



Original: English

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

Date: 29 April 2009

TRIAL CHAMBER II

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

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

Public Document

Defence Observations on the Prosecution's Second Application for Extension of Time Limit Pursuant to Regulation 35 to Submit a Table of Incriminating Evidence and related material in compliance with Trial Chamber II "Order concerning the Presentation of Incriminating Evidence and the E-Court Protocol"

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

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Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

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REGISTRY

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Defence Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Other

1. The Defence for Germain Katanga confirms the remarks reported in paragraph 2 of the *Prosecution's Second Application for Extension of Time Limit Pursuant to Regulation 35 to Submit a Table of Incriminating Evidence and related material in compliance with Trial Chamber II "Order concerning the Presentation of Incriminating Evidence and the E-Court Protocol"*, namely that the Defence

"do not agree that the Prosecution be granted a delay in the filing of the document pending the decision on whether it be granted leave to appeal. In the current circumstances it is uncertain when the Trial Chamber will be able to render such a decision. The Defence are concerned at the delay that may result. The Defence need the document in order to prepare the case. The Defence cannot see what prejudice the Prosecution will incur by producing the document. However, the Defence for Germain Katanga recognises that this is a complex and important document that may require some further time in order for the Prosecution to produce the best document it can. For that reason the Defence agrees, subject to the Chamber's view, that the Prosecution be allowed to submit the document no later than the 25th May next."¹

2. The Defence for Germain Katanga suggests that time will be saved if the parties agree to allow the decision, as to whether the Prosecution be granted leave to appeal, to be made by the two remaining judges of the Chamber. The Defence for Germain Katanga hereby does agree that the decision, and related decisions, can be made by the two judges.

Respectfully submitted,



David HOOPER

Dated this 29 April 2009

At The Hague

¹ ICC-01/04-01/07-1080.