



Original: **English**

No.: ICC-01/04-01/07
Date: 25 January 2016

THE PRESIDENCY

Before: Judge Silvia Fernandez de Gurmendi, President
Judge Joyce Aluoch, First Vice-President
Judge Kuniko Ozaki, Second Vice-President

SITUATION IN THE DEMOCRATIC REPUBLIC OF CONGO

***IN THE CASE OF
THE PROSECUTOR v. GERMAIN KATANGA***

Public Redacted Version with Public Annex A

URGENT

**Further matters concerning the
‘Preliminary observations made by the defence concerning the continued and unlawful
detention of Mr Germain Katanga by the Democratic Republic of Congo’**

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

Ms Fatou Bensouda
M. James Stewart
Mr Eric MacDonald

**Counsel for the Defence for Germain
Katanga**

Mr David Hooper Q.C.
Ms Caroline Buisman

State

Democratic Republic of the Congo

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Mr Pieter Vanaverbeke

Others

Judges appointed pursuant to decision
ICC-01/04-01/07-3572

1. The defence today received the document '*Citation à prévenu*', attached as ANNEX 1. This document is dated today, 25th January 2016, emanates from the Registrar of the *Haute Cour Militaire* and was received and signed for by Germain Katanga at 12.10 hours. It refers to the four charges previously listed in the earlier documents.¹
2. The *Citation à prévenu* makes reference to the request of the *Auditeur Général* and his '*Décision de renvoi*' of 30 December 2015, takes account of the date fixed by the First President of the *Haute Cour Militaire* for the case of *Goda Sukpa et consorts* and orders Germain Katanga, (as translated by this defence) to appear before the *Haute Cour Militaire* in Kinshasa this coming Friday, 29th January at 09.00 'so as to present his words and means of defence on the facts (of the charges).' It requires him to nominate the prosecution witnesses he wishes to have called and make a declaration to the Registrar listing his witnesses
3. On the face of it, the document makes demands of Mr Katanga, namely to provide his defence and nominate witnesses, that no person in Mr Katanga's position can fairly be expected to meet given the lack of adequate notice and insufficiency of detail in the charges.
4. In any event, the document demonstrates the continuing intent of the DRC authorities to continue with the case despite not having properly sought the consent of the Presidency as it must do under Article 108 of the Rome Statute. The defence refers to its recent observations contained in its filing of 22nd January 2016.²
5. The defence requests the Presidency to:
 - remind the DRC of its obligations under Article 108 of the Statute;
 - to request the DRC not to act further in the investigation and prosecution unless and until it has received the approval of the Presidency to do so;
 - to request the DRC not to proceed with the hearing on 29th January so far as it concerns Mr Katanga.

¹ ICC-01/04-01/07-3631-AnxI, Letter from the *Procureur Général de la République* to the President of the Court, together with a number of annexes, relating to legal proceedings before the *Haute Cour Militaire*, including the *Décision de Renvoi* at pp 20-21.

² ICC-01/04-01/07-3635, Preliminary observations by the defence concerning the continued and unlawful detention of Mr Germain Katanga by the Democratic Republic of Congo.

6. The defence also notes the ICC Registrar's filing of today's date '*Complément à la réponse des autorités congolaises soumises le 19 janvier 2016*³' in which the Registrar produces the *Lettre du Ministre de la Justice, Garde des Sceaux et Droits Humains* (réf. : 118/RN0063/D/CAB/MIN/JGS&DH/2016) en date du 21 janvier 2016 adressée à la Présidente de la Cour.⁴
7. In his letter, the Minister of Justice [REDACTED].
8. [REDACTED].
9. [REDACTED].
10. The defence reiterates its request that the Presidency hold an oral hearing in the matter.

Respectfully submitted,



David Hooper Q.C.

Dated this 25 January 2016, London

³ ICC-01/04-01/07-3637, 25 January 2016.

⁴ ICC-01/04-01/07-3637-Conf-Anx.