

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **French**

No.: **ICC-01/04-01/07**
Date: **14 September 2016**

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 Document

**Decision according further time for observations on the monetary value of the
harm alleged**

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

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Ms Isabelle Guibal

Other

TRIAL CHAMBER II of the International Criminal Court (the “Chamber”), acting pursuant to regulation 35(2) of the Regulations of the Court (the “Regulations”), decides:

I. Procedural background

1. On 8 May 2015, the Chamber ordered the Common Legal Representative of the Victims (the “Legal Representative”), in consultation with the Registry, to provide to the Chamber and the Defence team for Germain Katanga (“Mr Katanga” and the “Defence”, respectively), in redacted form, all applications for participation initially made by the victims who were admitted to participate in the proceedings against Mr Katanga, applications for reparations put before the Chamber and made complete by the relevant supporting documentation, and any new applications for reparations.¹

2. Between 12 November 2015 and 29 February 2016, the Legal Representative provided the redacted applications for reparations, through the Registry, to the Chamber² and the Defence³ (the “Applications for Reparations”).

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 2016, ICC-01/04-01/07-3546-tENG, p. 9.

² “Transmission de demandes en réparation”, 12 November 2015, ICC-01/04-01/07-3614 and 43 confidential annexes; “Seconde transmission de demandes en réparation”, 20 November 2015, ICC-01/04-01/07-3617 and 19 confidential annexes; “Troisième transmission de demandes en réparation”, 27 November 2015, ICC-01/04-01/07-3621 and 33 confidential annexes; “Quatrième Transmission de Demandes en réparation”, 2 February 2016, ICC-01/04-01/07-3646 and 35 confidential annexes; “Cinquième Transmission de Demandes en réparation”, 18 February 2016, ICC-01/04-01/07-3656 and 85 confidential annexes; “Sixième Transmission de Demandes en réparation”, 26 February 2016, ICC-01/04-01/07-3661 and 78 confidential annexes; “Septième Transmission de Demandes en réparation”, 29 February 2016, ICC-01/04-01/07-3664 and 15 confidential annexes.

³ “Transmission de demandes en réparation à la Défense”, 24 November 2015, ICC-01/04-01/07-3619 and 43 confidential, redacted annexes; “Seconde transmission de demandes en réparation à la Défense”, 27 November 2015, ICC-01/04-01/07-3622 and 19 confidential, redacted annexes; “Troisième Transmission de Demandes en réparation à la Défense”, 27 November 2015, ICC-01/04-01/07-3624 and 33 confidential, redacted annexes; “Quatrième Transmission de Demandes en réparation à la Défense”, 2 February 2016, ICC-01/04-01/07-3648 and 35 confidential, redacted annexes; “Transmission de Demandes en réparation à la Défense en version moins expurgées en application de l’Ordonnance du 12 février 2016 (ICC-01/04-01/07-3653-Corr)”, 17 February 2016, ICC-01/04-01/07-3655; “Cinquième Transmission de Demandes en réparation à la Défense”, 19 February 2016, ICC-01/04-01/07-3659 and 85 confidential,

3. On 24 February and 11 April 2016, the Defence filed observations of a general nature on the redacted Applications for Reparations and specific observations on each such application.⁴ In its observations of 11 April 2016⁵ (the “Second Defence Observations”), the Defence put forward current prices of certain goods or properties which the Applicants alleged that they had lost during the attack on Bogoro of 24 February 2003.⁶

4. On 15 July 2016, the Chamber directed from the Legal Representative, the Defence and the Trust Fund for Victims (the “TFV”) observations on the monetary value they considered fair for each type of harm alleged by the Applicants in the case.⁷ (the “Order of 15 July 2016”).

5. By order of 23 August 2016, the Chamber granted the TFV request⁸ for access to the Second Defence Observations⁹ (the “Order of 23 August 2016”). The Chamber further instructed the Legal Representative, the Defence and the TFV to furnish it with sufficiently specific and relevant observations on the monetary value of the harm alleged by the Applicants by drawing on the more detailed list of types of harm¹⁰ appended to the order.¹¹

redacted annexes; “Sixième Transmission de Demandes en réparation à la Défense”, 26 February 2016, ICC-01/04-01/07-3663 and 80 confidential, redacted annexes; “Septième Transmission de Demandes en réparation à la Défense”, 29 February 2016, ICC-01/04-01/07-3665 and 15 confidential, redacted annexes; “Corrigendum: Annex 9 to the ‘Septième Transmission de Demandes en réparation’”, 10 March 2016, ICC-01/04-01/07-3664-Conf-Exp-Anx9-Corr; “Transmission à la Chambre d’un Document additionnel concernant une Demande en réparation”, 17 March 2016, notified on 18 March 2016, ICC-01/04-01/07-3672 with two confidential annexes.

⁴ “Defence Observations on the Victims Applications for Reparation”, filed on 24 February 2016, ICC-01/04-01/07-3660-Conf (a public redacted version was filed on 8 March 2016); “Second Defence Observations on the Victims Applications for Reparation”, 11 April 2016, ICC-01/04-01/07-3681-Conf, one confidential, *ex parte* annex and one public annex.

⁵ “Second Defence Observations on the Victims Applications for Reparation”, 11 April 2016, ICC-01/04-01/07-3681-Conf.

⁶ Second Defence Observations, para. 36.

⁷ “Order instructing the parties and the Trust Fund for Victims to file observations on the monetary value of the alleged harm”, 15 July 2016, ICC-01/04-01/07-3702-tENG.

⁸ “Request for access to document ICC-01/04-01/07-3681-Conf”, 12 August 2016, ICC-01/04-01/07-3703.

⁹ “Ordonnance relative à la requête du Fonds au profit des victimes sollicitant accès au document ICC-01/04-01/07-3681-Conf et relative aux observations concernant la valeur monétaire des préjudices allégués”, 23 August 2016, ICC-01/04-01/07-3705.

¹⁰ Annex to the Order of 23 August 2016, ICC-01/04-01/07-3705-Conf-Exp-Anx.

¹¹ Order of 23 August 2016, paras. 12-13.

6. On 9 September 2016, the Legal Representative brought a motion for a further 15 days in which to submit his observations on the monetary value of each type of harm alleged by the Applicants (the “Motion”).¹² That same day, the Defence made known to the Chamber that it had no objection to the further time sought by the Legal Representative.¹³

II. ANALYSIS

7. With reference to the opening sentence of regulation 35(2) of the Regulations, the Chamber recalls that a chamber may extend a time limit where good cause is shown.

8. The Legal Representative points out that appraisal of harm is a difficult exercise, which brings a wholly unprecedented issue before the Court for consideration.¹⁴ Furthermore, he stated that he needs more time in which to address the further information required by the Order of 23 August 2016.¹⁵ The Legal Representative informed the Chamber that he has embarked on consultations and discussions with the Defence and the TFV and, to such end, seeks further time in which to bring them to a conclusion.¹⁶

9. Having regard to the foregoing, the Chamber is of the view that the Legal Representative has shown good cause to warrant the further time sought, which it hereby extends by 15 days. So that it may receive all of the observations on the same day, the Chamber is minded to grant the same extension of time to the Defence and the TFV. The Chamber ultimately extends the time prescribed in the Order of 15 July for the receipt of consolidated responses from the Legal Representative and the Defence to 14 October 2016.

¹² “*Demande de prorogation de délai en vue du dépôt d’observations sur la valeur monétaire des préjudices allégués (Ordonnances ICC-01/04-01/07-3702 et ICC-01/04-01/07-3705)*”, 9 September 2016, ICC-01/04-01/07-3707.

¹³ E-mail from the Defence to the Chamber at 14.08 on 9 September 2016.

¹⁴ Motion, para. 6.

¹⁵ Motion, para. 6.

¹⁶ Motion, paras. 5 and 7-8.

FOR THESE REASONS, the Chamber

GRANTS the Motion;

ACCORDS the Legal Representative, the Defence and the TFV further time to 30 September 2016 in which to file the observations required by the orders of 15 July and 23 August 2016; and

EXTENDS to 14 October 2016 the time limit for filing consolidated responses by the Legal Representative and the Defence.

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

[signed]

Judge Marc Perrin de Brichambaut
Presiding Judge

[signed]

Judge Olga Herrera Carbuccion

[signed]

Judge Péter Kovács

Dated this 14 September 2016

At The Hague, the Netherlands