

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: **12 August 2016**

TRIAL CHAMBER II

Before: Judge Marc Perrin de Brichambaut, Presiding
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

Request for access to document ICC-01/04-01/07-3681-Conf

Source: The Trust Fund for Victims

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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Legal Representative of Victims

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States Representatives

Trust Fund for Victims

Mr Pieter de Baan, Executive Director,
Secretariat

REGISTRY

Registrar

Mr Herman von Hebel

**Victims Participation and Reparations
Section**

Ms Isabelle Guibal

1. Pursuant to regulation 23 *bis* (3) of the Regulations of the Court, the Trust Fund for Victims (hereinafter “Trust Fund”) respectfully requests that Trial Chamber II (hereinafter “Trial Chamber”) grant it access to document ICC-01/04-01/07-3681-Conf (hereinafter “Defence Second Observations”).

I. BACKGROUND

2. On 15 July 2015, the Trial Chamber issued an order (hereinafter “Order of 15 July 2016”)¹ instructing, *inter alia*, the Trust Fund to file observations on the monetary value of alleged harms submitted in the context of reparation requests in the *Katanga* case.² Specifically, the Trial Chamber requested that the Trust Fund to file observations “on what [it] consider[s] a fair monetary value for each type of harm, be it material, physical or psychological, suffered by the requesters”.³ The Trial Chamber informed the Trust Fund that, “for the list of the types of harm alleged”, it could *inter alia* “consult the [t]able describing links between crimes and harms suffered” (hereinafter “Table of Harms”).⁴

3. In that same Order, the Trial Chamber noted that, “in the [Defence] Second Observations, the Defence presents information on the current prices of goods or property the requesters allegedly lost during the Bogoro attack of 24 February 2003”.⁵

II. REQUEST FOR ACCESS

4. The Trust Fund recalls that it does not have access to confidential filings in the *Katanga* case, which means that it cannot access, for example, the Registry transmissions of the individual reparations requests⁶ or the confidential table containing an overview of the harms alleged submitted as an annex by the Legal Representative.⁷ Accordingly, for purposes of

¹ Trial Chamber II, Order instructing the parties and the Trust Fund for Victims to file observations on the monetary value of the alleged harm, ICC-01/04-01/07-3702-tENG.

² Order of 15 July 2016, para. 9, p. 6.

³ Order of 15 July 2016, para. 9.

⁴ Order of 15 July 2016, para. 9, referring to Annex 4 of the “Report on the implementation of Decision NO. 3549, including the identification of harm suffered by victims as a result of crimes committed by G. Katanga (article 75(1) of the Statute and regulation 38(1)(f) of the Regulations of the Court)”, 6 July 2016, ICC-01/04-01/07-3687-Anx4.

⁵ Order of 15 July 2016, para. 8.

⁶ See Order of 15 July 2016, footnote 2.

⁷ See Order of 15 July 2016, para. 5, footnote 7.

preparing the requested observations, the Trust Fund has not been able to familiarise itself with the specifics of the harms alleged by those requesting reparations.

5. In order to ensure that its observations are as helpful and responsive to the Order of 15 July 2016 as possible, and equally in the hopes of avoiding providing duplicate or irrelevant information, the Trust Fund requests that it be granted access to the Defence Second Observations. Access to this document will aid the Trust Fund in understanding, at least in general terms, which goods and property are alleged to have been lost, upon which information it can then base its observations in terms of a fair monetary value of, for example, the harm of “*prejudice materiel du fait des destructions et pillages des biens*” as identified in the Table of Harms.

6. Alternatively, in the case that the Trial Chamber considers that it is not appropriate to grant the Trust Fund access to the entire document, the Trust Fund requests access to those paragraphs containing the “information on the current prices of goods or property the requesters allegedly lost during the Bogoro attack”⁸ and any other portions of the Defence Second Observations that the Trial Chamber considers may be of assistance to the Trust Fund in preparing its observations.

FOR THE FOREGOING REASONS

The Board of Directors respectfully submits this filing.



Pieter W.I. de Baan
Executive Director of the Secretariat of the Trust Fund for Victims,
on behalf of the Board of Directors of the Trust Fund for Victims

Dated this 12 August 2016

At The Hague, The Netherlands

⁸ In the Order of 15 July 2016, these paragraphs are identified as paragraphs 36 to 38 of the Defence Second Observations.