

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: French

No.: ICC-01/04-01/07
Date: 23 September 2009

TRIAL CHAMBER II

Before: Judge Bruno Cotte, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Hans-Peter Kaul

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
THE PROSECUTOR
*v. GERMAIN KATANGA AND MATHIEU NGUDJOLO CHUI***

Public Document

**Registrar's decision on the indigence of victims in the main group of victims
represented by Mr Fidel Nsita Luvengika**

Source: Registrar

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

Office of the Prosecutor

Mr Louis Moreno Ocampo
Ms Fatou Bensouda
Mr Eric MacDonald

Counsel for the Defence of Germain

Katanga

Mr David Hooper
Mr Andreas O'Shea
Ms Caroline Buisman

Counsel for the Defence of Mathieu

Ngudjolo Chui

Mr Jean-Pierre Kilenda Kakengi Basila
Prof. Jean-Pierre Fofé Djofia Malewa

Legal Representatives of Victims

Mr Fidel Nsita Luvengika
Mr Jean-Louis Gilissen

Legal Representatives of Applicants

Office of Public Counsel for Victims

**Office of Public Counsel for the
Defence**

REGISTRY

Registrar

Silvana Arbia

Deputy Registrar

Didier Preira

**Victims Participation and Reparations
Section**

Fiona McKay

THE REGISTRAR of the International Criminal Court,

NOTING article 43(6) of the Rome Statute;

NOTING rules 16(1)(b), 16(1)(c) and 90(5) of the Rules of Procedure and Evidence;

NOTING regulations 83 to 85 of the Regulations of the Court;

NOTING regulations 113 and 131 to 136 of the Regulations of the Registry;

NOTING the decisions of Pre-Trial Chamber I and Trial Chamber II of 2 April 2008,¹ 10 June 2008² and 31 July 2009³ recognising those applicants comprising the “main group of victims”⁴ as victims authorised to participate in proceedings in the case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*;

¹ ICC-01/04-01/07-357.

² ICC-01/04-01/07-578-Conf.

³ ICC-01/04-01/07-1347 and corrigendum ICC-01/04-01/07-1347-Corr dated 5 August 2009.

⁴ a/0327/07, a/0329/07, a/0330/07, a/0331/07, a/0009/08, a/0010/08, a/0011/08, a/0012/08, a/0013/08, a/0015/08, a/0016/08, a/0022/08, a/0024/08, a/0025/08, a/0027/08, a/0028/08, a/0029/08, a/0032/08, a/0033/08, a/0034/08, a/0035/08, a/0038/08, a/0039/08, a/0040/08, a/0043/08, a/0044/08, a/0046/08, a/0049/08, a/0050/08, a/0051/08, a/0055/08, a/0056/08, a/0057/08, a/0060/08, a/0061/08, a/0066/08, a/0067/08, a/0070/08, a/0071/08, a/0073/08, a/0076/08, a/0077/08, a/0078/08, a/0079/08, a/0080/08, a/0083/08, a/0085/08, a/0088/08, a/0090/08, a/0092/08, a/0095/08, a/0096/08, a/0100/08, a/0101/08, a/0103/08, a/0104/08, a/0108/08, a/0142/08, a/0143/08, a/0144/08, a/0145/08, a/0146/08, a/0147/08, a/0148/08, a/0153/08, a/0154/08, a/0155/08, a/0156/08, a/0157/08, a/0158/08, a/0159/08, a/0160/08, a/0161/08, a/0162/08, a/0163/08, a/0164/08, a/0165/08, a/0166/08, a/0167/08, a/0168/08, a/0169/08, a/0170/08, a/0171/08, a/0172/08, a/0173/08, a/0174/08, a/0175/08, a/0176/08, a/0178/08, a/0179/08, a/0180/08, a/0183/08, a/0186/08, a/0187/08, a/0188/08, a/0189/08, a/0190/08, a/0191/08, a/0192/08, a/0193/08, a/0194/08, a/0195/08, a/0196/08, a/0197/08, a/0198/08, a/0199/08, a/0201/08, a/0202/08, a/0203/08, a/0204/08, a/0205/08, a/0206/08, a/0207/08, a/0208/08, a/0210/08, a/0212/08, a/0213/08, a/0214/08, a/0215/08, a/0216/08, a/0217/08, a/0218/08, a/0219/08, a/0220/08, a/0221/08, a/0222/08, a/0223/08, a/0224/08, a/0225/08, a/0226/08, a/0227/08, a/0228/08, a/0229/08, a/0230/08, a/0231/08, a/0281/08, a/0282/08, a/0397/08, a/0398/08, a/0399/08, a/0400/08, a/0401/08, a/0402/08, a/0524/08, a/0527/08, a/0540/08, a/0607/08, a/0001/09, a/0003/09, a/0005/09, a/0006/09, a/0007/09, a/0008/09, a/0009/09, a/0010/09, a/0011/09, a/0012/09, a/0013/09, a/0014/09, a/0015/09, a/0016/09, a/0017/09, a/0018/09, a/0019/09, a/0020/09, a/0067/09, a/0068/09, a/0069/09, a/0070/09, a/0071/09, a/0072/09, a/0073/09, a/0074/09, a/0075/09, a/0076/09, a/0077/09, a/0078/09, a/0079/09, a/0080/09, a/0081/09, a/0082/09, a/0083/09, a/0084/09, a/0085/09, a/0086/09, a/0112/09, a/0113/09, a/0114/09, a/0115/09, a/0116/09, a/0117/09, a/0118/09, a/0119/09, a/0120/09, a/0122/09, a/0123/09, a/0124/09, a/0125/09, a/0126/09, a/0127/09, a/0128/09, a/0156/09, a/0158/09, a/0159/09, a/0162/09, a/0163/09, a/0164/09, a/0165/09, a/0166/09, a/0167/09, a/0168/09, a/0169/09, a/0203/09, a/0206/09, a/0207/09, a/0208/09, a/0209/09, a/0210/09, a/0212/09, a/0213/09, a/0214/09, a/0217/09, a/0218/09, a/0219/09, a/0220/09, a/0221/09, a/0222/09, a/0223/09, a/0224/09, a/0225/09, a/0226/09, a/0227/09, a/0228/09, a/0229/09, a/0230/09, a/0231/09, a/0232/09, a/0233/09, a/0250/09, a/0251/09, a/0252/09, a/0253/09, a/0255/09,

NOTING the Registrar's decisions of 9 June 2008⁵ and 18 June 2008⁶ provisionally considering victims a/0327/07, a/0330/07, a/0331/07, a/0010/08, a/0011/08, a/0012/08, a/0013/08, a/0015/08, a/0016/08, a/0024/08, a/0025/08, a/0027/08, a/0028/08, a/0029/08, a/0032/08, a/0033/08, a/0034/08, a/0035/08 as wholly indigent pursuant to regulation 85(1) *in fine* of the Regulations of the Court pending the outcome of the investigation into their property and assets;

NOTING the *Désignation provisoire de Me Fidel Nsita Luvengika comme représentant légal commun du groupe principal de victimes* of 14 August 2009;⁷

NOTING the 31 August 2009 application for legal assistance by Mr Fidel Nsita Luvengika with a view to providing legal representation for the main group of victims;

NOTING the *Désignation définitive de Me Fidel Nsita Luvengika comme représentant légal commun du groupe principal de victimes* of 22 September 2009;⁸

RENDERS THE PRESENT DECISION

CONSIDERING that Pre-Trial Chamber I and Trial Chamber II granted the status of victims to the applicants on 2 April 2008,⁹ 10 June 2008¹⁰ and 31 July 2009;¹¹

a/0256/09, a/0257/09, a/0265/09, a/0270/09, a/0271/09, a/0273/09, a/0274/09, a/0275/09, a/0276/09, a/0278/09, a/0279/09, a/0280/09, a/0281/09, a/0282/09, a/0283/09, a/0288/09, a/0290/09, a/0294/09, a/0295/09, a/0296/09, a/0298/09, a/0299/09, a/0301/09, a/0302/09, a/0303/09, a/0305/09, a/0306/09, a/0307/09, a/0308/09, a/0309/09, a/0311/09, a/0313/09, a/0317/09, a/0318/09, a/0319/09, a/0320/09, a/0321/09, a/0322/09, a/0323/09, a/0324/09, a/0325/09, a/0326/09, a/0327/09, a/0328/09, a/0329/09, a/0330/09, a/0331/09, a/0332/09, a/0333/09, a/0334/09, a/0336/09, a/0337/09, a/0338/09, a/0339/09, a/0343/09, a/0345/09, a/0346/09, a/0347/09, a/0348/09, a/0351/09, a/0352/09, a/0353/09, a/0354/09, a/0355/09, a/0356/09, a/0359/09, a/0360/09, a/0363/09, a/0364/09, a/0365/09, a/0366/09, a/0367/09, a/0368/09, a/0369/09, a/0370/09, a/0371/09, a/0372/09, a/0373/09, a/0374/09, a/0375/09, a/0376/09, a/0377/09, a/0378/09, a/0379/09, a/0380/09, a/0381/09, a/0382/09, a/0383/09, a/0384/09, a/0385/09, a/0386/09, a/0387/09, a/0388/09, a/0395/09.

⁵ ICC-01/04-01/07-563-tENG.

⁶ ICC-01/04-01/07-607-tENG and ICC-01/04-01/07-607-tENG.

⁷ ICC-01/04-01/07-1380.

⁸ ICC-01/04-01/07-1488.

⁹ ICC-01/04-01/07-357.

¹⁰ ICC-01/04-01/07-578-Conf.

¹¹ ICC-01/04-01/07-1347 and corrigendum ICC-01/04-01/07-1347-Corr dated 5 August 2009.

CONSIDERING that the victims should be divided into three sub-groups for the purpose of determining whether they are indigent;

CONSIDERING that Applicants a/0327/07, a/0330/07, a/0331/07, a/0011/08, a/0012/08, a/0013/08, a/0015/08, a/0016/08, a/0024/08, a/0025/08, a/0027/08, a/0028/08, a/0029/08, a/0032/08, a/0033/08, a/0034/08, and a/0035/08, comprising the first sub-group of victims, were declared provisionally indigent by the Registrar on 9¹² and 18¹³ June 2008;

CONSIDERING that the second sub-group of victims is comprised of Applicants a/0187/08, a/0188/08, a/0189/08, a/0190/08, a/0193/08, a/0194/08, a/0196/08, a/0198/08, a/0199/08, a/0201/08, a/0202/08, a/0203/08, a/0205/08, a/0206/08, a/0001/09, a/0003/09, a/0005/09, a/0006/09, a/0007/09, a/0008/09, a/0009/09, a/0011/09, a/0012/09, a/0013/09, a/0015/09, a/0016/09, a/0017/09, a/0018/09, a/0019/09, a/0020/09, a/0265/09, a/0270/09, a/0271/09, a/0273/09 and a/0274/09, who have provided information relating to their personal property and occupations, have freely authorised the Registrar or her representative to take the necessary steps, *inter alia*, with financial institutions and land registries and, where necessary, to have access to their bank accounts, and have given an undertaking to inform the Registrar of any change in their financial circumstances;

CONSIDERING that a preliminary assessment of this information pursuant to regulation 84(1) of the Regulations of the Court suggests, *prima facie*, that the applicants comprising the second sub-group of victims do not have the means to pay the costs of their legal representation before the Court in whole or in part;

CONSIDERING that the applicants comprising the third sub-group of victims¹⁴ have not authorised the Registrar or her representative to take the necessary steps, *inter alia*, with

¹² ICC-01/04-01/07-563-tENG.

¹³ ICC-01/04-01/07-607-tENG and ICC-01/04-01/07-607-tENG

¹⁴ a/0040/08, a/0142/08, a/0143/08, a/0144/08, a/0145/08, a/0146/08, a/0147/08, a/0148/08, a/0153/08, a/0154/08, a/0155/08, a/0156/08, a/0157/08, a/0158/08, a/0159/08, a/0160/08, a/0161/08, a/0162/08, a/0163/08, a/0164/08, a/0165/08, a/0166/08, a/0167/08, a/0168/08, a/0169/08, a/0170/08, a/0171/08, a/0172/08, a/0173/08, a/0174/08, a/0175/08, a/0176/08, a/0178/08, a/0179/08, a/0180/08, a/0183/08, a/0186/08, a/0191/08, a/0192/08, a/0195/08, a/0197/08, a/0204/08, a/0207/08, a/0208/08, a/0210/08, a/0212/08, a/0213/08, a/0214/08, a/0215/08, a/0216/08, a/0217/08, a/0218/08, a/0219/08, a/0220/08, a/0221/08, a/0222/08, a/0223/08, a/0224/08, a/0225/08, a/0226/08, a/0227/08, a/0228/08, a/0229/08, a/0230/08, a/0231/08, a/0281/08, a/0282/08, a/0397/08, a/0398/08, a/0399/08, a/0400/08, a/0401/08, a/0402/08, a/0524/08, a/0527/08, a/0540/08, a/0607/08, a/0010/09, a/0014/09, a/0067/09, a/0068/09,

financial institutions and land registries and, where necessary, to have access to their bank accounts, and have not given an undertaking to inform the Registrar of any change in their financial circumstances;

FOR THESE REASONS

DECIDES to consider Applicants a/0187/08, a/0188/08, a/0189/08, a/0190/08, a/0193/08, a/0194/08, a/0196/08, a/0198/08, a/0199/08, a/0201/08, a/0202/08, a/0203/08, a/0205/08, a/0206/08, a/0001/09, a/0003/09, a/0005/09, a/0006/09, a/0007/09, a/0008/09, a/0009/09, a/0011/09, a/0012/09, a/0013/09, a/0015/09, a/0016/09, a/0017/09, a/0018/09, a/0019/09, a/0020/09, a/0265/09, a/0270/09, a/0271/09, a/0273/09 and a/0274/09, comprising the second sub-group of victims, as provisionally wholly indigent pursuant to regulation 85(1) *in fine* of the Regulations of the Court, pending the outcome of the investigation into the Applicants' property and assets;

INSTRUCTS the common legal representative to provide the Registry with the necessary documents to enable it to assess whether or not the applicants comprising the third sub-group of victims¹⁵ are indigent; their signed statements authorising the Registrar or her representative to take the necessary steps with financial institutions and land registries and, where necessary, to have access to their bank accounts, and undertaking to inform the

a/0069/09, a/0070/09, a/0071/09, a/0072/09, a/0073/09, a/0074/09, a/0075/09, a/0076/09, a/0077/09, a/0078/09, a/0079/09, a/0080/09, a/0081/09, a/0082/09, a/0083/09, a/0084/09, a/0085/09, a/0086/09, a/0112/09, a/0113/09, a/0114/09, a/0115/09, a/0116/09, a/0117/09, a/0118/09, a/0119/09, a/0120/09, a/0122/09, a/0123/09, a/0124/09, a/0125/09, a/0126/09, a/0127/09, a/0128/09, a/0156/09, a/0158/09, a/0159/09, a/0162/09, a/0163/09, a/0164/09, a/0165/09, a/0166/09, a/0167/09, a/0168/09, a/0169/09, a/0203/09, a/0206/09, a/0207/09, a/0208/09, a/0209/09, a/0210/09, a/0212/09, a/0213/09, a/0214/09, a/0217/09, a/0218/09, a/0219/09, a/0220/09, a/0221/09, a/0222/09, a/0223/09, a/0224/09, a/0225/09, a/0226/09, a/0227/09, a/0228/09, a/0229/09, a/0230/09, a/0231/09, a/0232/09, a/0233/09, a/0250/09, a/0251/09, a/0252/09, a/0253/09, a/0255/09, a/0256/09, a/0257/09, a/0275/09, a/0276/09, , /0278/09, a/0279/09, a/0280/09, a/0281/09, a/0282/09, a/0283/09, a/0288/09, a/0290/09, a/0294/09, a/0295/09, a/0296/09, a/0298/09, a/0299/09, a/0301/09, a/0302/09, a/0303/09, a/0305/09, a/0306/09, a/0307/09, a/0308/09, a/0309/09, a/0311/09, a/0313/09, a/0317/09, a/0318/09, a/0319/09, a/0320/09, a/0321/09, a/0322/09, a/0323/09, a/0324/09, a/0325/09, a/0326/09, a/0327/09, a/0328/09, a/0329/09, a/0330/09, a/0331/09, a/0332/09, a/0333/09, a/0334/09, a/0336/09, a/0337/09, a/0338/09, a/0339/09, a/0343/09, a/0345/09, a/0346/09, a/0347/09, a/0348/09, a/0351/09, a/0352/09, a/0353/09, a/0354/09, a/0355/09, a/0356/09, a/0359/09, a/0360/09, a/0364/09, a/0365/09, a/0366/09, a/0367/09, a/0368/09, a/0369/09, , /0370/09, a/0371/09, a/0372/09, a/0373/09, a/0374/09, a/0375/09, a/0376/09, a/0377/09, a/0378/09, a/0379/09, a/0380/09, a/0381/09, a/0382/09, a/0383/09, a/0384/09, a/0385/09, a/0386/09, a/0387/09, a/0388/09, a/0395/09.

¹⁵ See footnote 14.

Registrar of any change in their financial circumstances; those documents should be transmitted to the Registry following the initial contact between the common legal representative's team and the applicants;

DECIDES that the legal assistance granted to those applicants deemed provisionally indigent shall be determined on a case-by-case basis in accordance with the terms of their participation, as set out by Trial Chamber II, and with the needs of the team deemed by the Registrar to be reasonably necessary for the provision of effective representation in the field and at The Hague, according to Trial Chamber II's *Order on the organisation of common legal representation of victims* of 22 July 2009;¹⁶

INVITES those applicants deemed provisionally indigent to file an application for legal assistance whenever necessary in order to take any action required to preserve their interests in the proceedings;

INFORMS the applicants referred to in the present decision that they may request the Presidency to review the decision within fifteen days of its notification, in accordance with regulation 85(3) of the Regulations of the Court;

NOTIFIES this decision to Mr Fidel Nsita Luvengika in his capacity as provisional Legal Representative of the applicants.

[signed]

Silvana Arbia
Registrar

Dated this 23 September 2009,
At The Hague, The Netherlands

¹⁶ ICC-01/04-01/07-1328, para. 17.