

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: French

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

Date: 12 March 2015

TRIAL CHAMBER II

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

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

Public Document

**Request for clarification on the application of rule 94 of
the Rules of Procedure and Evidence**

Source: The common Legal Representative of Victims

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

Office of the Prosecutor

Ms Fatou Bensouda, Prosecutor
Mr Eric MacDonald

Counsel for the Defence of

Germain Katanga
Mr David Hooper

Legal Representatives of Victims

Mr Fidel Nsita Luvengika

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

Office of Public Counsel for Victims

**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**

Ms Fiona McKay

Other

Trust Fund for Victims

1. On 21 August 2014, the Legal Representative of Victims filed a submission in which he indicated, *inter alia*, that he has scaled up work to prepare victims' files.¹
2. On 27 August 2014, this Chamber issued an order instructing the Registry to file a report setting out, in particular, (1) detailed and up-to-date information on the harm suffered by the participating victims (or victims who have made a request for reparations)² and the reparations sought by those victims; (2) recommendations on the types and modalities of the reparations which could be awarded (including the award of reparations on an individualised or collective basis), and (3) information on any measure that may already have been taken by the Trust Fund for Victims ("the TFV") or any other organisation to repair the harm caused by the attack on Bogoro of 24 February 2003.³ In connection with the implementation of the said order, the Chamber invited the Registry to work in close consultation and collaboration with the Legal Representative.⁴
3. On 16 December 2014, the Registry filed its report in accordance with the order (the "Report").⁵
4. On 8 January 2015, the Legal Representative submitted his observations on the Registry Report.⁶ In paragraph 44 of his observations, he states:

¹ *"Requête sollicitant la fixation d'un calendrier en vue de permettre aux victimes de soumettre leurs observations sur les réparations (Articles 68, 75 et 76 du Statut)"*, ICC-01/04-01/07-3507.

² Unless otherwise stated, all subsequent references to "victims" concern the 352 victims admitted to participate and the 14 victims who have filed requests for reparations.

³ "Order instructing the Registry to report on applications for reparations", 27 August 2014, ICC-01/04-01/07-3508. See also "Order on the 'Request for an Extension of Time to Report on Applications for Reparations Pursuant to Regulation 35 of the Regulations of the Court'", 24 November 2014, ICC-01/04-01/07-3511. This decision extended the time limit to 15 December 2014.

⁴ ICC-01/04-01/07-3511, para. 8

⁵ "Registry Report on Applications for Reparations in accordance with Trial Chamber II's Order of 27 August 2014", dated 15 December 2014, transmitted on 16 December 2014, ICC-01/04-01/07-3512.

⁶ *"Observations des victimes sur les réparations (Articles 68(3) et 75 du Statut ; Règles 89 à 93 et 97 du Règlement de procédure et de preuve)"*, ICC-01/04-01/07-3514-Conf-Exp; a public redacted version was filed on 27 January 2015 and transmitted on 28 January 2015, ICC-01/04-01/07-3514.

[TRANSLATION] to date, only 131 victims (i.e. less than half) have submitted a form requesting reparations. Before the order of 27 August 2014 (document no. 3508) was issued, the Legal Representative had already begun collecting additional information from his clients so that he could submit forms requesting reparations for each victim. In the light of the information collected through consultation with victims, the Legal Representative wonders whether it is necessary to still formally submit forms requesting reparations for victims who have been consulted but have not yet formally submitted such a form.

Regarding the clarification requested

5. The Legal Representative noted in the above-mentioned submission that rule 94 of the Rules of Procedure and Evidence (“rule 94 of the Rules”) provides that “[a] victim’s request for reparations under article 75 shall be made in writing and filed with the Registrar.”⁷ This same provision requires that the request contain certain particulars. Regulation 88 of the Regulations of the Court, which concerns the application of rule 94 of the Rules, provides that the Registrar shall develop a standard form for victims to present their requests for reparations. The regulation specifies that the form is to be used by victims “to the extent possible”.
6. During consultation, the Registry and the Legal Representative gathered the necessary information on the reparations sought by over 300 participating victims. The Legal Representative therefore asks the Chamber whether it is necessary for it to receive the forms requesting reparations referred to in rule 94 of the Rules.
7. It should be noted that all of the information required by rule 94 of the Rules is contained in the questionnaires, as corrected, and in the material provided in Annex 2 of the Report.
8. In the submission of 8 January 2015, the Legal Representative opined that the Chamber could consider the questionnaires equivalent to the forms for

⁷ ICC-01/04-01/07-3514, para. 43.

requesting reparations stipulated under rule 94 of the Rules, especially given that rule 94 of the Rules does not require the form requesting reparations to be signed.

9. Such an approach would avoid the need to go back to victims who have already been consulted and oblige them to fill out a new document, which would merely repeat information already within the Chamber's possession in the questionnaires.
10. In contrast, in his above-mentioned submission, the Legal Representative deemed it necessary to continue contacting victims who had not been consulted, so as to either submit or complete a request for reparations, taking into consideration the information contained in the questionnaires used during the consultation. The Legal Representative also intends to submit, whether on his own initiative or at the request of the Chamber, any document or other material supporting his clients' cases.
11. In view of the foregoing, the Legal Representative requests clarification from the Chamber on the procedure to be followed.

RESPECTFULLY SUBMITTED.

[signed]

Mr Fidel Nsita Luvengika

Dated this 12 March 2015

At Brussels, Belgium