

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

No.: **ICC-01/04-01/07**  
Date: **18 November 2021**

**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 Application for Resumption of Action brought by family members of  
deceased Victim a/0217/09**

**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**

**The Office of Public Counsel for  
Victims**

Ms Paolina Massidda

**The Office of Public Counsel for the  
Defence**

**States' Representatives**

*Amicus Curiae*

**REGISTRY**

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**Registrar**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

Mr Nigel Verrill

**Detention Section**

**Victims Participation and Reparations  
Section**

Mr Philipp Ambach

**Trust Fund for Victims**

Mr Pieter de Baan

**Trial Chamber II** of the International Criminal Court (the ‘Chamber’), in the case of *The Prosecutor v. Germain Katanga* (the ‘Katanga case’), having regard to article 75 of the Rome Statute, rules 85 and 94 of the Rules and Procedure and Evidence, and regulation 88 of the Regulations of the Court, issues this Decision on the Application for Resumption of Action brought by family members of deceased Victim a/0217/09 (the ‘Decision’).

## I. PROCEDURAL HISTORY

1. On 24 March 2017, the Chamber issued the Order for Reparations pursuant to Article 75 of the Statute (‘Reparations Order’),<sup>1</sup> granting victim status for the purposes of reparations to 297 applicants, including Victim a/0217/09,<sup>2</sup> and ordering the award of both individual and targeted collective reparations.

2. On 8 March 2018, the Appeals Chamber issued the Judgment on the appeals against the Reparation Order, upholding the Chamber’s decision with regard to the said 297 applicants, including the application of Victim beneficiary a/0217/09.<sup>3</sup>

3. On 3 November 2021 the Legal Representative of Victims (‘LRV’) filed an application requesting that a family member of deceased Victim a/0217/09 (‘Applicant’) be authorised to resume the action brought by the said victim (‘Application’).<sup>4</sup>

4. The Defence filed no submissions on the Application.

## II. ANALYSIS

5. The Chamber notes that, provided the applicable conditions are met, the right to the reparations awarded to victims who have since died may be transferred to persons appointed as successors to the action. To that end, the said person must establish the death of the victim beneficiary, his or her family relationship with the victim and his or her appointment by family members granting him or her authority to act on behalf of the victim. Once these conditions have been met, the successor in the action brought by the deceased victim becomes entitled to the reparations awarded.<sup>5</sup>

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<sup>1</sup> Order for Reparations Pursuant to Article 75 of the Statute, 24 March 2017, [ICC-01/04-01/07-3728-tENG](#), p.118.

<sup>2</sup> Reparations Order Annex II, ICC-01/04-01/07-3728-Conf-Exp-AnxII, paras 1534-1540.

<sup>3</sup> Public Redacted Judgment on the appeals against the order of Trial Chamber II of 24 March 2017 entitled “Order for Reparations pursuant to Article 75 of the Statute”, 8 March 2018, [ICC-01/04-01/07-3778-Red](#).

<sup>4</sup> Demande de reprise des actions de l’action introduite par la victime a/217/09, 3 November 2021, ICC-01/04 - 01/07-3890-Conf with confidential *ex parte* Annex 1. A public redacted version of the Application was filed on the same date ([ICC-01/04-01/07-3890-Red](#)) along with a confidential *ex parte* redacted version of Annex 1 (ICC-01/04-01/07-3877-Conf-Exp-Anx1-Red).

<sup>5</sup> Decision on the Application for Resumption of Action brought by family members of deceased victim a/0195/08, 9 November 2021, [ICC-01/04-01/07-3891](#), para.5.

6. The Chamber finds that the Applicant who is seeking to resume the action brought by deceased Victim a/0217/09 submitted, through the LRV, a document signed by four family members mandating one of them to act on behalf of deceased Victim a/0217/09.<sup>6</sup> The Applicant also produced a death certificate of Victim a/0217/09, as well as a document showing the applicant's family relationship with Victim a/0217/09.<sup>7</sup> The Chamber notes that these documents are supplemented by a copy of the identification document of the said Applicant and those of three family members that attended the family meeting.<sup>8</sup>

7. In the light of the foregoing, the Chamber finds that all the information contained in the Application relating to Victim a/0217/09 is sufficient to establish (i) the death of Victim a/0217/09, (ii) the family relationship between deceased Victim a/0217/09 and the Applicant and (iii) that the Applicant has been duly mandated by the family of Victim a/0217/09 to continue the action brought before the Court by deceased victim.

8. Accordingly, the Chamber rules that the Applicant becomes entitled, on behalf of deceased Victim a/0217/09, to the collective reparations awarded to the victim still pending implementation, in accordance with the modalities proposed by the TFV as approved by the Chamber.

9. The Chamber recalls, lastly, that the protective measures granted to the victim i.e., anonymity vis-à-vis the public, also apply to the successor in the action brought by Victim a/0217/09.

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<sup>6</sup> ICC-01/04-01/07-3890-Conf-Exp-Anx1, p. 2.

<sup>7</sup> ICC-01/04-01/07-3890-Conf-Exp-Anx1, pp. 3-4.

<sup>8</sup> ICC-01/04-01/07-3890-Conf-Exp-Anx1, p. 5.

**FOR THE FOREGOING REASONS, THE CHAMBER HEREBY,**

**GRANTS** the Application relating to Victim a/0217/09;

**DECIDES** that the person mandated by the family of deceased Victim a/0217/09 is the new holder of the right to the collective reparations awarded in the instant case still pending implementation; and

**RECALLS** that the above-mentioned authorized person is entitled to anonymity vis-à-vis the public.

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



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**Judge Chang-ho Chung, Presiding Judge**



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**Judge Péter Kovács**



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**Judge María del Socorro Flores Liera**

Dated this Thursday, 18 November 2021

At The Hague, The Netherlands