



Original: **French**

No.: **ICC-01/04-01/07**  
Date: **30 October 2008**

**TRIAL CHAMBER II**

**Before:** Judge Bruno Cotte, Presiding Judge  
Judge Fatoumata Dembele Diarra  
Judge Fumiko Saiga

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

***THE PROSECUTOR v. GERMAIN KATANGA AND MATHIEU NGUDJOLO  
CHUI***

**Public Document**

**Decision Inviting Observations from the Participants concerning the Detention of  
Mathieu Ngudjolo Chui (rule 118(2))**

**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 Chiu Katanga**

Mr Jean-Pierre Kilenda Kakengi Basila  
 Ms Maryse Alié

**Legal Representatives of the Victims**

Ms Carine Bapita Buyangandu  
 Mr Joseph Keta  
 Mr Jean-Louis Gilissen  
 Mr Hervé Diakiese  
 Mr Jean Chrysostome Mulamba  
 Nsokoloni

**Legal Representatives of Applicants****The Office of Public Counsel for Victims**

Ms Paolina Massidda

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

Mr Xavier-Jean Keïta

**States Representatives****Amicus Curiae****REGISTRY****Registrar**

Ms Silvana Arbia

**Defence Support Section**

**TRIAL CHAMBER II** of the International Criminal Court (“the Court”),

**NOTING** articles 58, 60(3) 60(4), 61(11), 64(6)(a) and 67 of the Statute of the Court, rule 118(2) of the *Rules of Procedure and Evidence* (“the rules”) and regulation 24 of the *Regulations of the Court*;

**NOTING** the decision of Pre-Trial Chamber I issued on 23 July 2008 rejecting the application for the release of Mr Mathieu Ngudjolo Chui and deciding to keep him in detention (“the decision of 23 July 2008”);<sup>1</sup>

**CONSIDERING** that pursuant to article 61(11) of the Statute, once the charges have been confirmed, the Trial Chamber shall be responsible for the conduct of subsequent proceedings and may exercise any function of the Pre-Trial Chamber that is relevant and capable of application in those proceedings, and that such is the case for the review of the Decision of 23 July 2008;

**CONSIDERING** that under article 60(3) of the Statute and rule 118(2) of the Rules, the decision to keep Mathieu Ngudjolo Chui in detention must be reviewed at least every 120 days; that as at 20 November 2008, Mathieu Ngudjolo Chiu will have spent 120 days in detention since the Decision of 23 July 2008;

**CONSIDERING** further that under article 60(4) of the Statute, it is appropriate to ensure that Mathieu Ngudjolo Chui is not detained for an unreasonable period prior to trial due to inexcusable delay by the Prosecutor;<sup>2</sup>

**FOR THESE REASONS,**

**DECIDE:**

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<sup>1</sup> Pre-Trial Chamber I, *Review of the ‘Decision on the Application for Interim Release of Mathieu Ngudjolo Chui’*, 23 July 2008, ICC-01/04-01/07-694.

<sup>2</sup> Appeals Chamber, *Judgment on the appeal of Mr. Thomas Lubanga Dyilo against the decision of Pre-Trial Chamber I entitled “Décision sur la demande de mise en liberté provisoire de Thomas Lubanga Dyilo”*, 13 February 2007, ICC-01/04-01/06-824, para. 120.

- i) that the Prosecution and the legal representatives of anonymous and non-anonymous victims shall have until 6 November 2008 at 16.00 hours to file their observations on the detention of Mathieu Ngudjolo Chui at the seat of the Court;
- ii) that the Defence of Mathieu Ngudjolo Chui shall have until 12 November 2008 at 16.00 hours to submit its own observations and respond to the observations mentioned in point i) above.

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

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**Judge Bruno Cotte,  
Presiding Judge**

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**Judge Fatoumata Dembele Diarra**

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**Judge Fumiko Saiga**

Dated this 30 October 2008

At The Hague, The Netherlands