



Original: English

**No. ICC-01/04-01/07
Date: 9 September 2015**

**THREE JUDGES OF THE APPEALS CHAMBER APPOINTED
FOR THE REVIEW CONCERNING REDUCTION OF SENTENCE**

**Before: Judge Piotr Hofmański, Presiding Judge
Judge Sanji Mmasenono Monageng
Judge Christine Van den Wyngaert**

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

Public document

Decision on Mr Katanga's request for an extension of the page limit

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

The Office of the Prosecutor
Ms Fatou Bensouda, Prosecutor
Mr James Stewart

Counsel for Mr Germain Katanga
Mr David Hooper
Ms Caroline Buisman

Legal Representatives of Victims
Mr Jean-Louis Gilissen
Mr Fidel Nsita Luvengika

REGISTRY

Registrar
Mr Herman von Hebel

Other
The Presidency

The three judges of the Appeals Chamber of the International Criminal Court,

In the review by the Court concerning reduction of sentence of Mr Germain Katanga pursuant to article 110 of the Statute,

Having before them the “Defence Request for Extension of Page Limit” of 8 September 2015 (ICC-01/04-01/07-3588),

Noting the “Scheduling order for the review concerning reduction of sentence of Mr Germain Katanga” of 13 August 2015 (ICC-01/04-01/07-3574),

Pursuant to regulation 37 (2) of the Regulations of the Court,

Render unanimously the following

DECISION

1. The “Defence Request for an Extension of Page Limit” is granted in part. The page limit for Mr Katanga’s written submissions in these proceedings is extended by 10 pages.
2. The page limit for the written submissions of the Prosecutor and the Legal Representative of Victims in these proceedings is extended by 10 pages.

REASONS

I. PROCEDURAL HISTORY

1. On 13 August 2015, the three judges of the Appeals Chamber appointed for the review concerning reduction of sentence (hereinafter: “three judges of the Appeals Chamber”) issued the “Scheduling order for the review concerning reduction of sentence of Mr Germain Katanga”¹ (hereinafter: “Scheduling Order”), ordering, *inter alia*, that “Mr Germain Katanga, the Prosecutor and the Legal Representatives of Victims shall file written submissions, of not more than 10 pages in accordance with regulation 36 of the Regulations of the Court [...]” addressing the criteria for review

¹ ICC-01/04-01/07-3574 (RW).

concerning reduction of sentence, as further specified in the Scheduling Order, and observations to be filed by the Registrar, as appropriate.²

2. On 31 August 2015, following requests by the Prosecutor³ and the Legal Representative of Victims,⁴ the Appeals Chamber issued its “Decision on the request to modify the schedule for written submissions”⁵ by which the date for the filing of the Prosecutor’s and the Legal Representative of Victims’ written submissions was postponed to Friday, 18 September 2015.⁶

3. On 4 September 2015, the Registrar filed the “Registrar’s Observations on the criteria set out in rule 223 of the Rules of Procedure and Evidence”⁷ (hereinafter: “Registrar’s Observations”).

4. On 8 September 2015, Mr Katanga filed the “Defence Request for an Extension of Page Limit”⁸ (hereinafter: “Mr Katanga’s Request”).

5. On 9 September 2015, the Prosecutor filed the “Prosecution’s response to the Defence Request to extend the page limit for its written submissions for Germain Katanga’s sentence review”⁹ (hereinafter: “Prosecutor’s Response”).

II. MERITS

6. In Mr Katanga’s Request, he requests the three judges of the Appeals Chamber to extend the page limit from 10 pages to 25 pages for his written submissions which are due on 11 September 2015.¹⁰

7. In support of his request, Mr Katanga submits that given the novelty of these particular proceedings before the Court “it is necessary to present relevant case law and doctrine concerning the application of the criteria defined by Article 110 of the

² Scheduling Order, para. 4.

³ “Prosecution’s urgent request to modify the schedule for written submissions for Germain Katanga’s sentence review”, 26 August 2015, ICC-01/04-01/07-3575 (RW).

⁴ “Requête urgente du Représentant légal en modification des délais pour soumettre ses observations sur la réduction de peine de Germain Katanga”, 27 August 2015, ICC-01/04-01/07-3577 (RW).

⁵ ICC-01/04-01/07-3581 (RW).

⁶ ICC-01/04-01/07-3581 (RW), para. 18.

⁷ ICC-01/04-01/07-3584 (RW).

⁸ ICC-01/04-01/07-3588 (RW).

⁹ ICC-01/04-01/07-3589 (RW).

¹⁰ Mr Katanga’s Request, para. 13.

Rome Statute and Rule 223 of the Rules of Procedure and Evidence”.¹¹ In addition, Mr Katanga avers that “the defence has had the opportunity to visit the [Democratic Republic of the Congo] last week in order to seek the opinion of various communities and institutions concerning [his] return to the [Democratic Republic of the Congo] and wishes to present the result of those investigations”.¹² Furthermore, Mr Katanga submits that his written submissions would also include his observations in reply to the Registrar’s Observations.¹³

8. In light of this, Mr Katanga submits that his request for an extension of the page limit to 25 pages is reasonable.¹⁴ He argues further that a reduced page limit of 10 pages, as opposed to the general page limit of 20 pages under regulation 37 (1) of the Regulations of the Court, is “insufficient to provide full and thorough observations on a very significant matter”.¹⁵

9. At the outset, the Appeals Chamber notes that, with respect to the manner in which initial review proceedings concerning reduction of sentence may be conducted, rule 224 (1) of the Rules of Procedure and Evidence requires a hearing to be conducted at which the convicted person is present. Other invited participants mentioned in this provision may participate either orally at the hearing or by way of written observations. Consequently, the Appeals Chamber considers that the primary modality of these proceedings is that of orality.

10. With this in mind, the Appeals Chamber, in its Scheduling Order, limited the number of pages for the written submissions of the participants to 10 pages as opposed to the general limit of 20 pages under regulation 37 (1) of the Regulations of the Court. However, given the arguments in support of Mr Katanga’s Request, and noting that the Prosecutor is unopposed to same, the three judges of the Appeals Chamber are persuaded that he has demonstrated exceptional circumstances for the purposes of regulation 37 (2) of the Regulations of the Court and, accordingly, grants Mr Katanga’s Request in part.

¹¹ Mr Katanga’s Request, para. 7.

¹² Mr Katanga’s Request, para. 8.

¹³ Mr Katanga’s Request, para. 9.

¹⁴ Mr Katanga’s Request, para. 12.

¹⁵ Mr Katanga’s Request, para. 12.

11. However, the Appeals Chamber considers that a page extension of 10 pages, as opposed to the 15 pages requested by Mr Katanga is sufficient in the circumstances bearing in mind that Mr Katanga will also have an opportunity at the hearing to make his observations.

12. Additionally, the Appeals Chamber notes that in the event that Mr Katanga's Request is granted, the Prosecutor requests an equivalent extension of the page limit for her written submissions.¹⁶ In the circumstances, the Appeals Chamber deems it appropriate to extend the page limit for the Prosecutor's and the Legal Representatives' written submissions by 10 pages.

13. Accordingly, Mr Katanga, the Prosecutor and the Legal Representatives of Victims may therefore each file written submissions of not more than 20 pages.

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



Judge Piotr Hofmański
Presiding Judge

Dated this 9th day of September 2015

At The Hague, The Netherlands

¹⁶ Prosecutor's Response, para. 2.