



Original: **French**

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

Date: **1 December 2010**

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***

Public Document

**Order scheduling the appearance of Witnesses a/0381/09, a/0018/09, a/0191/08 and
pan/0363/09 and the opening of the Defence case for Germain Katanga**

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

Counsel for Mathieu Ngudjolo Chui

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

Legal Representatives of Victims

Mr Jean-Louis Gilissen
 Mr Fidel Nsita Luvengika

Legal Representatives of Applicants

**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

Other

**Victims Participation and Reparations
 Section**

TRIAL CHAMBER II of the International Criminal Court (“the Chamber” and “the Court” respectively), acting pursuant to articles 64(2), 64(8)(b) and 67(1)(b) of the Statute of the Court (“the Statute”) and rule 134(3) of the Rules of Procedure and Evidence (“the Rules”);

Considering paragraphs 3 to 7 of Decision No. 1665 pertaining to the *Directions for the conduct of the proceedings and testimony in accordance with rule 140*¹ of 1 December 2009, which regulate the various phases of the trial;

Considering paragraph 64 of Decision No. 2388 of 14 September 2010 pertaining to the inspection of documents in the possession or control of the Defence, in accordance with rules 78 and 79(4) of the Rules of Procedure and Evidence,² which regulates the manner in which the Defence is to present its case before it commences;

Considering paragraph 29 of Decision No. 2517 authorising the appearance of Victims a/0381/09, a/0018/09, a/0191/08 and pan/0363/09 acting on behalf of Victim a/0363/09,³ which grants the parties and the participants a time limit of two weeks from the end of the presentation of the Prosecutor’s case to prepare adequately for the appearance of the four witnesses and to have sufficient time for that purpose;

Considering that, since 15 September 2010, the parties have been privy to the necessary information to conduct investigations on the four new witnesses, *inter alia* a summary of their statements;

Considering paragraphs 15 to 19, 29, and 35 of Decision No. 2517 of 9 November 2010 pertaining to the appearance of the victims which strictly limit the scope of

¹ *Directions for the conduct of the proceedings and testimony in accordance with rule 140*, 1 December 2009, ICC-01/04/01/07-1665-Corr.

² *Decision on the Prosecution’s Application Concerning Disclosure by the Defence Pursuant to Rules 78 and 79(4)*, 14 September 2010, ICC-01/04-01/07-2388.

³ *Décision aux fins d’autorisation de comparution des victimes a/0381/09, a/0018/09, a/0191/08 et pan/0363/09 agissant au nom de a/0363/09*, 9 November 2010, ICC-01/04/01/07-2517.

questions which may be put to the four witnesses and fix the time allocated to each party for examining the witnesses;

Considering, further, the respective arguments of all the parties and participants advanced at the status conferences held on 9 July 2010 and 29 November 2010 and the reasoned oral responses thereto provided by the Chamber, on 29 November 2010 in particular;⁴

Considering the relatively limited scope of the charges which have been confirmed against the two accused persons and the date on which the majority of the incriminating evidence was disclosed to the Defence;

Considering, moreover, that the right to have sufficient time for the preparation of the Defence does not entail that the period of time allocated to the Defence in order to prepare its case will be exactly equal to that which the Prosecutor was allowed in order to conduct his investigations;

Considering, further, that the Chamber has the obligation to ensure that a strict balance is observed between the fairness of the trial – which includes adequate preparation time – and the expeditiousness with which it must be conducted;

Finally, reminding the two defence teams of their mutual disclosure obligation at no later than two weeks prior to the commencement of Germain Katanga's presentation of his defence;⁵

⁴ ICC-01/04/01/07-T-168-FRA ET WT 09-07-2010 and ICC-01/04-01/07-T-224-FRA ET WT 29-11-2010.

⁵ ICC-01/04/01/07-2388, and reminders at the status conference of 29 November 2010, ICC-01/04-01/07-T-224-FRA ET WT 29-11-2010, p. 25, line 4 to p. 26, line 14.

ORDERS as follows:

- (1) Witnesses a/0381/09, a/0018/09, a/0191/08 and pan/0363/09 shall appear successively as from 21 February 2011 in the order to be determined shortly by their Legal Representative in consultation with the Victims and Witnesses Unit;
- (2) The Defence for Germain Katanga shall commence the presentation of its case on 21 March 2011.

Done in both English and French, the French version being authoritative.

[signed]
Judge Bruno Cotte
Presiding Judge

[signed]
Judge Fatoumata Dembele Diarra

[signed]
Judge Christine Van den Wyngaert

Dated this 1 December 2010

At The Hague, The Netherlands