

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **French**

No.: ICC-01/04-01/07  
Date: 10 October 2019

**TRIAL CHAMBER II**

**Before:** Judge Marc Perrin de Brichambaut, Presiding Judge  
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**

**Decision on the Application for Resumption of Action brought by Victim  
a/25017/16**

Decision 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 Germain Katanga**

Mr David Hooper

Ms Caroline Buisman

**Office of Public Counsel for Victims**

Ms Paolina Massidda

**Trust Fund for Victims**

Mr Pieter de Baan

**REGISTRY**

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**Registrar**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Section**

**Detention Section**

**Victims Participation and Reparations  
Section**

Mr Philipp Ambach

**Other**

**TRIAL CHAMBER II** ("Chamber") of the International Criminal Court ("Court"), acting pursuant to articles 68 and 75 of the Rome Statute, rules 85 and 89 of the Rules of Procedure and Evidence, and regulation 86 of the Regulations of the Court, decides as follows.

### **I. Procedural history**

1. On 24 March 2017, the Chamber issued the "Order for Reparations pursuant to article 75 of the Rome Statute" granting victim status for the purposes of reparations to 297 applicants, including Victim a/25017/16, and ordering the award of both individual and targeted collective reparations ("Reparations Order").<sup>1</sup>

2. On 8 March 2018, the Appeals Chamber issued the judgment on the appeals<sup>2</sup> against the Reparations Order,<sup>3</sup> upholding this Chamber's decision with regard to the said 297 applicants, including the application of victim beneficiary a/25017/16.<sup>4</sup>

3. On 10 May 2019, the Legal Representative of Victims ("Legal Representative") filed an application requesting that a family member of deceased Victim a/25017/16 ("Applicant") be authorized to resume the action brought by the said victim ("Application relating to Victim a/25017/16" or "Application").<sup>5</sup>

4. The Defence filed no submissions on the Application.

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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, with one public annex (Annex I) and one confidential annex *ex parte* Legal Representative of Victims, Office of Public Counsel for Victims and the Defence team for Germain Katanga (Annex II).

<sup>2</sup> "Defence Notice of Appeal against the '*Ordonnance de réparation en vertu de l'article 75 du Statut*'", 26 April 2017, ICC-01/04-01/07-3738; "Notice of Appeal against the Reparations Order and its Annex II issued in accordance with article 75 of the Statute on 24 March 2017", 26 April 2017, ICC-01/04-01/07-3739; "Notice of Appeal against the '*Ordonnance de réparation en vertu de l'article 75 du Statut*' and its Annex II", 25 April, ICC-01/04-01/07-3737-tENG.

<sup>3</sup> "[Confidential] 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-Conf (Reparations Order). On 9 March 2018, a public redacted version of the judgment was issued.

<sup>4</sup> Reparations Order, p. 4.

<sup>5</sup> "*Demande de reprise de l'action introduite par la victime a/25017/16*", 10 May 2019, ICC-01/04-01/07-3831-Conf with one confidential annex *ex parte* Legal Representative, Victims Participation and Reparations Section, and two confidential redacted annexes *ex parte* Trust Fund for Victims and the Defence. A public redacted version of the Application was filed on the same day.

## II. Analysis

### a) Applicable law and procedure

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.<sup>6</sup> 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.<sup>7</sup> Once these conditions have been met, the successor in the action brought by the deceased victim becomes entitled to the reparations awarded.<sup>8</sup>

### b) Findings of the Chamber

6. The Chamber finds that the Applicant who is seeking to resume the action brought by deceased Victim a/25017/16 submitted, through the Legal Representative, a document entitled "[TRANSLATION] Minutes of the Family Meeting" signed by four family members mandating him or her to act on behalf of deceased victim beneficiary a/25017/16 "[TRANSLATION] Minutes of the Family Meeting concerning victim beneficiary a/25017/16").<sup>9</sup> The Applicant also relies on three documents that attest to the death of victim beneficiary a/25017/16.<sup>10</sup> The Chamber takes note that the Applicant produced a certificate of family relationship with victim beneficiary a/25017/16.<sup>11</sup> The Chamber notes that these documents are supplemented by a copy

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<sup>6</sup> "Decision on Applications for Resumption of Action Lodged by Family Members of Deceased Victims a/0281/08 and a/25049/16", 21 March 2018, ICC-01/04-01/07-3782-Conf-tENG, paras. 8 and 9 ("Decision of 21 March 2018").

<sup>7</sup> Decision of 21 March 2018, para. 9 and references cited. See also "Decision on the Applications for Resumption of Action Submitted by the Legal Representative of Victims in respect of Victims a/0117/09 and a/0351/09", 18 July 2018, ICC-01/04-01/07-3803-Conf-tENG ("Decision of 18 July 2018").

<sup>8</sup> Decision of 21 March 2018, para. 9 and cited references. See also Decision of 18 July 2018.

<sup>9</sup> ICC-01/04-01/07-3831-Conf-Exp-Anx, p. 2.

<sup>10</sup> ICC-01/04-01/07-3831-Conf-Exp-Anx, pp. 3-5.

<sup>11</sup> ICC-01/04-01/07-3831-Conf-Exp-Anx, p. 6.

of the identification document of the said Applicant and those of four members of the family meeting.<sup>12</sup>

7. In the light of the foregoing, the Chamber finds that all the information contained in the Application relating to Victim a/25017/16 is sufficient to establish (i) the death of Victim a/25017/16, (ii) the family relationship between deceased Victim a/25017/16 and the Applicant and (iii) that the Applicant has been duly mandated by the family of a/25017/16 to continue the action brought before the Court by deceased Victim a/25017/16.

8. Accordingly, the Chamber rules that the Applicant becomes entitled, on behalf of deceased Victim a/25017/16, to the reparations awarded to the victim in accordance with the modalities proposed by the Trust Fund, subject to approval by the Chamber of those modalities.

9. Regarding the requirement that action may be continued only on behalf of the deceased victim and within the limits of the views and concerns expressed by the victim in his or her initial application, the Chamber notes that, during the mission in February 2018, the Legal Representative and the Trust Fund conducted interviews with victims to determine their choice of modalities of reparations, including with victim beneficiary a/25017/16, now deceased.<sup>13</sup> The Chamber will therefore take into account the choice made by the said victim beneficiary.

10. 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/25017/16.<sup>14</sup>

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<sup>12</sup> ICC-01/04-01/07-3831-Conf-Exp-Anx, pp. 6-8.

<sup>13</sup> Application, para. 5.

<sup>14</sup> "Decision on the Application made by the Common Legal Representative of Victims on 2 March 2017", 15 March 2017, ICC-01/04-01/07-3727-tENG, para. 9, and "Decision on the Application for Resumption of Action Submitted by a Relative of Deceased Victim a/0265/09 and the Appointment of a New Representative for Victim A/0071/08", 12 December 2016, ICC-01/04-01/07-3721-tENG, para. 10.

**FOR THESE REASONS, the Chamber**

**GRANTS** the Application relating to Victim a/25017/16;

**DECIDES** that the person mandated by the family of deceased Victim a/25017/16 is the new holder of the right to the reparations awarded in the instant case; and

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

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

[signed]

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**Judge Marc Perrin de Brichambaut**  
**Presiding Judge**

[signed]

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**Judge Olga Herrera Carbuccion**

[signed]

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**Judge Péter Kovács**

Dated this 10 October 2019

At The Hague, Netherlands