

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 4 June 2008

PRE-TRIAL CHAMBER I

Before: Judge Sylvia Steiner, Single Judge

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
THE PROSECUTOR
*v. Germain Katanga and Mathieu Ngudjolo Chui***

Public Document

Decision Distributing the Proposed Schedule for the Confirmation Hearing

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
Mr Éric MacDonald, Senior Trial Lawyer

**Counsel for the Defence
of Germain Katanga**

Mr David Hooper
Ms Caroline Buisman

**Counsel for the Defence of Mathieu
Ngudjolo Chui**

Mr Jean-Pierre Kilenda Kakengi Basila
Ms Maryse Alié

Legal Representatives of the Victims

Ms Carine Bapita Buyagandu
Mr Joseph Keta
Mr J L Gilissen

Legal Representatives of the 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

Division of Court Services
Mr Marc Dubuisson

I, Judge Sylvia Steiner, judge at the International Criminal Court (“the Court”);

NOTING the “Decision Establishing a Calendar according to the date of the Confirmation Hearing: 27 June 2008”¹ issued by the Single Judge on 29 April 2008, by which the Single Judge decided to convene a hearing on 3 June 2008, to be held before the Presiding Judge of the Chamber, to discuss the order and conditions under which the evidence shall be presented at the confirmation hearing;

NOTING the “Decision postponing the hearing of 3 June 2008”² issued by the Single Judge on 30 May 2008, by which the Single Judge (i) postponed the hearing of 3 June 2008 to 10 June 2008; and (ii) informed the parties and participants that a proposed schedule would be distributed within a reasonable time before the hearing;

NOTING article 61 of the *Rome Statute* and rule 122(1) of the *Rules of Procedure and Evidence*;

CONSIDERING that the Single Judge finds it necessary to have the views of the Prosecution, the Defences for Germain Katanga and Mathieu Ngudjolo Chui and the Legal Representatives of the Victims as well as the technical observations of the Registry on the proposed schedule for the confirmation hearing before it is finalised;

¹ ICC-01/04-01/07-459.

² ICC-01/04-01/07-536.

FOR THESE REASONS,

DECIDE to distribute the proposed schedule for the confirmation hearing in Annex I to the decision to the parties and the participants.

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



Judge Sylvia Steiner
Single Judge

Dated this Wednesday 4 June 2008

At The Hague, the Netherlands

ANNEX I

Proposed Schedule of the Confirmation Hearing

PROPOSED SCHEDULE OF THE CONFIRMATION HEARING IN THE CASE OF *THE PROSECUTOR V. GERMAIN KATANGA AND MATHIEU NGUDJOLO CHUI*

This schedule is proposed on the assumption that there will be no live witness; 2 videos (approximately 45 seconds and 30 minutes) to be presented by the Prosecution; and no video or audio evidence to be presented by the Defences.

This schedule is also proposed on the basis that only 4 hours of Lingala interpretation can be provided per day. (As provided for in the Decision Implementing the Appeals Chamber Judgement concerning Languages, Germain Katanga will be provided at the confirmation hearing, in accordance with regulation 61(1)(d) of the Regulations, with liaison interpretation into Lingala.)

Furthermore, the need for presentation of evidence in closed session hearing will need to be discussed.

1- Opening of the hearing

- a. Friday 27 June 2008, Public Session: from 9:00 to 10:45
 - i. After the opening of the hearing by the Presiding Judge, the charges shall be read out pursuant to rule 122(1) of the Rules of Evidence and Procedure; (15 minutes altogether)
 - ii. The Prosecution shall then have an hour and 30 minutes to make its opening statement.

- b. Friday 27 June 2008, Public Session: from 11:15 to 12:45
 - i. An hour and 30 minutes total to be shared between the Legal Representatives of anonymous and non-anonymous Victims for their opening statements.

Proposed Schedule of the Confirmation Hearing

- c. Monday 30 June 2008, Public Session: from 9:00 to 10:30
- i. The Defence for Germain Katanga shall have an hour and 30 minutes to make its opening statement.
- d. Monday 30 June 2008, Public Session: from 11:00 to 12:30
- i. The Defence for Mathieu Ngudjolo Chui shall have an hour and 30 minutes to make its opening statement.
- e. Wednesday 2 July 2008, Morning Public Session: from 09:00 to 11:00 and 11h30 to 13h30: Consideration of any matters related to jurisdiction, admissibility or other procedural issues raised by the Prosecution and/or the Defence and/or the Legal Representatives of non-anonymous Victims in their list that is due to be filed on 23 June 2008 pursuant to the Decision ICC-01/04-01/07-459 issued on 29 April 2008.
- i. The Prosecution shall have one hour.
 - ii. The Legal Representatives of non-anonymous Victims shall then have one hour total to be shared amongst them.
 - iii. The Defence for Germain Katanga shall have one hour.
 - iv. The Defence for Mathieu Ngudjolo Chui shall then have one hour.
- f. Thursday 3 July 2008, Public Session: from 14:00 to 14:15: Public Session will start with the Oral Decision on any matters related to jurisdiction, admissibility or other procedural issues raised on 23 June 2008 and discussed on 2 July 2008.

2- Presentation by the Prosecution of the evidence included in the Prosecution List of Evidence and Prosecution Additional List of Evidence

NOTE to the Prosecution: Prior notice needs to be given to the Lingala interpreters regarding the videos the Prosecution will rely upon at the Confirmation Hearing. The Prosecution will have to indicate to the Chamber sufficiently in advance when it intends to present it.

Proposed Schedule of the Confirmation Hearing

NOTE to the Prosecution: the Prosecution must indicate which evidence must be presented in closed session hearings.

NOTE to the Registry: Extra time needs to be allocated for the Thursday 3 July 2008 session to allow for a total of four hours and 15 minutes of interpretation.

- g. Thursday 3 July 2008: from 14:15 to 16:00, 16:30 to 18:45; and
Friday 4 July 2008: from 14:00 to 16:00, 16:30 to 18:00.

At the sessions of 3 and 4 July 2008, the Prosecution shall address:

- (i) the evidence relating to the Prosecution contextual general and/or background allegations underpinning the charges against Germain Katanga and Mathieu Ngudjolo Chui, including the existence and character of the alleged armed conflict and background information on Germain Katanga and Mathieu Ngudjolo Chui;
- (ii) the evidence relating to the FRPI;
- (iii) the evidence relating to the FNI;
- (iv) the evidence relating to the crime base charged; and
- (v) the evidence relating to the alleged role of Germain Katanga and Mathieu Ngudjolo Chui, including the modes of liability under which they are charged;

3- Discussion by the Legal Representatives of Victims of Non-Anonymous Victims of the evidence included in the Prosecution List of Evidence and Prosecution Additional List of Evidence

- h. Friday 4 July 2008: from 18:00 to 18:30;
Monday 7 July 2008: from 14:00 to 16:00, 16:30 to 18:30; and
Tuesday 8 July 2008: from 14:00 to 16:00, 16:30 to 17:30.

Seven hours and 30 minutes to be shared among the Legal Representatives of non-anonymous Victims.

The evidence presented by the Prosecution in closed session hearings will be discussed by the Legal Representatives of non-anonymous Victims in closed session hearings. In the discussion of the evidence, the Legal Representatives of non-anonymous Victims will follow the structure given above for the presentation of evidence by the Prosecution.

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4- Presentation by the Defence for Germain Katanga of the evidence included in the Defence List of Evidence and the Defence Additional List of Evidence and discussion of the evidence included in the Prosecution List of Evidence and Prosecution Additional List of Evidence

i. **Option 1**

Tuesday 8 July 2008: from 17:30 to 18:30;

Wednesday 9 July 2008, from 14:00 to 16:00, 16:30 to 18:30;

Thursday 10 July 2008, from 14:00 to 16:00, 16:30 to 18:30; and

Friday 11 July 2008, from 14:00 to 14:30.

Option 2

Tuesday 8 July 2008: from 17:30 to 18:30;

Wednesday 9 July 2008, from 14:00 to 16:00, 16:30 to 18:45; and

Thursday 10 July 2008, from 14:00 to 16:00, 16:30 to 18:45.

NOTE to the Registry: If Option 2 is preferred, extra time needs to be allocated for the Wednesday 9 July 2008 and Thursday 10 July 2008 sessions to allow for a total of four hours and 15 minutes of interpretation.

Discussion of the evidence by the Defence for Germain Katanga. The Defence for Germain Katanga will discuss in closed session hearings the evidence presented by the Prosecution in closed session hearings. In the discussion of the evidence, the Defence for Germain Katanga will follow the structure given above for the presentation of evidence by the Prosecution. The Defence will also indicate which evidence included in the Defence List of Evidence and Defence Additional List of Evidence needs to be discussed in closed session hearings.

5- Presentation by the Defence for Mathieu Ngudjolo Chui of the evidence included in the Defence List of Evidence and the Defence Additional List of Evidence and discussion of the evidence included in the Prosecution List of Evidence and Prosecution Additional List of Evidence

j. Friday 11 July 2008, from 14:30 to 16:00, 16:30 to 18:30;

Monday 14 July 2008, from 14:00 to 16:00, 16:30 to 18:30; and

Tuesday 15 July 2008, from 14:00 to 16:00.

Discussion of the evidence by the Defence for Mathieu Ngudjolo Chui. The Defence for Mathieu Ngudjolo Chui will discuss in closed session hearing the evidence presented by the Prosecution in closed session hearings. In the discussion of the evidence, the Defence for Mathieu Ngudjolo Chui will follow the structure given above for the presentation of evidence

Proposed Schedule of the Confirmation Hearing

by the Prosecution. The Defence will also indicate which evidence included in the Defence List of Evidence and Defence Additional List of Evidence needs to be discussed in closed session hearings.

6- Prosecution Discussion of the evidence included in the Defences List of Evidence and Defences Additional List of Evidence

- k. Tuesday 15 July 2008, from 14:30 to 18:30; and
Wednesday 16 July 2008, from 14:00 to 14:30.

Prosecution response to the evidence on which both Defence teams will rely upon at the confirmation hearing. The Prosecution shall be strictly limited to the evidence included in the Defences List of Evidence and Defences Additional List of Evidence.

The Prosecution will discuss in closed session hearings the evidence presented by the Defences in closed session hearings.

7- Discussion of Legal Representatives of non-anonymous Victims of the evidence included in the Defences List of Evidence and Defences Additional List of Evidence

- l. Wednesday 16 July 2008, from 14:30 to 16:00 and 16:30 to 17:30.

The Legal Representatives of non-anonymous Victims response to the evidence on which both Defence teams will rely upon at the confirmation hearing. Two hours and 30 minutes total to be shared between the Legal Representatives of non-anonymous Victims.

The Legal Representatives shall be strictly limited to the evidence included in the Defences List of Evidence and Defences Additional List of Evidence.

The Legal Representatives of non-anonymous Victims will discuss in closed session hearings the evidence presented by the Defences in closed session hearings.

8- Discussion by the Defences for Germain Katanga and Mathieu Ngudjolo Chui of the evidence included in the other Defence List of Evidence and the other Defence Additional List of Evidence

- m. Wednesday 16 July 2008, from 17:30 to 18:00: for the Defence for Germain Katanga;

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- n. Wednesday 16 July 2008, from 18:00 to 18:30: for the Defence for Mathieu Ngudjolo Chui.

Defences response to the evidence on which the other Defence team will rely upon at the confirmation hearing. The Defences shall be strictly limited to the evidence included in the other Defence List of Evidence and the other Defence Additional List of Evidence.

9- Closing statements

- o. Thursday 17 July 2008, Public Session, from 9:00 to 12:30; and
Friday 18 July 2008, Public Session, from 9:00 to 12:30.
- i. Thursday 17 July 2008, 9:00 to 10:30: Prosecution Closing Statement;
 - ii. Thursday 17 July 2008, 11:00 to 12:30: Closing Statement of the Legal Representatives of anonymous and non-anonymous Victims. One hour and 30 minutes total to be shared amongst them.
 - iii. Friday 18 July 2008, 9:00 to 10:30 and 11:00 to 12:30
 1. Closing Statement Defence for Germain Katanga; (one hour and 30 minutes); and
 2. Closing Statement Defence for Mathieu Ngudjolo Chui; (one hour and 30 minutes).
- p. The Prosecution, the Legal Representatives of the Victims of non-anonymous Victims and the Legal Representatives of anonymous Victims shall have until Thursday 24 July 2008 at 16h00 to file a document in which they may address in writing any matters that they discussed at the confirmation hearing. The documents filed pursuant to this subparagraph shall be transmitted immediately to the Defences for Germain Katanga and Mathieu Ngudjolo Chui.
- q. The Defences for Germain Katanga and Mathieu Ngudjolo Chui shall have until Wednesday 30 July 2008 at 16h00 to file a document in which it may address in writing any matters that they discussed at the confirmation hearing.