

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-01/07
Date: 21 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 urgent request for an extension of page limit pursuant to
regulation 37(2) of the Regulations of the Court (ICC-01/04-01/07-1540)**

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. During the status conference held on 2 October 2009, the Chamber requested that the Defence submit specific, written applications on the question relating to the admissibility of the evidence of deceased witnesses.¹
2. On 19 October 2009, the Defence for Mathieu Ngudjolo ("Defence") filed a request² for an extension of page limit pursuant to regulation 37(2) of the Regulations, for its forthcoming application regarding the issue, which is to be filed on 23 October 2009.³
3. In its request, the Defence outlines that it intends to file a request asking for the exclusion of documentary evidence relating to the deceased witnesses P-167 and P-258. In order to present all relevant legal and factual arguments in due detail, the Defence submits that the page limit of 20 page prescribed by regulation 37(1) of the Regulations would be insufficient. It argues that the exceptional circumstances being the pre-requisite for such an extension being granted, are fulfilled in the present case, as the question of the admissibility of evidence related to deceased witnesses is a fundamental question that has so

¹ ICC-01/04-01/07-T-72-ENG ET WT, 2 October 2009, p. 55, lines 23-25

² "Requête urgente sollicitant l'extension du nombre de pages conformément à la Norme 37 (2) du Règlement de la Cour pour une requête relative aux témoins décédés 167 et 258", 19 October 2009, ICC-01/04-01/07-1540

³ During the status conference, the Chamber imposed a three-week deadline for the filing of applications relating to the issue of deceased witnesses: ICC-01/04-01/07-T-72-ENG ET WT, 2 October 2009, p. 55, line 25

far not been treated by the Chamber.⁴ The Defence argues that the importance of this question in terms of general principle, as well as other issues upon which the question impacts, must be elaborated in sufficient detail. Equally, it argues that the factual arguments relating to witnesses P-167 and P-258 cannot be purposefully advanced within the page limit of 20 pages. It therefore requests that the Chamber, pursuant to regulation 37(2) of the Regulations, extend the page limit for its filing to 40 pages.⁵

4. In its previous decisions granting extensions of the page limit,⁶ the Chamber held, that especially at this advanced stage in the proceedings, it is vital that the parties be given the opportunity to develop their arguments fully. Having regard to the arguments presented by the Defence in support of its application for an extension of page limit, the Chamber considers that the nature of this filing indeed requires that the page limit be extended to the requested 40 pages.

⁴ Ibid., par. 5

⁵ Ibid., par. 8

⁶ ICC-01/04-01/07-1223; ICC-01/04-01/07-1314; ICC-01/04-01/07-1531

FOR THESE REASONS,

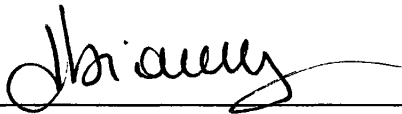
THE CHAMBER,

GRANTS the Defence 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 21 October 2009

At The Hague, the Netherlands