



Original: **French**

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

Date: **29 June 2009**

TRIAL CHAMBER II

Before: Judge Bruno Cotte, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Hans-Peter Kaul

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

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

Public Document

**Decision Inviting Observations from the Participants concerning the Detention of
Germain Katanga (Rule 118(2))**

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 Éric MacDonald, Senior Trial Lawyer

Counsel for Germain Katanga

Mr David Hooper
Mr Andreas O'Shea
Ms Caroline Buisman

Counsel for Mathieu Ngudjolo

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

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

The Office of Public Counsel for Victims

Ms Paolina Massidda

The Office of Public Counsel for the Defence

Mr Xavier-Jean Keïta

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

Mr Anders Backman

Victims Participation and Reparations Section

Other

TRIAL CHAMBER II of the International Criminal Court (“the Chamber” and “the Court” respectively);

NOTING articles 58, 60(3), 60(4), 61(11), 64(6)(a) and 67 of the Statute of the Court (“the Statute”), rule 118 of the Rules of Procedure and Evidence (“the Rules”) and regulation 24 of the Regulations of the Court;

NOTING the Decision of Pre-Trial Chamber I dated 18 August 2008 rejecting the application for the release of Mr Germain Katanga and deciding that he shall remain in detention;¹

NOTING the Decisions of Trial Chamber II dated 12 December 2008 and 6 April 2009 ordering that he remain in detention;²

CONSIDERING that, under article 60(3) of the Statute and rule 118(2) of the Rules, the decision that Germain Katanga shall remain in detention must be reviewed at least every 120 days; that as of 6 August 2009, Germain Katanga will have spent 120 days in detention since the Decision of 6 April 2009;³

¹ Pre-Trial Chamber I, *Review of the Decision on the Conditions of the Pre-Trial Detention of Germain Katanga*, 18 August 2008, ICC-01/04-01/07-702.

² Trial Chamber II, *Second Review of the Decision on the Conditions of Detention of Germain Katanga*, 12 December 2008, ICC-01/04-01/07-794-tENG; Trial Chamber II, *Third Review of the Decision on the Conditions of Detention of Germain Katanga*, 6 April 2009, ICC-01/04-01/07-1027-Conf-Exp-tENG.

³ Trial Chamber II, *Third Review of the Decision on the Conditions of Detention of Germain Katanga*, 6 April 2009, ICC-01/04-01/07-1027-Conf-Exp-tENG.

CONSIDERING furthermore that, under article 60(4) of the Statute, it is appropriate to ensure that Germain Katanga is not detained for an unreasonable period prior to trial due to inexcusable delay by the Prosecutor;⁴

FOR THESE REASONS,

DECIDES,

- i) that the Prosecutor and the Legal Representatives of anonymous and non-anonymous Victims shall have until 4 p.m. on 6 July 2009 to file their observations on the detention of Germain Katanga at the seat of the Court;
- ii) that the Defence for Germain Katanga shall have until 4 p.m. on 13 July 2009 to submit its own observations and respond to the observations mentioned in point i) above.

[signed]
Judge Bruno Cotte
Presiding Judge

[signed]
Judge Fatoumata Dembele Diarra

[signed] 29/6/09
Judge Hans-Peter Kaul

Dated this 29 June 2009,

At The Hague, The Netherlands

⁴ Appeals Chamber, *Judgment on the appeal of Mr Thomas Lubanga Dyilo against the decision of Pre-Trial Chamber I entitled "Décision sur la demande de mise en liberté provisoire de Thomas Lubanga Dyilo"*, 13 February 2007, ICC-01/04-01/06-824, para. 120.