



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”);¹

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;²

FOR THESE REASONS,

DECIDE:

¹ 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.

² 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.

**Judge Bruno Cotte,
Presiding Judge**

Judge Fatoumata Dembele Diarra

Judge Fumiko Saiga

Dated this 30 October 2008

At The Hague, The Netherlands