



Original: **French**

No.: **ICC-01/04-01/07**
Date: **13 November 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
Germain Katanga (rule 118(2))**

Source : Trial Chamber II

Document 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
 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 Kagengi Basila
 Mr Jean-Pierre Fofé Djofia Malewa

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 the Applicants

**The Office of Public Counsel for
 Victims**

Ms Paolina Massidda

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Mr Simo Vaatainen

**Victims Participation and Reparations
 Section**

Ms Fiona McKay

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 (“the Statute”), 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 of 18 August 2008 rejecting the application for the release of Germain Katanga and ruling that his detention be maintained (“the Decision of 18 August 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 regarding a review of the Decision of 18 August 2008;

CONSIDERING that, under the terms of article 60(3) of the Statute and of rule 118(2) of the Rules, the decision to keep Germain Katanga in detention must be reviewed at least every 120 days, and that, as at 16 December 2008, Germain Katanga will have spent 120 days in detention since the Decision of 18 August 2008;

CONSIDERING further that, pursuant to article 60(4) of the Statute, it is appropriate to ensure that pre-trial detention is not extended for an unreasonable period as a result of inexcusable delay by the Prosecutor;²

FOR THESE REASONS,

DECIDES:

¹ Pre-Trial Chamber I, *Review of the Decision on the Conditions of the Pre-Trial Detention of Germain Katanga*, 18 August 2008, ICC-01/04-01/07-702.

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 27 November 2008 at 4.00 p.m. to file their observations on the detention of Germain Katanga at the seat of the Court;
- (ii) that the Defence of Germain Katanga shall have until 4 December 2008 at 4.00 p.m. to submit its own observations and to respond to the observations referred to in point (i) above.

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

[signed]

Judge Bruno Cotte
Presiding Judge

[signed]

Judge Fatoumata Dembele Diarra

[signed]

Judge Fumiko Saiga

Dated this 13 November 2008

At The Hague (The Netherlands)