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No.: ICC-01/04-01/07
Date: **13 September 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

Source: Defence for Mr Germain Katanga

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

The Office of the Prosecutor

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Unrepresented Victims

**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

Registrar

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 Second Observations Following the *Décision relative aux requêtes présentées par la Défense dans ses observations 3379 et 3386 des 3 et 17 juin 2013*¹ (« Defence Second Observations »). The defence intends to submit these Observations by the deadline set by the Chamber of 17th September, setting out the details of the investigations. 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 ordinary page limit of 20 pages 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 Second Observations, the defence intends to inform the Chamber of all necessary details relating to the two defence missions made between the end of July and the beginning of September 2013. The defence considers it important to provide the Chamber with all necessary information relating to these investigations and the (re-) calling of potential defence witnesses. This is a very important filing because the Chamber must carefully consider the fairness of the continuation of the proceedings against Mr. Katanga. Therefore, the defence submits that it is for the benefit of the Chamber to read a full defence report and the defence propositions as to how to proceed, rather than a summary thereof. The filing will also include citations from relevant correspondence and reports. In the view of the defence, the incorporation of such citations and discussions in the body of the text will assist the Chamber in rendering a fair decision. These matters are also essential for the Trial Chamber’s determination in its future Article 74 judgment. 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, which it can do only if the fairness of the proceedings is not jeopardised.
3. The imposition of the general limit of 20 pages in these circumstances would be unnecessarily

¹ ICC-01/04-01/07-3388, para. 62.

disadvantageous to the Chamber, the defence as well as all parties and participants concerned. 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.

Respectfully submitted,



David HOOPER Q.C.

Dated this 13 September 2013

At London