

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 14 July 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 experts pursuant to regulation 44 of the Regulations of the Court

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
Ms Fatou Bensouda
Mr Eric MacDonald

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

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

**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 ("Chamber") of the International Criminal Court ("Court"), in the case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, pursuant to regulation 44 of the Regulations of the Court ("Regulations"), issues the following order.

I. BACKGROUND

1. On 14 May 2009, the Chamber rendered its "Decision on a number of procedural issues raised by the Registry".¹ One of the issues dealt with in this decision was the question of whether interpretation of the proceedings into Lingala should be continued to be provided to Mr. Germain Katanga. The Chamber decided that it was necessary to seek expert opinion about Mr. Katanga's command of the French language, in order to allow the Chamber to determine whether Mr. Katanga speaks and understands French fully, in the sense of article 67(1)(f) of the Statute. Accordingly, the Chamber instructed the Registry to propose a list of experts which would be suitably qualified to assist it in determining whether Mr. Katanga fully understands and speaks French.²

2. On 22 May 2009, the Registry submitted a list of independent and neutral experts.³ After having selected a group of suitable experts from the list, the Chamber instructed the Registry to contact the experts selected by it to ascertain their availability to assist the Chamber.⁴

¹ ICC-01/04-01/07-1134

² ICC-01/04-01/07-1134, par. 49

³ "The Registry's proposal for a list of independent and neutral experts in compliance with the 'Decision on a matter of procedural issues raised by the Registry'", 22 May 2009, ICC-01/04-01/07-1167-Conf

⁴ Email communication of 23 June 2009 from Trial Chamber II to the Registry through the Legal Adviser of the Division

II. ORDER INSTRUCTING THE EXPERTS

3. The Chamber hereby appoints Professor André Nyembwe and Dr. André Motingea, as experts pursuant to regulation 44(4) and (5) of the Regulations. The experts are instructed, to the extent to which their combined expertise permits, to ascertaining the following:

- a) Whether a person in the DRC, with a comparable level of education and professional experience and social status as Mr. Katanga, would, in normal circumstances, be expected to be completely fluent in ordinary non-technical conversation in French;

In the event of such a finding being in the affirmative:

- b) Whether Mr. Katanga advances any arguments which, in the opinion of the experts, may explain why his level of comprehension of the French language varies from what may in normal circumstances be expected from a person of his level of education and professional experience and social status.

4. The experts are instructed to consult with each other in order to determine the most appropriate methodology for their inquiry and to compile a joint report on their findings which shall be submitted to the Chamber no later than 31 August 2009. If the experts are unable to reach agreement the report shall reflect this and explain the reasons therefore.

5. In conducting their inquiry, the experts are entitled to ask for the cooperation of the Defence and the organs of the Court. The Defence shall provide the experts with all documentation necessary for their assessment and fully cooperate with them. The Registry shall offer all necessary assistance to the experts to help them carry out their mandate.

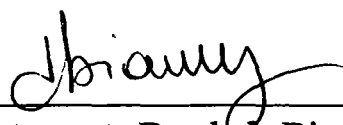
FOR THESE REASONS**THE CHAMBER**

- 1) **APPOINTS** André Nyembwe and Dr. André Motingea as experts to advise the Chamber on the matters set out above;
- 2) **ORDERS** the Registry to facilitate the work of the experts and to provide logistical assistance as required. The Registry shall further assist the experts in contacting the Defence team;
- 3) **INVITES** the Defence for Germain Katanga to fully cooperate with the experts;
- 4) **INSTRUCTS** the experts to submit a joint report to the Chamber no later than 31 August 2009.

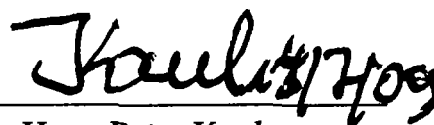
Done in both English and French, the English version being authoritative.



Judge Bruno Cotte
Presiding Judge



Judge Fatoumata Dembele Diarra



Judge Hans-Peter Kaul

Dated this 14 July 2009

At The Hague, the Netherlands