

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: 13 April 2017

TRIAL CHAMBER II

Before: Judge Marc Perrin de Brichambaut, Presiding
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, *ex parte* available to the Registrar, VPRS, the Legal Representative of
Victims, and OPCV**

**Request for an order to VPRS for purposes of assisting the Trust Fund with the
development of its draft implementation plan**

Source:

The Trust Fund for Victims

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

The Office of the Prosecutor

Counsel for Germain Katanga

Legal Representative of Victims

Mr Fidel Nsita Lubengika

**The Office of Public Counsel for
Victims**

Paolina Massidda

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

States Representatives

Trust Fund for Victims

Mr Pieter de Baan, Executive Director,
Secretariat

REGISTRY

Registrar

Mr Herman von Hebel

**Victims Participation and Reparations
Section**

Mr Phillip Ambach

I. INTRODUCTION

1. The Trust Fund for Victims ('Trust Fund') respectfully requests that Trial Chamber II ('Trial Chamber') order the Victims Participation and Reparations Section ('VPRS') to provide the Trust Fund with an updated comprehensive victim chart of the 297 reparations beneficiaries identified in the Trial Chamber's order for reparations ('Updated Victim Chart') in order to assist the Trust Fund in its preparation of the draft implementation plan, due on 27 June 2017. In light of the TRIM upgrade and to aid the Trust Fund in meeting the Trial Chamber's deadline for the submission of the plan, the Trust Fund requests that VPRS provide the Updated Victim Chart to it via email in NITRO PDF form so that the Trust Fund may manipulate and export the data as needed for programme design purposes.

II. BACKGROUND

2. On 15 December 2014, the Registry filed a report on the applications for reparations¹ in the Katanga case with three accompanying annexes. Annex 2 to the report, filed *ex parte* available to the Registry, the Common Legal Representative and the Trust Fund for Victims only, is a comprehensive chart analysing the individual requests under five categories and grouped by geographic location ('2014 Registry Victim Chart'). The victims are identified by their application number only and not by name.

3. In its order for reparations, the Trial Chamber set a three month deadline for the submission of the draft implementation plan to begin running as of the issuance of the order for reparations.² In a separate order, it gave the legal representatives one month from the issuance of the order to obtain their clients consent to their information being provided to the Trust Fund.³

4. Following the issuance of the Trial Chamber's order for reparations, the Trust Fund has engaged with both of the legal representatives in this case, Mr Fidel Nsita and Ms Paolina Massidda on behalf of OPCV ('Legal Representatives'), in order to obtain demographic and statistical information regarding their clients which is necessary for the Trust Fund from a programme development standpoint to be able to propose collective

¹ ICC-01/04-01/07-3512.

² ICC-01/04-01/07-3728 ('Order for Reparations'), pp. 129-130.

³ ICC-01/04-01/07-3729.

programmes that appropriately respond to the service-based modalities identified by the Trial Chamber in its order and are tailored to the extent possible to the individual needs of the 297 victims. Due to the numerous other work commitments facing the Legal Representatives, they have indicated that they would not be in a position to provide us with this information, or not in a format that can be manipulated by the Trust Fund, until a later date.

5. In this regard, OPCV communicated to the Trust Fund that it is not able to provide information to the Trust Fund at this point in time due to the fact that the OPCV was only appointed on 15 March 2017 and is still in the process of contacting and meeting with their clients. Mr Nsita has advised that his legal team will be able to provide the Trust Fund with access to court documents containing further information relevant to his clients, which will enable the Trust Fund to further update and specify the information provided in the Updated Victim Chart. The Trust Fund will continue to work directly with the Legal Representatives to further tailor its draft implementation plan and ensure that the victim data provided in the Updated Victim Chart is fully up to date following the Legal Representatives ongoing consultations with their clients.

III. CLASSIFICATION OF THE PRESENT FILING

6. The Trust Fund has classified the present filing confidential, *ex parte* pursuant to regulation 23 *bis* (1) of the Regulations of the Court because this is the classification of the 2014 Registry Victim Chart and the present request relates solely to assistance from VPRS in the form of providing an Updated Victim Chart for purposes of programme design and implementation development purposes, matters which do not concern or engage the rights of the convicted person. Further, Mr Katanga will have the opportunity to provide observations on the draft implementation plan.⁴

IV. REQUEST

7. The Trust Fund wishes to point out that it is not possible for the Trust Fund to develop a draft implementation plan for collective service-based reparations programmes without having certain basic information, such as where victims are currently located and in what

⁴ Order for Reparations, para. 311.

numbers. Having information relevant to the current location of victims and data permitting for the grouping (on an anonymous basis) of victims by location, similar harms, and remedial interests for those harms is a necessary prerequisite for the development of any draft implementation plan. It is also necessary that the Trust Fund have this information in a format that allows it to manipulate the data for the purpose of programme design, which is substantially different than for the purpose of developing an order for reparations or determining victim eligibility.

8. Having reviewed the information contained in the 2014 Registry Victim Chart, the Trust Fund considers that, in combination with information provided by the Legal Representatives, it would be better placed to begin developing its draft implementation plan if it were provided with a report containing the same categories of information, but updated with the most recent victim information in the VAMS and limited to the 297 victims found to be eligible for reparations. As with the 2014 Registry Victim Chart, the names of the victims would not be included, as this information is not needed at this point in time for programme development purposes.


9. The Trust Fund therefore requested and received the agreement of both of the Legal Representatives to the present request.

10. Finally, in light of the announced temporary shutdown of TRIM, scheduled to begin on Friday 14 April and which will affect Court Records, the Trust Fund would also request that the Updated Victim Chart be provided to it in NITRO PDF format and via email as opposed to through a formal filing in Court Records. The Trust Fund is mindful of VPRS' workload and does not request that a deadline be imposed on VPRS to provide it with the requested updated chart. The Trust Fund would prefer to continue to liaise directly with VPRS regarding what is a feasible and realistic timetable for VPRS to extract the requested information from the VAMS and prepare the Updated Victim Chart.

11. The Trust Fund stands ready to provide any additional information in relation to this request that the Trial Chamber may wish to receive.

FOR THE FOREGOING REASONS

The Board of Directors respectfully submits this request.

A handwritten signature in black ink, consisting of a stylized 'P' and 'W' followed by a long horizontal stroke.

Pieter W.I. de Baan

Executive Director of the Secretariat of the Trust Fund for Victims,
on behalf of the Board of Directors of the Trust Fund for Victims

Dated this 13 April 2017

At The Hague, The Netherlands