

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No.: ICC-01/04-01/07

Date: 13 March 2015

THE TRIAL CHAMBER II

Before: Judge Silvia Fernández de Gurmendi, Presiding Judge
Judge Christine Van den Wyngaert
Judge Olga Herrera Carbuca

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
*THE PROSECUTOR v. GERMAIN KATANGA***

PUBLIC

**Registry's Observations on the Legal Representative of Victims' request for
clarification ICC-01/04-01/07-3527**

Source: Registry

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

The Office of the Prosecutor
Ms Fatou Bensouda, Prosecutor

Counsel for the Defence
Mr David Hooper

Legal Representatives of the Victims
Mr Fidel Nsita Luvengika

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(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

Counsel Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**
Ms Fiona McKay

Other
Mr Pieter de Baan

The Registrar of the International Criminal Court (the “Court”);

NOTING the Registry’s Report on Applications for Reparations in accordance with Trial Chamber II’s Order of 27 August 2014 (the “Order of 27 August 2014”)¹ notified on 16 December 2014 (the “Report”),² reporting on the results of victims’ consultations on reparations held by the Registry jointly with the Legal representatives of the victims from 25 September 2014 to 17 November 2014 (the “Consultation”);

NOTING the Legal Representative of Victims’ (the “LRV”) submission notified on 13 March 2015, requesting Trial Chamber II (the “Chamber”) to clarify whether the questionnaires administered to victims for the purpose of the Report can be considered as equivalent to requests for reparations within the meaning of Rule 94 of the Rules of Procedure and Evidence (the “Request”);³

NOTING the order of the Chamber to the Registry to submit observations on the LRV’s Request by 13 April 2015 at the latest;⁴

NOTING articles 68 (1) and 75 of the Rome Statute, rule 94 and 97 of the Rules of Procedure and Evidence (the “Rules”), regulation 88 of the Regulations of the Court, and regulation 110 of the Regulations of the Registry;

¹ ICC-01/04-01/07-3508.

² ICC-01/04-01/07-3512.

³ ICC-01/04-01/07-3527.

⁴ Email from Legal Officer Chamber to Victims Participation and Reparations Section (the “VPRS”), 1 April 2015.

CONSIDERING that the Registry has so far received 127 applications for reparations linked to the case *The Prosecutor v. Germain Katanga* (the “Case”);

CONSIDERING that for the purpose of the Report, the Registry collected information from 305 participating victims and/or applicants for reparations, regarding the harm suffered and the type and modalities of reparations requested;

CONSIDERING that this information was compiled by the Registry and presented in Annex 2 of the Report;⁵

SUBMITS as follows:

1. Preliminary observations on the conduct of the Consultation and on the subsequent processing of the information collected

1. The questionnaires administered to the victims during the Consultation included questions designed to meet three main objectives set out in the Order of 27 August 2014: obtaining an update on the harm suffered; obtaining updated information on the reparations measures sought; and obtaining information concerning any measures already taken to redress the harm. Each questionnaire was completed during an individual interview which lasted one hour and a half to two hours. The information collected in the questionnaires was then recorded in a standardised way taking into account also the notes taken by the LRV and his team during the interviews, to ensure that accurate data was recorded in the VPRS database and compiled in Annex 2 of the Report.⁶ This process was carried out in consultation with the LRV.

⁵ ICC-01/04-01/07-3512-Conf-Anx2-Corr-Red.

⁶ The VPRS developed detailed internal guidelines to ensure that the information was interpreted, scored and recorded in a systematic and standardised way.

2. Registry's observations on whether the information collected could be considered as equivalent to a request for reparations

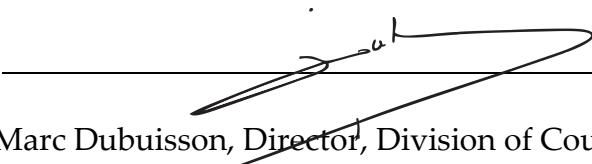
2. In light of the fact that during the Consultation the victims answered, at length, multiple questions regarding reparations in the presence of their legal representative, the Registry respectfully submits that it is not advisable to solicit victims again on the issue of reparations while there is no new information to provide to them. Returning to victims solely for the purpose of obtaining their signature on the questionnaires or for filling in a standard application form for reparations, while Rule 94 of the Rules mentions the need for a "request" for reparations, may unnecessarily expose some victims to re-traumatisation.
3. The Registry further notes that during the Consultation detailed views were expressed by victims on the harm suffered and reparations sought, in the presence of their legal representative.
4. In light of the above, the Registry respectfully proposes as follows:
 - a) The Chamber may consider the following documents as constituting a valid request for reparations pursuant to Rule 94 of the Rules:
 - (i) where an application form for reparations was presented by the victim, either in a joint application for both participation in proceedings and reparations or in a separate application for reparations, the VPRS may file this application for reparations together with a follow up form appended to it, which will include the additional information provided by the victim during the Consultation, as reported in Annex 2 of the Report;⁷
 - (ii) where an application form for participation in the proceedings was presented by the victim but no request for reparations, the VPRS may file this application for participation in the proceedings together with a follow up form appended to it, which will include the additional information provided by the victim during the Consultation, as reported in Annex 2 of the Report;

⁷ The Registry notes that a follow up form is used by the VPRS to record additional information received related to an application.

(iii) in both cases, the Registry would propose to request the LRV's confirmation that the information provided in the follow up form corresponds to the victim's request for reparations.

b) The Registry does not oppose the LRV's Request that those victims who have not been met during the Consultation and who wish to submit a request for reparations or to complete an application form for reparations which also takes into account the questions addressed to other victims in the course of the Consultation, be given this opportunity.⁸

c) The Registry stands ready to prepare and file the consolidated documents described in paragraph 4 (a) and (b), if so ordered by the Chamber.



Marc Dubuisson, Director, Division of Court Services

per delegation of

Herman von Hebel, Registrar

Dated this 13 April 2015

At The Hague, The Netherlands

⁸ ICC-01/04-01/07-3527, para. 10.