

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **20 July 2011**

THE APPEALS CHAMBER

Before: Judge Sang-Hyun Song
Judge Akua Kuenyehia
Judge Erkki Kourula
Judge Anita Ušacka
Judge Daniel David Ntanda Nsereko

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
THE PROSECUTOR
v. GERMAIN KATANGA AND MATHIEU NGUDJOLO CHUI

Public Document

Prosecution's Response to the Government of the Kingdom of the Netherlands
"Urgent Request for Directions" (ICC-01/04-01/07-3077)

Source: Office of the Prosecutor

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

The Office of the Prosecutor

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Section**

Other

1. On 9 June 2011 Trial Chamber II issued its “ Décision sur une requête en amicus curiae et sur la ‘requête tendant à obtenir présentations des témoins DRC-D02-P-0350, DRC-D02-P-0236, DRC-D02-P-0228 aux autorités néerlandaises aux fins d’asile ‘ (articles 68 et 93-7 du Statut) ”.¹
2. On 15 June 2011, the Prosecution filed its Application for Leave to Appeal the 9 June 2011 Decision.² On 15 and 16 June 2011, the Kingdom of the Netherlands and the Democratic Republic of the Congo also filed applications for leave to appeal.³ On 20 June 2011, the Prosecution filed its “Consolidated Response to the Applications for leave to appeal by the authorities of the Netherlands and the Democratic Republic of the Congo against the 9 June 2011 Decision”.⁴
3. On 14 July 2011, the Trial Chamber II issued its “Décision relative à trois demandes d'autorisation d'interjeter appel de la Décision ICC-01/04-01/07-3003 du 9 juin 2011 (“the Decision”).⁵ In its Decision the Trial Chamber declared inadmissible all the requests for leave to appeal. The Chamber stated that in its view any appeals against its 9 June 2011 ruling could be brought directly before the Appeals Chamber without the need for any authorization from the Trial Chamber, subject to the admissibility of such appeals.⁶
4. On 15 July 2011, the Government of the Kingdom of the Netherlands filed its “Urgent Request for Directions” before the Appeals Chamber.⁷
5. The Prosecution agrees with the Kingdom of the Netherlands that the Decision is unprecedented and has created a situation of uncertainty as to the procedure to follow before the Appeals Chamber, including the applicable deadlines for the filing of submissions. It accordingly supports the Kingdom of the Netherlands’ request for directions from the Appeals Chamber. The Prosecution further requests that in order to preserve the appellants’ rights, any deadlines to file

¹ ICC-01/04-01/07-3003 (“the Decision”).

² ICC-01/04-01/07-3021 (“the Request for leave to Appeal”).

³ ICC-01/04-01/07-3020 and ICC-01/04-01/07-3023.

⁴ ICC-01/04-01/07-3026 (“the Consolidated Response”).

⁵ ICC-01/04-01/07-3073 (“the Decision on Request for leave to Appeal”).

⁶ ICC-01/04-01/07-3073, para. 9.

⁷ ICC-01/04-01/07-3077 (“the Urgent Request”).

submissions before the Appeals Chamber, including notices of appeal and/or documents in support of the appeal, be deemed to start running from the date the Appeals Chamber issues its directions.

Conclusion

6. For the above given reasons, the Prosecution supports the request for directions. It also requests that all relevant deadlines start running from the date of the issuance of the directions.



Luis Moreno-Ocampo,
Prosecutor

Dated this 20th day of July 2011
At The Hague, The Netherlands