



Original: **French**

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

Date: 26 May 2010

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***

Public Document

**Decision inviting the Prosecutor and the Defence to submit their observations on
an application for participation by a victim (rule 89(1) of the Rules of Procedure and
Evidence)**

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

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 Victims

Mr Jean-Louis Gilissen
Mr Fidel Nsita Luvengika

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

Office of Public Counsel for Victims

**Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Ms Fiona McKay

TRIAL CHAMBER II of the International Criminal Court (“the Chamber” and “the Court”), acting pursuant to article 68 of the Rome Statute (“the Statute”), rule 89(1) of the Rules of Procedure and Evidence and regulation 86 of the Regulations of the Court, decides the following.

1. On 26 February 2009, the Chamber set out the procedure to be followed by the Victims Participation and Reparations Section (VPRS) for the treatment of applications for participation and, more specifically, the role of VPRS in preparing redacted versions of applications for participation prior to their disclosure to the Prosecutor and the Defence.¹
2. On 20 March 2009, the Registry sent the Chamber a report on the establishment of a system for redacting victims’ applications for participation. Appended to this report is a table containing the information which VPRS considers may require redaction because it contains particulars identifying the applicants.²
3. On 31 July 2009, the Chamber issued the operative part of its decision on the 345 applications for participation, granting the status of victim participating in the proceedings to 288 applicants.³ The grounds for that decision were made public on 23 September 2009.⁴
4. On 23 November 2009, the Chamber granted 14 additional victims leave to participate in the proceedings and requested seven other applicants and the person seeking to participate in the proceedings on behalf of a deceased victim

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

² Registry, “*Rapport du Greffe sur la mise en place d’un régime d’expurgation des demandes de participation de victimes, conformément à la décision du 26 février 2009 (ICC-01/04-01/07-933)*”, 20 March 2009, ICC-01/04-01/07-974-Conf-Exp with confidential, *ex parte* annex.

³ *Operative part of the Decision on the 345 applications for participation as victims in the proceedings*, 31 July 2009, ICC-01/04-01/07-1347-tENG; *Corrigendum of Operative part of the Decision on the 345 applications for participation as victims in the proceedings*, 5 August 2009, ICC-01/04-01/07-1347-Corr-tENG.

⁴ *Grounds for the Decision on the 345 Applications for Participation in the Proceedings Submitted by Victims*, 23 September 2009, ICC-01/04-01/07-1491-Red-tENG with confidential, *ex parte* annex (see also the confidential redacted version of the annex, ICC-01/04-01/07-1491-Conf-Anx-Red).

to provide it with additional details.⁵ The grounds for that decision were made public on 22 December 2009.⁶

5. On 16 March 2010, the Chamber granted the status of victim in the proceedings to three applicants and authorised the person designated by the family of a deceased victim to participate in the present proceedings on that victim's behalf. Further, it ordered the Registry to contact as soon as practicable the Legal Representatives of four applicants (a/0114/08, a/0160/09, a/0390/09 and a/0452/09) in order to obtain the additional information which had already been sought in the operative part of the Decision of 23 November 2009 and the Decision of 22 December 2009.⁷
6. On 18 May 2010, VPRS transmitted to the Chamber a report containing the additional documents requested for the single applicant a/0390/09.⁸ With respect to Applicants a/0114/08, a/0160/09 and a/0452/09, both their Legal Representatives and the Registry indicated that they have so far been unable to contact them.⁹
7. The Chamber notes that Applicant a/0390/09's application is now complete. The applications of a/0114/08, a/0160/09 and a/0452/09 remain incomplete since the requested information has not been provided.
8. The Chamber directs VPRS to proceed with the redactions in the supplementary documents concerning Applicant a/0390/09, after consultation with the Victims

⁵ *Operative Part of the Second Decision on the Applications by Victims for Participation in the Proceedings*, 23 November 2009, ICC-01/04-01/07-1669-tENG.

⁶ *Motifs de la deuxième décision relative aux demandes de participation de victimes à la procédure*, 22 December 2009, ICC-01/04-01/07-1737 with confidential, *ex parte* annex (see also the confidential, redacted version of the annex, ICC-01/04-01/07-1737-Conf-Anx-Red).

⁷ *Motifs de la troisième décision relative à 8 demandes de participation de victimes à la procédure*, 17 March 2010, ICC-01/04-01/07-1967, with confidential, *ex parte* Annexes 1 to 4 (see also the confidential, redacted version of the annexes).

⁸ Registry, "*Sixième rapport du Greffe sur les informations supplémentaires reçues concernant des demandes de participation de victimes*", 18 May 2010, ICC-01/04-01/07-2104-Conf-Exp with confidential, *ex parte* annex.

⁹ ICC-01/04-01/07-2104-Conf-Exp, paras. 6-9.

and Witnesses Unit, in accordance with the Decision of 26 February 2009 and the Registry's Report of 20 March 2009.¹⁰

9. Accordingly, the Chamber orders the Registry to provide the Prosecutor and the Defence with the redacted version of the supplementary documents transmitted to the Chamber on 18 May 2010.

FOR THESE REASONS,

ORDERS the Registry to provide the Prosecutor and the Defence by 4.00 p.m. on 27 May 2010 with a redacted version of the supplementary documents provided by Applicant a/0390/09;

ORDERS the Prosecutor and the two Defence teams to submit their observations by 4.00 p.m. on 4 June 2010 as to whether or not the status of victim participating in the proceedings should be granted to Applicant a/0390/09;

ORDERS the parties to refer to that applicant by the number which has been assigned to the applicant by the Registry; and

ORDERS the Legal Representatives of Applicants a/0114/08, a/0160/09 and a/0452/09 who have not submitted the supplementary documents sought by the Chamber to provide those documents as soon as practicable.

¹⁰ Decision of 26 February 2009; ICC-01/04-01/07-974-Conf-Exp with confidential, *ex parte* annex.

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

[signed]
Judge Bruno Cotte
Presiding Judge

[signed]
Judge Fatoumata Dembele Diarra

[signed]
Judge Christine Van den Wyngaert

Dated this 26 May 2010

At The Hague, The Netherlands