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Date: **17 April 2015**

TRIAL CHAMBER II

Before: Judge Marc Perrin de Brichambaut, Presiding
Judge Olga Herrera Carbuccion
Judge Péter Kovacs

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

**Public
with Public Annex**

Defence Request Relating to the Trust Fund for Victims

Source: Defence for Mr Germain Katanga

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

The Office of the Prosecutor

Ms Fatou Bensouda

Mr Eric MacDonald

Counsel for the Defence for Germain

Katanga

Mr David Hooper Q.C.

Ms Caroline Buisman

Legal Representatives of Victims

Mr Fidel Nsita Luvengika

REGISTRY

Registrar

Mr Herman von Hebel

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Other

Mr Pieter de Baan (Trust Fund for Victims)

1. On 16 December 2014, the Registry filed its ‘Report on Applications for Reparations’ (the “Registry Report”).¹
2. On 27 January 2015, the Legal Representative of Victims submitted his ‘*Observations des victimes sur les réparations*’.²
3. On 1st April 2015, Trial Chamber II invited the defence for Mr Katanga (the “defence”), the Legal Representative of Victims, the Registry, the Trust Fund for Victims (the “TSF”) and the Prosecutor to submit observations, by 30 April 2015, on issues regarding the reparation of victims, including:
 - i. Victims and groups of victims eligible to benefit from reparations
 - ii. Identification of victims
 - iii. Harm
 - iv. Standard of causation
 - v. Scope of Mr Katanga’s liability for reparations
 - vi. Modalities and forms of reparations
 - vii. Objectives of reparations
 - viii. Transmission of requests for reparations to the Trust Fund
 - ix. Draft implementation plan.

The Trial Chamber also ordered the defence, the Legal Representative of Victims and the Registry to file a consolidated response to these observations by 29th May 2015.³

4. The defence, in emails sent on 16th and 25th February and 9th March 2015, requested the Trust Fund for Victims to indicate the sum of money that, according to the Registry report, has been allocated in this case for reparations, and to provide details as to the missions and projects carried out by the Trust Fund in Ituri generally, and Walendu-Bindi in particular. The defence stressed that this information was necessary so as to allow the defence to respond effectively to the recommendations contained in the Registry Report.⁴ Without some indication of

¹ ICC-01/04-01/07-3512, Registry Report on Applications for Reparations in accordance with Trial Chamber II’s Order of 27 August 2014.

² ICC-01/04-01/07-3514, *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)*.

³ ICC-01/04-01/07-3532, Ordonnance enjoignant les parties et les participants à déposer des observations pour la procédure en réparation, para. 14, p. 7.

⁴ Annex: Emails sent by the Katanga defence team to the TFV, dated 16 February, 25 February and 9 March 2015.

the extent of funds available for reparations or schemes it is difficult, if not impossible, to make practical suggestions. Any recommendations or submissions need to take into account the economic realities imposed by the available funding. Also, the extent and nature of missions and projects conducted in the area are relevant to any future disbursements and support. The provision of this information should render submissions to the Chamber more realistic and constructive. It is particularly relevant to determine the most suitable form of reparation to be allocated to the victims, i.e. individual or collective reparations. Without this information, the submissions of the parties and participants will remain abstract and the process less helpful to the Chamber.

5. The Trust Fund for Victims has, to date, neither responded to the defence requests nor acknowledged receipt of the defence's emails.
6. In the circumstances, the defence respectfully requests the Trial Chamber to order the Trust Fund for Victims to disclose, to the extent possible, the amount of money allocated or to be made available for reparations in the *Katanga* case. Such information could be disclosed to all parties and participants in the TVF observations due 30th April 2015.

Respectfully submitted,



David Hooper Q.C.

Dated this 17 April 2015,
London.