



Original: **French**

No.: ICC-01/04-01/07
Date: **1 February 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***

URGENT

Public

**Decision granting extension of time to submit Defence observations on requests
for reparations**

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
(Participation/Reparation)**

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 (“the Chamber”) of the International Criminal Court, pursuant to regulation 35(2) of the Regulations of the Court (“the Regulations”), issues the following decision.

I. Procedural history

1. On 8 May 2015, the Chamber ordered, among others, the Legal Representative of Victims (“the Legal Representative”), in consultation with the Registry, to gather and submit by 1 October 2015 all of the requests for participation and/or reparations initially presented by the victims authorised to participate in the proceedings, accompanied – where possible – by supporting documentation attesting, in particular, to the extent of the harm suffered and the causal link between the alleged harm and the crime committed, and also ordered the Registry to transmit to the Chamber and to the parties a redacted version of any other requests for reparations from victims yet to make themselves known, accompanied – where possible – by documentation supporting their requests.¹

2. On 12, 20 and 27 November 2015, the Registry transmitted to the Chamber three batches of requests for reparations² (“the Batches”), along with two reports relating to the first and second batches³ (“the First Report” and “the Second Report”). On 24 and 27 November 2015, the Registry transmitted the Batches to the Defence for

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 2015, ICC-01/04-01/07-3546-tENG, p. 9 (“the Decision of 8 May 2015”).

² “Transmission de demandes en réparation”, 12 November 2015, ICC-01/04-01/07-3614 and confidential annexes 1 to 43; “Seconde transmission de demandes en réparation”, 20 November 2015, ICC-01/04-01/07-3617 and confidential annexes 1 to 19; “Troisième transmission de demandes en réparation”, 27 November 2015, ICC-01/04-01/07-3621 and confidential annexes 1 to 33.

³ “Transmission du Rapport sur les demandes en réparation”, 17 November 2015, ICC-01/04-01/07-3616 and confidential annexes 1 and 2; “Transmission du Rapport concernant la Seconde Transmission des Demandes en Réparation”, 25 November 2015, ICC-01/04-01/07-3618 with one annex.

Germain Katanga⁴ (“the Defence” and “Mr Katanga”, respectively), as well as a redacted version of the First Report.⁵

3. On 8 December 2015, at the request of the Legal Representative, the Chamber extended to 29 February 2016 the time limit for submitting all the requests for reparations with the Registry and transmitting them to the Chamber and the Defence.⁶ Moreover, the Chamber directed the Defence to submit observations on the Batches no later than 31 October 2015, and the other requests, due to be transmitted by 29 February 2016, no later than 31 March 2016.⁷

4. On 9 December 2015, the Registry transmitted to the Defence the redacted version of the Second Report.⁸

5. On 26 January and 1 February 2016, respectively, the Registry transmitted to the Chamber and to the Defence – in redacted form for the Defence – the report on the third Batch of requests for reparations⁹ (“the Third Report”).

6. On 28 January 2016, the Defence filed a request for an extension of the time limit to 10 days after receipt of the Third Report, in redacted form, to submit observations on the Transmissions¹⁰ (“the Request”). It submitted that, as they had not received the Third Report, it would be better for the parties and the

⁴ “*Transmission de demandes en réparation à la Défense*”, 24 November 2015, ICC-01/04-01/07-3619 and redacted confidential annexes 1 to 43; “*Seconde transmission de demandes en réparation à la Défense*”, 27 November 2015, ICC-01/04-01/07-3622 and redacted confidential annexes 1 to 19; “*Troisième Transmission de Demandes en réparation à la Défense*”, 27 November 2015, ICC-01/04-01/07-3624 and redacted confidential annexes 1 to 33.

⁵ “*Transmission à la Défense du Rapport concernant la Transmission des Demandes en Réparation*”, 27 November 2015, ICC-01/04-01/07-3623 and one redacted confidential annex and one confidential annex (ICC-01/04-01/07-3616-Conf-Exp-Anxl and ICC-01/04-01/07-3616-Conf-Exp-Anx2).

⁶ “*Demande en prorogation du délai fixé par la décision ICC-01/04-01/07-3599 pour le dépôt et la transmission des demandes en réparation*”, 25 November 2015, ICC-01/04-01/07-3620; “Defence Response to the Legal Representative of Victims Second Request for an extension of time limit”, 7 December 2015, ICC-01/04-01/07-3625, para. 10 and page 7.

⁷ Decision of 8 December 2016, para. 9 and p. 7.

⁸ “*Transmission à la Défense du Rapport concernant la Seconde Transmission des Demandes en Réparation*”, 9 December 2015, ICC-01/04-01/07-3629 and confidential annex, ICC-01/04-01/07-3618-Conf-Anx-Red.

⁹ “*Transmission du Rapport concernant la Troisième Transmission des Demandes en Réparation*”, 26 January 2016, ICC-01/04-01/07-3639 and annex (ICC-01/04-01/07-3639-Conf-Exp-Anx). The redacted version of this report was notified on 1 February 2016 (ICC-01/04-01/07-3644 and annex, ICC-02/11-01/15-3639-Conf-Anx-Red).

¹⁰ “Defence Request for Extension of Time”, 28 January 2016, ICC-01-04-01/07-3641.

Chamber if it submitted all its observations together on the basis of the First, Second and Third Reports.¹¹ The Defence also informed the Chamber that it had been unable to communicate satisfactorily with Mr Katanga since his transfer to the Democratic Republic of the Congo, and argued that its work had been hampered as a result.¹² In the view of the Defence, the reasons invoked warranted an extension of time.¹³

II. ANALYSIS

7. The Chamber recalls that, according to the first sentence of regulation 35(2) of the Regulations, a Chamber may extend a time limit if good cause is shown.

8. The Chamber notes that the Registry transmitted the Third Report to the Chamber on 26 January 2016 and that the Defence filed the Request on 28 January 2016. The Chamber also notes that the redacted version of the Third Report was notified on 1 February 2016. The Chamber considers that the Third Report may be of use to the Defence for submitting observations on the Batches. Moreover, the Chamber notes the difficulties the Defence has been facing in its communications with Mr Katanga.

9. For these reasons, the Chamber finds that the Defence has shown good cause for granting the time limit extension. It therefore grants the time limit extension requested by the Defence, namely 10 days after notification of the redacted version of the Third Report.

¹¹ Request, paras. 8 and 12.

¹² *Ibid.*, para. 8.

FOR THESE REASONS, THE CHAMBER

GRANTS the Request and **ALLOWS** the Defence an extension of the time limit; and **DIRECTS** the Defence to submit its observations on the Batches by 12 February 2016.

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 1 February 2016

At The Hague, the Netherlands