

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: French

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

Date: 10 March 2021

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***

Confidential

Decision Granting the Application for an Extension of Time of the Legal Representative of Victims of 4 March 2021 to File New Observations on the Proposal of the Trust Fund for Victims relating to Housing Assistance

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

Legal Representative of Victims

Mr Fidel Nsita Luvengika

Counsel for the Defence of Germain

Katanga

Mr David Hooper

Ms Caroline Buisman

Office of Public Counsel for Victims

Ms Paolina Massidda

Trust Fund for Victims

Mr Pieter de Baan

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Section

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

TRIAL CHAMBER II ("Chamber") of the International Criminal Court ("Court"), in the case of *The Prosecutor v. Germain Katanga*, acting pursuant to regulation 35(2) of the Regulations of the Court, decides the following.

I. Procedural history

1. On 24 March 2017, the Chamber handed down the "Order for Reparations pursuant to Article 75 of the Statute" ("Order for Reparations").¹ In that Order, the Chamber analysed 341 applications for reparations.² The Chamber found that of those 341 applicants, 297 persons had shown on a balance of probabilities that they had suffered harm as a result of the crimes of which Germain Katanga was convicted.³ Accordingly, the Chamber determined that those persons were to be awarded the individual and collective reparations approved by the Chamber in the instant case.⁴
2. On 25 July 2017, having been granted two extensions of time,⁵ the Trust Fund for Victims ("Trust Fund") submitted a draft plan for the implementation of the Order for Reparations ("Draft Implementation Plan of 25 July 2017").⁶
3. On 12 October 2017, having carefully examined the Draft Implementation Plan of 25 July 2017 and the observations of the Office of Public Counsel for Victims

¹ "Order for Reparations pursuant to Article 75 of the Statute", 24 March 2017, ICC-01/04-01/07-3728-tENG, with a public annex (Annex I) and a confidential annex *ex parte* Common Legal Representative of the Victims, Office of Public Counsel for Victims and Defence team for Germain Katanga (Annex II).

² Order for Reparations, paras. 64-180.

³ Order for Reparations, para. 168.

⁴ Order for Reparations, paras. 281-295.

⁵ "Decision granting the Trust Fund for Victims an extension of time for submission of the Draft Implementation Plan", 22 June 2017, ICC-01/04-01/07-3744-tENG and "Decision Granting the Trust Fund for Victims Access to Document ICC-01/04-01/07-3728-Conf-Exp-AnxII and an Extension of the Time Limit to Submit the Draft Implementation Plan for Reparations", 11 July 2017, ICC-01/04-01/07-3749-tENG.

⁶ "Draft implementation plan relevant to Trial Chamber II's order for reparations of 24 March 2017 (ICC-01/04-01/07-3728)", 25 July 2017 (public redacted version filed the same day, confidential and redacted French version notified on 21 August 2017), ICC-01/04-01/07-3751-Red, with a confidential annex, a public annex, a confidential annex *ex parte* Registry, a confidential annex *ex parte* Office of Public Counsel for Victims and a confidential annex *ex parte* legal representative of victims.

("OPCV"),⁷ of the Legal Representative of Victims ("Legal Representative"),⁸ of Mr Katanga's defence team⁹ and of the Trust Fund,¹⁰ the Chamber issued the "Decision approving the Implementation of Individual Reparations and instructing the Trust Fund for Victims to Transmit to it Additional Information on the Implementation of Collective Reparations."¹¹

4. On 20 September 2018, the Chamber again directed the Trust Fund to file additional information on the modalities of the collective reparations.¹² On that occasion, the Chamber stated that it was prepared to approve the implementation of each collective reparations modality separately so as not to delay the start of implementation further.¹³

5. On 19 October 2020, at the Chamber's behest, the Trust Fund filed a new quarterly report giving an update on the latest developments in the implementation of the collective reparations.¹⁴ In that report, the Trust Fund requested approval of an alternative proposal for the implementation of the collective reparations modality in the form of housing assistance.¹⁵

⁷ "Observations on the Trust Fund for Victims' Draft Implementation Plan Relevant to the Order for Reparations", 11 September 2017, ICC-01/04-01/07-3762-tENG.

⁸ "Observations relatives au projet de plan de mise en œuvre déposé par le Fonds au profit des victimes en exécution de l'Ordonnance de réparation en vertu de l'article 75 du Statut (ICC-01/04-01/07-3751-Red)", 11 September 2017 (public redacted version filed on 13 September 2017), ICC-01/04-01/07-3763-Red. See also footnote 10.

⁹ "Defence Observations on the TFV's Draft implementation plan", 11 September 2017, ICC-01/04-01/07-3764.

¹⁰ "Joint Submission Concerning the Draft Implementation Plan Filed by the Trust Fund for Victims in Conformity with the Order for Reparations Pursuant to Article 75 of the Statute (ICC-01/04-01/07-3751-Red)", 9 October 2017 (notified on 10 October 2017), ICC-01/04-01/07-3767-Conf-tENG.

¹¹ "Decision approving the Implementation of Individual Reparations and instructing the Trust Fund for Victims to Transmit to it Additional Information on the Implementation of Collective Reparations", 12 October 2017, ICC-01/04-01/07-3768-Conf-tENG.

¹² "Order Directing the Trust Fund for Victims to File Information on the Modalities of Collective Reparations", 20 September 2018, ICC-01/04-01/07-3809-Conf-tENG, ("Order of 20 September 2018"), para. 15.

¹³ Order of 20 September 2018, para. 16.

¹⁴ "Second quarterly update report pursuant to regulation 58 of the Regulations of the Trust Fund for Victims and Request for approval of implementation proposal related to the housing assistance modality", 19 October 2020, ICC-01/04-01/07-3865-Conf ("Trust Fund Report of 19 October 2020").

¹⁵ Trust Fund Report of 19 October 2020, paras. 31-48 and p. 9. See also "Observations du Représentant légal sur le rapport du Fonds au profit des victimes ICC-01/04-01/07-3865-Conf", 2 November 2020, ICC-01/04-01/07-3867-Conf.

6. On 10 December 2020, the Chamber directed the Legal Representative to file, by 1 February 2021, new observations on the Trust Fund's proposal relating to housing assistance, after having consulted the beneficiaries concerned by this modality.¹⁶
7. On 26 January 2021, having considered the Legal Representative's request of 14 January 2021,¹⁷ the Chamber suspended the deadline of 1 February 2021 for the consultation of the beneficiaries concerned by the housing assistance.¹⁸
8. On 18 February 2021, the Chamber issued a decision in which it directed the Legal Representative and the Trust Fund to conduct *remote* consultations with the beneficiaries concerned by the housing assistance, i.e. either by telephone or by videoconference, until they could carry out field missions ("Decision of 18 February 2021").¹⁹ The Chamber also directed the Legal Representative to file observations in the light of those consultations by 15 March 2021.²⁰
9. On 4 March 2021, the Legal Representative filed an application under regulation 35(2) of the Regulations of the Court for an extension of the time limit of 15 March 2021 set by the Decision of 18 February 2021 for filing observations on the Trust Fund's proposal relating to housing assistance ("Application for an Extension of Time").²¹
10. On 8 March 2021, the Trust Fund²² and the OPCV²³ informed the Chamber that they did not object to the Application for an Extension of Time.

¹⁶ "Ordonnance relative à la requête du Fonds au profit des victimes du 19 octobre 2020 sollicitant l'approbation de la Chambre du mode de mise en œuvre concernant l'aide au logement", 10 December 2020, ICC-01/04-01/07-3868-Conf.

¹⁷ "Observations du Représentant légal relatives à l'impossibilité de collecter les informations nécessaires à la mise en œuvre des réparations et requête conséquent", 14 January 2021, ICC-01/04-01/07-3869-Conf.

¹⁸ Email from the Chamber on 26 January 2021 at 13.07.

¹⁹ "Décision relative à la requête du représentant légal des victimes du 14 janvier 2021 ainsi qu'à la requête du Fonds au profit des victimes du 19 janvier 2021 portant approbation du mode de mise en œuvre concernant le soutien psychologique", 18 February 2021, ICC-01/04-01/07-3872-Conf, para. 41.

²⁰ Decision of 18 February 2021, para. 43.

²¹ "Requête en extension du délai prévu par la décision ICC-01/04-01/07-3872-Conf pour déposer des observations sur les propositions du Fonds relative au soutien au logement", 4 March 2021, ICC-01/04-01/07-3873-Conf.

²² Email from the Trust Fund to the Chamber on 8 March 2021 at 15.00.

²³ Email from the OPCV to the Chamber on 8 March 2021 at 17.18.

II. Analysis

11. The Legal Representative points out that despite his efforts to swiftly mobilize his team, he will not be able to meet the 15 March 2021 time limit set by the Decision of 18 February 2021 to file new observations on the Trust Fund's proposal relating to housing assistance.²⁴ He explains first of all that, because of a flight cancellation, the mission of the member of his team assigned to travel to Bunia to consult some of the beneficiaries concerned by the housing assistance will take place from 10 to 23 March 2021, barring unforeseen circumstances.²⁵ He further explains that, because of the challenges arising from the *remote* consultation of all the beneficiaries concerned, his team will need more time to meet with those beneficiaries and to compile the collected information thereafter.²⁶ Lastly, he asserts that the reasons provided constitute, in his view, good cause within the meaning of regulation 35(2) of the Regulations of the Court²⁷ and accordingly asks that the time limit to submit his observations be postponed to 5 April 2021 rather than 15 March 2021.²⁸

12. The Chamber takes note of the Legal Representative's arguments in support of the Application for an Extension of Time. The Chamber notes further that the Legal Representative proposes a concrete plan of action to seek the viewpoints of the beneficiaries concerned on the Trust Fund's proposal on housing assistance,²⁹ as the Chamber had requested. The Chamber is likewise aware of the challenges of *remote* consultations with the beneficiaries concerned.³⁰ In the light of the foregoing, the Chamber finds that the Legal Representative has shown good cause within the meaning of regulation 35(2) of the Regulations of the Court justifying an extension of time. Noting, however, that 5 April 2021 is an official Court holiday, the Chamber sees

²⁴ Application for an Extension of Time, para. 7.

²⁵ Application for an Extension of Time, para. 10.

²⁶ Application for an Extension of Time, para. 13.

²⁷ Application for an Extension of Time, para. 13.

²⁸ Application for an Extension of Time, paras. 11-13.

²⁹ Application for an Extension of Time, paras. 16-19.

³⁰ See Application for an Extension of Time, para. 20.

appropriate to extend the time limit to file new observations on the Trust Fund's proposal relating to housing assistance to 6 April 2021.

FOR THESE REASONS, the Chamber

GRANTS the Application for an Extension of Time; and

EXTENDS until 16.00 on 6 April 2021 the time limit for filing new observations on the Trust Fund's proposal relating to housing assistance.

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

[signed]

Judge Marc Perrin de Brichambaut
Presiding Judge

[signed]

Judge Olga Herrera Carbuccia

[signed]

Judge Péter Kovács

Dated this 10 March 2021

At The Hague, Netherlands