

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/04-01/07**
Date: **9 February 2022**

TRIAL CHAMBER II

Before: Judge Chang-ho Chung, Presiding Judge
Judge Péter Kovács
Judge María del Socorro Flores Liera

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

Public

Order on the reclassification of documents

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 the Defence

Mr David Hooper

Ms Caroline Buisman

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Trust Fund for Victims

Mr Pieter de Baan

Trial Chamber II of the International Criminal Court (the ‘Chamber’), in the case of *The Prosecutor v. Germain Katanga* (the ‘Katanga case’), having regard to article 75 of the Rome Statute, rule 96 of the Rules of Procedure and Evidence (‘Rules’), and regulation 23*bis* of the Regulations of the Court (‘Regulations’) issues this Order on the reclassification of documents (the ‘Order’).

1. On 5 May 2021, the Chamber issued a Decision, *inter alia*, ordering the parties, the Registry, and the Trust Fund for Victims (‘TFV’) to review their underlying submissions and generally all their previous submissions in the case record of the reparation proceedings and either file public redacted versions, request the reclassification as public, or justify the need to maintain the current classification of all their filings and annexes currently classified as confidential or confidential *ex parte*, by 7 June 2021, at the latest.¹
2. On 7 June 2021, the Registry filed its submissions which entail its views on the review of confidential and confidential *ex parte* filings and annexes on the case record with regards to (1) victims’ participation and reparations; (2) external relations; and (3) counsel support matters.²
3. On the same day, the Legal Representative for Victims (LRV) informed the Chamber³ of his inability to comply with the deadline due to the number of existing documents, the willingness to proceed effectively and prudently, and the need to coordinate with the TFV, and requested a two-week extension of the deadline (‘Request’). TFV submitted a response supporting the LRV’s request on the basis that the TFV and the LRV should have a common approach to all filings and matters that could arise in the case file.⁴ The Chamber granted the Request and extended the initial deadline to 21 June 2021.⁵
4. On 21 June 2021, the LRV and the TFV filed their submissions requesting the reclassification as public of certain documents, and indicating documents for which they would submit public redacted versions as well as documents for which the current

¹ Decision on requests related to the implementation of collective reparations, 5 May 2021, ICC-01/04-01/07-3881-Conf, para. 27.

² Registry Submissions related to the Decision on requests related to the implementation of collective reparations (‘Registry filing’), 7 June 2021, ICC-01/04-01/07-3882-Conf-Exp.

³ Email to the Chamber from the LRV, 7 June 2021, at 14:21 hrs.

⁴ Email to the Chamber from the TFV, 7 June 2021, at 14:54 hrs.

⁵ Email from the Chamber on 7 June 2021, at 15:39 hrs.

classification as confidential and confidential *ex parte* should be maintained.⁶ The OPCV and the Defence did not submit any filings.

5. Noting the submissions and filings made in compliance with the Decision referred above, and pursuant to regulation 23*bis*(3) of the Regulations, the Chamber hereby orders the reclassification as public, without redactions, of the following:

A. Filings from the LRV, Registry, and TFV:

- i. ICC-01/04-01/07-3863-Conf;
- ii. ICC-01/04-01/07-3858-Conf;
- iii. ICC-01/04-01/07-3856-Conf;
- iv. ICC-01/04-01/07-3853-Conf;
- v. ICC-01/04-01/07-3852-Conf;
- vi. ICC-01/04-01/07-3851-Conf;
- vii. ICC-01/04-01/07-3845-Conf;
- viii. ICC-01/04-01/07-3843-Conf;
- ix. ICC-01/04-01/07-3839-Conf;
- x. ICC-01/04-01/07-3837-Conf;
- xi. ICC-01/04-01/07-3835-Conf;
- xii. ICC-01/04-01/07-3834-Conf;
- xiii. ICC-01/04-01/07- 3832-Conf;
- xiv. ICC-01/04-01/07- 3827-Conf;
- xv. ICC-01/04-01/07- 3826-Conf;
- xvi. ICC-01/04-01/07- 3818-Conf;
- xvii. ICC-01/04-01/07-3815-Conf;
- xviii. ICC-01/04-01/07-3815-Conf-Anx1 to ICC-01/04-01/07-3815-Conf-Anx4;

⁶ Soumission relative à la publicité de la procédure, 21 June 2021 ('LRV filing'), [ICC-01/04-01/07-3883](#); Trust Fund for Victims' Request for Reclassification ('TFV Request'), 21 June 2021, [ICC-01/04-01/07-3884](#).

- xix. ICC-01/04-01/07-3811-Conf;
- xx. ICC-01/04-01/07-3811-Conf-AnxA;
- xxi. ICC-01/04-01/07-3810-Conf;
- xxii. ICC-01/04-01/07-3810-Conf-Anx1;
- xxiii. ICC-01/04-01/07-3775-Conf-Exp-Anx1 to ICC-01/04-01/07-3775-Conf-Exp-Anx3;
- xxiv. ICC-01/04-01/07-3773-Conf;
- xxv. ICC-01/04-01/07-3772-Conf;
- xxvi. ICC-01/04-01/07-3770-Conf;
- xxvii. ICC-01/04-01/07-3767-Conf;
- xxviii. ICC-01/04-01/07-3751-Conf;
- xxix. ICC-01/04-01/07-3751-Conf-Anx1;
- xxx. ICC-01/04-01/07-3742-Conf-Exp;
- xxxi. ICC-01/04-01/07-3731-Conf-Exp;
- xxxii. ICC-01/04-01/07-3616-Conf-Anx2;
- xxxiii. ICC-01/04-01/07-3512-Conf-Anx3.

B. Decisions:

- i. ICC-01/04-01/07-3874-Conf and ICC-01/04-01/07-3874-Conf-tENG;
- ii. ICC-01/04-01/07-3859-Conf and ICC-01/04-01/07-3859-Conf-tENG;
- iii. ICC-01/04-01/07-3855-Conf and ICC-01/04-01/07-3855-Conf-tENG;
- iv. ICC-01/04-01/07-3854-Conf;
- v. ICC-01/04-01/07-3844-Conf;
- vi. ICC-01/04-01/07-3842-Conf and ICC-01/04-01/07-3842-Conf-tENG;
- vii. ICC-01/04-01/07-3841-Conf and ICC-01/04-01/07-3841-Conf-tENG;
- viii. ICC-01/04-01/07-3824-Conf;
- ix. ICC-01/04-01/07-3802-Conf and ICC-01/04-01/07-3802-Conf-tENG;

- x. ICC-01/04-01/07-3786-Conf and ICC-01/04-01/07-3786-Conf-tENG;
- xi. ICC-01/04-01/07-3777-Conf-Exp and ICC-01/04-01/07-3777-Conf-Exp-tENG;
- xii. ICC-01/04-01/07-3705-Exp-Anx and ICC-01/04-01/07-3705-Exp-Anx-tENG;
- xiii. ICC-01/04-01/07-3704-Conf-Exp and ICC-01/04-01/07-3704-Conf-Exp-tENG.

6. Having reviewed the factual and legal basis provided by the LRV, Registry, and TFV justifying the need to maintain the confidentiality of a series of documents,⁷ in light of the applicable legal framework, the Chamber is satisfied that the basis for the classification of the following documents as confidential and confidential *ex parte* continues to exist and should therefore be maintained:

- i. ICC-01/04-01/07-3879-Conf-AnxA;
- ii. ICC-01/04-01/07-3877-Conf-Exp-Anx;
- iii. ICC-01/04-01/07-3871-Conf-Anx1;
- iv. ICC-01/04-01/07-3871-Conf-Anx2;
- v. ICC-01/04-01/07-3851-Conf-Exp-Anx1;
- vi. ICC-01/04-01/07-3849-Conf-Exp;
- vii. ICC-01/04-01/07-3849-Conf-Exp-AnxI to ICC-01/04-01/07-3849-Conf-Exp-AnxXVI;
- viii. ICC-01/04-01/07-3836-Conf-Exp-AnxA-Red;
- ix. ICC-01/04-01/07-3836-Conf-Exp-AnxB-Red;
- x. ICC-01/04-01/07-3800-Conf-Exp;
- xi. ICC-01/04-01/07-3800-Conf-Exp-Anx;
- xii. ICC-01/04-01/07-3799-Conf-Exp;

⁷ LRV filing, [ICC-01/04-01/07-3883](#), para. 8; Registry filing, ICC-01/04-01/07-3882-Conf-Exp; TFV Request, [ICC-01/04-01/07-3884](#), para. 6.

- xiii. ICC-01/04-01/07-3799-Conf-Exp-AnxI to ICC-01/04-01/07-3799-Conf-Exp-AnxIII;
- xiv. ICC-01/04-01/07-3787-Conf-Exp;
- xv. ICC-01/04-01/07-3787-Conf-Exp-AnxI;
- xvi. ICC-01/04-01/07-3787-Conf-Exp-AnxII;
- xvii. ICC-01/04-01/07-3775-Conf-Exp-Anx4;
- xviii. ICC-01/04-01/07-3772-Exp-AnxA;
- xix. ICC-01/04-01/07-3751-Conf-Exp-Anx3 to ICC-01/04-01/07-3751-Conf-Exp-Anx5;
- xx. ICC-01/04-01/07-3742-Conf-Exp-Anx;
- xxi. ICC-01/04-01/07-3717-Conf-Exp-Anx1;
- xxii. ICC-01/04-01/07-3717-Conf-Exp-Anx2;
- xxiii. ICC-01/04-01/07-3677-Conf-Exp-Anx;
- xxiv. ICC-01/04-01/07-3677-Conf-Anx-Red;
- xxv. ICC-01/04-01/07-3672-Conf-Exp-Anx1;
- xxvi. ICC-01/04-01/07-3672-Conf-Exp-Anx1-Red;
- xxvii. ICC-01/04-01/07-3664-Conf-Exp-Anx1 to ICC-01/04-01/07-3664-Conf-Exp-Anx15;
- xxviii. ICC-01/04-01/07-3664-Conf-Anx1-Red to ICC-01/04-01/07-3664-Conf-Anx15-Red;
- xxix. ICC-01/04-01/07-3661-Conf-Exp-Anx1 to ICC-01/04-01/07-3661-Conf-Exp-Anx80;
- xxx. ICC-01/04-01/07-3661-Conf-Anx1-Red to ICC-01/04-01/07-3661-Conf-Anx80-Red;
- xxxi. ICC-01/04-01/07-3656-Conf-Exp-Anx1 to ICC-01/04-01/07-3656-Conf-Exp-Anx85;
- xxxii. ICC-01/04-01/07-3656-Conf-Anx1-Red to ICC-01/04-01/07-3656-Conf-Anx85-Red;

- xxxiii. ICC-01/04-01/07-3646-Conf-Exp-Anx1 to ICC-01/04-01/07-3646-Conf-Exp-Anx35;
- xxxiv. ICC-01/04-01/07-3646-Conf-Exp-Anx1-Red to ICC-01/04-01/07-3646-Conf-Exp-Anx35-Red;
- xxxv. ICC-01/04-01/07-3639-Conf-Exp-Anx;
- xxxvi. ICC-01/04-01/07-3639-Conf-Anx-Red;
- xxxvii. ICC-01/04-01/07-3621-Conf-Exp-Anx1 to ICC-01/04-01/07-3621-Conf-Exp-Anx33;
- xxxviii. ICC-01/04-01/07-3621-Conf-Exp-Anx1-Red to ICC-01/04-01/07-3621-Conf-Exp-Anx33-Red;
- xxxix. ICC-01/04-01/07-3621-Conf-Anx27-Red2 to ICC-01/04-01/07-3621-Conf-Anx33-Red2;
 - xl. ICC-01/04-01/07-3618-Conf-Exp-Anx;
 - xli. ICC-01/04-01/07-3618-Conf-Anx-Red;
 - xl.ii. ICC-01/04-01/07-3617-Conf-Exp-Anx1 to ICC-01/04-01/07-3617-Conf-Exp-Anx19;
 - xl.iii. ICC-01/04-01/07-3617-Conf-Exp-Anx1-Red to ICC-01/04-01/07-3617-Conf-Exp-Anx19-Red;
 - xl.iv. ICC-01/04-01/07-3617-Conf-Anx17-Red2 to ICC-01/04-01/07-3617-Conf-Anx19-Red2;
 - xl.v. ICC-01/04-01/07-3616-Conf-Exp-Anx1;
 - xl.vi. ICC-01/04-01/07-3616-Conf-Exp-Anx1-Red;
 - xl.vii. ICC-01/04-01/07-3614-Conf-Exp-Anx1 to ICC-01/04-01/07-3614-Conf-Exp-Anx43;
 - xl.viii. ICC-01/04-01/07-3614-Conf-Exp-Anx1-Red to ICC-01/04-01/07-3614-Conf-Exp-Anx43-Red;
 - xl.ix. ICC-01/04-01/07-3614-Conf-Anx1-Red2 to ICC-01/04-01/07-3614-Conf-Anx4-Red2;

1. ICC-01/04-01/07-3614-Conf-Anx8-Red2 to ICC-01/04-01/07-3614-Conf-Anx22-Red2;
- li. ICC-01/04-01/07-3556-Conf-Exp-Anx;
- lii. ICC-01/04-01/07-3512-Conf-Exp-Anx2.

7. Noting that no justification has been provided for the current classification of certain filings, the Chamber hereby directs the LRV, the OPCV, and the Defence to file public redacted versions, lesser redacted versions of the public redacted versions, request the reclassification as public, or justify the need to maintain the current classification of the following documents by 9 March 2022, at the latest:

A. Filings from the LRV:

- i. ICC-01/04-01/07-3864-Red;
- ii. ICC-01/04-01/07-3862-Red;
- iii. ICC-01/04-01/07-3820-Red;
- iv. ICC-01/04-01/07-3819-Red;
- v. ICC-01/04-01/07-3793-Red;
- vi. ICC-01/04-01/07-3792-Red;
- vii. ICC-01/04-01/07-3784-Conf;
- viii. ICC-01/04-01/07-3774-Red;
- ix. ICC-01/04-01/07-3763-Red;
- x. ICC-01/04-01/07-3670-Conf-Corr.

B. Filings from the OPCV:

- i. ICC-01/04-01/07-3838-Conf;
- ii. ICC-01/04-01/07-3812-Conf;
- iii. ICC-01/04-01/07-3808-Conf;
- iv. ICC-01/04-01/07-3796-Conf;
- v. ICC-01/04-01/07-3789-Red2;
- vi. ICC-01/04-01/07-3785-Conf;
- vii. ICC-01/04-01/07-3783-Conf.

C. Filings from the Defence:

- i. ICC-01/04-01/07-3798-Conf;
- ii. ICC-01/04-01/07-3795-Conf;
- iii. ICC-01/04-01/07-3790-Conf.

8. In order to give full effect to the principle of publicity of the reparations proceedings, the Chamber hereby reiterates its order for the parties, the Registry, and the TFV to continue to review their case record and either file public redacted versions or request the reclassification as public of their documents as soon as the basis for their current classification no longer exists.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY,

ORDERS the reclassification as public, without redactions, of filings: ICC-01/04-01/07-3863-Conf; ICC-01/04-01/07-3858-Conf; ICC-01/04-01/07-3856-Conf; ICC-01/04-01/07-3853-Conf; ICC-01/04-01/07-3852-Conf; ICC-01/04-01/07-3851-Conf; ICC-01/04-01/07-3845-Conf; ICC-01/04-01/07-3843-Conf; ICC-01/04-01/07-3839-Conf; ICC-01/04-01/07-3837-Conf; ICC-01/04-01/07-3835-Conf; ICC-01/04-01/07-3834-Conf; ICC-01/04-01/07- 3832-Conf; ICC-01/04-01/07- 3827-Conf; ICC-01/04-01/07- 3826-Conf; ICC-01/04-01/07- 3818-Conf; ICC-01/04-01/07-3815-Conf; ICC-01/04-01/07-3815-Conf-Anx1 to ICC-01/04-01/07-3815-Conf-Anx4; ICC-01/04-01/07-3811-Conf; ICC-01/04-01/07-3811-Conf-AnxA; ICC-01/04-01/07-3810-Conf; ICC-01/04-01/07-3810-Conf-Anx1; ICC-01/04-01/07-3775-Conf-Exp-Anx1 to ICC-01/04-01/07-3775-Conf-Exp-Anx3; ICC-01/04-01/07-3773-Conf; ICC-01/04-01/07-3772-Conf; ICC-01/04-01/07-3770-Conf; ICC-01/04-01/07-3767-Conf; ICC-01/04-01/07-3751-Conf; ICC-01/04-01/07-3751-Conf-Anx1; ICC-01/04-01/07-3742-Conf-Exp; ICC-01/04-01/07-3731-Conf-Exp; ICC-01/04-01/07-3616-Conf-Anx2; and ICC-01/04-01/07-3512-Conf-Anx3.

ORDERS the reclassification as public, without redactions, of decisions: ICC-01/04-01/07-3874-Conf and ICC-01/04-01/07-3874-Conf-tENG; ICC-01/04-01/07-3859-Conf and ICC-01/04-01/07-3859-Conf-tENG; ICC-01/04-01/07-3855-Conf and ICC-01/04-01/07-3855-Conf-tENG; ICC-01/04-01/07-3854-Conf; ICC-01/04-01/07-3844-Conf; ICC-01/04-01/07-3842-Conf and ICC-01/04-01/07-3842-Conf-tENG; ICC-01/04-01/07-3841-Conf and ICC-01/04-01/07-3841-Conf-tENG; ICC-01/04-01/07-3824-Conf; ICC-01/04-01/07-3802-Conf and ICC-01/04-01/07-3802-Conf-tENG; ICC-01/04-01/07-3786-Conf and ICC-01/04-01/07-3786-Conf-tENG; ICC-01/04-01/07-3777-Conf-Exp and ICC-01/04-01/07-3777-Conf-Exp-tENG; ICC-01/04-01/07-3705-Exp-Anx and ICC-01/04-01/07-3705-Exp-Anx-tENG; and ICC-01/04-01/07-3704-Conf-Exp and ICC-01/04-01/07-3704-Conf-Exp-tENG;

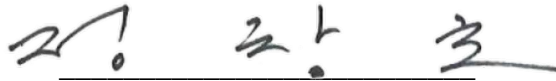
ORDERS that the current classification should be maintained for filings: ICC-01/04-01/07-3879-Conf-AnxA; ICC-01/04-01/07-3877-Conf-Exp-Anx; ICC-01/04-01/07-3871-Conf-

Anx1; ICC-01/04-01/07-3871-Conf-Anx2; ICC-01/04-01/07-3851-Conf-Exp-Anx1; ICC-01/04-01/07-3849-Conf-Exp; ICC-01/04-01/07-3849-Conf-Exp-AnxI to ICC-01/04-01/07-3849-Conf-Exp-AnxXVI; ICC-01/04-01/07-3836-Conf-Exp-AnxA-Red; ICC-01/04-01/07-3836-Conf-Exp-AnxB-Red; ICC-01/04-01/07-3800-Conf-Exp; ICC-01/04-01/07-3800-Conf-Exp-Anx; ICC-01/04-01/07-3799-Conf-Exp; ICC-01/04-01/07-3799-Conf-Exp-AnxI to ICC-01/04-01/07-3799-Conf-Exp-AnxIII; ICC-01/04-01/07-3787-Conf-Exp; ICC-01/04-01/07-3787-Conf-Exp-AnxI; ICC-01/04-01/07-3787-Conf-Exp-AnxII; ICC-01/04-01/07-3775-Conf-Exp-Anx4; ICC-01/04-01/07-3772-Exp-AnxA; ICC-01/04-01/07-3751-Conf-Exp-Anx3 to ICC-01/04-01/07-3751-Conf-Exp-Anx5; ICC-01/04-01/07-3742-Conf-Exp-Anx; ICC-01/04-01/07-3717-Conf-Exp-Anx1; ICC-01/04-01/07-3717-Conf-Exp-Anx2; ICC-01/04-01/07-3677-Conf-Exp-Anx; ICC-01/04-01/07-3677-Conf-Anx-Red; ICC-01/04-01/07-3672-Conf-Exp-Anx1; ICC-01/04-01/07-3672-Conf-Exp-Anx1-Red; ICC-01/04-01/07-3664-Conf-Exp-Anx1 to ICC-01/04-01/07-3664-Conf-Exp-Anx15; ICC-01/04-01/07-3664-Conf-Anx1-Red to ICC-01/04-01/07-3664-Conf-Anx15-Red; ICC-01/04-01/07-3661-Conf-Exp-Anx1 to ICC-01/04-01/07-3661-Conf-Exp-Anx80; ICC-01/04-01/07-3661-Conf-Anx1-Red to ICC-01/04-01/07-3661-Conf-Anx80-Red; ICC-01/04-01/07-3656-Conf-Exp-Anx1 to ICC-01/04-01/07-3656-Conf-Exp-Anx85; ICC-01/04-01/07-3656-Conf-Anx1-Red to ICC-01/04-01/07-3656-Conf-Anx85-Red; ICC-01/04-01/07-3646-Conf-Exp-Anx1 to ICC-01/04-01/07-3646-Conf-Exp-Anx35; ICC-01/04-01/07-3646-Conf-Exp-Anx1-Red to ICC-01/04-01/07-3646-Conf-Exp-Anx35-Red; ICC-01/04-01/07-3639-Conf-Exp-Anx; ICC-01/04-01/07-3639-Conf-Anx-Red; ICC-01/04-01/07-3621-Conf-Exp-Anx1 to ICC-01/04-01/07-3621-Conf-Exp-Anx33; ICC-01/04-01/07-3621-Conf-Exp-Anx1-Red to ICC-01/04-01/07-3621-Conf-Exp-Anx33-Red; ICC-01/04-01/07-3621-Conf-Anx27-Red2 to ICC-01/04-01/07-3621-Conf-Anx33-Red2; ICC-01/04-01/07-3618-Conf-Exp-Anx; ICC-01/04-01/07-3618-Conf-Anx-Red; ICC-01/04-01/07-3617-Conf-Exp-Anx1 to ICC-01/04-01/07-3617-Conf-Exp-Anx19; ICC-01/04-01/07-3617-Conf-Exp-Anx1-Red to ICC-01/04-01/07-3617-Conf-Exp-Anx19-Red; ICC-01/04-01/07-3617-Conf-Anx17-Red2 to ICC-01/04-01/07-3617-Conf-Anx19-Red2; ICC-01/04-01/07-3616-Conf-Exp-Anx1; ICC-01/04-01/07-3616-Conf-Exp-Anx1-Red; ICC-01/04-01/07-3614-Conf-Exp-Anx1 to ICC-01/04-01/07-3614-Conf-Exp-Anx43; ICC-01/04-01/07-3614-Conf-Exp-Anx1-Red to ICC-01/04-01/07-3614-Conf-Exp-Anx43-Red; ICC-01/04-01/07-3614-Conf-Anx1-Red2 to ICC-01/04-01/07-3614-Conf-Anx4-Red2; ICC-01/04-01/07-3614-Conf-Anx8-Red2 to ICC-01/04-01/07-3614-Conf-Anx22-Red2; ICC-01/04-01/07-3556-Conf-Exp-Anx; ICC-01/04-01/07-3512-Conf-Exp-Anx2;

DIRECTS the LRV, the OPCV, and the Defence to file public redacted versions, lesser redacted versions of the public redacted versions, request the reclassification as public, or justify the need to maintain the current classification of the documents referred to at paragraph 7 above, by 9 March 2022, at the latest.

REITERATES its order for the parties, the Registry, and the TFV to continue to review their case record and either file public redacted versions or request the reclassification as public of their documents as soon as the basis for their current classification no longer exists.

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



Judge Chang-ho Chung, Presiding Judge



Judge Péter Kovács



Judge María del Socorro Flores Liera

Dated this Wednesday, 9 February 2022

At The Hague, The Netherlands