



Original: **French**

No.: **ICC-01/04-01/07**
Date: **16 September 2011**

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
Confidential annexes

Registry's report submitted pursuant to decision ICC-01/04-01/07-3128

Source: Registry

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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Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States' Representatives

Democratic Republic of the Congo
Kingdom of the Netherlands

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia
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THE REGISTRAR of the International Criminal Court (“the Court”)

NOTING the *Decision on the Security Situation of witnesses DRC-D02-P-0236, DRC-D02-P-0228 and DRC-D02-P-0350* (“the Decision”);¹

NOTING article 93(7) of the Rome Statute (“the Statute”), rule 176(2) of the Rules of Procedure and Evidence and regulation 23 *bis* of the Regulations of the Court;

CONSIDERING that the Chamber ordered the Registrar “to initiate consultations with the authorities of The Kingdom of the Netherland and the Democratic Republic of the Congo in order to determine whether DRC-D02-P0236, DRC-D02-P0228 and DRC-D02-P0350 should remain detained pending the final outcome of their request for asylum in The Netherlands and, if so, who should be responsible for their detention”;²

CONSIDERING that the Chamber ordered the Registrar “to keep the Chamber regularly informed about the progress of these consultations and to file a first report no later than 16 September 2011 at 12h00”;³

SUBMITS the following information:

Host State

1. The Registry notified the Decision to the host State on 26 August 2011, indicating that the Registry was available for the consultations as directed by the Chamber.
2. The Registry contacted the host State to ascertain when the consultations could take place. The host State stated, in accordance with the position it

¹ ICC-01/04-01/07-3128.

² ICC-01/04-01/07-3128, p. 11.

³ ICC-01/04-01/07-3128, p. 11.

adopted in another case, that it would convey its observations to the Registry by note verbale.

3. On 7 September 2011, the host State authorities sought a meeting with representatives of the Presidency to discuss relations between the Court and the host State. On 13 September 2011, the Chef de Cabinet of the Presidency and the Deputy Registrar met representatives of the host State at the Ministry of Foreign Affairs. At that meeting, the issue of the consideration of the asylum applications was discussed. The host State expressed its willingness to process the asylum applications as expeditiously as possible. To that end, it requested the opportunity to speak to the witnesses at the detention centre. It further stated that any additional information on the measures taken to protect the witnesses in the Democratic Republic of the Congo would be of use in the consideration of asylum applications.
4. The host State authorities transmitted their observations on 15 September 2011. In that note verbale, the host State stated that the witnesses should remain at the detention centre while the asylum application is under consideration. The host State referred to a note verbale of 26 August 2011 in which it set out its position in another case.

Democratic Republic of the Congo

5. The Registry transmitted the Chamber's decision to the authorities of the Democratic Republic of the Congo on 5 September 2011.
6. The consultations between the Registrar and the Minister of Justice and Keeper of the Seals [*Ministre de la Justice et Garde des sceaux*] were held on 7 September 2011.

7. During the consultations, the Minister stated that the witnesses should be promptly transferred to the Democratic Republic of the Congo pursuant to article 93(7) of the Statute.
8. The minutes of these consultations will be recorded in a second report once the competent Congolese authorities have approved the summary prepared by the Registry.
9. The present report is filed as confidential on account of its reference to documents of the same level of confidentiality in another case.

APPENDS to the present report

- The note verbale sent to the host State authorities and the memorandum of notification (annex 1);
- The note verbale sent by the host State authorities and the notes verbales of 2 and 26 August 2011 transmitted by the host State in another case (annex 2);
- The note verbale sent to the authorities of the Democratic Republic of the Congo and the memorandum of notification (annex 3).

[signed]

Silvana Arbia, Registrar

Dated this 16 September 2011
At The Hague, the Netherlands