/08, a/0282/08, a/0397/08, a/0398/08, a/0399/08, a/0400/08, a/0401/08, a/0402/08, a/0524/08, a/0527/08, a/0540/08, a/0607/08, a/0001/09, a/0003/09, a/0005/09, a/0006/09, a/0007/09, a/0008/09, a/0009/09, a/0010/09, a/0011/09, a/0012/09, a/0013/09, a/0014/09, a/0015/09, a/0016/09, a/0017/09, a/0018/09, a/0019/09, a/0020/09, a/0067/09, a/0068/09, a/0069/09, a/0070/09, a/0071/09, a/0072/09, a/0073/09, a/0074/09, a/0075/09, a/0076/09, a/0077/09, a/0078/09, a/0079/09, a/0080/09, a/0081/09, a/0082/09, a/0083/09, a/0084/09, a/0085/09, a/0086/09, a/0112/09, a/0113/09, a/0114/09, a/0115/09, a/0116/09, a/0117/09, a/0118/09, a/0119/09, a/0120/09, a/0122/09, a/0123/09, a/0124/09, a/0125/09, a/0126/09, a/0127/09, a/0128/09, a/0156/09, a/0158/09, a/0159/09, a/0162/09, a/0163/09, a/0164/09, a/0165/09, a/0166/09, a/0167/09, a/0168/09, a/0169/09, a/0203/09, a/0206/09, a/0207/09, a/0208/09, a/0209/09, a/0210/09, a/0212/09, a/0213/09, a/0214/09, a/0217/09, a/0218/09, a/0219/09, a/0220/09, a/0221/09, a/0222/09, a/0223/09, a/0224/09, a/0225/09, a/0226/09, a/0227/09, a/0228/09, a/0229/09, a/0230/09, a/0231/09, a/0232/09, a/0233/09, a/0250/09, a/0251/09, a/0252/09, a/0253/09, a/0255/09, a/0256/09, a/0257/09, a/0265/09, a/0270/09, a/0271/09, a/0273/09, a/0274/09, a/0275/09, a/0276/09, a/0278/09, a/0279/09, a/0280/09, a/0281/09, a/0282/09, a/0283/09, a/0288/09, a/0290/09, a/0294/09, a/0295/09, a/0296/09, a/0298/09, a/0299/09, a/0301/09, a/0302/09, a/0303/09, a/0305/09, a/0306/09, a/0307/09, a/0308/09, a/0309/09, a/0311/09, a/0313/09, a/0314/09, a/0315/09, a/0316/09, a/0317/09, a/0318/09, a/0319/09, a/0320/08, a/0321/09, a/0322/09, a/0323/09, a/0324/09, a/0325/09, a/0326/09, a/0327/09, a/0328/09, a/0329/09, a/0330/09, a/0331/09, a/0332/09, a/0333/09, a/0334/09, a/0336/09, a/0337/09, a/0338/09, a/0339/09, a/0343/09, a/0345/09, a/0346/09, a/0347/09, a/0348/09, a/0351/09, a/0352/09, a/0353/09, a/0354/09, a/0355/09, a/0356/09, a/0359/09, a/0360/09, a/0363/09, a/0364/09, a/0365/09, a/0366/09, a/0367/09, a/0368/09, a/0369/09, a/0370/09, a/0371/09, a/0372/09, a/0373/09, a/0374/09, a/0375/09, a/0376/09, a/0377/09, a/0378/09, a/0379/09, a/0380/09, a/0381/09, a/0382/09, a/0383/09, a/0384/09, a/0385/09, a/0386/09, a/0387/09, a/0388/09 and a/0395/09;

**DECIDES** to grant the status of victim participating in the proceedings to the person who submitted applications a/0040/08, a/0041/08, a/0042/08 and a/0091/08 by assigning the single number a/0040/08 to that person;

**DENIES** the status of victim participating in the proceedings to five applicants: a/0014/08, a/0150/08, a/0151/08, a/0152/08 and a/0157/09;

**ORDERS** the Registry to contact the current legal representatives of four applicants, a/0284/09, a/0291/09, a/0297/09 and a/0389/09, as soon as practicable, in order to obtain a document from them attesting to their identity, which is necessary for the Chamber to examine their application and **ORDERS** the Registry to submit these four applications thus supplemented no later than 24 August 2009 at 4:00 p.m.;

**ORDERS** the Registry to contact the current legal representatives of three applicants, a/0211/09, a/0215/09 and a/0216/09, as soon as practicable, in order to confirm their application for participation by providing a signature or an identifiable finger print.

**ORDERS** the Registry to contact the current legal representatives of the 32 applicants mentioned below in order to obtain the following additional information:

- from twenty-three (23) applicants, a/0140/08, a/0141/08, a/0528/08, a/0529/08, a/0530/08, a/0531/08, a/0535/08, a/0536/08, a/0537/08, a/0538/08, a/0539/08, a/0202/09, a/0205/09, a/0266/09, a/0267/09, a/0293/09, a/0304/09, a/0335/09, a/0340/09, a/0341/09, a/0342/09, a/0349/09 and a/0350/09, information on the exact place of the attack of which they allege to be victims as well as a map showing the actual distance between Bogoro and the localities mentioned;
- from Applicant a/0114/08, details of the applicant's participation in the attack on Bogoro and the harm suffered, and from the Registry, all relevant details on the applicant's discernment;

- from Applicant a/0310/09, any information enabling the establishment of the applicant's identity as well as details on the different names given to his father in the information the applicant provided;
- from Applicant a/0520/08, a signed statement stating the place of the attack, and describing the harm which the applicant alleges to have suffered and the perpetrators of the said attack;
- from Applicant a/0533/08, any information showing that the person submitting the application has the authorisation to act on behalf of this legal entity and details of the exact location of the site of the institution in relation to Bogoro, along with a map, if appropriate;
- from Applicant a/0268/09, any information stating whether another person wishes to act on the applicant's behalf and, if so, details on the exact location of the site of the institution in relation to Bogoro, along with a map, if appropriate;
- from Applicant a/0392/09, any information making it possible to establish the applicant's identity and details of the exact place of the attack of which the applicant claims to have been a victim, in addition to a map showing the actual distance between Bogoro and the stated location;
- from Applicants a/0160/09 and a/0161/09, any information making it possible to establish their identity by other means or any explanation of the existence of contradictory information concerning the date of birth of one of the credible witnesses who has submitted an identification document showing a date of birth different from that stated in application for participation a/0003/09;
- from Applicant a/0390/09, details regarding the applicant's participation in the attack on Bogoro and any information making it possible to establish the

degree of disability. In the absence of disability, any document relating to the consent given by the applicant to the person who submitted the application;

**DECIDES** that the additional information requested above shall be transmitted to the Chamber no later than 24 August 2009 at 4.00 p.m.;

**DECIDES** that applications a/0053/08, a/0098/08, a/0102/08 and a/0534/08 will be joined respectively to applications a/0056/08, a/0100/08, a/0103/08 and a/0101/08;

**DECIDES** that the information transmitted by the Registry to the Chamber on 17 July 2009<sup>16</sup> in respect of six applicants – a/0277/09, a/0285/09, a/0286/09, a/0361/09, a/0391/09 and a/0393/09 – will also be the subject of a subsequent decision by the Chamber; and

**INSTRUCTS** the Prosecutor to disclose the unredacted statement of Witness 337 to the Defence teams for Germain Katanga and Mathieu Ngudjolo, as soon as practicable, in accordance with paragraph 50 of its 22 July 2009 decision.<sup>17</sup>

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 5 August 2009

At The Hague, The Netherlands

<sup>16</sup> Registry, “*Deuxième Rapport sur les informations supplémentaires reçues sur les demandes de participation*”, 17 July 2009, ICC-01/04-01/07-1311-Conf-Exp.

<sup>17</sup> *Decision on the Protection of 21 Witnesses Under Article 67(2) of the Statute and/or Rule 77 of the Rules of Procedure and Evidence*, 22 July 2009, ICC-01/04-01/07-1329-Conf-Exp-tENG. See also ICC-01/04-01/07-1332 (public redacted version dated 24 July 2009).