



Original: **English**

No.: **ICC-01/04-01/07**
Date: **4 February 2019**

THE PRESIDENCY

Before: **Judge Chile Eboe-Osuji, President**
 Judge Robert Fremr, First Vice-President
 Judge Marc Perrin de Brichambaut, Second Vice-President

SITUATION IN THE DEMOCRATIC REPUBLIC OF CONGO

IN THE CASE OF
THE PROSECUTOR V. GERMAIN KATANGA

Public

**Order concerning the “Defence Application for Reconsideration of the Presidency
Decision pursuant to article 108(1) of the Rome Statute”**

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

to:

The Office of the Prosecutor

Ms Fatou Bensouda

Counsel for the Defence for Germain

Katanga

Mr David Hooper Q.C.

Ms Caroline Buisman

State

Democratic Republic of the Congo

REGISTRY

Registrar

Mr Peter Lewis

The Presidency of the International Criminal Court (the ‘Court’), in the case *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 (the ‘DRC’) as the State in which the remainder of Mr Katanga’s sentence of imprisonment would be served,¹ pursuant to articles 103, 105, 106 and 108 of the Rome Statute (the ‘Statute’) and rules 200-208 of the Rules of Procedure and Evidence (the ‘Rules’), noting further 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 ‘Decision pursuant to article 108(1) of the Rome Statute’ (the ‘Decision’) dated 7 April 2016⁴ by which it approved the proposed prosecution of Mr Katanga as set out in the ‘*Décision de renvoi*’ dated 30 December 2015.⁵

The Presidency has before it the ‘Defence Application for Reconsideration of the Presidency Decision pursuant to article 108(1) of the Rome Statute’ (the ‘Application’), dated 30 January 2019.⁶ The Presidency notes that the Application requests the Presidency to reconsider its Decision relating to article 108 of the Statute.⁷ The Presidency notes that the Application is brought on the basis that there has been little or no progress in Mr Katanga’s trial in the DRC since the Presidency issued its Decision of 7 April 2016.

The Presidency recalls rule 214(3) of the Rules and article 6(2)(c) of the of the *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*⁸ pursuant to which it may request any document or additional information.

The Presidency considers it useful to obtain the views of the DRC on all matters raised in the Application. This include, but is not limited to, whether the Presidency may reconsider a

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 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-01/04-01/07-3679.

⁵ ICC-01/04-01/07-3631-AnxI, pp. 20-21.

⁶ ICC-01/04-01/07-3821-Red.

⁷ ICC-01/04-01/07-3821-Red, para. 51.

⁸ ICC-01/04-01/07-3626-Anx.

decision taken under article 108 of the Statute and providing the Presidency with information as to the progress and current state of the proceedings against Mr Katanga, including as to the manner in which the fair trial rights of Mr. Katanga are being safeguarded. The Presidency files this present Order publicly but invites the DRC, if necessary, to inform it whether any information the DRC will provide in response may be made publicly available or may only be made available to the Presidency and Mr Katanga.

For these reasons, the Presidency hereby

Requests the competent authorities of the DRC to provide any views on any matters raised in the Application by 20 March 2019; and

Orders the Registrar to transmit this order to the competent authorities of the DRC.

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



Judge Chile Eboe-Osuji
President

Dated this 4 February 2019

At The Hague, The Netherlands