

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **French**

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

Date: **28 March 2018**

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

**Decision on the Legal Representative of Victims' Request for
Leave to Reply to the Response of the Office of Public Counsel for Victims of
22 March 2018**

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

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Section

Detention Section

**Victims Participation and Reparations Other
Section**

TRIAL CHAMBER II ("Chamber") of the International Criminal Court ("Court"), acting pursuant to regulations 24(5) and 34(c) of the Regulations of the Court ("RoC"), issues the following decision.

1. On 24 March 2017, the Chamber issued its Order for Reparations ("Order for Reparations") against Germain Katanga ("Mr Katanga"), finding that 297 of the 341 applicants for reparations in the instant case had shown to the standard of proof of a balance of probabilities that they were victims of the crimes of which Mr Katanga was convicted.¹ Accordingly, the Chamber decided to award reparations in the case at hand to the 297 victims.²

2. On 8 March 2018, the Appeals Chamber issued its judgment on the appeals³ against the Order for Reparations ("Judgment on Reparations").⁴ In its Judgment, the Appeals Chamber rejected the four grounds raised by the Defence for Mr Katanga, the one ground raised by the Office of Public Counsel for Victims ("OPCV") and the second ground raised by the Legal Representative of Victims ("Legal Representative").⁵ After examining the first ground raised by the Legal Representative, the Appeals Chamber decided to remand the matter to the Chamber for it to reassess the causal nexus between the psychological harm suffered by the five applicants and the crimes of which Mr Katanga was convicted, and to

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 and one confidential annex *ex parte*, Legal Representative of Victims, Office of Public Counsel for Victims and Defence team for Germain Katanga, p. 118.

² Order for Reparations, p. 118.

³ "Defence Notice of Appeal against the '*Ordonnance de réparation en vertu de l'article 75 du Statut*'", 26 April 2017, ICC-01/04-01/07-3738; "Notice of Appeal against the Reparations Order and its Annex II issued in accordance with article 75 of the Statute on 24 March 2017", 26 April 2017, ICC-01/04-01/07-3739; "Notice of Appeal against the '*Ordonnance de réparation en vertu de l'article 75 du Statut*' and its Annex II", 25 April 2017, ICC-01/04-01/07-3737-tENG.

⁴ "Judgment on the appeals against the order of Trial Chamber II of 24 March 2017 entitled '*Order for Reparations pursuant to Article 75 of the Statute*'", 8 March 2018, ICC-01/04-01/07-3778-Conf. A public redacted version of the Judgment was issued on 9 March 2018.

⁵ Judgment on Reparations, paras. 92, 127, 149, 186, 191 and 220.

determine, on the basis of the findings of this review, whether one or more of the applicants concerned should be awarded reparations.⁶

3. On 19 March 2018, the Legal Representative filed submissions relating to compliance with standards of professional conduct by the parties and by the Trust Fund for Victims in the reparations proceedings ("Submissions of 19 March 2018").⁷

4. On 22 March 2018, the OPCV filed a response to the Submissions of 19 March 2018 ("OPCV Response") in which it requested the Chamber to reject the Submissions.⁸

5. On 23 March 2018, the Legal Representative filed a request for leave to reply to the OPCV Response ("Request for Leave to Reply").⁹

6. On 26 March 2018, the OPCV filed a response to the Request for Leave to Reply in which it sought that the Request be rejected.¹⁰

7. The Chamber recalls regulation 24(5) of the RoC, which provides:

Participants may only reply to a response with the leave of the Chamber, unless otherwise provided in these Regulations. Unless otherwise permitted by the Chamber, a reply must be limited to new issues raised in the response which the replying participant could not reasonably have anticipated.

8. In the Chamber's view, the points that the Legal Representative wishes to raise in a reply do not concern new issues under regulation 24(5) of the RoC. It also

⁶ Judgment on Reparations, paras. 239 and 260.

⁷ "Soumission du Représentant légal relative à l'observation des règles de déontologie par les parties et par le Fonds au profit des victimes dans la procédure en réparation", 19 March 2018, ICC-01/04-01/07-3780-Conf with a confidential annex. The Legal Representative filed a public redacted version of the submission on 20 March 2018.

⁸ "Réponse du BCPV à la soumission du Représentant légal relative à l'observation des règles de déontologie par les parties et par le Fonds au profit des victimes dans la procédure en réparation", 22 March 2018, ICC-01/04-01/07-3783-Conf.

⁹ "Demande de réplique au document en réponse à la Soumission du Représentant légal relative à l'observation des règles de déontologie par les parties et par le Fonds au profit des victimes dans la procédure en réparation (ICC-01/04-01/07-3780-Red)", 23 March 2018, ICC-01/04-01/07-3784-Conf.

¹⁰ "Réponse du BCPV à la 'Demande de répliquer au document en réponse à la soumission du Représentant légal relative à l'observation des règles de déontologie par les parties et par le Fonds au profit des victimes dans la procédure en réparation'", 26 March 2018, ICC-01/04-01/07-3785-Conf.

considers that it has all the information necessary to take a decision on the Submissions of 19 March 2018.

FOR THESE REASONS, the Chamber

REJECTS the Request for Leave to Reply.

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 28 March 2018

At The Hague, Netherlands