



Original: **French**

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

Date: **22 June 2015**

**TRIAL CHAMBER II**

**Before:** Judge Marc Perrin de Brichambaut, Presiding Judge  
Judge Olga Herrera Carbuccion  
Judge Péter Kovács

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

**Public**

**Decision on the “Defence Request Relating to the Trust Fund for Victims”**

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

**Office of the Prosecutor**

Ms Fatou Bensouda  
Mr James Stewart  
Mr Éric MacDonald

**Counsel for Germain Katanga**

Mr David Hooper  
Ms Caroline Buisman

**Legal Representatives of Victims**

Mr Fidel Nsita Luvengika

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for Participation/Reparations**

**States' Representatives**

**Office of Public Counsel for the Defence**

**REGISTRY**

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**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations Section**

**Section**

Ms Fiona McKay

**Other**

Mr Pieter de Baan (Trust Fund for Victims)

**TRIAL CHAMBER II** (“the Chamber”) of the International Criminal Court, acting pursuant to article 75 of the Rome Statute (“the Statute”) and rules 97-98 of the Rules of Procedure and Evidence, issues the following decision.

### **I. Procedural background and submissions**

1. By order of 1 April 2015, the Chamber invited the Defence team for Germain Katanga (“the Defence”), the Legal Representative of Victims, the Trust Fund for Victims (“the Fund”) and the Office of the Prosecutor to submit observations in respect of the reparations proceedings by 30 April 2015.<sup>1</sup>

2. On 17 April 2015, the Defence filed a request to the Chamber to order the Fund to disclose the amount of money to be made available for reparations in this case (“the Request”).<sup>2</sup> It hereby informs the Chamber that it has received no response to the three e-mails sent to the Fund in this connection<sup>3</sup> and submits that this information could be shared with the parties and participants in the Fund’s observations due on 30 April 2015.

3. Having been granted extensions of deadlines,<sup>4</sup> the parties and participants submitted their observations on 15 May 2015<sup>5</sup> and the responses to those observations on 16 June 2015.<sup>6</sup>

<sup>1</sup> “*Ordonnance enjoignant les parties et les participants à déposer des observations pour la procédure en réparation*”, ICC-01/04-01/07-3532.

<sup>2</sup> “Defence Request Relating to the Trust Fund for Victims”, ICC-01/04-01/07-3536, with Annex.

<sup>3</sup> See Request ICC-01/04-01/07-3536, para. 5; Annex to the Request, ICC-01/04-01/07-3536-Anx.

<sup>4</sup> “Decision on the request by the United Nations for extension of the deadline for submitting observations in the reparations proceedings”, 24 April 2015, ICC-01/04-01/07-3542-tENG. A public redacted version was also filed on the same date. “Request for an extension of the deadline to submit observations pursuant to Article 75 of the Statute”, 17 April 2015, ICC-01/04-01/07-3538-Conf-Exp; “*Décision relative à la requête de la Défense aux fins de prorogation du délai fixé pour le dépôt des réponses aux observations dans le cadre de la procédure en réparation*”, 12 June 2015, ICC-01/04-01/07-3562.

<sup>5</sup> “Prosecution’s Observations on the Procedure for Reparations”, 30 April 2015, ICC-01/04-01/07-3544; “Observations on Reparations Procedure”, 13 May 2015, ICC-01/04-01/07-3548; “Defence Observations on Reparations”, 14 May 2015 (notified on 15 May 2015), ICC-01/04-01/07-3549; “Registry’s Observations pursuant to Order ICC-01/04-01/07-3532”, 15 May 2015, ICC-01/04-01/07-3553; “*Observations des victimes sur les principes et la procédure en réparation*”, 15 May 2015, ICC-01/04-01/07-3555 and Annex.

<sup>6</sup> “Defence Consolidated Response to the Parties, Participants and Other Interested Persons’ Observations on Reparation”, 16 June 2015, ICC-01/04-01/07-3564; “*Réponse consolidée des victimes aux*

## II. Decision of the Chamber

4. The Chamber notes that, in order to prepare its observations, the Defence would like to be in a position to “take into account the economic realities imposed by the available funding”. The Defence argues that, without that information, it is difficult if not impossible to make realistic and constructive suggestions.<sup>7</sup> The Chamber notes that, in its observations of 15 May 2015, the Fund did not provide the requested information and that, subsequently, the Defence submitted its observations.

5. The Chamber recalls that, under article 75 of the Statute, it is for the Chamber to specify in its order against the convicted person the appropriate reparations to or in respect of victims and to determine the scope of the convicted person’s liability.<sup>8</sup> The Chamber notes that any indication as to the resources that the Fund might possibly be called on to advance for the purpose of reparations in this case is dependent on prior determination of the anticipated monetary amount. At the current stage of the proceedings, it is not therefore possible to anticipate the monetary amount needed to compensate for the harm caused by the crimes of which Mr Katanga has been convicted.

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*observations déposées par la Défense, les participants et les organisations invitées à déposer leurs observations sur les principes et la procédure en réparation*”, 16 June 2015, ICC-01/04-01/07-3565.

<sup>7</sup> Request, ICC-01/04-01/07-3536, para. 4.

<sup>8</sup> See also, “Judgment on the appeals against the ‘Decision establishing the principles and procedures to be applied to reparations’ of 7 August 2012 with AMENDED order for reparations (Annex A) and public annexes 1 and 2”, 3 March 2015, ICC-01/04-01/06-3129, paras. 118 and 240; “Order for reparations”, 3 March 2015, ICC-01/04-01/06-3129-AnxA, paras. 60-66 and 75-81.

**FOR THESE REASONS, the Chamber**

**REJECTS** the Request.

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

[signed]

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**Judge Marc Perrin de Brichambaut**

**Presiding Judge**

[signed]

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**Judge Olga Herrera Carbuccion**

[signed]

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**Judge Péter Kovács**

Dated this 22 June 2015

At The Hague, The Netherlands