

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **French**

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

Date: **16 August 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***

Confidential

Ex parte, only available to the Registry and the Prosecutor

Order on Germain Katanga's financial situation

Order 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 Eric MacDonald

Counsel for Germain Katanga

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

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**

Other

TRIAL CHAMBER II ("the Chamber") of the International Criminal Court ("the Court"), acting pursuant to article 75 of the Rome Statute ("the Statute"), issues the following order:

I. Background

1. On 1 April 2015, the Chamber set a schedule for filing observations on the procedures to be followed for reparations.¹ On the same day, the Chamber granted leave for the filing of representations pursuant to article 75(3) of the Statute.²

2. Having been granted an extension of time,³ the parties and participants filed their observations on 15 May 2015.⁴

3. On 16 June 2015, the Defence team for Germain Katanga ("Mr Katanga" and "the Defence", respectively), and the Legal Representative of Victims filed a consolidated response to the observations of 15 May 2015.⁵ In its observations, the Defence suggests, that when determining Mr Katanga's liability for the purposes of

¹ "Order instructing the parties and participants to file observations in respect of the reparations proceedings", ICC-01/04-01/07-3532-tENG.

² "Order granting leave to file representations pursuant to article 75(3) of the Statute", 1 April 2015, ICC-01/04-01/07-3533-tENG.

³ "Decision on the 'Request by the Board of Directors for extension of time to submit Observations on Reparations Procedure'", 24 April 2015, ICC-01/04-01/07-3541-tENG; "Decision on the request by the United Nations for extension of the deadline for submitting observations in the reparations proceedings", 24 April 2015, ICC-01/04-01/07-3542-Red-tENG; "Request for an extension of the deadline to submit observations pursuant to Article 75 of the Statute", 17 April 2015, ICC-01/04-01/07-3538-Conf-Exp.

⁴ "Prosecution's Observations on the Procedure for Reparations", 30 April 2015, ICC-01/04-01/07-3544; "Observations on Reparations Procedure", 13 May 2015, ICC-01/04-01/07-3548 ("Observations of the Trust Fund"); Defence Observations on Reparations, 14 May 2015 (notified on 15 May 2015), ICC-01/04-01/07-3549; "Registry's Observations pursuant to Order ICC-01/04-01/07-3532", 15 May 2015, ICC-01/04-01/07-3553; "Observations of the victims on the principles and procedures to be applied to reparations", 15 May 2015, ICC-01/04-01/07-3555-tENG and one Annex; "United Nations Joint Submission on Reparations", 14 May 2015, ICC-01/04-01/07-3550; Queen's University Belfast's Human Rights Centre (HRC) and University of Ulster's Transitional Justice Institute (TJI) "Submission on Reparations Issues pursuant to Article 75 of the Statute", 14 May 2015, ICC-01/04-01/07-3551; "Observations of the League for Human Rights Peace and Justice (LIPADHOJ) pursuant to article 75(3) of the Statute", 14 May 2015, ICC-01/04-01/07-3552-Conf (a redacted version was filed on 29 July 2015); "Redress Trust observations pursuant to Article 75 of the Statute", 15 May 2015, ICC-01/04-01/07-3554 and two annexes.

⁵ "Consolidated response of the victims to the observations filed by the Defence", and the participants and organisations invited to file their observations on the principles and procedure for reparations, 16 June 2015, ICC-01/04-01/07-3565; "Defence Consolidated Response to the Parties, Participants and Other Interested Persons' Observations on Reparation", 16 June 2015, ICC-01/04-01/07-3564.

reparations, his indigence should be taken into account.⁶ In its observations, the Trust Fund for Victims (“the Trust Fund”), citing regulation 56 of its Regulations, and *The Prosecutor v. Thomas Lubanga Dyilo*, submits that, should Mr Katanga be considered indigent for the purposes of reparations, it will inform the Chamber of the sum of money it can provide for the purposes of implementing the reparations award.⁷

II. Analysis

4. The Chamber notes that, according to regulation 56 of the Regulations of the Trust Fund, once notified of an order awarding reparations pursuant to article 75 of the Statute, the Board of Directors shall determine whether to complement the resources collected through awards for reparations with “other resources of the Trust Fund”.

5. In the light of the foregoing, the Chamber considers that, in order to issue a reparations order pursuant to article 75 of the Statute, and enable it to take the necessary steps to finance and implement that order, the Chamber, and subsequently the Trust Fund, must be apprised of Mr Katanga’s current financial situation.

6. The Chambers considers that the Registrar is competent to examine the matter and establish whether Mr Katanga is indigent for the purposes of reparations.⁸ The Chamber further considers that the Prosecution might have useful information which could assist the Registrar in this matter.

FOR THESE REASONS, the Chamber

⁶ “Defence Consolidated Response to the Parties, Participants and Other Interested Persons’ Observations on Reparation”, 16 June 2015, ICC-01/04-01/07-3564, para. 86; “Defence observations on Reparations”, dated 14 May 2015 notified on 15 May 2016, ICC-01/04-01/07-3549, paras. 72-73.

⁷ Observations of the Trust Fund, paras. 127-128.

⁸ See, for example, *The Prosecutor v. Thomas Lubanga Dyilo*, “Order concerning Thomas Lubanga Dyilo’s financial situation”, dated 18 November 2015 and notified on 20 November 2015, ICC-01/04-01/06-3182-Conf-Exp-tENG, para. 6; See also, *The Prosecutor v. Thomas Lubanga Dyilo*, “Second order on the financial situation of Thomas Lubanga Dyilo”, 25 January 2016, ICC-01/04-01/06-3192-Conf-Exp-tENG.

INSTRUCTS the Registrar to review Mr Katanga's financial situation and to report back to the Chamber by 14 October 2016; and

INSTRUCTS the Prosecution to transmit to the Registry any information relevant to Mr Katanga's financial situation

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 16 August 2016

At The Hague, the Netherlands