



Original: **French**

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

Date: **5 March 2009**

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) of the *Rules of Procedure and Evidence*)**

Decision 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 Germain Katanga

Mr David Hooper
 Mr Andreas O'Shea
 Ms Caroline Buisman

Counsel for Mathieu Ngudjolo Chui

Mr Jean-Pierre Kilenda Kakengi 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
 Mr Fidel Nsita Luvengika
 Mr Vincent Lurquin
 Ms Flora Ambuyu Andjelani

Legal Representatives of 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

**Victims Participation and Reparations
 Section**

TRIAL CHAMBER II of the International Criminal Court (“the Chamber” and “the Court” respectively);

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 1 of 18 August 2008 rejecting the application for the release of Germain Katanga and ruling that he continue to be detained;¹

NOTING the decision rendered on 12 December 2008, whereby the Chamber reviewed the abovementioned decision pursuant to article 61(11) of the Statute and ruled that Germain Katanga’s detention should be maintained;²

CONSIDERING that, pursuant to article 60(3) of the Statute and rule 118(2) of the Rules, the decision on Germain Katanga’s detention shall be reviewed at least every 120 days; and that, on 11 April 2009, Germain Katanga will have been detained for 120 days since the decision rendered on 12 December 2008;

CONSIDERING further that, pursuant to article 60(4) of the Statute, it shall be ensured that a person is not detained for an unreasonable period prior to trial due to inexcusable delay by the Prosecutor;³

CONSIDERING that, under rule 118(3) of the Rules, a hearing shall be held at least once every year;

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 “Second Review of the *Decision on the Conditions of Detention of Germain Katanga*”, 12 December 2008, ICC-01/04-01/07-794-tENG.

³ 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.

FOR THESE REASONS, THE CHAMBER**DECIDES:**

- i) that the Prosecutor and the legal representatives of anonymous and non-anonymous victims shall have until 4 p.m. on 12 March 2009 to file their observations on the detention of Germain Katanga at the seat of the Court;
- ii) that the Defence for Germain Katanga shall have until 4 p.m. on 19 March 2009 to submit its own observations and to respond to the observations referred to in point i) above; and

CONVENES a hearing for 2 p.m. on 23 March 2009, to be attended by all participants in the proceedings, with the exception of Mathieu Ngudjolo and his Counsel.

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 5 March 2009

At The Hague, The Netherlands