

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: **01 December 2023**

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

Decision on the Fourteenth quarterly update report pursuant to regulation 58 of the Regulations of the Trust Fund for Victims and on the Rapport du Représentant légal consécutif à sa dernière mission et sur diverses questions relatives à l'exécution et à la clôture des réparations

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**

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Ms Paolina Massidda

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Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Trial Chamber II of the International Criminal Court (the ‘Chamber’), in the case of *The Prosecutor v. Germain Katanga*, having regard to article 75 of the Rome Statute (‘Statute’), issues this Decision on the Fourteenth quarterly update report pursuant to regulation 58 of the Regulations of the Trust Fund for Victims and on the Rapport du Représentant légal consécutif à sa dernière mission et sur diverses questions relatives à l’exécution et à la clôture des réparations Decision on the Requête du Représentant légal en vue d’une de la situation sécuritaire des victimes dans le cadre de l’exécution des réparations (the ‘Decision’).

I. PROCEDURAL HISTORY

1. On 24 March 2017, the Chamber, in its prior composition, issued the Order for Reparations pursuant to article 75 of the Statute, awarding reparations to 297 victims. The reparations consisted of a symbolic individual compensation and collective reparations, in the form of support for housing, income-generating activities, education, and psychological.¹

2. On 19 October 2023, the Trust Fund for Victims (‘TFV’) submitted its Fourteenth quarterly update report pursuant to regulation 58 of the Regulations of the Trust Fund for Victims (‘Fourteenth Report’).² The TFV provides information, *inter alia*, on external challenges, advances on the implementation of the collective reparations – income generating activities, housing assistance and psychological support – and the end of programme and closing ceremony.

3. On 25 October 2023, the Legal Representative of Victims (‘LRV’) filed the Rapport du Représentant légal consécutif à sa dernière mission et sur diverses questions relatives à l’exécution et à la clôture des réparations (‘LRV Report’).³ The LRV provides information, *inter alia*, on the implementation on reparations and its closure, the commemorative ceremony, and reiterates its concern for the security situation and its impact on the execution of reparations, its effectiveness and evaluation.

II. SUBMISSIONS

a. The TFV’s Fourteenth Report

¹ Order for Reparations pursuant to Article 75 of the Statute, 24 March 2017, [ICC-01/04-01/07-3728-tENG](#).

² Fourteenth quarterly update report pursuant to regulation 58 of the Regulations of the Trust Fund for Victims (‘Fourteenth Report’), 19 October 2023, ICC-01/04-01/07-3916-Conf, public redacted version filed on 26 October 2023, [ICC-01/04-01/07-3916-Red](#).

³ Rapport du Représentant légal consécutif à sa dernière mission et sur diverses questions relatives à l’exécution et à la clôture des réparations (‘LRV Report’), 25 October 2023, ICC-01/04-01/07-3917-Conf, public redacted version filed on the same date, [ICC-01/04-01/07-3917-Red](#).

4. In the Fourteenth Report, the TFV informs that the last modality of income-generating activities was finalised during the reporting period and, as a result, the implementation of the reparations ordered by the Court in the case concluded on 6 October 2023.⁴ The TFV further informs that, as requested by the victims, an official symbolic closure ceremony has been tentatively scheduled.⁵ Consultations are being conducted in preparation for such ceremony.⁶ As to external challenges, the TFV reports that the continued highly volatile security situation has not posed additional challenges to the programme implementation.⁷

5. Regarding income-generating activities, the TFV reports that the last beneficiary of the programme received the remainder of reparations, which resulted in the completion of the implementation of this modality and of the entire programme.⁸ As a result, 252 beneficiaries were provided with at least one item of their choice to perform various income-generating activities, such as cattle, motorcycles, fuel, general commerce, fish and small income-generating activities.⁹ Regarding housing assistance, which concluded in the previous reporting period, all beneficiaries entitled to that modality were provided with housing support.¹⁰

6. Regarding psychological support, the TFV reports that the eligible victims who were present in Ituri were given access to counsellors trained in trauma-based counselling and offered the possibility to benefit from counselling sessions, with the full implementation already finalised in previous reports.¹¹ In addition, the TFV explains that the provision of counselling sessions by members of the local community, trained by the TFV's consultants, has been designed in a way that allows for its continuation on a *pro bono* basis for an indefinite period of time after a series of initial counselling sessions.¹² The TFV reports that several beneficiaries have already profited from this program.¹³

b. The LRV Report

7. The LRV submits that, according to some of the victims he met during a mission to Bunia in August 2023, there were some obstacles to the implementation of income-generating

⁴ Fourteenth Report, [ICC-01/04-01/07-3916-Red](#), para. 6.

⁵ Fourteenth Report, [ICC-01/04-01/07-3916-Red](#), para. 6.

⁶ Fourteenth Report, [ICC-01/04-01/07-3916-Red](#), paras 14-16.

⁷ Fourteenth Report, [ICC-01/04-01/07-3916-Red](#), para. 7.

⁸ Fourteenth Report, [ICC-01/04-01/07-3916-Red](#), para. 8.

⁹ Fourteenth Report, [ICC-01/04-01/07-3916-Red](#), para. 9.

¹⁰ Fourteenth Report, [ICC-01/04-01/07-3916-Red](#), para. 10.

¹¹ Fourteenth Report, [ICC-01/04-01/07-3916-Red](#), para. 11.

¹² Fourteenth Report, [ICC-01/04-01/07-3916-Red](#), para. 12.

¹³ Fourteenth Report, [ICC-01/04-01/07-3916-Red](#), para. 12.

and housing reparations.¹⁴ The LRV explains that he communicates these concerns in a constructive manner in order to improve implementation in the future.¹⁵ The LRV notes that regarding both housing and income generating activities, numerous victims indicated not to have been able to finish their projects due to the increase in prices, with the sum estimated by the TFV having been insufficient, which resulted in many projects to be permanently suspended.¹⁶ These situations, the LRV argues, highlight one of the major challenges of reparations, namely the need for timely implementation.¹⁷ Accordingly, the LRV submits that it would be advisable to avoid lengthy implementation of future reparations, especially after a lengthy trial, as they must have a transformative effect for each of the beneficiaries, truly impacting their future.¹⁸

8. Regarding psychological support, the LRV argues that it has not concluded, as not all planned sessions could be attended by some victims and the evaluation has not been fully completed.¹⁹ Concretely, the LRV submits that the evaluation of the psychological support highlights the complexities of providing such support in the context of an armed conflict that continues to unfold.²⁰ Victims have mixed opinions on the effectiveness of the support, the LRV explains, with those who have been able to have a sufficient number of sessions having a more positive opinion, including some that expressed an initial mistrust to this modality of reparations.²¹ However, the LRV indicates that other victims have a more negative view due to factors that include: the context of war, the difficulties in reaching victims, the spread of false information, and the choice of counsellors.²²

9. Accordingly, the LRV expresses reservations about the success of the psychological support and indicates that a significant number of victims indicated that a sum of money would have helped them better than psychological support, while others indicated that they would have preferred medical support with medication.²³ However, the LRV indicates that several beneficiaries have expressed their wish to continue this program with the support of volunteers

¹⁴ LRV Report, [ICC-01/04-01/07-3917-Red](#), para. 6

¹⁵ LRV Report, [ICC-01/04-01/07-3917-Red](#), para. 6, in relation to paras 1-2.

¹⁶ LRV Report, [ICC-01/04-01/07-3917-Red](#), paras 7-8.

¹⁷ LRV Report, [ICC-01/04-01/07-3917-Red](#), para. 9.

¹⁸ LRV Report, [ICC-01/04-01/07-3917-Red](#), para. 10.

¹⁹ LRV Report, [ICC-01/04-01/07-3917-Red](#), para. 11.

²⁰ LRV Report, [ICC-01/04-01/07-3917-Red](#), para. 12.

²¹ LRV Report, [ICC-01/04-01/07-3917-Red](#), para. 13.

²² LRV Report, [ICC-01/04-01/07-3917-Red](#), paras 14-27.

²³ LRV Report, [ICC-01/04-01/07-3917-Red](#), paras 28-29.

who have indicated their willingness to continue beyond the formal closure of reparations in the case.²⁴

10. Regarding the closure of reparations, the LRV stresses the need for the wish of the victims to be respected as much as possible, avoiding the risk for them to feel instrumentalised.²⁵ In addition, the LRV pleads for all reparations' stakeholders to consider the lessons learned from the *Katanga* case, which beyond its particularities in terms of the limited number of victims, provides an opportunity for an in-depth reflection on numerous aspects of the implementation process.²⁶ Lastly, the LRV provides details as to the victims' views regarding holding the ceremony, where it should take place, and the modalities they suggest for its celebration, stressing the need for the Court to send a clear message about the limits of its mandate with respect to ongoing conflicts, while emphasising the deterrent aspect of its presence in the region.²⁷

III. ANALYSIS

11. The Chamber takes note of the information provided by both the Fourteenth Report and the LRV Report. As to the conclusion of the implementation of the different modalities of reparations in the present case, the Chamber commends the TFV for its work and the efforts it undertook to provide victims with reparations tailored as much as possible to their respective harms, needs, and wishes. The TFV's work is especially commendable considering that the reparations programmes were implemented within the context of an ongoing armed conflict and despite having faced numerous current and prior challenges. Notwithstanding the above, the Chamber takes close note of the views expressed by the victims, including their frustrations and complaints, as detailed by the LRV. The Chamber indeed considers that the victims' views in the present case should help the Court as a whole to take stock of lessons learned from this and other cases when devising future reparations programmes, which should realise as much as possible the rights of victims to effective, prompt, and meaningful reparations.

12. Regarding the psychological evaluation and the closure ceremony, the Chamber urges the TFV to ensure that the evaluation is completed before formally concluding the programme and to take into account the victims' views and organise any such ceremony in close

²⁴ LRV Report, [ICC-01/04-01/07-3917-Red](#), para. 30.

²⁵ LRV Report, [ICC-01/04-01/07-3917-Red](#), para. 31.

²⁶ LRV Report, [ICC-01/04-01/07-3917-Red](#), para. 32.

²⁷ LRV Report, [ICC-01/04-01/07-3917-Red](#), paras 33-49.

consultation with the victims entitled to reparations in the present case, accommodating as much as possible their views and concerns.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY,

TAKES NOTE of the information provided in the Fourteenth Report and the LRV Report; and

URGES the TFV to ensure that the psychological evaluation is completed before formally concluding the programme and to take into account the victims' views and organise any closure ceremony in close consultation with the victims, accommodating their views and concerns as much as practicable.

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 Friday, 01 December 2023

At The Hague, The Netherlands