



Original: **French**

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

Date: **29 June 2009**

**TRIAL CHAMBER II**

**Before:** Judge Bruno Cotte, Presiding Judge  
Judge Fatoumata Dembele Diarra  
Judge Hans-Peter Kaul

**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))**

**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**

Mr Jean-Pierre Kilenda Kakengi Basila  
Prof 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 Mbuyu Anjelani

**Legal Representatives of the 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**

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**Registrar**

Ms Silvana Arbia

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

Mr Anders Backman

**Victims Participation and Reparations  
Section**

**Other**

**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 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 dated 18 August 2008 rejecting the application for the release of Mr Germain Katanga and deciding that he shall remain in detention;<sup>1</sup>

**NOTING** the Decisions of Trial Chamber II dated 12 December 2008 and 6 April 2009 ordering that he remain in detention;<sup>2</sup>

**CONSIDERING** that, under article 60(3) of the Statute and rule 118(2) of the Rules, the decision that Germain Katanga shall remain in detention must be reviewed at least every 120 days; that as of 6 August 2009, Germain Katanga will have spent 120 days in detention since the Decision of 6 April 2009;<sup>3</sup>

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<sup>1</sup> 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.

<sup>2</sup> Trial Chamber II, *Second Review of the Decision on the Conditions of Detention of Germain Katanga*, 12 December 2008, ICC-01/04-01/07-794-tENG; Trial Chamber II, *Third Review of the Decision on the Conditions of Detention of Germain Katanga*, 6 April 2009, ICC-01/04-01/07-1027-Conf-Exp-tENG.

<sup>3</sup> Trial Chamber II, *Third Review of the Decision on the Conditions of Detention of Germain Katanga*, 6 April 2009, ICC-01/04-01/07-1027-Conf-Exp-tENG.

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

**FOR THESE REASONS,**

**DECIDES,**

- i) that the Prosecutor and the Legal Representatives of anonymous and non-anonymous Victims shall have until 4 p.m. on 6 July 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 13 July 2009 to submit its own observations and respond to the observations mentioned in point i) above.

[signed]  
**Judge Bruno Cotte**  
**Presiding Judge**

[signed]  
**Judge Fatoumata Dembele Diarra**

[signed] 29/6/09  
**Judge Hans-Peter Kaul**

Dated this 29 June 2009,

At The Hague, The Netherlands

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<sup>4</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.