



Original: **French**

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

Date: **2 April 2008**

THE APPEALS CHAMBER

Before: Judge Philippe Kirsch, President
Judge Georgios M. Pikis
Judge Navi Pillay
Judge Sang-Hyun Song
Judge Erkki Kourula

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
THE PROSECUTOR
v. Germain Katanga and Mathieu Ngudjolo Chui**

Public Document

**Notice of Defence Appeal against the Decision on the Application for Interim
Release of Mr Ngudjolo**

Source: Mr Mathieu Ngudjolo's Defence team:

Mr Jean-Pierre Kilenda Kakengi Basila

Ms Maryse Alié

Ms Aurélie G. Roche

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

The Office of the Prosecutor

Mr Luis Moreno-Ocampo
 Ms Fatou Bensouda

Counsel for the Defence

Mr David Hooper
 Mr Goran Sluiter

Legal Representatives of the Victims

Unrepresented Victims

Legal Representatives of Applicants

**Unrepresented Applicants for
 Participation/Reparations**

The Office of Public Counsel for Victims

**The Office of Public Counsel for the
 Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Bruno Cathala

Defence Support Section

The Victims and Witnesses Unit

Ms Paolina Massidda

Detention Section

Mr Xavier-Jean Keïta
 Ms Melinda Taylor

**Victims Participation and Reparations
 Section**

Other

I. PROCEDURAL BACKGROUND

1. On 6 July 2007, Pre-Trial Chamber I of the International Criminal Court issued a warrant of arrest for Mr Mathieu Ngudjolo.¹
2. On 7 February 2008, Pre-Trial Chamber I rendered a decision to unseal the warrant of arrest issued for Mr Mathieu Ngudjolo.²
3. On 7 February 2008, the Pre-Trial Chamber scheduled Mathieu Ngudjolo's first appearance for 11 February 2008.³
4. The appointment of Mr Kilenda Kakengi Basila Jean-Pierre as permanent Counsel was registered on 25 February 2008.⁴
5. On 10 March 2008, the Pre-Trial Chamber rendered a decision ordering the joinder of the Katanga and Ngudjolo cases on the grounds of their alleged joint criminal participation in the events described in their respective warrants of arrest.⁵
6. On 13 March 2008, Pre-Trial Chamber I revoked the order segregating the two suspects, Germain Katanga and Mathieu Ngudjolo, and generally prohibiting any form of communication between them.⁶
7. On 27 March 2008, Pre-Trial Chamber I denied the Application for Interim Release filed by the Defence for Mr Ngudjolo.⁷

¹ *Warrant of Arrest for Mathieu Ngudjolo Chui*, Pre-Trial Chamber I, 6 July 2007, ICC-01/04-02/07-1-tENG.

² *Decision to Unseal the Warrant of Arrest Against Mathieu Ngudjolo Chui*, Pre-Trial Chamber I, 7 February 2008, ICC-01/04-02/07-10.

³ *Decision Scheduling the First Appearance of Mathieu Ngudjolo Chui and Authorising Photographs at the Hearing of 11 February 2008*, Pre-Trial Chamber I, 7 February 2008, ICC-01/04-02/07-14.

⁴ *Enregistrement de la désignation de maître Jean Pierre Kilenda Kakengi Basila par M. Mathieu Ngudjolo Chui comme conseil et de la déclaration d'acceptation du mandat par le conseil*, Pre-Trial Chamber I, 25 February 2008, ICC-01/04-02/07-42 [only available in French].

⁵ *Decision on the Joinder of the Cases against Germain KATANGA and Mathieu NGUDJOLO CHUI*, Pre-Trial Chamber I, 10 March 2008, ICC-01-04-01-07-257.

⁶ *Decision revoking the prohibition of contact and communication between Germain Katanga and Mathieu Ngudjolo Chui*, Pre-Trial Chamber I, 14 March 2008, ICC-01/04-01/07-322.

⁷ *Decision on the Application for Interim Release of Mathieu Ngudjolo Chui*, Pre-Trial Chamber I, 27 March 2008, ICC-01/04-01/07-345.

II. AS TO THE LAW

8. Pursuant to article 82(1)(b) of the Rome Statute ("the Statute"), parties may appeal a decision granting or denying release of the person being investigated or prosecuted.
9. Rule 154 of the Rules of Procedure and Evidence ("RPE") stipulates that an appeal against such a decision may be filed not later than five days from the date upon which the party filing the appeal is notified of the decision.
10. This provision is supplemented by regulation 64(5) of the Regulations of the Court, which provides that the document in support of the appeal shall be registered by the appellant within seven days of notification of the relevant decision.
11. Accordingly, Mr Ngudjolo's Defence submits its Notice of Appeal against the Decision on the Application for Mr Mathieu Ngudjolo's Interim Release.
12. The legal basis for the appeal against the impugned Decision is to be found in articles 58(1), 67(1) and 66(1), (2) and (3) of the Rome Statute.
13. Pursuant to article 83(2)(a) of the Statute, the Defence respectfully requests the Appeals Chamber to reverse the Decision on the Application for Interim Release rendered on 27 March 2008.
14. The Defence respectfully requests the Appeals Chamber to order the immediate interim release of Mr Mathieu Ngudjolo in accordance with article 60(2) of the Statute, subject to such conditions as the Pre-Trial Chamber may deem appropriate.

[signed]

Mr Jean-Pierre Kilenda Kakengi Basila

Permanent Defence Counsel for Mr Mathieu Ngudjolo Chui

Dated this 2 April 2008

At The Hague, The Netherlands