



Original: **English**

**No.: ICC-01/04-01/07
Date: 27 January 2016**

THE PRESIDENCY

Before: Judge Silvia Fernández de Gurmendi, President
Judge Joyce Aluoch, First Vice-President
Judge Kuniko Ozaki, Second Vice-President

SITUATION IN THE DEMOCRATIC REPUBLIC OF CONGO

**IN THE CASE OF
*THE PROSECUTOR v. GERMAIN KATANGA***

Public

Order to the Registrar concerning the “Further matters concerning the ‘Preliminary observations made by the defence concerning the continued and unlawful detention of Mr Germain Katanga by the Democratic Republic of Congo’”

Document to be notified in accordance with regulation 31 of the *Regulations of the Court*

to:

Office of the Prosecutor

Ms Fatou Bensouda
Mr James Stewart
Mr Eric MacDonald

Defence

Mr David Hooper
Ms Caroline Buisman

State

Democratic Republic of the Congo

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Mr Esteban Peralta Losilla

The Presidency of the International Criminal Court (“Court”), in the case of *The Prosecutor v. Germain Katanga*, notes its “Decision designating a State of enforcement” of 8 December 2015, by which it designated the Democratic Republic of the Congo (“DRC”) as the State in which the remainder of Mr. Katanga’s sentence of imprisonment would be served,¹ noting also that Mr. Katanga was transferred to a prison facility in the DRC on 19 December 2015.² The Presidency notes that the sentence of imprisonment imposed by the Court was completed on 18 January 2016.³

The Presidency notes its “Order to the Registrar concerning the communication of information to the Democratic Republic of the Congo in relation to the ‘Réponse des autorités congolaises à l’Ordonnance ICC-01/04-01/07-3632 en date du 14 janvier 2016’” dated 21 January 2016 (“Order of 21 January 2016”).⁴

The Presidency notes the “Preliminary observations by the defence concerning the continued and unlawful detention of Mr Germain Katanga by the Democratic Republic of Congo”⁵ and the “Further matters concerning the ‘Preliminary observations made by the defence concerning the continued and unlawful detention of Mr Germain Katanga by the Democratic Republic of Congo’” dated 25 January 2016,⁶ the latter of which informs the Presidency of a “*Citation à prévenu*” issued by the *Haute Cour Militaire* in which Mr. Katanga is requested to appear on 29 January 2016 in order to “*présenter ses dires et ses moyens de défense*”.⁷

The Presidency recalls regulation 23bis of the Regulations of the Court concerning the classification of documents and emphasises that the defence for Mr. Katanga must comply with its obligations in relation to the classification of documents.⁸

The Presidency is concerned by the apparent progression of the criminal proceedings against Mr. Katanga even though it has not yet been able to consider whether to approve his prosecution, as is required by article 108(1) of the Rome Statute and article 6(2)(a) of the

¹ ICC-01/04-01/07-3626, p. 5.

² Press Release, “Thomas Lubanga Dyilo and Germain Katanga transferred to the DRC to serve their sentences of imprisonment”, 19 December 2015, ICC-CPI-20151219-PR1181.

³ Decision on the review concerning reduction of sentence of Mr Germain Katanga, 13 November 2015, ICC-01/04-01/07-3615, para. 116.

⁴ ICC-01/04-01/07-3634 (“Presidency Order of 21 January 2016”).

⁵ 22 January 2016, ICC-01/04-01/07-3635.

⁶ ICC-01/04-01/07-3638-Red.

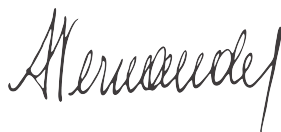
⁷ ICC-01/04-01/07-3638-AnxA, p. 2.

⁸ See Preliminary observations by the defence concerning the continued and unlawful detention of Mr Germain Katanga by the Democratic Republic of Congo, 22 January 2016, ICC-01/04-01/07-3635, paras. 20, 35 and 61.

Accord ad hoc entre le gouvernement de la République Démocratique du Congo et La Cour Pénale Internationale sur l'exécution de la peine de M. Germain Katanga, prononcée par la Cour ("Agreement").⁹ The Presidency recalls its Order of 21 January 2016 and re-iterates its request therein that the DRC act promptly to provide "the documents required by article 6(2)(a) of the Agreement and rule 214(1) of the Rules [of Procedure and Evidence], including the protocol containing views of Mr. Katanga referred to in article 6(2)(a)(iv) of the Agreement and rule 214(1)(d) of the Rules, so that the Presidency may, pursuant to article 6(2)(e) of the Agreement and rule 215(1) of the Rules, make its determination under article 108(1) of the Rome Statute as soon as possible".¹⁰

The Presidency *hereby orders* the Registrar to urgently communicate this Order to the DRC, as well as to the other participants indicated on the notification page.

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



Judge Silvia Fernández de Gurmendi
President

Dated this 27 January 2016

At The Hague, The Netherlands

⁹ ICC-01/04-01/07-3626-Anx.

¹⁰ Presidency Order of 21 January 2016, p. 4. The Presidency recalls that, pursuant to rule 214(1), the documents required are:

- (a) A statement of the facts of the case and their legal characterization;
- (b) A copy of any applicable legal provisions, including those concerning the statute of limitations and the applicable penalties;
- (c) A copy of any sentence, warrant of arrest or other document having the same force, or of any other legal writ which the State intends to enforce; and
- (d) A protocol containing views of the sentenced person obtained after the person has been sufficiently informed about the proceedings.