



Original: **French**

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

Date: **8 July 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**

**URGENT
Public Document**

**Order Fixing a Time Limit for Responses by the Participants in the Proceedings
and by the Registry (regulation 34 of the Regulations of the Court)**

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, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
Mr Éric MacDonald, Senior Trial Lawyer

Counsel for Germain Katanga

Mr David Hooper
Mr Andreas O'Shea

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 Mbuyu Anjelani

Legal Representatives of the Applicants

**The Office of Public Counsel for
Victims**

Ms Paolina Massida

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Trial Chamber II of the International Criminal Court (“the Chamber”), pursuant to regulation 34 of the Regulations of the Court, orders as follows.

1. On 30 June 2009, the Defence for Germain Katanga submitted a motion entitled “Defence motion for a declaration on unlawful detention and stay of proceedings” (“the Motion”).¹ The Motion was initially filed as “confidential *ex parte*, only available to the Defence for Germain Katanga and the Registry”, and was then reclassified on 3 July 2009 as “confidential *ex parte*, only available to the Defence for Germain Katanga, the Registry and the Office of the Prosecutor”.² Annexes A to H of the Motion were reclassified as “confidential *ex parte*, only available to the Defence, the Registry and the Office of the Prosecutor”, while Annexes I to K were reclassified as public documents on 3 July 2009.³ In addition, a public redacted version of the Motion was filed on 2 July 2009.⁴
2. The Motion makes reference to a report of the Registrar, only available to the Registry and to the Defence for Germain Katanga, on the execution of the warrant of arrest for Germain Katanga (“the Report of the Registrar”).⁵
3. On 7 July 2009, the Prosecutor submitted a request for reclassification of the Report of the Registrar (“the Request for Reclassification”).⁶ According to the Prosecutor, one of the Defence’s core arguments is based on the Report of the Registrar. He is also of the opinion that in order to respond to all the

¹ Defence team for Germain Katanga, “Defence motion for a declaration on unlawful detention and stay of proceedings”, 30 June 2009, ICC-01/04-01/07-1258-Conf-Exp.

² Notification e-mail from the Registry, sent at 1.28 p.m. on 3 July 2009.

³ Notification e-mail from the Registry, sent at 4.01 p.m. on 3 July 2009.

⁴ Defence team for Germain Katanga, “Defence motion for a declaration on unlawful detention and stay of proceedings”, 2 July 2009, ICC-01/04-01/07-1263.

⁵ Registry, “Report of the Registrar on the execution of the warrant of arrest for Germain Katanga pursuant to the ‘Decision on the Request of the Defence of Germain Katanga to Issue an Order to the Registrar’ issued on 19 May 2008”, 22 May 2008, ICC-01/04-01/07-497-Conf-Exp.

⁶ Prosecutor, “Prosecution request for re-classification of Report of the Registrar”, 7 July 2009, ICC-01/04-01/07-1276.

arguments advanced by the Defence in its Motion, he must have access to the complete Report of the Registrar.⁷

4. The Defence, which also asked in its Motion for the Report of the Registrar to be reclassified, does not object to the contents of the said document being disclosed to the Prosecutor.⁸
5. In order to be able to rule on the Request for Reclassification with full knowledge of the facts, the Chamber decides hereby to instruct the Registry, and the Defence if it considers it necessary, to file their observations on the Request for Reclassification of the Report of the Registrar within a short time limit, in order to allow the parties to respond to the Request within the 21 days provided for by regulation 34(b) of the Regulations of the Court.

⁷ Ibid., para. 5.

⁸ ICC-01/04-01/07-1258-Conf-Exp, para. 4.

FOR THESE REASONS, THE CHAMBER

DIRECTS the Registry to file its observations on the Request for Reclassification by 4 p.m. on 13 July 2009.

INVITES the Defence, if it considers it necessary, to file its observations on the Request for Reclassification by 4 p.m. on 13 July 2009.

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

[signed]
Judge Bruno Cotte
Presiding Judge

[signed]
Judge Fatoumata Dembele Diarra

[signed 8/7/09]
Judge Hans-Peter Kaul

Dated this 8 July 2009

At The Hague, The Netherlands