

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **27 August 2014**

TRIAL CHAMBER II

Before: Judge Silvia Fernandez de Gurmendi, Presiding
Judge Christine Van den Wyngaert
Judge Olga Herrera Carbuca

***SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF THE PROSECUTOR v.
GERMAIN KATANGA***

Public

Order instructing the Registry to report on applications for reparations

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

The Office of the Prosecutor

Ms Fatou Bensouda

Mr Éric MacDonald

Counsel for the Defence

Mr David Hooper

Legal Representatives of the Victims

Mr Fidel Nsita Luvengika

Legal Representatives of the 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

Mr Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Other

Mr Pieter de Baan

Trial Chamber II (“Trial Chamber” or “Chamber”) of the International Criminal Court, in the case of *The Prosecutor v. Germain Katanga* (“Katanga case” or “case”), issues the following “Order instructing the Registry to report on applications for reparations”:

1. On 7 March 2014, the Chamber issued its Judgment pursuant to Article 74 of the Statute (“Judgment”).¹
2. On 16 April 2014, the Presidency of the Court issued a decision replacing two judges in Trial Chamber II and decided that such reconstitution should be effective as of the date of the issuance of the Article 76 decision.²
3. On 23 May 2014, the Chamber issued its Decision pursuant to Article 76 of the Statute (“Sentencing decision”) and sentenced Mr Katanga to 12 years imprisonment.³
4. On 25 June 2014, the Defence and the Prosecutor withdrew their appeal on the Judgment and indicated that they did not intend to appeal the Chamber’s Sentencing decision.⁴
5. On 21 August 2014, the Legal Representative of victims requested the Chamber to set out a timetable for the submission of observations on

¹ Jugement rendu en application de l’article 74 du Statut, 7 March 2014, ICC-01/04-01/07-3436.

² Decision replacing two judges in Trial Chamber II, 16 April 2014, ICC-01/04-01/07-3468 and annex.

³ Décision relative à la peine (article 76 du Statut), 23 May 2014, ICC-01/04-01/07-3484.

⁴ Defence, Defence Notice of Discontinuance of Appeal against the ‘Judgement rendu en application de l’article 74 du Statut’ rendered by Trial Chamber II on 7 April 2014, 25 June 2014, ICC-01/04-01/07-3497 and annex; Prosecutor, Notice of Discontinuance of the Prosecution’s Appeal against the Article 74 Judgment of Conviction of Trial Chamber II date 7 March 2014 in relation to Germain Katanga, 25 June 2014, ICC-01/04-01/07-3498.

the principles relating to reparations that could be applied in the case, and the procedure to be followed.⁵

6. For the purpose of the present decision, the Chamber has considered Article 68(1) and 75 of the Rome Statute (“Statute”), Rules 94 and 97 of the Rules of procedure and evidence (“Rules”), and Regulation 110 of the Regulations of the Registry.
7. The Chamber notes that in the victims’ application for participation and/or reparation received, there is limited information as to the harm suffered as a result of the crimes and the reparations measures sought by applicants. In addition, the large majority of these applications were received before April 2009.⁶ Given the time elapsed since then and the current stage of the proceedings, and in order to make a fully informed decision as to what further steps to take, the Chamber considers it necessary to receive additional and up-to-date information concerning these topics.
8. Therefore, the Chamber considers it appropriate that the Registry contact the applicants, thereby working in close consultation and collaboration with the Legal Representative for victims with the view to submitting a report, in accordance with Regulation 110 (1) of the Regulations of the Registry setting out detailed information with respect to the victims who request reparations. The report should be prepared following the guidelines set out below and include a comprehensive chart, setting out:

⁵ Requête sollicitant la fixation d’un calendrier en vue de permettre aux victimes de soumettre leurs observations sur les réparations (Articles 68, 75 et 76 du Statut), 21 August 2014, ICC-01/04-01/07-3507.

⁶ Décision relative au traitement des demandes de participation, 26 February 2009, ICC-01/04-01/07-933, page 26.

- i. the applicant number, the filing number of the application for participation and/or reparations (in its redacted and non-redacted versions); whether the applicant is a victim (direct or indirect) or is acting on behalf of someone else; if applicable, the number of the decision which dealt with the application;
 - ii. any documents provided to establish the identity of the victims and the harm they have suffered;
 - iii. the crime as a result of which the victims suffered harm;
 - iv. the harm suffered; and
 - v. the type and modalities of the reparations requested.
9. In contacting the victims, the Registry should bear in mind, first and foremost, that it is critical that victims' expectations should be managed with extreme care as it is unclear at this stage which type and scope of reparations will be appropriate and feasible in the present case. The Chamber recalls in this regard that, pursuant to Rule 97(1) of the Rules, the Chamber may award reparations on an individualized basis or, where it deems it appropriate, on a collective basis or both. None of these options are excluded as a result of this order and therefore, when collecting information related to paragraph 7 (v) above, both need to be presented in a neutral manner. Moreover, it should be clear that, if the process so requires, sufficient time to file new applications for reparations will be granted.
10. In consultation with the Trust Fund for Victims ("TFV"), the Registry is to set out and present the victims with examples of measures

which might be viable means for reparations. Any such options should be presented to the victims in a neutral manner in order to gauge their views on different possible types of reparations.

11. The additional information collected as a result of the consultation with the victims shall be annexed to the consolidated report. The report shall summarize this information and, pursuant to Regulation 110(2) of Regulations of the Registry, shall include recommendations regarding matters such as the types and modalities of reparations and factors relating to the appropriateness of awarding reparations on an individual or a collective basis. It shall take into account and describe any measures that may already have been taken by the TFV or any other organisations to redress the damage and harm caused by the attack on Bogoro of 24 February 2003.

12. The Chamber will consider any further procedural steps in due course.

FOR THESE REASONS, THE CHAMBER

DIRECTS the Registry to file the report set out in paragraph 7 of this order by 1 December 2014.

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



Silvia Fernández de Gurmendi
Presiding Judge



Christine Van den Wyngaert
Judge



Olga Herrera Carbuccia
Judge

Dated this 27 August 2014

At The Hague, The Netherlands