



Original: English

No.: ICC-01/04-01/07
Date: 10 January 2013

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

Public Document

Defence Observations on the « *Requête de l'Accusation sur la base de la norme 35 du Règlement de la Cour aux fins de prorogation de délai pour soumettre ses observations sur la requalification juridique sur le fondement de l'article 25-3-d du Statut* »

Source: Defence for Mr Germain Katanga

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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Mr Andreas O'Shea

Legal Representatives of Victims

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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

Detention Section

**Victims Participation and Reparations
Section**

Other

1. The defence for Germain Katanga (« the defence ») hereby objects to the prosecution's request for delay contained in its filing « *Requête de l'Accusation sur la base de la norme 35 du Règlement de la Cour aux fins de prorogation de délai pour soumettre ses observations sur la requalification juridique sur le fondement de l'article 25 - 3 - d du Statut* » (« the prosecution's Request' »).¹ The prosecution requests the Trial Chamber to grant an extension of time limit to file its observations on the legal recharacterisation of the charges on the basis of Article 25(3)(d) of the Statute, until the 4th of February 2013, instead of the 15th of January 2012.²
2. The defence submits that the prosecution has been given sufficient time by the Chamber. Given that the submissions on Article 25(3)(d) are on the initiative of the Trial Chamber, the Prosecutor should comply with the time limits. Further lengthening in the process should be kept to the absolute minimum to respect Mr Katanga's right to trial without undue delay, pursuant to Article 67(1)(c).
3. Contrary to the defence's position, who intends to request suspensive relief from the Appeals Chamber pending the hearing of an appeal as to the giving of notice under Regulation 55, the prosecution are not prejudiced by responding to the Trial Chamber's request, and in a timely manner. The prosecution are specifically not placed in the position of revealing aspects of the future conduct of the case, or other matters, that may prejudice the accused.
4. Finally, it can be assumed that, during the course of the past five years, the Prosecutor has given consideration to the question as to whether the charges should be framed or amended in this way but decided not to.
5. The defence respectfully requests the Trial Chamber to dismiss the prosecution's Request.

¹ ICC-01/04-01/07-3331, 8 January 2013.

² ICC-01/04-01/07-3319, Décision relative à la mise en oeuvre de la norme 55 du Règlement de la Cour et prononçant la disjonction des charges portées contre les accusés, 21 November 2012, paras 55-56, p. 31.

Respectfully submitted,



David HOOPER Q.C.

Dated this 10 January 2013

At London