



Original: **French**

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

Date: **6 August 2009**

**TRIAL CHAMBER I**

**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***

**Public Document**

**Joint Observations of the Legal Representatives of the Victims Represented by  
Mr Jean MULAMBA, Ms Carine BAPITA and Mr Hervé DIAKESE on the Appeal  
against the Decision on the Challenge to Admissibility Filed by the  
Defence for Germain KATANGA**

**Source:** The Legal Representatives of the Victims

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  
Ms Fatou Bensouda  
Mr Eric MacDonald, Senior Trial Lawyer

**Counsel for the Defence of Germain  
Katanga**

Mr David Hooper  
Mr Andreas O'Shea  
Ms Caroline Buisman

**Counsel for the Defence of Mathieu  
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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  
Mr Fidel Nsita Luvengika  
Mr Vincent Lurquin  
Ms Flora Mbuyu Anjelani

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

Ms Paolina Massidda

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

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Ms Silvana Arbia

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Fiona McKay

**Other**

## I. Procedural History

1. On 2 July 2007, the Pre-Trial Chamber issued a warrant for the arrest of Germain Katanga, who had been detained in Kinshasa Central Prison since March 2005. On 18 October, Germain Katanga was transferred to The Hague.
2. Counsel for Germain Katanga was appointed on 23 November 2007.
3. The confirmation hearing in the case was scheduled for 28 February 2008; but following the joinder of the case with the proceedings against Matthieu Ngundjolo, the hearing was postponed to 27 June 2008.
4. On 10 February 2009, the Defence filed a challenge to the admissibility of the case pursuant to article 19(2)(a) of the Statute.
5. The Prosecution responded thereto on 19 March 2009 and the Defence filed a reply on 30 March 2009.
6. The Legal Representatives of the Victims and the Office of Public Counsel for Victims filed their observations on 16 and 28 April 2009 respectively.
7. At a hearing held on 1 June 2009, the Defence, the Prosecution, the Legal Representatives of the Victims, the Office of Public Counsel for Victims and the DRC authorities presented their observations and views on the challenge to admissibility raised by Germain Katanga.
8. On 12 June 2009, Trial Chamber II delivered its oral decision dismissing the challenge to admissibility.
9. On 16 June 2009, the Defence issued the *Reasons for the Oral Decision on the Motion Challenging the Admissibility of the Case*, against which the Defence has lodged the present appeal.

10. The Legal Representatives of the Victims most respectfully submit the following brief observations:

**II. On the appeal concerning the challenge to admissibility**

11. The Legal Representatives confirm their observations, as originally submitted to Pre-Trial Chamber II: that the trial begins immediately after the confirmation hearing with the holding of status conferences pursuant to rule 132(1) and rule 133 in its wide sense.

12. At the hearing on 1 June 2009, the DRC confirmed its lack of willingness to be able to investigate the Bogoro charges against Germain Katanga, as these were not part of the offences for which he was being prosecuted at the time.

**FOR THESE REASONS,**

**MAY IT PLEASE TRIAL CHAMBER II**

- To take formal note of our position and to dismiss the Defence's appeal.

Dated this 6 August 2009 at Kinshasa, DRC.

Mr Jean Chrysostome MULAMBA, absent at signature

[signed]

Ms Carine BAPITA

[signed]

Mr Hervé DIAKESE