



Original: English

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

Date: 14 October 2009

TRIAL CHAMBER II

Before: Judge Bruno Cotte , Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Christine Van den Wyngaert

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 the « Requête de la Défense de Mathieu Ngudjolo tendant à obtenir
le rejet de certaines pièces reprises dans le Tableau des éléments à charge
élaboré par le Procureur » "**

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 Germain Katanga

Mr David Hooper
 Mr Andreas O'Shea

Counsel for Mathieu Ngudjolo Chui

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

Legal Representatives of the Victims

Mr Fidel Nsita Luvengika
 Mr Jean-Louis 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

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. At the Chamber's request¹ the Defence for Mathieu Ngudjolo Chui filed an additional Motion to its "Observations de la Défense de Mathieu Ngudjolo relatives au Tableau des éléments à charge élaboré par le Procureur (ICC-01/04-01/07-1174)" of 14 August 2009, entitled "Requête de la Défense de Mathieu Ngudjolo Chui tendant à obtenir le rejet de certaines pièces reprises dans le Tableau d'éléments à charge élaboré par le Procureur (ICC-01/04-01/07-1522)" ("Motion") on 12 October 2009². In this Motion, the Defence provides additional, detailed argument in support of its earlier filing in which it sought the exclusion of a number of items of evidence included within the Prosecution's Table of Incriminating Evidence ("Table"). In particular, the Defence advances observations on a number of items of evidence, discussing each item in turn.
2. On 14 October 2009, the Office of the Prosecutor ("Prosecution") filed the "Prosecution Request for an Extension of the Page Limit for its Response to the « Requête de la Défense de Mathieu Ngudjolo tendant à obtenir le rejet de certaines pièces reprises dans le Tableau des éléments à charge élaboré par le Procureur »" ("Request")³, in which it seeks the Chamber's permission for an extension of page limit for its Response to the Defence Motion of 12 October 2009, pursuant to regulation 37(2) of the Regulations.

¹ As per an oral order made during the status conference of 2 October 2009, ICC-01/04-01/07-T-73-ENG-ET-WT-01-10-2009, p. 53, lines 23 to 25

² ICC-01/04-01/07-1522-Conf, 12 October 2009

³ ICC-01/04-01/07-1530, 14 October 2009

3. In its Request the Prosecution argues that the particulars of the Defence Motion are such as to constitute 'exceptional circumstances' within the meaning of regulation 37(2) of the Regulations.⁴ It submits that due to the nature of the Defence Motion, namely that it challenges the admissibility of around 51 items of evidence currently included within the Prosecution's Table in turn, the Prosecution is required to respond to each item separately. This, the Prosecution contends, necessitates a thorough analysis and discussion of the arguments presented by the Defence relating to each and every item challenged.⁵ Accordingly, the Prosecution advances, the depth and extent of the response required, will necessarily require submissions going beyond the ordinary 20 page limit, as prescribed by regulation 37(1) of the Regulations. The Prosecution thus seeks to be given permission to present its response in a document not exceeding 40 pages.⁶
4. Having regard to the circumstances outlined by the Prosecution, the Chamber considers that the nature of the Defence Motion, does indeed require that the page limit be extended in accordance with regulation 37(2) of the Regulations, so as to give the Prosecution the opportunity to adequately respond to all matters raised in the Motion.

⁴ Ibid., par. 2

⁵ Ibid., par. 3

⁶ Ibid., par. 4

FOR THESE REASONS,

THE CHAMBER,

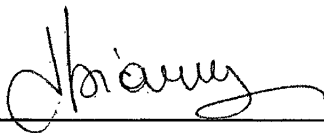
GRANTS the Request for an extension of page limit pursuant to regulation 37(2) of the Regulations.

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

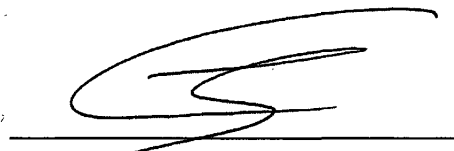


Judge Bruno Cotte

Presiding Judge



Judge Fatoumata Dembele Diarra



Judge Christine Van den Wyngaert

Dated this 14 October 2009

At The Hague, the Netherlands