

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-01/04-01/07  
Date: 24 October 2008

**THE PRESIDENCY**

**Before:** Judge Philippe Kirsch, President  
Judge Akua Kuenyehia, First Vice-President  
Judge René Blattmann, Second Vice-President

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO  
IN THE CASE OF  
THE PROSECUTOR  
*v. GERMAIN KATANGA AND MATHIEU NGUDJOLO CHUI***

**Public Document**

**URGENT**

**Decision constituting Trial Chamber II and referring to it the case of  
*The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui***

Decision/Order/Judgment 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

**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 Kagengi Basila  
Ms Maryse Alié

**Legal Representatives of the Victims**

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for Participation/Reparation**

**The Office of Public Counsel for Victims**

Ms Paolina Massida

**The Office of Public Counsel for the Defence**

Mr Xavier-Jean Keïta

**States Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Ms Silvana Arbia

**Defence Support Section**

Mr Esteban Peralta Losilla

**Victims and Witnesses Unit**

Mr Simo Vaatainen

**Detention Section**

Mr Anders Backman

**Victims Participation and Reparations Section**

Ms Fiona McKay

**Other**

**THE PRESIDENCY** of the International Criminal Court;

**NOTING** the decision of Pre-Trial Chamber I, dated 26 September 2008, confirming the charges brought by the Prosecutor of the Court against Mr Germain Katanga and Mr Mathieu Ngudjolo Chui and committing them for trial (“the decision confirming the charges”);<sup>1</sup>

**NOTING** articles 36, 38 and 39 of the Rome Statute of the International Criminal Court (“the Statute”);

**CONSIDERING** article 61(11) of the Statute, pursuant to which the Presidency shall constitute a Trial Chamber once the charges have been confirmed, which shall be responsible for the conduct of subsequent proceedings;

**CONSIDERING** rule 130 of the Rules of Procedure and Evidence of the International Criminal Court (“the Rules”), pursuant to which the Presidency shall refer the case to a Trial Chamber and transmit to it the decision confirming the charges and the record of the proceedings of the Pre-Trial Chamber;

**CONSIDERING** that in the decision confirming the charges, Pre-Trial Chamber I held that it “remains seized of the case until [that decision] is definitive”<sup>2</sup> and “suggest[ed] to the Presidency, that the Presidency transmit the decision of the Pre-

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<sup>1</sup> ICC-01/04-01/07-717.

<sup>2</sup> ICC-01/04-01/07-717, p. 212.

Trial Chamber and the record of the case, pursuant to rule 130 of the Rules, only when [that decision] is definitive”;<sup>3</sup>

**CONSIDERING** the “Decision on the Application for Leave to Appeal the Decision on the Admission of the Evidence of witnesses 132 and 287 and on the Leave to Appeal on the Decision on the confirmation of Charges” of 24 October 2008, in which Pre-Trial Chamber I held that “the record of the proceedings in the case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* shall be transmitted to the Presidency”;<sup>4</sup>

**CONSIDERING** that the record of the proceedings before Pre-Trial Chamber I and the decision confirming the charges were transmitted, by the Registrar, to the Presidency on 24 October 2008, in accordance with rule 129 of the Rules;<sup>5</sup>

**HEREBY DECIDES** to temporarily attach Judges Fatoumata Dembele Diarra and Fumiko Saiga, currently assigned to the Pre-Trial Division, to the Trial Division;

**HEREBY CONSTITUTES** Trial Chamber II with immediate effect:

**Trial Chamber II**

Judge Fatoumata Dembele Diarra

Judge Fumiko Saiga

Judge Bruno Cotte

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<sup>3</sup> ICC-01/04-01/07-717, para. 582.

<sup>4</sup> ICC-01/04-01/07-727, p. 19.

<sup>5</sup> ICC-01/04-01/07-728.

**HEREBY REFERS** the case against Mr Germain Katanga and Mr Mathieu Ngudjolo Chui to Trial Chamber II; and

**HEREBY TRANSMITS** the full record of the proceedings before Pre-Trial Chamber I to Trial Chamber II, including the decision confirming the charges.

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



**Judge Philippe Kirsch**  
**President**

Dated this 24 October 2008

At The Hague, The Netherlands