

Resolution ICC-ASP/11/Res.7

Adopted at the 8th plenary meeting, on 21 November 2012, by consensus

ICC-ASP/11/Res.7 Victims and Reparations

The Assembly of States Parties,

Reaffirming the importance of the Rome Statute to the victims and affected communities in its determination to put an end to impunity for the perpetrators of the crime of genocide, crimes against humanity and war crimes, thus contributing to their prevention,

Recognizing that victims' rights to equal, expeditious and effective access to justice, protection and support, adequate and prompt reparation for harm suffered, and access to relevant information concerning violations and redress mechanisms are essential components of justice,

Emphasizing the importance of the protection of victims' and affected communities' rights and interests, in order to give effect to the unique mandate of the International Criminal Court,

1. *Takes note of* the Court's Revised strategy in relation to victims,¹ and of the "Report on the Court's Revised strategy in relation to victims: Past, present and future";²
2. *Acknowledges* the Court's final "Report on review of the system for victims to apply to participate in the proceedings";³
3. *Notes with continued concern* reports from the Court on the persistent backlogs the Court has had in processing applications from victims seeking to participate in proceedings, a situation which impacts on the effective implementation and protection of the rights and interests of victims under the Rome Statute;
4. *Underlines* the urgent need to modify the system for victims to apply to participate in proceedings in light of the existing situation, in order to ensure the sustainability, effectiveness and efficiency of the system, including any necessary amendments to the legal framework, while preserving the rights of victims under the Rome Statute;
5. *Takes note* with appreciation of all efforts to enhance the efficiency and effectiveness of victim participation, including in particular by encouraging a more collective approach and *requests* the Bureau to prepare, in consultation with the Court, any amendments to the legal framework for the implementation of a predominantly collective approach in the system for victims to apply to participate in the proceedings;
6. *Invites* the Bureau to report to the Assembly at its twelfth session on any appropriate measures;
7. *Takes note* of the decision of Trial Chamber I establishing the principles and procedures for reparations in the case against Thomas Lubanga Dyilo,⁴ dated 7 August 2012, *recalls* the need for the Court to ensure that coherent principles relating to reparations continue to be established in accordance with article 75, paragraph 1, of the Rome Statute and *further requests* the Court to report back to the Assembly at its twelfth session;
8. *Highlights* that liability for reparations is exclusively based on the individual criminal responsibility of a convicted person, therefore under no circumstances shall States be ordered to utilize their properties and assets, including the assessed contributions of States Parties, for funding reparations awards, including in situations where an individual holds, or has held, any official position;
9. *Calls upon* States Parties where crimes under the Court's jurisdiction have been committed, to adopt victims-related provisions as appropriate, consistent with the 1985

¹ ICC-ASP/11/38.

² ICC-ASP/11/40.

³ ICC-ASP/11/22.

⁴ No. ICC-01/04-01/06 66/94.

United Nations General Assembly resolution 40/34 “Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power”, the 2005 United Nations General Assembly resolution 60/147 “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law” and other relevant instruments;

10. *Encourages* States Parties where crimes under the Court’s jurisdiction have been committed, to act in solidarity with victims by, inter alia, playing an active role in sensitizing communities on the rights of victims in accordance with the Rome Statute in general and victims of sexual violence in particular, speaking against their marginalization and stigmatization, assisting them in their social reintegration process and in their participation in consultations, and combating a culture of impunity for these crimes;

11. *Stresses* that as the freezing and identification of any assets of the convicted person are indispensable for reparations, it is of paramount importance that the Court should seek to take all measures to that end, including effective communication with relevant States so that they are in a position to provide timely and effective assistance pursuant to article 93, paragraph 1 (k), of the Rome Statute;

12. *Recalls* that the declaration of indigence of the accused for the purpose of legal aid bears no relevance to the ability of the convicted person to provide reparations,⁵ which is a matter for judicial decision in each particular case, and further *requests* the Court to review this matter and to report to the Assembly at its twelfth session;

13. *Calls upon* States, international and intergovernmental organizations, individuals, corporations and other entities to contribute voluntarily to the Trust Fund for Victims also in view of imminent reparations, in order to substantively increase the volume of the Trust Fund for Victims, broaden the resource base and improve the predictability of funding; and *expresses its appreciation* to those that have done so;

14. *Expresses* its appreciation to the Board of Directors and the Secretariat of the Trust Fund for Victims for their continuing commitment towards victims, and *encourages* the Board and the Secretariat to continue to strengthen its ongoing dialogue with the Court, States Parties and the wider international community, including donors as well as nongovernmental organizations, who all contribute to the valuable work of the Trust Fund for Victims, so as to ensure increased strategic and operational visibility and to maximize its impact;

15. *Recalls* the responsibility, under the Regulations of the Trust Fund for Victims, of the Board of Directors to endeavour to manage its resources originating from voluntary contributions in such a way as to ensure an adequate reserve to complement any Court-ordered reparations awards, without prejudice to its activities under the Trust Fund’s assistance mandate including those funded by earmarked contributions.

⁵ *Official Records ... Tenth session ... 2011* (ICC-ASP/10/20), vol. I, part III, ICC-ASP/10/Res.3, para.3.