

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **French**

No.: **ICC-01/04-01/07**
Date: **21 September 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 requests of the Common Legal Representative of Victims and the Registry for an extension of time limit for transmitting and filing applications for reparations

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 Representative of Victims

Mr Fidel Nsita Luvengika

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

States' Representatives

**Office of Public Counsel for the
Defence**

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Other

TRIAL CHAMBER II (“the Chamber”) of the International Criminal Court, acting pursuant to regulation 35(2) of the Regulations of the Court (“the Regulations”), issues the following Decision.

I. Procedural history

1. On 8 May 2015, the Chamber ordered the Common Legal Representative of Victims (“the Legal Representative”), in consultation with the Registry, to consolidate and file, by 1 October 2015, all requests for participation in proceedings and/or reparations initially submitted by victims admitted to participate in the proceedings, accompanied – where possible – by supporting documentation attesting to the extent of the harm suffered and the causal link between the alleged harm and the crime committed; the Registry to transmit to the Chamber and to the parties a redacted version of any other request for reparations made by victims yet to make themselves known, including – where possible – documentation supporting their request; and the Legal Representative to represent any victim who might be identified in the future.¹

2. On 7 September 2015, the Legal Representative filed a request, pursuant to regulation 35(2) of the Regulations, to extend to mid-December 2015 the time limit initially set at 1 October 2015, by the Decision of 8 May 2015, for the submission and transmission of requests for reparations (“the Legal Representative’s Request”).²

3. In support of his request, the Legal Representative listed all the tasks, both completed and yet to be completed, related to the collection of requests for reparations and any supporting documents required to prove the harm suffered, including the plan of the work to be carried out;³ the work carried out by the Legal Representative and his team in Ituri since July 2015, in relation to identifying and

¹ “Decision on the ‘*Demande de clarification concernant la mise en œuvre de la Règle 94 du Règlement de procédure et de preuve*’ and future stages of the proceedings”, 8 May 2015, ICC-01/04-01/07-3546-tENG, pp. 9-10 (“the Decision of 8 May 2015”).

² “*Demande de prorogation du délai fixé par la décision ICC-01/04-01/07-3546 pour le dépôt et la transmission des demandes en réparation*”, 7 September 2015, ICC-01/04-01/07-3586.

³ Legal Representative’s Request, para. 10.

individually calling participating victims;⁴ the collection of supporting documents from the local authorities⁵; and the work carried out in parallel with the Victims Participation and Reparations Section to identify new applicants for reparations, in particular, the task of locating new potential applicants in Uganda, for which a visit would need to be arranged.⁶

4. The Legal Representative also listed the difficulties he had faced in recent months in relation to the unexpected unavailability of certain members of his team;⁷ the calling of victims;⁸ his obligations concerning other matters that had arisen in this case;⁹ and the disruption to his schedule as a result of the appearance of the Defence team for Germain Katanga (“the Defence” and “Mr Katanga”, respectively) in the field.¹⁰

5. Lastly, the Legal Representative underscored the substantial amount of work that remained to be done in order to process and consolidate the information collected.¹¹

6. On 7 September 2015, the Registry also submitted a request to extend the time limit to 1 December 2015¹² (“the Registry’s Request”). In support of its request, the Registry also made reference to the active work of collecting information and supporting documentation carried out by the Legal Representative and the members of his team.¹³

7. Furthermore, the Registry made reference to its work, carried out in parallel, of helping to identify new potential applicants for reparations, in consultation with the

⁴ *Ibid.*, paras. 11-17.

⁵ *Ibid.*, para. 17.

⁶ *Ibid.*, paras. 19-21.

⁷ *Ibid.*, para. 12.

⁸ *Ibid.*, para. 18.

⁹ *Ibid.*, paras. 22-25.

¹⁰ *Ibid.*, para. 26.

¹¹ *Ibid.*, paras. 27-28.

¹² “*Demande de prorogation du délai relatif à la transmission des demandes en réparation en application de la norme 35 du Règlement de la Cour*”, 7 September 2015, ICC-01/04-01/07-3587.

¹³ Registry’s Request, p. 4.

Legal Representative, and the active steps taken to facilitate access to new potential applicants.¹⁴

8. Lastly, the Registry considered that, given that the Legal Representative would be unable to submit the requests for reparations before mid-September 2015,¹⁵ and that the transmission of requests for reparations could not take place before the information was stored in the Registry's database, analysed and then redacted, the extension of the time limit initially set by the Chamber was justified under regulation 35(2) of the Regulations.¹⁶

9. On 10 September 2015, Mr Katanga filed a response to the Legal Representative's Request and the Registry's Request.¹⁷ The Defence submitted that Mr Katanga was entitled to a trial, including the reparations decision, within a reasonable time.¹⁸

10. The Defence further argued that, given that Mr Katanga would not be fully informed of his future prospects until the reparations order was delivered, the proceedings should, as stated in articles 64(2) and 67(1)(c) of the Rome Statute, be as expeditious as possible.¹⁹

11. The Defence underscored that the first applications for participation and/or reparations had been registered in 2008 and that victims had therefore had ample time to come forward and present the supporting documentation required to prove the harm suffered.²⁰

12. Lastly, the Defence drew attention to its meeting with victims in Ituri, where it had learnt that victims could not understand why the proceedings were taking so long and wanted a reparations order to be delivered as quickly as possible.²¹

¹⁴ *Idem.*

¹⁵ *Idem.*

¹⁶ *Ibid.*, p. 5.

¹⁷ "Defence consolidated Response to the Legal Representative of Victims and the Registry's Requests for an extension of time limit", 10 September 2015, ICC-01/04-01/07-3591 ("the Defence Response").

¹⁸ Defence Response, para. 5.

¹⁹ *Idem.*

²⁰ *Ibid.*, para. 6.

²¹ *Ibid.*, para. 7.

II. ANALYSIS

13. The Chamber recalls that, as stated in the first sentence of regulation 35(2) of the Regulations, a Chamber may extend a time limit if good cause is shown. In the case at hand, in the light of the reasons put forward by the Legal Representative and the Registry, the Chamber considers that there is good cause to extend to 1 December 2015 the time limit set for the filing and transmission of applications for reparation.

14. However, in order to safeguard the rights of victims and the Defence, and to ensure that progress is made in the proceedings despite the extension of the time limit, the Chamber considers it appropriate to instruct the Legal Representative to submit consolidated versions of applications for reparations to the Registry as soon they become available and by 1 December 2015, and to instruct the Registry to transmit to the Chamber and the Defence redacted versions of the applications for reparations, as soon they become available and by 1 December 2015, in accordance with the instructions set out in the Decision of 1 September 2015.²²

15. Lastly, the Chamber recalls that, in the Decision of 1 September 2015, it instructed the Defence to file submissions on the consolidated versions of applications for reparations by 1 November 2015.²³ In the light of the present Decision, the Chamber informs the Defence that it will be able to file submissions on all the applications for reparations by 11 January 2016.

²² "Decision on the 'Defence Request for the Disclosure of Unredacted or Less Redacted Victim Applications'", 1 September 2015, ICC-01/04-01/07-3583-tENG ("the Decision of 1 September 2015").

²³ Decision of 1 September 2015, p. 10.

FOR THESE REASONS, the Chamber,

GRANTS, in part, the Legal Representative's request;

GRANTS the Registry's request;

ALLOWS an extension to 1 December 2015 of the time limit for submitting to the Registry and transmitting to the Chamber and the Defence consolidated and redacted versions of all applications for reparations in accordance with the instructions set out in the Decision of 1 September 2015;

ORDERS the Legal Representative to submit the applications for reparations to the Registry, as soon they become available, by 1 December 2015.

ORDERS the Registry to transmit to the Chamber and the Defence consolidated and redacted versions of the applications for reparations, as soon as they become available, in accordance with the instructions set out in the Decision of 1 September 2015, by 1 December 2015, and;

INSTRUCTS the Defence to file submissions on the applications for reparations thus transmitted, by 11 January 2016.

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

[signed]

Judge Marc Perrin de Brichambaut
Presiding Judge

[signed]

Judge Olga Herrera Carbuccia

[signed]

Judge Péter Kovács

Dated this 21 September 2015,

At The Hague, the Netherlands