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

Public Document

**Request for an extension of the time limit for filing and transmitting applications
for reparations set by Decision ICC-01/04-01/07-3546**

Source: Legal Representative of Victims

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

Office of the Prosecutor

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Legal Representatives of Victims

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Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

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REGISTRY

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Detention Section

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Other

A. Procedural history

1. On 8 May 2015, Trial Chamber II (“Chamber”) issued a Decision on the request for clarification concerning the application of rule 94 of the Rules of Procedure and Evidence and future stages of the proceedings (“Decision No. 3546”).¹
2. In that Decision, the Legal Representative, in consultation with the Registry, was ordered:
 - to file by 1 October 2015 the consolidated documents for each of the 305 applicants met during consultation with the Registry and the Legal Representative in the autumn of 2014, and any other information deemed necessary; and
 - to submit by 1 October 2015 any request for reparations or any other information needed to complete the reparations requests of victims authorized to participate in the proceedings but who were not met during the consultation with the Registry and the Legal Representative.²
3. The Decision also ordered the Registry to transmit to the Chamber and to the parties a redacted version of any other request for reparations by 1 October 2015. The Decision stated that these requests had to be accompanied – where possible – by supporting documentation attesting to the extent of the harm suffered and the causal link between the alleged harm and the crime committed.³
4. On 1 September 2015, the Chamber issued the “Decision on the ‘Defence Request for the Disclosure of Unredacted or Less Redacted Victim Applications’”.⁴ The Decision lays out the principles to be applied to redactions in respect of the three types of information for which the Defence requested the lifting of redactions in the requests for participation and/or

¹ “Decision on the ‘Demande de clarification concernant la mise en œuvre de la Règle 94 du Règlement de procédure et de preuve’ and future stages of the proceedings”, ICC-01/04-01/07-3546-tENG.

² ICC-01/04-01/07-3546-tENG, operative part of the Decision.

³ ICC-01/04-01/07-3546-tENG, operative part of the Decision and para. 19.

⁴ ICC-01/04-01/07-3583-tENG.

reparations (the identity of intermediaries, the identity of the person(s) killed and their link with the victim and information concerning the attack on Bogoro and the harm suffered by victims). In its Decision, the Chamber stated that the principles it had defined were also applicable to new applications for reparations.

5. The Chamber also granted the Defence one month from 1 October 2015 to file observations on the “Consolidated Document containing the applications to participate in the proceedings and/or reparations as well as less redacted versions of any relevant supporting material”.⁵
6. In the light of the foregoing information, the Legal Representative hereby requests an extension of the time limit of 1 October 2015 to file and transmit the requests for reparations.

B. The Request

7. In support of his Request, the Legal Representative refers to a set of circumstances that he considers to be good cause under regulation 35(2) of the Regulations of the Court.
8. The Legal Representative is, in fact, faced with a situation that leaves him with no choice but to request the above-mentioned extension, considering the time needed to implement Decision No. 3546, the Legal Representative’s responsibilities as set by other decisions, the context in the field and the tasks remaining to be accomplished for the victims.
9. Given the submissions on the reparations (observations and responses) to be filed in accordance with the Order of 1 April 2015⁶ by 16 June 2015, the Legal Representative was not immediately able to begin to implement the above-mentioned Decision No. 3546.

⁵ ICC-01/04-01/07-3583-tENG, paras. 27 and 28.

⁶ “Order granting leave to file representations pursuant to article 75(3) of the Statute”, ICC-01/04-01/07-3533-Red-tENG.

10. Furthermore, the work to be done had to be planned, the staff that would be necessary had to be assessed, followed by a recruitment process to reinforce the team, and working meetings had to be arranged with the Registry (Victims Participation and Reparations Section) to improve cooperation prior to implementation.
11. The Legal Representative and his entire team then visited Ituri in early July. A number of working days with all the parties involved (the Legal Representative's team and the contact people on the ground) were crucial for an improved understanding of the aims pursued and the result to be achieved. The intermediaries had to be briefed to identify, contact and invite, to the extent possible, all the victims participating in the proceedings to individual meetings with the team.
12. During the two months they were present in the field, the Legal Representative and his team held hundreds of individual meetings. For the success of this mission, the Legal Representative required four people to be permanently present in the field. Unfortunately, it was not possible to maintain those levels as some of those people are not now available, due to circumstances beyond their control.⁷
13. The constant meetings (including Saturdays and Sundays) continue to date.
14. The Legal Representative would point out that even for the 305 applicants identified in 2014, in-depth checks on the factual elements associated with the harm and the causal link had to be conducted before it was even possible to consider gathering the supporting documentation.
15. The Legal Representative visited the site of the attack to meet victims and prominent people from the village and to take steps to identify the different kinds of harm alleged by his clients and determine the extent of that harm.
16. A process to produce and adapt working tools had to be developed alongside the initial meetings. A methodology for the meetings was developed which

⁷ One team member became unwell as a result of the pressure of work.

ensured efficient processing of the information received, and the selection and filtering of applications.

17. A methodology for the collection of supporting documentation also had to be agreed with the various authorities involved (*groupement* chief, *localité* chiefs, traditional chief, civil registry authorities, veterinary authorities, associations of livestock producers, etc.).
18. In addition to establishing the working framework, the Legal Representative has also to deal with all the problems involved in inviting his clients to attend meetings: victims whom it is impossible to locate, errors in the dates of the meetings, mistaken identity as a result of numerous homonyms. For some victims living outside Ituri and in remote areas, it was only possible to conduct interviews by telephone.
19. Besides processing existing applications, the Legal Representative, in collaboration with the Registry ("VPRS"), identified new applicants for reparations and set up meetings with those individuals.
20. He is also filing today an application concerning a group of new victims on whom a significant amount of time will have to be spent, given the specific character of that group.
21. Furthermore, the Legal Representative was advised by the Registry that as a result of the work done to identify applicants, new potential applicants had been identified in Uganda.⁸ A site visit by the Legal Representative will be necessary once the identification process is sufficiently advanced. However, it is not possible at the moment to foresee a date for that mission.
22. While the Legal Representative's team is currently working on an "as needed" basis, it has also had to deal with urgent matters relating to the review proceedings concerning reduction of Germain Katanga's sentence.
23. By a decision of 3 August 2015, the Appeals Chamber appointed the three judges who would examine the issue of the reduction of Germain Katanga's sentence under article 110 of the Statute and rule 224 of the Rules of Procedure

⁸ E-mail from VPRS dated 4 September 2015.

and Evidence.⁹ On 13 August 2015, the three-judge panel ordered a hearing to be held on 6 October 2015 and invited the Defence, the Prosecution and the Legal Representative to file their observations on the factors set out in article 110(4) of the Statute and the criteria set out in rule 223 of the Rules of Procedure and Evidence by 11 September 2015.¹⁰ The Legal Representative filed a request for a variation in the time limits set by that order on 27 August 2015.¹¹

24. As a result of these proceedings, the Legal Representative has been obliged to dedicate a significant amount of his time, since 27 August 2015, to providing victims with information on the proceedings to be conducted before the three-judge panel of the Appeals Chamber, and to the consequences of the review of the reduction of sentence and a decision of the panel in favour of the sentenced person.
25. The Legal Representative is, moreover, consulting with the victims with a view to establishing the criteria set out in rule 223(c) and (d) of the Rules of Procedure and Evidence. That consultation has become much more problematic given the current circumstances. While the victims are being questioned about the harm they have suffered in anticipation of a decision on reparations, any talk of the possibility of Germain Katanga's early release is keenly felt.
26. There was further disruption to the Legal Representative's schedule following the site visit of the Defence team for Mr Katanga. The Defence travelled to Bogoro to meet with various prominent persons, including some participating victims (the majority of them). The Legal Representative was obliged to attend these meetings pursuant to decision ICC-01/04-01/07-2571 on the

⁹ "Decision appointing three judges of the Appeals Chamber for the review concerning reduction of sentence of Germain Katanga", ICC-01/04-01/07-3572.

¹⁰ "Scheduling order for the review concerning reduction of sentence of Mr Germain Katanga", ICC-01/04-01/07-3574.

¹¹ "*Requête urgente du Représentant legal en modification des délais pour soumettre ses observations sur la réduction de peine de Germain Katanga*", ICC-01/04-01/07-3577.

arrangements for contact between represented victims and the parties.¹² In fact, most of the individuals whom the Defence stated that it wished to meet are clients of the Legal Representative. These contact arrangements are therefore applicable to them. It was necessary to provide them with a full explanation of the purpose and aims of the Defence's visit.

27. Lastly, the Legal Representative would draw the Chamber's attention to the considerable efforts made to process and consolidate the data collected. Some documents will not be available until the team returns to Europe (documents relating to the most recent meetings).
28. The Registry will need a reasonable period from the date of transmission of the documents by the Legal Representative to process and redact them, pursuant to the decision of 1 September 2015.
29. For all the reasons set out above, the Legal Representative seeks an extension of the 1 October 2015 deadline to mid-December 2015. The Legal Representative considers that request to be entirely reasonable, given the tasks still outstanding, and in particular the need to plan yet more missions to the various sites.

FOR THESE REASONS, the Legal Representative **RESPECTFULLY REQUESTS THE CHAMBER** to allow and to grant this Request.

¹² "Decision on the arrangements for contact between represented victims and the parties", ICC-01/04-01/07-2571-tENG, 23 November 2010.

[signed]

Mr Fidel Nsita Luvengika

Common Legal Representative of Victims

Dated this 7 September 2015

At Kinshasa, DRC