

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: French

No.: ICC-01/04-01/07
Date: 2 February 2012

TRIAL CHAMBER II

Before: Judge Bruno Cotte, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Christine Van den Wyngaert

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
THE PROSECUTOR *v.* GERMAIN KATANGA AND MATHIEU NGUDJOLO CHUI**

Public Document with confidential annex

**Order on the *procès-verbal* of the judicial site visit
to the Democratic Republic of the Congo**

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
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 Victims

Mr Jean-Louis Gilissen
Mr Fidel Nsita Luvengika

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

Office of Public Counsel for Victims

**Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

TRIAL CHAMBER II of the International Criminal Court (“the Chamber” and “the Court”, respectively), acting pursuant to articles 64, 68 and 69 of the Rome Statute and rule 87 of the Rules of Procedure and Evidence, orders the following.

1. Between 16 and 20 January 2012, the Chamber conducted a judicial site visit to the Democratic Republic of the Congo, accompanied by the parties and participants.¹ During the visit, the Chamber travelled to Aveba, Zumbe, Kambutso and Bogoro, where it made a number of findings and verified a number of facts *inter partes*.

2. In accordance with the 1 December 2011 decision,² the Registrar, who was present throughout, prepared the “*Procès-verbal de l’opération de transport judiciaire en République démocratique du Congo*” (“the *Procès-verbal*”) after the site visit, subject to the approval of the Chamber. After approving the *Procès-verbal*, the Chamber transmitted it and the annexes to the parties and participants for their observations on 27 January 2012.³

3. The Office of the Prosecutor (“the Prosecutor”) stated on 31 January 2012 that it did not intend to file any observations,⁴ and the Defence for Germain Katanga did not file any within the stipulated time limit. The Defence for Mathieu Ngudjolo and the Legal Representatives of Victims submitted their observations on 1 February 2012,⁵ which the Chamber scrutinised. The Chamber was essentially of the opinion

¹ The site visit took place following two decisions of the Chamber: *Decision on a judicial site visit to the Democratic Republic of the Congo*, 18 November 2011, ICC-01/04-01/07-3203-tENG, and *Decision on the judicial site visit to the Democratic Republic of the Congo*, 1 December 2011, ICC-01/04-01/07-3213-tENG.

² ICC-01/04-01/07-3213-tENG, p. 9, and *Protocol for conduct during the site visit*, ICC-01/04-01/07-3213-AnxB-tENG, paras. 4, 7 and 8.

³ Two e-mails from a legal officer of the Chamber to the parties and participants on 27 January 2012 at 16.39, establishing a time limit of 1 February 2012 for the submission of any observations.

⁴ E-mail from the Office of the Prosecutor to the Chamber and all parties and participants on 31 January 2012 at 16.34.

⁵ Defence for Mathieu Ngudjolo, “*Observations de la Défense de Mathieu Ngudjolo Chui sur le procès-verbal établi par le Greffe au terme des opérations de transport judiciaire effectuées en République démocratique*

that the observations should be taken into consideration and, accordingly, requested the Registrar also to take account of them and to amend the *Procès-verbal* accordingly.

4. Upon the Registrar's submission of the final *Procès-verbal* on 2 February 2012, the Chamber instructed her to register it in the record.

5. The Chamber also noted the redactions proposed by the Prosecutor for a public version of the *Procès-verbal*.⁶ It is of the view that the redactions should be approved in order to ensure that the identity of certain protected witnesses is not disclosed, with any necessary changes resulting from the amendments being made to the final version.

6. Lastly, the Chamber recalls, as it stated several times during the site visit, that it, as well each of the parties and participants, remains free to draw its own conclusions on the basis of the findings and verifications made *in situ*.

FOR THESE REASONS, THE CHAMBER

ORDERS the Registry to

- register the final version of the *Procès-verbal* of the judicial site visit to the Democratic Republic of the Congo in the record; and
- incorporate into the public version of the *Procès-verbal* the redactions highlighted in the document annexed to the present order.

du Congo les 18 et 19 janvier 2012", 1 February 2012, ICC-01/04-01/07-3231-Conf; common legal representative of the main group of victims, "Observations relatives au Procès-verbal de l'opération du transport judiciaire en République Démocratique du Congo", 1 February 2012, ICC-01/04-01/07-3229-Conf; common legal representative of the group of child-soldier victims, "Observations du représentant légal du groupe des victimes enfants-soldats sur le procès-verbal de l'opération de transport judiciaire en République démocratique du Congo", 1 February 2012, ICC-01/04-01/07-3228-Conf.

⁶ E-mail from the Office of the Prosecutor to the Chamber and all parties and participants on 31 January 2012, at 16:34.

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

[signed]

Judge Bruno Cotte
Presiding Judge

[signed]

Judge Fatoumata Dembele Diarra

[signed]

Judge Christine Van den Wyngaert

Dated this 2 February 2012

At The Hague, The Netherlands