



Original: English

**No. ICC-01/15
Date: 16 June 2022**

PRE-TRIAL CHAMBER I

**Before: Judge Péter Kovács, Presiding
Judge Reine Alapini-Gansou
Judge Socorro Flores Liera**

SITUATION IN GEORGIA

Public

Decision on the ‘Notification by the Board of Directors in accordance with regulation 50 (a) of the Regulations of the Trust Fund for Victims of its conclusion to undertake further specified activities in Georgia’

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

The Office of the Prosecutor

Mr Karim A. A. Khan
Ms Nazhat Shameen Khan

Counsel for the Defence

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

The Office of Public Counsel for Victims

Ms Paolina Massidda

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

Mr Xavier-Jean Keïta
Ms Marie O’Leary

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

PRE-TRIAL CHAMBER I (the ‘Chamber’) of the International Criminal Court (the ‘Court’) issues this decision on the ‘Notification by the Board of Directors in accordance with regulation 50 (a) of the Regulations of the Trust Fund for Victims of its conclusion to undertake further specified activities in Georgia’ (the ‘Notification’).¹

1. On 29 April 2022, the Trust Fund for Victims (the ‘TFV’) proposed a plan for specific activities aimed at ‘provid[ing] physical and psychological rehabilitation, as well as material support to victims and their families in Georgia’.² The TFV submits that the specific activities ‘do not pre-determine any issue to be determined by the Court’ and ‘focus on injuries stemming from crimes committed in the Georgia situation in general and are not designed to relate in any way to national or international proceedings or investigations’.³

2. On 25 May 2022, pursuant to the Chamber’s order,⁴ the Office of Public Counsel for Victims (the ‘OPCV’) and the Office of Public Counsel for the Defence (the ‘OPCD’) submitted observations on the Notification⁵.

3. The OPCV submits that the proposed activities do not pre-determine any issue to be determined by the Court, do not violate the presumption of innocence, and are not prejudicial to, or inconsistent with, the rights of potential suspects and/or accused and a fair and impartial trial.⁶ It also provided submissions on the need for the TFV ‘to develop a more comprehensive assistance programme for the benefit of a greater number of victims and their families’.

¹ [ICC-01/15-35](#), with one public annex ([ICC-01/15-35-AnxI](#)).

² Notification, para. 7.

³ Notification, para. 9.

⁴ Email from the Chamber to the OPCV and OPCD, 6 May 2022 at 17:41, inviting the OPCV, OPCD and the Prosecution to submit observations on the Notification by 13 May 2022; *See also* Email from the Chamber to the OPCV, the OPCD and the Prosecution, 9 May 2022 at 11:57, granting the OPCV and OPCD’s applications for an extension of time limit to file observations on the Notification, and extending such time limit to 25 May 2022. The Prosecution did not file observations.

⁵ Observations on behalf of victims on the “Notification by the Board of Directors in accordance with regulation 50(a) of the Regulations of the Trust Fund for Victims of its conclusion to undertake further specified activities in Georgia”, [ICC-01/15-36](#) (‘OPCV Observations’); OPCD Observations on the TFV Regulation 50 Notification, [ICC-01/15-37](#) (‘OPCD Observations’).

⁶ OPCV Observations, paras 2, 12.

4. Whilst not objecting to the specific activities outlined by the TFV,⁷ the OPCD submits that certain safeguards are to be put in place to ensure that the proposed activities, when implemented, do not ‘pre-determine any issue to be determined by the Court or prejudice any right of defendants in any ongoing or future case’.⁸ It requests the Chamber to remind the TFV that (i) ‘all references to any identified suspect/accused, group or actor identifiable in connection with situations and/or proceedings before the Court, and particular victims be omitted during their implementation, as well as in any documents relating to such implementation whether already existing or forthcoming’, and (ii) ‘the [TFV] and its implementing partners be mindful of their obligation to retain and preserve all relevant information on the beneficiaries of the proposed activities, as these may prove relevant to ongoing or future proceedings before the Court’.⁹

5. The Chamber notes that, in addition to its mandate under article 79(2) of the Rome Statute (the ‘Statute’) and rule 98(1)-(4) of the Rules of Procedure and Evidence (the ‘Rules’), which relate to resources collected pursuant to Court’s orders, the TFV has an additional mandate to use ‘[o]ther resources [...] for the benefit of victims’ under article 79 of the Statute and rule 98(5) of the Rules. This ‘assistance mandate’ is also regulated by Part III, Chapter II of the Regulation of the Trust Fund for Victims (the ‘TFV Regulations’).

6. Under regulation 50(a)(ii) of the TFV Regulations, the Chamber is vested with the power to review activities or projects proposed by the TFV under Part III, Chapter II of the TFV Regulations. In doing so, the Chamber must ensure that the proposed activities or projects (i) are sufficiently specific to allow the Chamber to carry out its analysis, which excludes simple outlines of programs or lists of proposals concerning activities to be conduct with potential implementing partners,¹⁰ and (ii) fulfil the criteria set out in regulation 50(a)(ii) of the TFV Regulations. This provision provides, *inter alia*, that the Chamber may inform the Board

⁷ OPCD Observations, para. 9.

⁸ OPCD Observations, paras 1 and 8.

⁹ OPCD Observations, para. 9.

¹⁰ *Situation in the Republic of Mali*, Décision concernant la « Notification par le Conseil de direction du Fonds au profit des victimes de sa conclusion en vue d’entreprendre des activités spécifiques en République du Mali conformément à la règle 50 (a) du Règlement du Fonds au profit des victimes », 22 February 2022, [ICC-01/12-60](#), para. 3 and references therein cited.

that a specific activity or project, pursuant to rule 98, sub-rule 5 of the Rules [...], would pre-determine any issue to be determined by the Court, including the determination of jurisdiction pursuant to article 19, admissibility pursuant to articles 17 and 18, or violate the presumption of innocence pursuant to article 66, or be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.

7. Moreover, to ensure that the proposed activities do not pre-determine any issue to be determined by the Court, violate the presumption of innocence, or be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial, the proposed activities must be defined in a manner which is non-discriminatory and without reference to any identified suspect or accused or particular victim(s), especially when such activities are connected to a situation in which an investigation and judicial proceedings are ongoing.¹¹

8. In the case at hand, the two projects (TFV/GEO/2022/R1/001 and TFV/GEO/2022/R1/002) and the specific activities proposed by the TFV, aim at providing effective psychological and medical rehabilitation services, as envisaged by regulation 50(a)(i) of the TFV Regulations, to victims and communities that have suffered harm as a result of the commission of a crime within the jurisdiction of the Court.¹²

9. The Chamber notes that the scope of the proposed projects is limited compared to the potential number of victims in need of assistance and invites the TFV to implement them in a manner that ensures that victims are treated fairly and avoid tensions among communities.

10. At this stage and for the purposes of the present decision, the information contained in the Notification and its annex is sufficiently specific in terms of, *inter alia*,

¹¹ Pre-Trial Chamber II, *Situation in the Central African Republic I*, Information to the Trust Fund for Victims on the ‘Notification by the Board of Directors in accordance with regulation 50 (a) of the Regulations of the Trust Fund for Victims of its conclusion to undertake further specified activities in the Central, 7 October 2020, [ICC-01/05-104](#), para. 9; Pre-Trial Chamber II, *Situation in the Central African Republic II*, Information to the Trust Fund for Victims on the ‘Notification by the Board of Directors in accordance with regulation 50 (a) of the Regulations of the Trust Fund for Victims of its conclusion to undertake further specified activities in the Central African Republic’, 8 October 2020, [ICC-01/14-131](#), para. 9; *See also* Pre-Trial Chamber II, *Situation in the Central African Republic I*, Information to the Trust Fund for Victims on the ‘Notification by the Board of Directors in accordance with regulation 50 (a) of the Regulations of the Trust Fund for Victims of its conclusion to undertake specified activities in the Central African Republic’, 8 April 2020, [ICC-01/05-100](#), para. 7.

¹² ICC-01/15-35-AnxI.

the nature of the activities and their intended objectives, for it to make a determination on the proposed activities.

11. The proposed activities and projects are all to be undertaken in relation to the Situation in Georgia for which the Court has already initiated an investigation; and they appear unrelated to national or international proceedings related to that situation.

12. The activities proposed and outlined in Annex I to the Notification, satisfy the relevant requirements as set out in regulation 50(a)(ii) of the TFV Regulations so long as all references to any identified suspect/accused, group or actor identifiable in connection with situations and/or proceedings before the Court, and particular victims be omitted during their implementation, as well as in any documents relating to such implementation whether already existing or forthcoming.

13. Furthermore, it is crucial to the integrity and fairness of the proceedings that the TFV and its implementing partners be mindful of their obligation to retain and preserve all relevant information on the beneficiaries of the proposed activities, as these may prove relevant to ongoing or future proceedings before the Court.¹³

FOR THESE REASONS, THE CHAMBER HEREBY

INFORMS the TFV that the proposed activities described in Annex I to the Notification do not appear *per se* to pre-determine any issue to be determined by the Court, including the determination of jurisdiction and admissibility, to violate the presumption of innocence or to be prejudicial to, or inconsistent with, the rights of the accused and a fair and impartial trial, provided that they are implemented in compliance with the conditions set out in paragraphs 12 and 13 above.

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

¹³ Pre-Trial Chamber II, *Situation in the Central African Republic I*, Information to the Trust Fund for Victims on the 'Notification by the Board of Directors in accordance with regulation 50 (a) of the Regulations of the Trust Fund for Victims of its conclusion to undertake further specified activities in the Central, 7 October 2020, [ICC-01/05-104](#), para. 10; Pre-Trial Chamber II, *Situation in the Central African Republic II*, Information to the Trust Fund for Victims on the 'Notification by the Board of Directors in accordance with regulation 50 (a) of the Regulations of the Trust Fund for Victims of its conclusion to undertake further specified activities in the Central African Republic', 8 October 2020, [ICC-01/14-131](#), para. 10.



Judge Péter Kovács

Presiding



Judge Reine Alapini-Gansou



Judge Socorro Flores Liera

Dated this Thursday, 16 June 2022

At The Hague, The Netherlands