



Original: **French**

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

Date: **11 July 2017**

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***

URGENT

Public Document

**Decision Granting the Trust Fund for Victims Access to Document
ICC-01/04-01/07-3728-Conf-Exp-AnxII and an Extension of the Time Limit to
Submit the Draft Implementation Plan for Reparations**

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

Legal Representatives of Victims

Mr Fidel Nsita Luvengika

Counsel for Germain Katanga

Mr David Hooper

Ms Caroline Buisman

Office of Public Counsel for Victims

Ms Paolina Massidda

Trust Fund for Victims

Mr Pieter de Baan

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Others

TRIAL CHAMBER II (“Chamber”) of the International Criminal Court, in accordance with regulations 23 *bis*(3) and 35(2) of the Regulations of the Court, decides the following.

1. On 24 March 2017, the Chamber issued an Order for Reparations (“Order for Reparations”) against Germain Katanga (“Mr Katanga”), in which it accorded 297 of the 341 applicants for reparations the *locus standi* of victim and awarded them both individual and dedicated collective reparations.¹ The Chamber also instructed the Trust Fund for Victims (TFV) to prepare a draft plan (“Draft Plan”) for the implementation of the Order for Reparations to benefit those of Mr Katanga’s victims identified by the Chamber and to submit it to the Chamber by 27 June 2017.² The Chamber likewise instructed the Legal Representative of Victims (“Legal Representative”) and the Defence team for Mr Katanga (“Defence”) to submit observations on the Draft Plan by 28 July 2017.³
2. On 22 June 2017, further to the TFV’s request,⁴ the Chamber extended the time limit to 11 June 2017 for the submission of the Trust Fund’s Draft Plan, and incidentally, to 18 August 2017 to enable the Legal Representative, the Office of Public Counsel for Victims (OPCV) and the Defence to file their response to the Draft Plan.⁵
3. On 7 July 2017, the Legal Representative requested the Chamber to grant the TFV access to Annex II, which it considered would greatly facilitate the TFV’s preparation of the Draft Plan.⁶

¹ “Order for Reparations pursuant to Article 75 of the Statute”, 24 March 2017, ICC-01/04-01/07-3728-tENG, with one public annex (Annex I) and one confidential annex *ex parte*, Common Legal Representative of the Victims, the Office of Public Counsel for Victims and Defence team for Germain Katanga (Annex II).

² Order for Reparations, paras. 307 and 309, p. 107.

³ *Ibid.*, p. 119.

⁴ “Request for an extension of time”, 20 June 2017, ICC-01/04-01/07-3743.

⁵ “Decision granting the Trust Fund for Victims an extension of time for submission of the Draft Implementation Plan”, 22 June 2017, ICC-01/04-01/07-3744-tENG.

⁶ Email sent from the Legal Representative of Victims to the Chamber, at 11.39 on 7 July 2017.

4. On 10 July 2017, the OPCV informed the Chamber that it had no objections to the TFV's being granted access to Annex II;⁷ it was of the view that it was important for the TFV to consult this document to be able to design a Draft Plan best suited to the needs of the victims.

5. On the same day, the TFV filed a joinder to the Legal Representative's request to obtain access to Annex II and to request an additional extension of time for the submission of the Draft Plan ("TFV Request").⁸ The TFV submitted that, with the information it had received from the Legal Representative, the OPCV and the Victims Participation and Reparations Section, it had come up with a proposal to create various beneficiary categories based on the types of harm suffered by the victims, with details on each category and the scope of activities that could be put in place.⁹ In this regard, it argued that it needed to consult – independently, in keeping with its duty of due diligence – Annex II, the public version of which has not yet been filed,¹⁰ in order to prepare a final version of the proposal and deliver a Draft Plan that was comprehensively detailed, as required by the Chamber.¹¹ Lastly, the TFV stated that once it had reviewed Annex II, it would need an additional week to complete the proposal, depending on the information provided in this annex.¹²

6. On the same day, the OPCV¹³ and the Legal Representative of Victims¹⁴ informed the Chamber that they had no objections to the TFV's request for an extension of the time limit. The OPCV stated that it did not wish to file a response to the TFV Request.

⁷ Email from the Office of Public Counsel for Victims to the Chamber, at 8.36 on 10 July 2017.

⁸ "Joinder to the access request of the Legal Representative and Request for an extension of time", 10 July 2017, ICC-01/04-01/07-3748.

⁹ *Ibid.*, para. 13.

¹⁰ *Ibid.*, para. 11.

¹¹ *Ibid.*, para. 14.

¹² *Ibid.*, paras. 15-16.

¹³ Emails sent from the Office of Public Counsel for Victims to the Chamber, at 14.36 on 10 July 2017.

¹⁴ Email sent from the Legal Representative of Victims to the Chamber, at 14.45 on 10 July 2017.

7. On 11 July 2017, the Defence informed the Chamber that it had no objections to the request for an extension of the time limit.¹⁵

8. Considering that Annex II could be useful for the TFV in tailoring its Draft Plan to the harm suffered by the victims in the instant case, the Chamber is of the opinion that the TFV should be given access to it. The Chamber therefore instructs the Registry to reclassify Annex II as “confidential *ex parte* Legal Representative of Victims, Public Office for Victims, Defence team for Germain Katanga and Trust Fund for Victims only”.

9. With regard to the extension of the time limit, the Chamber is of the view that the TFV has shown good cause in the meaning of regulation 35(2) of the Regulations of the Court. It considers, however, that an additional two weeks should be granted to the TFV to enable it to finalize the Draft Plan, taking into account the information in Annex II. The Chamber nonetheless instructs the TFV to do its utmost to file the Draft Plan within the additional period granted, given that it is the second extension it has been granted.

10. Lastly, the Chamber also considers it appropriate to extend the time limit for the Legal Representative, the OPCV and the Defence to file their observations on the Draft Plan.

¹⁵ Email sent from the Defence to the Chamber, at 12.33 on 11 July 2017.

FOR THESE REASONS, the Chamber

GRANTS the Legal Representative Request and the TFV Request;

INSTRUCTS the Registry to reclassify Annex II with the specification “*ex parte* Legal Representative of Victims, Office of Public Counsel for Victims, Defence team for Germain Katanga and Trust Fund for Victims only”;

EXTENDS until 25 July 2017 the time limit for the TFV to submit the Draft Plan to the Chamber; and

EXTENDS until 4 September 2017 the time limit for the Legal Representative of Victims, the OPCV and the Defence to submit their observations on the Draft Plan.

Done in both English and French, the French version being authoritative.

[signed]

Judge Marc Perrin de Brichambaut

Presiding Judge

[signed]

Judge Olga Herrera Carbuccia

[signed]

Judge Péter Kovács

Dated this 11 July 2017,

At The Hague, Netherlands