

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 17 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 CONGO

***IN THE CASE OF
THE PROSECUTOR v. GERMAIN KATANGA and MATHIEU NGUDJOLO CHUI***

Public Document

**Decision on the “Prosecution Request for an Extension of the Page Limit for its
Response to Defence Motion for a Declaration on Unlawful Detention and Stay of
Proceedings”**

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
 Ms Fatou Bensouda, Deputy Prosecutor
 Mr Eric MacDonald, Senior Trial Lawyer

Counsel for the Defence

Mr David Hooper
 Mr Andreas O'Shea
 Ms Caroline Buisman

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

Mr Jean-Pierre Kilenda Kakengi Basila
 Prof Jean-Pierre Fofé Djofia Malewa

Unrepresented Victims

**Unrepresented Applicants for
 Participation/Reparation**

**The Office of Public Counsel for
 Victims**

Paolina Massida

**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 ("Trial Chamber" or "Chamber") of the International Criminal Court ("Court"), in the case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, in accordance with Regulation 37(2) of the Regulations of the Court ("Regulations"), issues the following decision.

1. On 19 June 2009 the Defence for Germain Katanga requested the Chamber¹ to extend the page limit set at 20 pages pursuant to regulation 37(1) of the Regulations for "*its Motion for Declaration of Abuse of Process Resulting from Illegal Arrest and Detention of Germain Katanga and Stay of Proceedings*"². The extension of the page limit was granted by the Chamber on the same day.³
2. The "Defence motion for a declaration on unlawful detention and stay of proceedings"⁴ ("Defence Motion") was subsequently filed on 30 June 2009, the public redacted version of which was notified to the Prosecution on 2 July 2009.⁵ The unredacted version of the Defence Motion was made available to the Prosecution on 3 July 2009.⁶ The Defence Motion comprised 37 pages in total.
3. On 16 July 2009 the Office of the Prosecutor ("Prosecution") filed the "Prosecution Request for an Extension of the Page Limit for its Response to Defence Motion for a Declaration on Unlawful Detention and Stay of Proceedings".⁷

¹ "Urgent Defence Application for Extension of Page Limit", ICC-01/04-01/07-1220, 19 June 2009

² ICC-01/04-01/07-1220, par. 1

³ "*Décision sur la requête de la Défense de Germain Katanga aux fins d'augmentation du nombre des pages autorisé (norme 37-2 du Règlement de la Cour)*", 19 June 2009, ICC-01/04-01/07-1223

⁴ ICC-01/04-01/07-1258-Conf-Exp

⁵ ICC-01/04-01/07-1263

⁶ Pursuant to Trial Chamber II's Instruction dated 3 July 2009, document ICC-01/04-01/07-1258-Conf-Exp was reclassified as Confidential Ex parte, only available to Katanga Defence Team and Prosecution.

⁷ "Prosecution Request for an Extension of the Page Limit for its Response to the Defence Motion for a Declaration on Unlawful Detention and Stay of Proceedings", 16 July 2009, ICC-01/04-01/07-1309

4. In its Request, the Prosecution argues that the circumstances of its response to the Defence Motion warrant an extension of page limit pursuant to regulation 37(2) of the Regulations.⁸ The Prosecution bases its request on the Chamber's decision of 19 June 2009⁹ in which it held that, having regard to the advanced stage of the proceedings, it is vital that the parties be given the opportunity to usefully respond to this motion, in full awareness of all the circumstances of the matter.¹⁰ The Prosecution submits that it believes that it can best present its Response to the Defence Motion in a document not exceeding 40 pages,¹¹ contending that the circumstances are such as to constitute exceptional circumstances within the meaning of regulation 37(2) of the Regulations¹², given the number of factual and legal issues addressed in the Defence Motion.

5. The Chamber notes that the Defence for Germain Katanga has been granted an extension of page limit by virtue of the Chamber's decision of 19 June 2009. Accordingly, it is the Chamber's view that it is essential for the integrity of the proceedings that the Prosecution is given the opportunity to meaningfully respond to all the factual and legal issues raised in the Defence Motion

6. By virtue of regulation 37(2) of the Regulations, the Chamber is vested with the power extend the page limit of documents filed with the Registry in exceptional circumstances at the request of a participant. The Chamber considers that, in order to address the large number of factual issues raised in the Defence Motion in due depth, a page limit of 20 is indeed unduly restrictive in the present case.

⁸ ICC-01/04-01/07-1309, par. 6

⁹ ICC-01/04-01/07-1223

¹⁰ ICC-01/04-01/07-1223, par. 4

¹¹ ICC-01/04-01/07-1309, par. 9

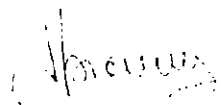
¹² *Ibid.*, par. 10

FOR THESE REASONS

THE CHAMBER

GRANTS the Prosecution request.

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



Judge Fatoumata Dembele Diarra



Judge Bruno Cotte
Presiding Judge



Judge Hans-Peter Kaul

Dated this 17 July 2009

At The Hague, the Netherlands