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Public Document
**Decision on the Notification of the Board of Directors of the Trust
Fund for Victims in accordance with Regulation 50 of the Regulations
of the Trust Fund**

Headline

DRC—Pre-Trial Chamber I finds that activities proposed by Board of Directors of the Trust Fund for Victims do not appear *per se* to pre-determine any issue for the Court or inconsistent with fair trial rights of the accused.

Brief Summary

On 11 April 2008, Pre-Trial Chamber I found that the activities proposed by the Board of Directors of the Trust Fund for Victims (TFV) in its 24 January 2008 notification¹ under regulation 50 of the TFV Regulations² and rule 98 of the Rules of Procedure and Evidence³ did not appear *per se* to pre-determine any issue to be determined by the Court or to be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.

Pre-Trial Chamber I noted that only the Office of Public Counsel for the Defence (OPCD) had raised concerns in relation to the proposed activities. The TFV's notification, as well as the observations thereon filed by the Prosecution, the OPCD and those granted procedural status of victim in the situation of the Democratic Republic of the Congo, provided sufficient information for the Chamber to make an initial determination on the proposed projects under regulation 50(a)(ii).

Accordingly, Pre-Trial Chamber I rejected the OPCD's request for additional information on the proposed activities.

Full Summary

On 11 April 2008, Pre-Trial Chamber I found that the activities proposed by the Board of Directors of the Trust Fund for Victims (TFV) in its 24 January 2008 notification⁴ under regulation 50 of the TFV Regulations⁵ and rule 98 of the Rules of Procedure and Evidence⁶ did not appear *per se* to pre-determine any issue to be determined by the Court or to be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.

¹ 24 January 2008 Board of Director's Notification (ICC-01/04-439).

² Regulation 50 of the Regulations of the Trust Fund for Victims.

³ Rule 98 of the Rules of Procedure and Evidence.

⁴ 24 January 2008 Board of Director's Notification (ICC-01/04-439).

⁵ Regulation 50 of the Regulations of the Trust Fund for Victims.

⁶ Rule 98 of the Rules of Procedure and Evidence.

Pre-Trial Chamber I held that the responsibility of the TFV is first and foremost to ensure that sufficient funds are available in the eventuality of a Court reparation order pursuant to article 75 of the Statute⁷. Under rule 98(5) and Chapter II of the TFV Regulations, the Trust Fund has a further mandate which relates to “other resources”. The implementation of activities and projects in the execution of this further mandate, including those referred to in the notification, is, on the one hand, unrelated to Court-ordered reparations, and on the other hand, subject to the TFV’s responsibility to ensure that there are sufficient funds to comply with any reparation order made by the Court under article 75.

In light of the above and given the fact that no property or assets had yet been seized from the accused and/or suspects in the cases pending before the Court, Pre-Trial Chamber I strongly recommended that the TFV, in compliance with regulation 56 of its Regulations⁸, before resorting to other activities and projects, undertake a study evaluating and anticipating the resources which would be needed to execute an eventual reparation order pursuant to article 75 in the cases pending before the Court.

Pre-Trial Chamber I noted that only the Office of Public Counsel for the Defence (OPCD) had raised concerns in relation to the proposed activities and projects. The TFV’s notification and the observations thereon filed by the Prosecution, the OPCD and those granted the procedural status of victims in the situation of the Democratic Republic of the Congo (DRC), provided sufficient information for the Chamber to make an initial determination on the proposed activities and projects under regulation 50(a)(ii).

In the view of Pre-Trial Chamber I, the proposed activities and projects appear to be within the jurisdiction of the Court. They do not appear to have an impact on the principle of complementarity, predetermine any issue to be determined by the Court, violate the presumption of innocence, prejudice the rights of the accused or affect the fairness or impartiality of the proceedings, because:

- (i) all the proposed activities and projects are undertaken in relation to a situation for which the Court has already initiated an investigation (the DRC situation);
- (ii) the proposed activities appear unrelated to national proceedings, the proceedings concerning the investigation of the DRC situation, or to any case arising out of such investigation;
- (iii) the TFV’s mere reference to decisions of the Court in its notification, such as the decision assigning the DRC situation to Pre-Trial Chamber I, has no impact on the outcome of proceedings;
- (iv) should any beneficiaries of the proposed activities ever appear as witnesses before the Court, the competent Chamber retains, pursuant to article 69, the authority to rule on the admissibility and probative value of their testimony.

⁷ Article 75 of the ICC Statute.

⁸ Regulation 56 of the Regulations of the Trust Fund.

Pre-Trial Chamber I set the date for the Chamber to inform the TFV Board of Directors in writing on whether the activities or projects are not compatible with the criteria in regulation 50(a)(ii).

Pre-Trial Chamber I rejected the OPCD's request to receive additional information on the proposed activities.