

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 15 May 2008

PRE-TRIAL CHAMBER I

Before: Judge Sylvia Steiner, Single Judge

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
THE PROSECUTOR**

v. Germain Katanga and Mathieu Ngudjolo Chui

Public Document

**Decision on the Defence for Mathieu Ngudjolo Chui's Request concerning
translation of documents**

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

The Office of the Prosecutor

Mr Luis Moreno Ocampo, Prosecutor
Mr Éric Macdonald, Senior Trial Lawyer

**Counsel for the Defence
of Germain Katanga**

Mr David Hooper
Ms Caroline Buisman

**Counsel for the Defence of Mathieu
Ngudjolo Chui**

Mr Jean-Pierre Kilenda Kakengi Basila
Ms Maryse Alié

Legal Representatives of the Victims

Ms Carine Bapita Buyagandu
Mr Joseph Keta
Mr J.L. Gilissen

Legal Representatives of the 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

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I, Judge Sylvia Steiner, judge at the International Criminal Court ("the Court");

NOTING the "*Requête*" ("the Defence First Request")¹ filed by the Duty Counsel for the Defence on 21 February 2008, in which current Defence Counsel for Mathieu Ngudjolo Chui, acting at that time as duty counsel, submitted that time limits should start running from the moment Duty Counsel receives: (i) notification of the relevant documents in his working language, that is to say in French; and (ii) notification of the confidential documents via DHL services;

NOTING the "Decision on the Defence Request concerning Time-Limits" ("the First Decision"),² issued by the Single Judge on 27 February 2008, in which the Single Judge, following the previous jurisprudence of Pre-Trial Chamber I ("the Chamber") in the case of the *Prosecutor v. Thomas Lubanga Dyilo* ("the Lubanga Case"):

- (i) Found that rule 76(3) of the Rules is the only provision which expressly imposes on the Prosecution a statutory obligation to provide the Defence with evidentiary materials in a language which the suspect fully understands and speaks;
- (ii) Found that article 67(1)(f) of the Statute does not grant Mathieu Ngudjolo Chui the right to have all procedural documents and all evidentiary materials disclosed by the Prosecution translated into a language that Mathieu Ngudjolo Chui fully understands and speaks;
- (iii) Declared that it is the responsibility of the permanent Counsel to compose the Defence team in a manner which will allow him or her to (a) properly be assisted in the presentation of the case before the Chamber; and (b) effectively protect the rights of Mathieu Ngudjolo Chui;

¹ ICC-01/04-01/07-293 [ICC-01/04-02/07-34].

² ICC-01/04-01/07-304.

- (iv) Denied the request of the Defence to have the present and all future deadlines in the proceedings to start running from the date of receipt of the French version of the procedural documents by the Defence;
- (v) Ordered the Registrar to make permanently available to Mathieu Ngudjolo Chui, and free of any cost, a French interpreter to assist him for the purpose of the confirmation hearing with documents of the case which are only available in English;

NOTING the "*Requête de la Défense en vue de solliciter la traduction écrite automatique en français de tous les actes de procédure et de toutes les décisions des Chambres qui sont notifiés à Mathieu Ngudjolo dans une langue autre que le français*" ("the Defence New Request"),³ filed by the Defence for Mathieu Ngudjolo Chui on 7 May 2008, in which the Defence requests the Single Judge:

- (i) to order that the Defence be furnished automatically and without delay with French translations of all submissions and decisions in the case against Mathieu Ngudjolo Chui; and
- (ii) that all time limits start running once the Defence has received the official French translations of all documents in the present case;

NOTING the Status Conference held in public session before the Single Judge on 14 May 2008;

NOTING articles 21, 50, 54, 61 and 67 of the *Rome Statute* ("the Statute"), rules 22, 76, 77, and 121(3) of the *Rules of Procedure and Evidence* ("the Rules"), regulations 31, 35 and 40(3) of the *Regulations of the Court* ("the Regulations") and regulation 34 of the *Regulations of the Registry* ("the RoR");

³ ICC-01/04-01/07-470.

CONSIDERING that the object of the Defence New Request was already included in the Defence First Request, which was rejected by the Single Judge in the First Decision; and that, therefore, the Single Judge considers that the Defence's Request amounts to a motion for reconsideration;

CONSIDERING that the Chamber has, on numerous occasions, found that (i) according to article 21(1) and (2) of the Statute, the Court shall apply first and foremost the statutory framework, and that in interpreting this framework "the Court may apply principles and rules of law as interpreted in its previous decisions"; and (ii) in principle, the statutory framework set out by the Statute and the Rules does not provide for a motion for reconsideration as a procedural remedy against any decision taken by the Chamber or the single judge;⁴

CONSIDERING further that, as required by the case law of this Chamber in the *Lubanga* Case, the Defence of Mathieu Ngudjolo Chui has received a French version of (i) the warrant of arrest for Mathieu Ngudjolo Chui and the Decision on the Evidence and Information provided by the Prosecution for the Issuance of a Warrant of Arrest for Mathieu Ngudjolo Chui; (ii) the Prosecution Charging Document and List of Evidence; and (iii) the Interview Notes, Interview Transcripts, and Statements of the witnesses on which the Prosecution intends to rely at the confirmation hearing;⁵

CONSIDERING that at the status conference held on 14 May 2008, the Single Judge was informed by the Defence of Mathieu Ngudjolo Chui and by the Registry that in order for Mathieu Ngudjolo Chui to make use of the interpreter assigned to him in the First Decision, he must request it 24 hours in advance;⁶ and that, in the view of the Single Judge, the proper implementation of the First Decision requires that this

⁴ ICC-01/04-01/06-123, p. 3, and ICC-01/04-01/06-166, pp. 4 and 5.

⁵ ICC-01/04-01/06-268.

⁶ ICC-01/04-01/07-T-28-ENG ET WT 14-05-2008, p. 31, lines 20-25; and p. 32, lines 1-6.

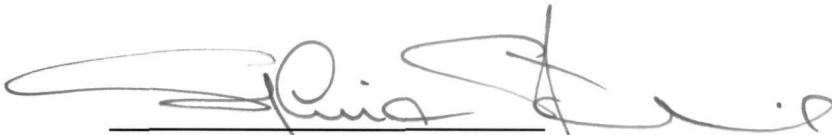
situation be corrected so that Mathieu Ngudjolo Chui can have the assistance of the said interpreter at a much shorter notice;

FOR THESE REASONS

DENY the Defence New Request *in limine*.

ORDER the Registrar to put in place as soon as possible, and no later than 22 May 2008, the necessary mechanism to allow Mathieu Ngudjolo Chui to have the assistance of the interpreter assigned to him in the First Decision at a much shorter notice than the 24 hours referred to in the status conference of 14 May 2008.

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



Judge Sylvia Steiner
Single Judge

Dated this Thursday 15 May 2008

At The Hague, The Netherlands