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Date: **3 June 2013**

TRIAL CHAMBER II

Before: Judge Bruno Cotte , Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Christine Van den Wyngaert

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

Public

**Urgent Defence Application for Extension of Page Limit for its
Defence Observations on the Decision transmitting additional legal and factual
material (regulation 55(2) and 55(3) of the Regulations of the Court)**

Source: Defence for Mr Germain Katanga

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

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**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

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Mr Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Introduction

1. The defence for Mr. Katanga (the “defence”) requests an extension of page limit for its Defence Observations on the Decision transmitting additional legal and factual material (regulation 55(2) and 55(3) of the Regulations of the Court)¹ (“Defence Observations”). In the course of writing the Defence Observations, the defence has realised that it is unable to make its arguments effectively within the page-limit set by the Regulations of the Court. It therefore requests the Trial Chamber to extend the page limit to 30 pages pursuant to Regulation 37(2) of the Regulations of the Court. The defence submits that exceptional circumstances exist that justify this request. These circumstances are elaborated upon below.

Submissions

2. In its Defence Observations, the defence needs to address several, very complex issues, such as whether the additional information provided by the Trial Chamber constitute a sufficient notification of the charges against Mr Katanga pursuant to article 67 of the Statute; whether the factual allegations suggested by the Trial Chamber can justify a conviction on the basis of article 25(3)(d) of the Statute; whether further investigations are required by the defence pursuant to Regulation 55(3) of the Regulations of the Court, and if so, which ones. These issues are essential for the Trial Chamber’s determination in its future Article 74 judgment. The Defence observations involve widespread issues of both fact and law. The defence stresses again that these proceedings are exceptional to the extent that it is the first time that a requalification of the mode of liability is suggested to occur at such a late stage of the proceedings at the ICC; this Court is still a young one and this novel issue, as well and this new mode of liability, require substantive observations from the defence, since the Trial Chamber decision will affect the outcome the trial, its fairness and expedition.
3. The general limit of 20 pages is unnecessarily restrictive in the present circumstances, where the defence is requested to file anew a kind of final brief on a different mode of liability, therefore it is only fair to allow the defence to file exhaustive submissions.
4. For these reasons, the defence submits that good cause has been shown, justifying an extension of the page limit of its Defence Observations to 30 pages.

¹ ICC-01/04-01/07-3371-tENG, 15 May 2013.

Respectfully submitted,



David HOOPER Q.C.

Dated this 3 June 2013

At London