

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **19 November 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 CONGO
IN THE CASE OF
THE PROSECUTOR
v. GERMAIN KATANGA AND MATHIEU NGUDJOLO CHUI

URGENT
Confidential

**Order concerning the Observations of Mr Germain Katanga on the composition of the
bench of 14 November 2008**

Order to be notified in accordance with regulation 31 of the *Regulations of the Court* to:**The Office of the Prosecutor**

Mr Luis Moreno Ocampo

Ms Fatou Bensouda

Counsel for the Defence for Germain**Katanga**

Mr David Hooper

Ms Caroline Buisman

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

Mr Jean-Pierre Kilenda Kagengi Basila

Ms Maryse Alié

Legal Representatives of the Victims

Ms Carine Bapita Buyangandu

Mr Hervé Diakiese

Mr Jean-Christostome Mulamba Nsokoloni

Mr Joseph Keta

Mr J.L. Gilissen

REGISTRY

Registrar

Ms Silvana Arbia

Deputy Registrar

Mr Didier Daniel Preira

Other

Trial Chamber II

The Presidency of the International Criminal Court;

Noting the “Katanga Defence observations on the composition of the bench” of 14 November 2008¹ filed by the Defence for Mr Germain Katanga (hereinafter “Defence”); whereby the Presidency is requested to reconsider the composition of Trial Chamber II (hereinafter “Chamber”) “in the interests of justice and, further, to avoid appearance of bias” (hereinafter “Request for re-composition”);²

Noting the three grounds relied upon by the Defence in support of the Request for re-composition, namely that: the Chamber lacks a judge from the common law system;³ Judge Saiga lacks qualifications and experience in the area of criminal practice and international criminal law;⁴ and the statements made by Judge Saiga in her previous capacity as the Ambassador of Japan to the United Nations “give an appearance of bias”;⁵

Noting regulation 28 of the Regulations of the Court;

Hereby

Orders the Defence to indicate, by 4 pm on Thursday 20 November 2008, whether the Request for re-composition should, if it were to be dismissed, be treated as a request for disqualification, pursuant to article 41 of the Statute, with respect to the third ground on the appearance of bias; and

Orders the Registrar to notify the Request for re-composition to the Chamber.

¹ ICC-01/04-01/07-749-Conf.

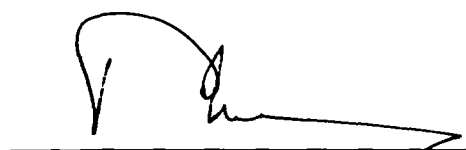
² ICC-01/04-01/07-749-Conf, p. 3.

³ ICC-01/04-01/07-749-Conf, pp. 3-4.

⁴ ICC-01/04-01/07-749-Conf, pp. 4-7.

⁵ ICC-01/04-01/07-749-Conf, pp. 7-9.

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

A handwritten signature in black ink, consisting of a large, stylized 'P' followed by a long, horizontal stroke that tapers to a point on the right.

Judge Philippe Kirsch
President

Dated this 19 November 2008
At The Hague, the Netherlands