

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **French**

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

Date: **6 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 THE CONGO
IN THE CASE OF
*THE PROSECUTOR v. GERMAIN KATANGA AND MATHIEU NGUDJOLO CHUI***

Confidential

Ex parte, only available to the Registrar, the Office of the Prosecutor and the
Defence for Mathieu Ngudjolo Chui

**Decision ordering the surveillance of Mr Mathieu Ngudjolo's non-privileged
communications pursuant to the Chamber's decisions of 24 July and 25 September
2009**

Source: The Registrar

Document to be notified in accordance with regulation 31 of the Regulations of the Court to:

The Office of the Prosecutor

Mr Luis Moreno-Ocampo
Ms Fatou Bensouda
Mr Eric MacDonald

**Counsel for the Defence of Mathieu
Ngudjolo**

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

REGISTRY

Registrar

Ms Silvana Arbia

Deputy Registrar

Mr Didier Preira

Victims and Witnesses Unit

Ms Maria Luisa Martinod-Jacome

Detention Section

Mr Anders Backman

Other

The Presidency

The Registrar of the International Criminal Court ("the ICC");

NOTING the Chamber's decisions of 24 July and 25 September 2009;¹

NOTING the "*Rapport du Greffier relatif à la mise en oeuvre de certaines des instructions contenues dans la Décision de la Chambre du 24 juillet 2009*";²

NOTING regulations 23 *bis* and 90 of the Regulations of the Court and regulations 174 and 175 of the Regulations of the Registry ("the Regulations");

CONSIDERING that for the purposes of submitting the report ordered by the Chamber in its decision of 24 July 2009, the Registrar had caused communications to be monitored until 19 August 2009;³

CONSIDERING that the decision of 25 September 2009 attaches to the detention relaxation measures imposed on Mathieu Ngudjolo the same conditions as before and orders that an updated report on the restrictions imposed be provided;

CONSIDERING that it is important to order the surveillance of Mathieu Ngudjolo's communications in June 2009, and between 20 August 2009, when the above-mentioned report will be submitted, and 19 October 2009, which is the deadline for the Registrar to submit her report on the implementation of the measures decided by the Chamber, and that the surveillance shall cover the period before the date of the present decision and the thirteen days following;

FOR THESE REASONS,

ORDERS the Chief Custody Officer, in cooperation with the Victims and Witnesses Unit, to carry out the *post factum* monitoring of non-privileged telephone calls made by Mathieu Ngudjolo during the above-mentioned period;

¹ ICC-01/04-01/07-1334-Conf-Exp-tENG and ICC-01/04-01/07-1498-Conf-Exp-tENG.

² ICC-01/04-01/07-1410-Conf-Exp.

³ ICC-01/04-01/07-1368-Conf-Exp.

ORDERS that all relevant information pertaining to the other means of communication provided to Mathieu Ngudjolo be made available as soon as possible and be used in any case for the report to be submitted to the Chamber;

ORDERS the Chief Custody Officer to notify the present decision to the party concerned and to take all the measures he considers necessary to implement the decision, including providing the Court Interpretation and Translation Section with the recordings for the above-mentioned periods in order to guarantee that the said communications will be listened to and transcribed in good time;

FILES the present decision as confidential, *ex parte*, available only to the Registry, the Office of the Prosecutor and the Defence for Mathieu Ngudjolo, particularly in view of the level of confidentiality of the current procedure.

[signed]

Marc Dubuisson, Director of the Division of Court Services
on behalf of
Silvana Arbia, Registrar

Dated this 6 October 2009,

At The Hague, the Netherlands