

Situation: Democratic Republic of the Congo

The Prosecutor v. Germain Katanga

ICC-PIDS-Q&A-DRC-01/04-01/07_FR

Update: 24 March 2017

ICC-01/04-01/07

Questions and Answers on Reparations in the Katanga Case 24 March 2017

FOR WHICH CRIMES WAS MR KATANGA CONVICTED?

On 23 May 2014, Germain Katanga was sentenced by the International Criminal Court (ICC) to a total of 12 years' imprisonment after being found guilty, as an accessory, of one count of crimes against humanity (murder) and four counts of war crimes (murder, attacking a civilian population, destruction of property and pillaging) committed on 24 February 2003 during the attack on the village of Bogoro, in the Ituri district of the DRC. The time spent by Mr Katanga in detention prior to being convicted was deducted from the sentence imposed. On 13 November 2015, three Judges of the Appeals Chamber reviewed Mr Katanga's sentence and decided to reduce it. On 19 December 2015, Mr Katanga was transferred to a DRC prison to serve his sentence, which he completed on 18 January 2016. Mr Katanga remains in a prison in the DRC due to national judicial proceedings against him relating to other alleged crimes.

WHICH PRINCIPLES DID THE CHAMBER RELY UPON TO MAKE ITS DECISION OF 24 MARCH 2017 ON REPARATIONS?

On 24 March 2017, Trial Chamber II awarded individual and collective reparations to the victims of crimes committed by Germain Katanga.

On the basis of a relevant judgment of the ICC Appeals Chamber, the Chamber noted that reparations are intended to oblige those responsible for serious crimes to repair the harm they caused to the victims, and to enable the Court to ensure that offenders account for their acts. Another purpose of reparations should be to achieve reconciliation, something that awarding collective reparations might be in keeping with.

The Court must do everything in its power to ensure that reparations are meaningful to victims and that victims receive appropriate, adequate and prompt reparations to the extent possible. The measures implemented must ensure the safety, physical and psychological well-being and privacy of the victims.

It is crucial that reparations be granted without adverse distinction on the grounds of gender, age, race, colour, language, religion or belief, political or other opinion, sexual orientation, national, ethnic or social origin, wealth, birth or other status.

HOW DID THE CHAMBER CALCULATE THE AMOUNT OF THE DAMAGE AND DEGREE OF MR KATANGA'S RESPONSIBILITY?

The Chamber took into account the evidence presented to the judges, the practices of national and international tribunals, as well as the observations of the Defence, the Legal Representative of Victims, the Trust Fund for Victims, and the organizations invited to

The Chamber assessed the extent of the physical, material and psychological harm suffered by the victims at a total monetary value of approximately USD 3.752.620.

Observing the principle of proportionality, the Chamber set the amount of Mr Katanga's liability at USD 1,000,000. The Chamber found Mr Katanga indigent for reparations purposes and hence instructed the Registry of the Court to continue monitoring his financial situation.

WHAT TYPE OF REPARATIONS WILL BE GRANTED?

In deciding what reparations to award, the Chamber relied in particular on the preferences and needs expressed by the victims.

The Order provides for two types of reparations: individual reparations, awarded to individuals to repair the harm they have suffered; and collective reparations, consisting of long-term projects covering a whole community but still focusing on individual victims to the extent possible.

The Chamber awarded Mr Katanga's victims individual reparations in the form of symbolic compensation of USD 250 per victim. The Chamber stressed that this symbolic amount, while not intended to compensate for the entirety of the harm, does provide meaningful relief to the victims for the harm they have suffered.

The Chamber also awarded specific collective reparations in the form of support for housing, support for income-generating activities, education aid and psychological support.

WHO WILL IMPLEMENT THOSE REPARATIONS?

The Chamber recalled that, when a convicted person is indigent and therefore unable to comply immediately with an order for reparations, the TFV's Regulations allow it to use its other resources to complement those collected through the reparations order. Therefore, noting Mr Katanga's current financial situation, the Chamber invited the Board of Directors of the TFV to consider using the TFV's resources at its discretion to fund and implement the award of collective reparations. It also recommended that the TFV consider providing the necessary financial resources to implement the award of individual monetary reparations.

The Chamber instructed the TFV to contact the DRC authorities about the possibility of working together to put in place and implement reparations.

The Defence may also contact the TFV if Mr Katanga wishes to contribute by means of a letter of apology, a public apology or a reconciliation ceremony.

WHAT ARE THE NEXT STEPS?

The TFV must present – by 27 June 2017 – a plan for implementing the individual and collective reparations Order, describing the projects it intends to develop subsequently. The Legal Representative of Victims and the Defence will then have until 28 July 2017 to file their observations on the implementation plan.

WHO WILL BENEFIT FROM THE REPARATIONS?

The Chamber individually analysed the requests for reparation of 341 applicants and found that 297 of them presented sufficient evidence to be considered victims of Mr Katanga's crimes and therefore eligible for reparations in the case against him. It is no longer possible to submit other applications for reparations.

WILL OTHER VICTIMS RECEIVE ANY ASSISTANCE FROM THE TRUST FUND FOR VICTIMS?

In addition to its case-specific reparations mandate, the TFV also has an assistance mandate for victims in countries where the ICC has opened an investigation. Under this assistance mandate, the Chamber urged the TFV to take into account, whenever possible, the harm – and, in particular, sexual violence – suffered by victims during the attack on Bogoro but excluded from the scope of the case against Mr Katanga.

CAN THIS DECISION BE APPEALED?

The Legal Representative of Victims and the Defence may appeal the Order within 30 days if they so wish.