

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **French**

No.: **ICC-01/04-01/07**
Date: **13 November 2018**

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/0117/09**

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

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 of the International Criminal Court ("Chamber" and "Court", respectively), 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, issues the following decision.

1. On 24 March 2017, the Chamber handed down its Order for Reparations against Germain Katanga ("Order for Reparations" and "Mr Katanga", respectively), finding that 297 of the 341 applicants for reparations in the instant case had shown to the standard of proof of a balance of probabilities that they were victims of the crimes of which Mr Katanga had been convicted.¹ Accordingly, the Chamber accorded victim status for reparations purposes to those 297 applicants for reparations and awarded them both individual and targeted collective reparations.²

2. On 8 March 2018, the Appeals Chamber rendered the judgment on the appeals against the Order for Reparations ("Appeals Judgment on Reparations").³

3. On 19 April 2018, the Office of Public Counsel for Victims ("OPCV") filed an application requesting that a family member of the deceased Victim a/0117/09 be authorized to resume the action brought by that victim ("First Application").⁴

4. On 18 July 2018, the Chamber found that the information contained in the First Application was sufficient to establish the victim's death and the family relationship between the deceased victim and the person resuming the action. The Chamber took the view, however, that the information presented to substantiate the appointment by

¹ "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 Defence Team for Germain Katanga (annex II).

² Order for Reparations, p. 118.

³ "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. On 9 March 2018, a public redacted version of the judgment was issued.

⁴ "*Demande de reprise d'instance des actions introduites par les victimes a/0117/09 et a/0351/09 et requête aux fins de modification partielle de l'Ordonnance de réparation rendue en vertu de l'article 75 du Statut de Rome*", 19 April 2018, ICC-01/04-01/07-3789-Conf-Exp, with 14 confidential annexes *ex parte*, OPCV, and the same annexes in confidential redacted form *ex parte*, OPCV and Defence.

the family of the deceased victim was insufficient. The Chamber therefore directed the OPCV to provide it with a statement certifying the appointment of the applicant as the person resuming the action brought by the deceased victim, signed by two members of the deceased victim's family and submitted with their identity documents.⁵

5. On 18 September 2018, the OPCV submitted its "*Deuxième Requête aux fins de la demande de reprise d'instance de l'action introduite par la victime a/0117/09*" ("Second Application").⁶ In an annex to that application, the OPCV submitted the record of appointment by the family council and the relevant identity documents.⁷

6. The Chamber takes note of the "[TRANSLATION] record of family council", signed by two members of the family, conferring authority to act on behalf of Victim a/0117/09, and the copies of the identity documents of each member of the family council,⁸ as requested by the Chamber.⁹

7. Accordingly, the Chamber decides that the right to receive the reparations awarded to deceased Victim a/0117/09, on that victim's behalf, in accordance with the modalities proposed by the Trust Fund once those modalities have been approved by the Chamber, passes to the person resuming the action.

8. As the Chamber has said before, the action may be continued only in respect of the deceased victim and within the limits of the views and concerns set out by the victim in his or her initial application.¹⁰

⁵ "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, with 14 confidential annexes *ex parte*, OPCV, and the same 14 annexes in confidential redacted form *ex parte*, OPCV and Defence ("Decision of 18 July 2018"), paras. 14 and 15.

⁶ "*Deuxième Requête aux fins de la demande de reprise d'instance de l'action introduite par la victime a/0117/09*", 18 September 2018, ICC-01/04-01/07-3808-Conf, with one confidential annex *ex parte*, OPCV.

⁷ Second Application, para. 7.

⁸ Confidential annex *ex parte*, OPCV, ICC-01/04-01/07-3808-Conf-Exp-Anx1.

⁹ Decision of 18 July 2018, paras. 14 and 15.

¹⁰ "Decision on the Application for Resumption of Action Submitted by the Legal Representative of Victims in respect of Victim a/25103/16", 18 July 2018, ICC-01/04-01/07-3802-Conf-tENG, para. 11.

9. Lastly, the Chamber reiterates that the protective measures granted to victims – anonymity vis-à-vis the public – also apply to the person resuming the action brought by Victim a/0117/09.¹¹

FOR THESE REASONS, the Chamber

GRANTS the Second Application;

DECIDES that the right to the reparations awarded in the instant case passes to the person authorized by the family of the deceased Victim a/0117/09; and

REITERATES that the identity of the above authorized person shall not be made public.

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

[signed]

Judge Marc Perrin de Brichambaut
Presiding Judge

[signed]

Judge Olga Herrera Carbuccia

[signed]

Judge Péter Kovács

Dated this 13 November 2018

At The Hague, Netherlands

¹¹ See, for example, "Decision on the Application made by the Common Legal Representative of Victims on 2 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.