

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 10 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***

**Confidential**

*Ex parte*, available only to the Registry, the Office of the Prosecutor and  
the Defence of Mathieu Ngudjolo Chui

**Third Decision of the Registrar on the Monitoring of Non-privileged Telephone  
Communications of Mr. Mathieu Ngudjolo Chui**

Source: The Registrar

Document 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. Eric MacDonald, Senior Trial Lawyer

**Counsel for Germain Katanga**

**Counsel for Mathieu Ngudjolo Chui**

Mr. Jean-Pierre Kilenda Kagengi Basila  
Mr. Jean-Pierre Fofé Djofia Malewa

**Legal Representatives of Victims**

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**The Office of Public Counsel for  
Victims**

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

**States Representatives**

**Amicus Curiae**

**REGISTRY**

---

**Registrar**

Ms Silvana Arbia

**Defence Support Section**

**Deputy Registrar**

Mr. Didier Preira

**Victims and Witnesses Unit**

**Detention Section**

Mr. Anders Backman

**Victims Participation and Reparations  
Section**

**Other**

**The Registrar of the International Criminal Court ("the Court");**

**NOTING** regulations 23 *bis* and 90 of the Regulations of the Court and regulations 173 to 175 of the Regulations of the Registry;

**NOTING** the "Registrar's Decision on the monitoring of the Non-privileged Telephone Communications and Visits of Mr. Germain Katanga and Mr. Mathieu Ngudjolo Chui" dated 12 February 2009, ("First Decision");<sup>1</sup>

**NOTING** the Presidency "Order concerning the "Defence Appeal to the Presidency Challenging the Registrar's Decision on the Monitoring of Non-Privileged Telephone Communications and Visits of Mr. Germain Katanga and Mr. Mathieu Ngudjolo Chui"";<sup>2</sup>

**NOTING** the "Second Decision of the Registrar on the Monitoring of Non-Privileged Telephone Communications and Visits of Mr. Mathieu Ngudjolo Chui"<sup>3</sup> according to which the post factum listening of the non-privileged communications of Mr. Mathieu Ngudjolo Chui was to be carried out until the 26 February 2009;

**CONSIDERING** that the grounds according to which the First and Second Decisions were issued are still valid in so far as Mr. Mathieu Ngudjolo Chui is concerned and, that the post-factum listening of the non-privileged telephone communications of Mr Mathieu Ngudjolo from October 2008 provides information in respect to the activities listed under regulation 175 (1) of the Regulations of the Registry that need to be further analysed and, it is likely that the continuation of the post-factum listening of his telephone communications will allow the Registry to have a better understanding of previous communications;

---

<sup>1</sup> ICC-01/04-01/07-894-Conf-Exp.

<sup>2</sup> ICC-RoR221-01/09-3-Conf-Exp

<sup>3</sup> ICC-01/04-01/07-932-Conf-Exp


**THEREFORE,**

**SUBMITS** this document as confidential, *ex parte* available only to the Registry, the Office of the Prosecutor and the Defence, in view of the confidential nature of the information which requires further analysis;

**ORDERS** the Chief Custody Officer to resume the post-factum listening of the non-privileged telephone communications of Mr. Mathieu Ngudjolo Chui from 27 February 2009 to 9 June 2009;

**ORDERS** the Chief Custody Officer to notify Mr. Mathieu Ngudjolo of this decision;

**REMAINS** seized of the situation and shall review the necessity to continue the monitoring of the non-privileged communications which will occur after this decision, based on the analysis of the findings of the abovementioned post-factum listening;



Marc Dubuisson  
Director of Court Services  
on behalf of  
Silvana Arbia  
Registrar

Dated this 10 June 2009

At The Hague, the Netherlands