



Original: **English**

No.: ICC-01/04-01/07
Date: **9 February 2009**

TRIAL CHAMBER II

Before: Judge Bruno Cotte , Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Fumiko Saiga

**SITUATION IN THE DEMOCRATIC REPUBLIC OF CONGO
IN THE CASE OF
THE PROSECUTOR
*v. GERMAIN KATANGA and MATHIEU NGUDJOLO CHUI***

**Public
Urgent Defence Application for Extension of Page Limit**

Source: Defence for Mr Germain Katanga

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

The Office of the Prosecutor	Counsel for the Defence for Germain Katanga Mr David Hooper Ms Caroline Buisman
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Legal Representatives of Victims	Legal Representatives of Applicants
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Unrepresented Victims	Unrepresented Applicants for Participation/Reparation
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The Office of Public Counsel for Victims	The Office of Public Counsel for the Defence
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States Representatives	Amicus Curiae
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REGISTRY

Registrar Ms Silvana Arbia	Defence Support Section
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Victims and Witnesses Unit	Detention Section
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Victims Participation and Reparations Section	Other
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1. The Defence seeks an extension of the page limit for the *Motion Challenging the Admissibility of the Case by the Defence of Germain Katanga, pursuant to Article 19 (2) (a) of the Statute* it intends to file on Wednesday, 11 February 2009. The existing draft of this forthcoming motion counts 43 pages notwithstanding that Regulation 37 of the Regulations of the Court imposes a page limit of 20 pages.
2. The request for an extension of the page limit is based upon the fact that the matter to be addressed in this motion is of fundamental importance to the development of the International Criminal Court (“ICC”) jurisprudence and cannot be adequately addressed within 20 pages. It concerns the proper interpretation and application of the principle of complementarity, a matter not yet addressed before the ICC. Various scholars have written lengthy academic papers on this principle, which is one of the core elements underlying the ICC mechanism. These academic views must be given full consideration in order to present the Chamber with a complete picture of how best to apply the principle of complementarity. Given the absence of any jurisprudence on this principle, the Chamber cannot rely on existing guidelines in interpreting the complementarity principle. It therefore requires a thorough analysis which should not be limited by a rigid application of the regulations.
3. Moreover, the Defence is in possession of a high number of documents relating to this matter, which all need to be thoroughly discussed and analysed in the Defence forthcoming challenge to jurisdiction. There are over fifty relevant documents, the discussion of which covers more than half of the motion.
4. Accordingly, exceptional circumstances exist that justify an extension of the page limit which is applicable to ordinary filings. Similarly to the Decision on the Prosecution Application for an Extension of the Page Limit for Application to be filed tomorrow,¹ where the Pre-Trial Chamber in *Lubanga*. granted a Prosecution application to extend the page limit to 37 pages due to the number and complexity of the issues addressed, the issues in the Defence forthcoming challenge are complex and voluminous for the reasons stated above.

¹ ICC-01/04-01/06-124, issued on 23 May 2006.

5. The Defence therefore prays the Chamber to grant this application and allow it to file an admissibility challenge of up to 45 pages.

Respectfully submitted,



David HOOPER

Dated this 9 February 2009

At Amsterdam