

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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

Date: 13 November 2017

TRIAL CHAMBER II

Before: Judge Marc Perrin de Brichambaut, Presiding
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 document

Request for an extension of time

Source: The Trust Fund for Victims

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

Legal Representative of Victims

Mr Fidel Nsita Luvengika
Ms. Paolina Massidda

Counsel for Germain Katanga

Mr David Hooper
Ms Caroline Buisman

REGISTRY

Registrar

Mr Herman von Hebel

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

1. Pursuant to regulation 35 (1) of the Regulations of the Court, the Trust Fund for Victims (“Trust Fund” or “TFV”) respectfully requests an extension of the time limit for the submission of additional information on the implementation of collective reparations in the case of *The Prosecutor v. Germain Katanga* as set in Trial Chamber II’s decision of 12 October 2017 (ICC-01/04-01/07-3768-Conf). The Trust Fund respectfully requests that the relevant deadlines be extended to Monday, 4 December 2017.

I. CLASSIFICATION OF THE PRESENT SUBMISSION

2. The Trust Fund has classified the present filing confidential pursuant to regulation 23 *bis* (1) of the Regulations of the Court due to the confidential classification of the Trial Chamber’s decision and because the information herein relates to topics that the Trust Fund submits should remain confidential in order to ensure the safety and security of the concerned victims and to maintain the discreet nature of the implementation planning of reparations in this case.

3. The Trust Fund notes that no public redacted version of the Trial Chamber’s decision has been notified and therefore does not intend to file a public redacted version of the present filing until such time that the Trial Chamber has indicated that it should do so.

II. BACKGROUND

4. On 25 July 2017, the Trust Fund filed its draft implementation plan¹ relevant to the individual and collective reparations awarded to 297 victims in the *Katanga* case in the Trial Chamber’s order for reparations of 24 March 2017.²

5. On 10 October 2017, the Trust Fund and one of the legal representative of victims (“Legal Representative” or “LRV”; the other team is hereinafter “OPCV Legal Representative” and jointly “Legal Representatives”) jointly filed additional observations on the draft implementation plan (“TFV/LRV Additional Observations”).³

¹ [ICC-01/04-01/07-3751-Red.](#)

² [ICC-01/04-01/07-3728.](#)

³ ICC-01/04-01/07-3767-Conf.

6. On 12 October 2017, the Trial Chamber issued a decision relevant to the draft implementation plan and the TFV/LRV Additional Observations (“Decision of 12 October 2017”).⁴

7. In the Decision of 12 October 2017, the Trial Chamber set, *inter alia*, the following deadlines:⁵

a. 15 November 2017

- i. Specific reparations proposals for the victims located in Uganda;
- ii. Justification of the monetary amounts proposed for victims resettled in the United States and Europe;
- iii. Justification for the proposed two year time frame of the reparations programme;
- iv. Reasoning as to why programme support costs related to the distribution of awards fall within Mr Katanga’s liability; and
- v. An explanation of the maximum estimate 15% programme support costs.

b. 1 December 2017

- i. The payment of the \$250 individual compensation reparations awards; and
- ii. A copy of the memorandum sent to the Democratic Republic of the Congo (“DRC”) government authorities.

c. 15 December 2017

- i. An update on the implementation of the individual reparations awards.

8. On 16 October 2017, the Trust Fund and Legal Representative conducted a joint mission to Geneva, Switzerland relevant to the situation of the victims located in a refugee settlement in Uganda.

9. On 18 to 20 October 2017, the Trust Fund and Legal Representative conducted a joint mission to Kampala, Uganda in regard to the current situation of the victims located in a refugee

⁴ ICC-01/04-01/07-3768-Conf.

⁵ Pp. 24-25.

settlement in Uganda, in particular in relation to receiving precise information relevant to their possible resettlement in the United States or Europe.

10. On 25-27 October 2017, the Trust Fund and the Legal Representative conducted a joint mission to Kinshasa, DRC for informal working level discussions with Ministry staff in order to prepare the DRC government memorandum.

11. On 1 November 2017, the Trust Fund conducted a follow-up meeting with Ugandan authorities to further examine the feasibility of various reparation initiatives pertaining to a refugee victim population.

12. In the first two weeks of November, consultations were held between the Trust Fund and the Legal Representatives regarding the mission plan for the disbursement of the individual compensation reparations awards and the DRC memorandum. Throughout the entire time period mentioned above, consultations have also taken place between the Trust Fund and the relevant Registry field offices and finance sections.

13. A three day working session with the Trust Fund and the Legal Representatives is scheduled for 15 to 17 November, which aims to discuss and reach agreement on:

- a. Adjustments to the draft implementation plan stemming from the Trial Chamber's Decision of 12 October 2017;⁶
- b. The specific reparations proposal for victims currently located in Uganda;
- c. The proposed monetary amount to be provided to victims resettled in the USA or Europe in light of the fact that they cannot participate in the collective reparations programme;
- d. The duration of the reparations programme;
- e. Aspects of the collective reparations programme that could potentially be implemented directly by the Trust Fund, potentially reducing the associated programme support costs; and
- f. Finalisation and submission of the Memorandum to the government of the DRC.

⁶ *E.g.* Decision of 12 October 2017, para. 29.

14. A joint Trust Fund/Legal Representatives DRC mission is currently being finalised for 27-30 November 2017 for the implementation of the disbursement of the individual compensation reparations awards. Planning with the very helpful assistance of the Registry's finance sections is underway for the simultaneous disbursement of the awards to the resettled victims.

III. REQUEST FOR A VARIATION OF THE TIME LIMIT

15. For the reasons set out below, the Trust Fund submits that good cause exists for it to be granted a limited time extension until 4 December 2017.

16. First, despite best efforts but due to scheduling difficulties and competing work obligations,⁷ the Trust Fund was not able to schedule in depth consultations with the Legal Representatives before 15 November 2017. In this regard, the Trust Fund notes that it is requested to provide by 15 November 2017 justifications or explanations for several aspects of its draft implementation plan about which the Legal Representative has expressed concerns.

17. At the outset, the Trust Fund wishes to underline that it is open to reconsidering aspects of its plan based on the observations submitted on behalf of the victims in this case. The Trust Fund would therefore prefer to discuss these concerns to see whether, together, adjustments to the disputed aspects of the plan could be agreed to. Accordingly, the Trust Fund would respectfully request that it would be beneficial and, if agreement is reached between the TFCV and the Legal Representatives, potentially save time overall for it to be given time to first attempt to reach satisfactory compromises or changes to the plan before informing the Trial Chamber of its final position on these points.

18. Second, as mentioned above and in accordance with the Trial Chamber's order, the Trust Fund intends to implement the disbursement of the individual compensation from 27 to 30 November. The Trust Fund notes that this schedule should permit it to provide the update report in advance of the Trial Chamber's 15 December 2017 deadline.

19. However, the successful implementation of the individual reparations awards will require a significant amount of the attention of the Trust Fund's Bunia and Hague-based staff, as well as an enhanced operational presence in the DRC, until the day before 1 December 2017. In this regard,

⁷ Key staff members of the Trust Fund's Secretariat, including a Board Member, the Executive Director and acting Legal Adviser, have been on a joint mission to Mali with the Legal Representative and VPRS for the week of 5-11 November with regard to the order for reparations in the *Al Mahdi* case.

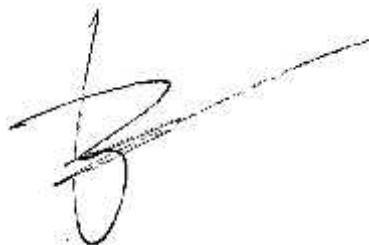
the Trust Fund recalls that 1 December 2017 is the deadline for the submission of the DRC memorandum. The Trust Fund notes in this regard that this document will be finalised during the working sessions scheduled for 15 to 17 November 2017, but that it may be difficult to file it on 1 December 2017 if relevant Trust Fund staff members are still in or returning from the DRC.

20. The Trust Fund would therefore request an extension of the deadlines currently set for 15 November and 1 December 2017 to 4 December 2017. If granted, the Trust Fund also intends to provide the Trial Chamber with an update report on the implementation of the individual reparations awards on 4 December 2017, in advance of the current 15 December 2017 deadline. The Trust Fund notes in this regard that there may be a small number of victims who may not be able to participate in the 27-30 disbursement programme and for whom an individualised plan may need to be organised in early December. In such a situation, the Trust Fund would submit a final report in relation to any such individuals by 15 December 2017.

21. In conclusion, the Trust Fund respectfully requests that it be granted an extension of the deadlines mentioned above to Monday, 4 December 2017 and submits that good cause within the meaning of regulation 35 (1) of the Regulations of the Court exists for the requested extension in light of the reasons set out above.

FOR THE FOREGOING REASONS

The Trust Fund for Victims respectfully submits this request for an extension of time.



Pieter W.I. de Baan
Executive Director of the Secretariat of the Trust Fund for Victims,
on behalf of the Board of Directors of the Trust Fund for Victims

Dated this 13 December 2017

At The Hague, The Netherlands