

**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**



Original: French

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

Date: 29 March 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***

**Public Document**

**URGENT**

**Response to the Defence request entitled "URGENT Defence Requests with  
relation to the Victims Applications"**

**Source:** The 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 for Germain  
Katanga**

Mr David Hooper

**Legal Representatives of Victims**

Mr Fidel Nsita Luvengika

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparations**

**Office of Public Counsel for Victims**

**Office of Public Counsel for the  
Defence**

**States' Representatives**

Democratic Republic of the Congo

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Ms Isabelle Guibal, Interim Head

**Other**

## **A. Introduction**

1. On 25 March 2016,<sup>1</sup> the Defence filed an urgent submission containing three requests, namely for:
  - An extension of the time limit for submitting its observations on the consolidated applications for reparations filed by the Legal Representative.
  - The lifting of redactions to the death certificates of 15 victims who died during the trial and with respect to whom on 15 March 2016 the Legal Representative submitted a request for resumption of proceedings.<sup>2</sup>
  - The disclosure by the Legal Representative of a list of any family relationships between victims who have applied for reparations.
2. The Legal Representative can only note the Defence's request for extension of time limit, in respect of which he has no objection.
3. He wishes, however, to respond to the other two Defence requests, namely the lifting of redactions to the death certificates and the disclosure of any family relationships between victims applying for reparations.

## **B. Redactions to the death certificates of the 15 victim participants who died during trial**

4. The Defence has requested the Chamber to order the Legal Representative to lift the redactions to the death certificates of the deceased people concerned. It bases its argument on the fact that no redactions were made to the death

<sup>1</sup> "URGENT Defence Requests with relation to the Victims Applications," dated 25 March 2016 and notified on 29 March 2016, ICC-01/04-01/07-3675.

<sup>2</sup> "Demande de reprise des actions introduites par les victimes a/0015/09, a/0032/08, a/0057/08, a/0166/09, a/0192/08, a/0225/09, a/0281/08, a/0282/09, a/0286/09, a/0298/09, a/0354/09, a/0361/09, a/0391/09, a/2743/10 et a/30490/15," ICC-01/04-01/07-3668-Red.

certificates on the files for reparations applications and consequently the redactions whose lifting is being requested do not comply with the Chamber's instructions.

5. The Legal Representative states, however, that there is a fundamental difference between the two categories of death certificates, hence the difference in treatment.
6. All the death certificates on the consolidated files concern people who died on the day of the attack on Bogoro. The absence of redactions in these documents is, therefore, directly justified by the need to determine the damage caused by death and its causal link with the crimes of which Germain Katanga was convicted. Accordingly, the lifting of the redactions is intended to enable the Defence to exercise its rights and address the injury claimed. It is in accordance with what is stipulated in the "Decision on the 'Defence Request for the Disclosure of Unredacted or Less Redacted Victim Applications'" of 1 September 2015.<sup>3</sup>
7. Regarding the death certificates of people who died during trial, the situation is completely different in that they are not meant to be considered as supporting documents provided in connection with applications for reparations. The death certificates concern the victims themselves and, as a result, their redacted form must be maintained with respect to the residence of the victims or of those concerned by the resumption of proceedings, in accordance with the Chamber's practice.<sup>4</sup> All the information for which the Defence requests redactions to be lifted is covered by this protection. The Defence presents no argument which could justify a change in

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<sup>3</sup> Decision on the "Defence Request for the Disclosure of Unredacted or Less Redacted Victim Applications", ICC-01/04-01/07-3583-tENG.

<sup>4</sup> See, for example, the e-mail sent by the legal officer of the Trial Chamber on 21 September 2011, authorising the redactions proposed in ICC-01/04-01/07-3162-Conf-Exp and annexes, and the corresponding filings ICC-01/04-01/07-3156-Conf-Exp-Anx1-Red and ICC-01/04-01/07-3156-Conf-Exp-Anx2-Red; see the e-mail sent by the legal officer of the Trial Chamber on 26 October 2011, authorising the redactions proposed in ICC-01/04-01/07-3186 and annexes, and the corresponding filings ICC-01/04-01/07-3156-Conf-Exp-Anx1-Red2 and ICC-01/04-01/07-3156-Conf-Exp-Anx2-Red2. See also ICC-01/04-01/07-2831 and annexes, and ICC-01/04-01/07-3515 and annexes.

the Chamber's decisions with respect to the 15 victims. Should the redactions concerning them be lifted, they would find themselves, for no valid reason, in a situation which is different from that of other victims applying for reparations including those deceased victims in respect of whom requests for resumption have already been granted.

8. The Defence request is therefore groundless.

**C. Indication of any family relationships between victims applying for reparations**

9. The Defence contends that, in the interests of the proper administration of justice, the Legal Representative should provide information regarding any family relationships between applicants for reparations. It also contends that this information is likely to prevent Germain Katanga from being compelled to repair the same loss twice, where more than one victim refers to the same injury.
10. The Legal Representative fully shares the Defence's concerns and states that his aim was to ensure that any injury claimed is personal and that it is limited, especially in the case of material damage, to reparations only for the share of that damage to which each victim may stake a claim. He states that contrary to what the Defence contends, he had, where possible, indicated the existence of parallel applications from other relatives whenever such an indication had a bearing on the processing of one or both of the files.
11. The Legal Representative states that in the days ahead he will be filing a submission in support of the applications for reparations. It will include a quick-reference table indicating the existence of another application where this is relevant to the file.
12. Moreover, the Legal Representative expresses his availability to the Chamber should it want him to provide a rundown of the family ties between the

different victims. He wishes, however, to draw the Chamber's attention to the fact that, in spite of repeated requests, he has no access to any database similar to those available to the sections of the Registry in charge of victim-related matters.

**FOR THESE REASONS, the Legal Representative RESPECTFULLY PRAYS THE CHAMBER to grant the instant request.**

[ signed ]

Mr Fidel Nsita Luvengika

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Legal Representative of Victims

Dated this 29 March 2016

At Brussels, Belgium