

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **30 May 2012**

TRIAL CHAMBER II

Before: Judge Bruno Cotte, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Christine Van Den Wyngaert

**SITUATION IN THE DEMOCRATIC REPUBLIC OF CONGO
IN THE CASE OF**

THE PROSECUTOR V GERMAIN KATANGA and MATHIEU NGUDJOLO CHUI

Confidential

**Prosecution's Observations to "Request concerning the Detention of Witnesses
DRC-D02-P-0236, DRC-D02-P-0228 and DRC-D02-P-0350"**

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

Counsel for the Defence of Germain Katanga

Mr David Hooper
Mr Andreas O'Shea

Counsel for Mathieu Ngudjolo Chui

Mr Jean-Pierre Kilenda Kakengi Basila
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Legal Representatives of Victims

Mr Fidel Nsita Luvengika
Mr Jean-Louis Gilissen

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

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

Ms Maria Luisa Martinod-Jacome

Detention Section

Victims Participation and Reparations Section

Other

Mr Ghislain Mabanga Monga Mabanga

1. On 14 May 2012, duty counsel for detained witnesses DRC-D02-P-0236, DRC-D02-P-0228, and DRC-D02-P-0350 submitted three requests to the Chamber, including one to *"adjudge and declare that at present the ongoing detention of the witnesses has also become the responsibility of the host-State and is no longer a matter within the exclusive jurisdiction of the Court"*.¹
2. The Prosecution submits that before entertaining any possibility of releasing the detained witness into the custody of the host State, the Chamber should seek the observations of the host State as to the potential detention status of the Witnesses in such a scenario. Will the Witnesses be detained? If so where, under whose supervision and for how long? Will the host State be able to guarantee the transfer of the three detainees into the custody of the DRC authorities in the event that their asylum request were to be rejected?

Confidentiality

3. The Prosecution submits its observations with the same confidentiality level as the Request of the duty counsel. The Prosecution has no objection to their reclassification as public.



Luis Moreno-Ocampo, Prosecutor

Dated this 30th day of May 2012

At The Hague, The Netherlands

¹ ICC-01/04-01/07-3291-Conf, p. 9.