

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **French**

No.: ICC-01/04-01/07
Date: 18 February 2021

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 Request of the Legal Representative of Victims of 14 January 2021
and the Request of the Trust Fund for Victims of 19 January 2021
Approving the Mode of Implementation of the Psychological Support**

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

Legal Representatives of Victims

Mr Fidel Nsita Luvengika

Defence 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

TRIAL CHAMBER II ("Chamber") of the International Criminal Court, in the case of *The Prosecutor v. Germain Katanga*, decides the following.

I. Procedural history

1. On 24 March 2017, the Chamber handed down its "Order for Reparations pursuant to Article 75 of the Statute" ("Order for Reparations").¹ In that order the Chamber analysed 341 applications for reparations.² The Chamber found that 297 of the 341 applicants for reparations had shown on a balance of probabilities that they had suffered harm as a result of the crimes of which Germain Katanga ("Mr Katanga") was convicted.³ The Chamber accordingly determined that those persons were to be awarded the individual and collective reparations approved by the Chamber in the case.⁴
2. On 25 July 2017, after being granted two extensions of time,⁵ the Trust Fund for Victims ("Trust Fund") filed, on the basis of the Order for Reparations, a draft plan for the implementation of the reparations ("Draft Implementation Plan of 25 July 2017").⁶
3. On 12 October 2017, having carefully studied the Draft Implementation Plan of 25 July 2017 and the observations of the Office of Public Counsel for Victims

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 a confidential annex *ex parte* Common Legal Representative of Victims, Office of Public Counsel for Victims and Defence team for Germain Katanga (Annex II).

² Order for Reparations, paras. 64-180.

³ Order for Reparations, para. 168.

⁴ Order for Reparations, paras. 281-295.

⁵ "Decision granting the Trust Fund for Victims an extension of time for submission of the Draft Implementation Plan", 22 June 2017, ICC-01/04-01/07-3744-tENG, and "Decision Granting the Trust Fund for Victims Access to Document ICC-01/04-01/07-3728-Conf-Exp-AnxII and an Extension of the Time Limit to Submit the Draft Implementation Plan for Reparations", 11 July 2017, ICC-01/04-01/07-3749-tENG.

⁶ "Draft implementation plan relevant to Trial Chamber II's order for reparations of 24 March 2017 (ICC-01/04-01/07-3728)", dated 25 July 2017, translation registered on 21 August 2017, ICC-01/04-01/07-3751-Conf, with a confidential annex, a public annex, a confidential annex *ex parte* Registry, a confidential annex *ex parte* Principal Counsel of the Office of Public Counsel for Victims and a confidential annex *ex parte* Legal Representative of Victims. A redacted version was filed on 25 July 2017 and the redacted French version on 21 August 2017.

("OPCV"),⁷ the legal representative of victims ("Legal Representative"),⁸ Mr Katanga's Defence team⁹ and the Trust Fund,¹⁰ the Chamber issued the "Decision approving the Implementation of Individual Reparations and instructing the Trust Fund for Victims to Transmit to it Additional Information on the Implementation of Collective Reparations".¹¹

4. On 20 September 2018, the Chamber again directed the Trust Fund to file additional information on the modalities of the collective reparations.¹² On that occasion the Chamber advised that it was prepared to approve the implementation of each modality of collective reparations separately so as not to delay the start of implementation further.¹³

5. On 5 August 2019, the Chamber granted the Trust Fund's request of 26 July 2019¹⁴ insofar as it approved implementation of the collective reparations relating to the purchase of livestock, certain income-generating activities and education assistance.¹⁵

6. On 12 December 2019, the Chamber handed down a decision in which it set out its reasons for having approved the implementation in respect of the purchase of livestock, income-generating activities with a value of less than 10,000

⁷ "Observations on the Trust Fund for Victims' Draft Implementation Plan Relevant to the Order for Reparations", 11 September 2017, ICC-01/04-01/07-3762-tENG.

⁸ "*Observations relatives au projet de plan de mise en œuvre déposé par le Fonds au profit des victimes en exécution de l'Ordonnance de réparation en vertu de l'article 75 du Statut (ICC-01/04-01/07-3751-Red)*", 11 September 2017, ICC-01/04-01/07-3763-Conf. A public redacted version was filed on 13 September 2017 (ICC-01/04-01/07-3763-Red). See also footnote 10.

⁹ "Defence Observations on the TFW's Draft implementation plan", 11 September 2017, ICC-01/04-01/07-3764.

¹⁰ "Joint Submission Concerning the Draft Implementation Plan Filed by the Trust Fund for Victims in Conformity with the Order for Reparations Pursuant to Article 75 of the Statute (ICC-01/04-01/07-3751-Red)", dated 9 October 2017 and registered on 10 October 2017, ICC-01/04-01/07-3767-Conf-tENG.

¹¹ "Decision approving the Implementation of Individual Reparations and instructing the Trust Fund for Victims to Transmit to it Additional Information on the Implementation of Collective Reparations", 12 October 2017, ICC-01/04-01/07-3768-Conf-tENG.

¹² "Order Directing the Trust Fund for Victims to File Information on the Modalities of Collective Reparations", 20 September 2018, ICC-01/04-01/07-3809-Conf-tENG, para. 15 ("Order of 20 September 2018").

¹³ Order of 20 September 2018, para. 16.

¹⁴ "Update report on the implementation of the collective reparations awards and Request for approval of implementation proposals pursuant to regulation 58 of the Regulations of the Trust Fund for Victims", 26 July 2019, ICC-01/04-01/07-3836-Conf, paras. 45-46.

¹⁵ Email from the Chamber on 5 August 2019 at 10.32.

euros and the payment of education costs for the first term of the 2019-2020 school year ("Decision of 12 December 2019").¹⁶

7. On 3 July 2020, the Chamber issued an order instructing the Trust Fund to file quarterly reports on the delivery of the reparations, and instructing the OPCV and the Legal Representative to file observations in response to those reports within two weeks of notification of each new report.¹⁷

8. On 3 August 2020, the Chamber granted the Trust Fund's request of 17 July 2020¹⁸ – having considered the observations of the OPCV¹⁹ and the Legal Representative²⁰ – insofar as it approved the Trust Fund's proposals relating to the purchase of motorcycles, fuel and miscellaneous items under the head of the income-generating activities modality of the collective reparations.²¹

9. On 24 August 2020, the Chamber granted the Legal Representative's request of 17 July 2020²² insofar as it directed: (i) the Trust Fund to place before the Legal Representative, the OPCV and the Chamber, in the next quarterly report due on 19 October 2020, an approximate schedule for delivery of the housing assistance and psychological support modalities of collective reparations; (ii) the Trust Fund to file by 18 September 2020 a brief report on delivery of the modalities of collective reparations taking the form of income-generating activities, *viz.* the purchase of motorcycles, fuel and miscellaneous items; (iii) the Trust Fund to file observations, in its next

¹⁶ "Decision on the Requests of the Trust Fund for Victims of 26 July and 18 November 2019 and on the Requests of the OPCV of 2 August 2019", 12 December 2019, ICC-01/04-01/07-3846-Conf-tENG.

¹⁷ "Order Instructing the Trust Fund for Victims to File Quarterly Reports on the Delivery of Reparations and Instructing the Legal Representative of Victims to File Observations to Clarify his Submissions of 6 and 13 March", 3 July 2020, ICC-01/04-01/07-3855-Conf-tENG, paras. 26-30 and p. 11.

¹⁸ "Update report on the implementation of the collective reparations awards pursuant to regulation 58 of the Regulations of the Trust Fund for Victims and Request for approval of implementation proposals related to the income-generating activities modality", 17 July 2020, ICC-01/04-01/07-3857-Conf, paras. 59, 67, 76 and p. 19.

¹⁹ Email from the OPCV to the Chamber on 21 June 2020 at 09.46.

²⁰ Email from the Legal Representative to the Chamber on 21 July 2020 at 14.53.

²¹ "Decision on the Request of the Trust Fund for Victims of 17 July 2020 seeking the Chamber's Approval of the Modes of Implementation Concerning Purchases of Motorcycles, Fuel and Miscellaneous Items", 3 August 2020, ICC-01/04-01/07-2859-Conf-tENG.

²² "Observations du Représentant légal en application de l'Ordonnance ICC-01/04-01/07-3855-Conf", 17 July 2020, ICC-01/04-01/07-3856-Conf.

quarterly report due on 19 October 2020, on the question of converting certain modalities of collective reparations into financial compensation; and (iv) the Legal Representative and the OPCV to file, by 2 November, observations on that particular aspect of the Trust Fund's quarterly report of 19 October 2020.²³

10. On 18 September 2020, as directed by the Chamber, the Trust Fund filed a report giving an update on developments in the implementation of the collective reparations, specifically regarding the purchase of motorcycles, fuel and miscellaneous items.²⁴

11. On 1 October 2020, the Legal Representative filed his observations on the Trust Fund Report of 18 September 2020.²⁵

12. On 19 October 2020, as directed by the Chamber, the Trust Fund filed a further quarterly report giving an update on developments in the implementation of the collective reparations, specifically regarding the: (i) housing support, (ii) education assistance, (iii) income-generating activities and (iv) psychological support ("Trust Fund Report of 19 October 2020").²⁶ The Trust Fund Report of 19 October 2020 also includes a request for approval of an alternative proposal for implementing the housing assistance modality of collective reparations ("Trust Fund Request of 19 October 2020 concerning the Housing Support").²⁷

13. On 2 November 2020, the Legal Representative filed his observations on the Trust Fund Report of 19 October 2020 and the Trust Fund Request of 19 October 2020.²⁸

²³ "Ordonnance relative à la requête du Représentant légal du 17 juillet 2020 et concernant les modalités de réparation collectives restantes dans cette affaire", 24 August 2020, ICC-01/04-01/07-3860-Conf.

²⁴ "Update report on the implementation of the collective reparations awards pursuant to regulation 58 of the Regulations of the Trust Fund for Victims and in accordance with the *Ordonnance relative à la requête du Représentant légal du 17 juillet 2020 et concernant les modalités de réparations collectives restantes dans cette affaire* (ICC-01/04-01/07-3860-Conf)", 18 September 2020, ICC-01/04-01/07-3861-Conf.

²⁵ "Observations de Représentant légal sur le rapport du Fonds au profit des victimes ICC-01/04-01/07-3861-Conf", 1 October 2020, ICC-01/04-01/07-3863-Conf.

²⁶ "Second quarterly update report pursuant to regulation 58 of the Regulations of the Trust Fund for Victims and Request for approval of Implementation proposal related to the housing assistance modality", 19 October 2020, ICC-01/04-01/07-3865-Conf.

²⁷ Trust Fund Report of 19 October 2020, paras. 31-48 and p. 9.

²⁸ "Observations du Représentant légal sur le rapport du Fonds au profit des victimes ICC-01/04-01/07-3865-Conf", 2 November 2020, ICC-01/04-01/07-3867-Conf ("Legal Representative's Observations of 2 November 2020").

14. On 10 December 2020, the Chamber directed the Legal Representative to file further observations on the Trust Fund's housing support proposal, after consultation with the beneficiaries concerned, by 1 February 2021 ("Order of 10 December 2020").²⁹

15. On 14 January 2021, the Legal Representative filed a request that the Chamber instruct the Registry to look for measures to enable the legal representatives' teams to travel to the field to consult with the beneficiaries to whom the housing support modality of collective reparations applies, and that it postpone the deadline of 1 February 2021 which it had set for the filing of the observations on the Trust Fund's proposal following consultation with the beneficiaries concerned ("Legal Representative's Request of 14 January 2021").³⁰

16. On 19 January 2021, the Trust Fund filed a further quarterly report giving an update on developments in the implementation of the collective reparations, specifically regarding the: (i) education assistance, (ii) income-generating activities, (iii) psychological support and (iv) housing support ("Trust Fund Report of 19 January 2021").³¹ The Trust Fund Report of 19 January 2021 also includes a request for approval of a proposal for the implementation of the psychological support modality of collective reparations ("Trust Fund Request of 19 January 2021 concerning the Psychological Support").³²

17. On 26 January 2021, the Chamber suspended the deadline of 1 February 2021 for consultation with the beneficiaries on the housing support.³³

²⁹ "Ordonnance relative à la requête du Fonds au profit des victimes du 19 octobre 2020 sollicitant l'approbation de la Chambre du mode de mise en œuvre concernant l'aide au logement", 10 December 2020, ICC-01/04-01/07-3868-Conf.

³⁰ "Observations du Représentant légal relatives à l'impossibilité de collecter les informations nécessaires à la mise en œuvre des réparations et requête conséquente", 14 January 2021, ICC-01/04-01/07-3869-Conf.

³¹ "Third quarterly update report pursuant to regulation 58 of the Regulations of the Trust Fund for Victims and Request for approval of implementation proposal related to the psychological support modality", 19 January 2021, ICC-01/04-01/07-3870-Conf, with a confidential annex (ICC-01/04-01/07-3870-Conf-AnxA).

³² Trust Fund Report of 19 January 2021, paras. 28-49, p. 23.

³³ Email from the Chamber on 26 January 2021 at 13.07.

18. On 3 February 2021, the Legal Representative filed observations on the Trust Fund Report of 19 January 2021 ("Legal Representative's Observations of 3 February 2021").³⁴ The Legal Representative moves the Chamber to approve the implementation of the psychological support as described in the annex to the Trust Fund Report of 19 January 2021.³⁵ Further, the Legal Representative reiterates his request that the Chamber "[TRANSLATION] invite or, as appropriate, instruct the Registry to find alternative measures to enable the Legal Representative to perform, face-to-face with the victims, the work necessary for the implementation, in particular, of the housing support and psychological support."³⁶

II. Analysis

A. Introductory remarks

(a) The security situation

19. At the outset the Chamber notes that, owing to the security situation in Ituri, activities directed at the implementation of the collective reparations in the Democratic Republic of the Congo remain suspended, with the exception of those taking place in the centre of Bunia.³⁷

(b) Collective reparations modalities currently being implemented

20. The Chamber takes note of the progress made – and of the obstacles encountered in connection with the security and public health situation in Ituri – in the areas of

³⁴ "Observations du Représentant légal relatives au rapport du Fonds au profit des victimes 'Third quarterly update report pursuant to regulation 58 of the Regulations of the Trust Fund for Victims and request for approval of implementation proposal related to the psychological support modality with Confidential Annex A' (ICC-01/04-01/07-3870-Conf)", 3 February 2021, ICC-01/04-01/07-3871-Conf, with two confidential annexes.

³⁵ Legal Representative's Observations of 3 February 2021, p. 19.

³⁶ Legal Representative's Observations of 3 February 2021, p. 19.

³⁷ Trust Fund Report of 19 January 2021, paras. 8-13, 18; Legal Representative's Observations of 3 February 2021, para. 16.

education assistance³⁸ and income-generating activities, specifically activities concerning the purchase of motorcycles,³⁹ fuel,⁴⁰ fish, livestock and other miscellaneous items.⁴¹

21. However, the Chamber notes the observations of the Legal Representative⁴² as to the fact that one beneficiary has already been awarded a sum of money to purchase fish but the award has not, to the Legal Representative's knowledge, been followed by verification that the sum received was in fact used to purchase fish, as intended by the Trust Fund for the implementation of this modality of collective reparations⁴³ and approved by the Chamber in the Decision of 12 December 2019.⁴⁴

22. The Chamber therefore directs the Trust Fund to submit observations on this matter in its next quarterly report.

(c) Invitations to bid and procurement

23. The Chamber lauds the Trust Fund's efforts to put together a task force in 2020 to monitor and oversee the solicitation and procurement processes initiated by the Trust Fund and to resolve the problems and bottlenecks that had arisen in them.⁴⁵ It welcomes the Trust Fund's initiative aimed at exploring in greater detail an alternative or amended procedure for selecting the implementing partners for the reparations ordered by the Chambers, and the Registry's support for that initiative.⁴⁶

³⁸ Trust Fund Report of 19 January 2021, paras. 14-15.

³⁹ Trust Fund Report of 19 January 2021, paras. 16-22; Legal Representative's Observations of 3 February 2021, paras. 15-18.

⁴⁰ Trust Fund Report of 19 January 2021, paras. 23-24; Legal Representative's Observations of 3 February 2021, para. 20.

⁴¹ Trust Fund Report of 19 January 2021, paras. 25-27.

⁴² Legal Representative's Observations of 3 February 2021, para. 19.

⁴³ Legal Representative's Observations of 3 February 2021, para. 1.

⁴⁴ "Update report on the implementation of the income generating activities modality of the collective reparations awards pursuant to regulation 58 of the Regulations of the Trust Fund for Victims and Request for approval of one proposed alternative implementation modality", 18 November 2019, ICC-01/04-01/07-3843-Conf, paras. 30-31.

⁴⁵ Decision of 12 December 2019, para. 48.

⁴⁶ Trust Fund Report of 19 January 2021, para. 74.

⁴⁷ Trust Fund Report of 19 January 2021, para. 75.

(d) As to the beneficiaries' being photographed in front of Trust Fund placards without prior consultation of the Legal Representative

24. Turning to the matter, raised by the Legal Representative in his observations of 2 November 2020, of the photographing of the beneficiaries in front of Trust Fund placards without his prior consent,⁴⁷ the Chamber notes that the Trust Fund does not intend to publish (for information and education purposes) those photographs without first securing the Legal Representative's consent and the lifting of confidentiality restrictions by the Chamber.⁴⁸ The Chamber also notes the Legal Representative's observations as to the fact that discussions with the Trust Fund on this matter are ongoing⁴⁹ and that, for the time being, the Legal Representative

[TRANSLATION] objects to the taking of any photographs, even for internal documentation purposes, not least because it is clear that the victims do not realize the purposes for which the pictures are being taken and it was their understanding that the photographs were merely to prove receipt of the reparations.⁵⁰

(e) As to a partial lifting of confidentiality restrictions concerning the reparations process

25. The Chamber takes note of the Legal Representative's observations as to the benefit of a partial lifting of confidentiality restrictions concerning the reparations process and, in particular, as to the incident involving publication by a journalist of "[TRANSLATION] problematic" information.⁵¹ The Chamber is of the view that this matter must be canvassed and considered thoroughly in due course.

⁴⁷ Legal Representative's Observations of 2 November 2020, para. 16.

⁴⁸ Trust Fund Report of 19 January 2021, paras. 78, 88.

⁴⁹ Legal Representative's Observations of 3 February 2021, paras. 48-51.

⁵⁰ Legal Representative's Observations of 3 February 2021, para. 52.

⁵¹ Legal Representative's Observations of 3 February 2021, paras. 46-47.

B. The Legal Representative's Request of 14 January 2021

(a) Subject matter of the request and submissions of the Legal Representative

26. The Legal Representative requests that the Chamber instruct the Registry to look for alternative measures to enable the legal representatives' teams to travel to the field to consult with the beneficiaries to whom the housing support applies, and that it postpone the deadline of 1 February 2021 set for the filing of the observations on the Trust Fund's proposal following consultation with the beneficiaries concerned.⁵²

27. Firstly, the Legal Representative explains that on 7 January 2021 the Registry notified him that a request to enable him and the legal consultant to undertake a mission to consult with beneficiaries on the matters pending before the Chamber in respect of the service-based collective reparations had been denied on account of the need for a 10-day quarantine in Kinshasa, the costs of which the Registry does not cover.⁵³ He goes on to say that the Registry did, however, approve the mission for the legal assistant based in Lubumbashi.⁵⁴

28. In that connection, the Legal Representative requests that the Chamber instruct the Registry to find alternative measures to enable him and the legal consultant to travel to the field for consultations with the beneficiaries concerned while ruling out the risk that is the reason for the quarantine.⁵⁵ The Legal Representative describes a number of alternative measures, and submits that measures of the sort should be explored further in view of the heightened importance of undertaking these missions to the field.⁵⁶ He notes however that, to date, he has not been made aware of any steps taken by the Registry to explore such measures or even begin discussing the matter.⁵⁷

29. Secondly, the Legal Representative reports that, owing to the refusal of the aforementioned mission request, he is not in a position to consult with the beneficiaries

⁵² Legal Representative's Request of 14 January 2021, p. 8.

⁵³ Legal Representative's Request of 14 January 2021, paras. 1-5.

⁵⁴ Legal Representative's Request of 14 January 2021, para. 4.

⁵⁵ Legal Representative's Request of 14 January 2021, para. 14, p. 8.

⁵⁶ Legal Representative's Request of 14 January 2021, paras. 8-13, 15-17.

⁵⁷ Legal Representative's Request of 14 January 2021, para. 17.

concerned so as to obtain the relevant information and submit the observations directed by the Chamber within the time set.⁵⁸ The Legal Representative maintains that the legal assistant based in Lubumbashi is not capable of conducting the consultations on her own, given the nature and extent of the tasks to be performed.⁵⁹ Accordingly, he seeks an extension of the Chamber's deadline of 1 February 2021 in order duly to discharge his remit.⁶⁰

(b) Observations of the Trust Fund on the request

30. In common with the Legal Representative, the Trust Fund reports that the request for a joint mission with the Legal Representative in the second half of January 2021 was denied on account of travel restrictions related to the COVID-19 pandemic.⁶¹ The Trust Fund agrees with the Legal Representative on the need to consult with the beneficiaries to whom the housing support applies regarding their individual needs, the problems they foresee in relation to the building of houses and the impact on the schedule should they decide to switch modalities of collective reparations, and for the purpose of advising them on the Trust Fund's proposed changes to the implementation of that modality.⁶² The Trust Fund proposes that the beneficiaries concerned be consulted on these issues in stages, during one or more field missions, as soon as circumstances allow.⁶³ In the meantime it suggests that, with the Legal Representative's consent, the interviews with the beneficiaries be held remotely.⁶⁴

(c) Further observations of the Legal Representative

31. The Legal Representative renews his request to the Chamber to "[TRANSLATION] invite or, as appropriate, instruct the Registry to find alternative measures to enable the Legal Representative to perform, face-to-face with the victims, the work necessary

⁵⁸ Legal Representative's Request of 14 January 2021, para. 7.

⁵⁹ Legal Representative's Request of 14 January 2021, para. 5.

⁶⁰ Legal Representative's Request of 14 January 2021, p. 8.

⁶¹ Trust Fund Report of 19 January 2021, paras. 55-58.

⁶² Trust Fund Report of 19 January 2021, paras. 59, 67.

⁶³ Trust Fund Report of 19 January 2021, para. 61.

⁶⁴ Trust Fund Report of 19 January 2021, para. 61.

for the implementation, in particular, of the housing support and psychological support.”⁶⁵

32. The Legal Representative is firm on the need to conduct field missions to consult with the victims concerned regarding the Trust Fund’s housing support proposal, insofar as he “[TRANSLATION] is of the view that proceeding remotely is out of the question considering the profiles of the victims, the importance of the decisions to be made and the nature of the tasks to be performed.”⁶⁶

33. That notwithstanding, the Legal Representative advises

[TRANSLATION] that the regular talks between the Trust Fund and the Legal Representative may, as they progress, reveal ways forward on a particular aspect of the [...] process sought by the Trust Fund, without prejudice to the ultimate decision as to how this modality is delivered.⁶⁷

(d) Determination of the Chamber

34. It is recalled that the Trust Fund put before the Chamber a request for approval of an alternative proposal for implementing the housing assistance modality of collective reparations⁶⁸ and that, before ruling on that request, the Chamber directed the Legal Representative to file further observations on the Trust Fund’s proposal, after consultation with the beneficiaries, by 1 February 2021.⁶⁹

35. It is further recalled that the Legal Representative put before the Chamber a request that it instruct the Registry to look for measures to enable the legal representatives’ teams to travel to the field to consult with the beneficiaries, and that it postpone the deadline of 1 February 2021 set for the filing of the observations on the Trust Fund’s proposal following consultation with the beneficiaries concerned.⁷⁰

⁶⁵ Legal Representative’s Observations of 3 February 2021, p. 19.

⁶⁶ Legal Representative’s Observations of 3 February 2021, para. 41. See also paras. 9-13, 42.

⁶⁷ Legal Representative’s Observations of 3 February 2021, para. 43.

⁶⁸ Trust Fund Request of 19 October 2020 concerning the Housing Support.

⁶⁹ Order of 10 December 2020.

⁷⁰ Legal Representative’s Request of 14 January 2021.

36. As regards the extension of time, the Chamber recalls that it suspended the aforementioned deadline of 1 February 2021.⁷¹

37. As to the Legal Representative's request for field missions, the Chamber would begin by highlighting the need to maintain close contact with the beneficiaries at all times and would point out, in that respect, that missions are important to fulfilling that remit.

38. However, the Chamber notes that the Registry is the organ responsible for authorizing field missions and that, pursuant to its remit, the Registry is doing its utmost to enable the conduct of missions which are determined to be necessary, while weighing the various interests and concerns at stake in the light of the current exceptional circumstances.

39. The Chamber further notes that the purpose of the consultations is above all to inform the beneficiaries concerned of the developments regarding the housing support, to collect their views and advise them on the Trust Fund's proposed changes to the implementation of that modality, to identify their individual needs and the problems they foresee in relation to the building of houses, and about the possibility of choosing another modality of collective reparations. The Chamber will rule on the Trust Fund's proposals relating to the housing support once it has acquainted itself with the observations collected by the Legal Representative.

40. The Chamber also notes that it is important to make as much headway as possible in the implementation of the collective reparations.⁷²

⁷¹ Email from the Chamber on 26 January 2021 at 13.07.

⁷² See also Legal Representative's Observations of 3 February 2021, para. 12. In this connection the Chamber notes with concern the conflicting observations of the Trust Fund and the Legal Representative regarding the possibility, or otherwise, of engaging the services of a local partner to build and renovate the houses, as envisioned by the beneficiaries, within the budgets set (Legal Representative's Request of 14 January 2021, paras. 9-11; Trust Fund Report of 19 January 2021, para. 64; Legal Representative's Observations of 3 February 2021, para. 43). The Chamber supports an ongoing dialogue between the Trust Fund and the Legal Representatives but considers it to be in the victims' best interest that that dialogue lead to shared positions and concrete solutions, within a reasonable time, to avoid further delay in the implementation of the reparations.

41. Accordingly, the Chamber directs the Legal Representative and the Trust Fund to conduct, with support from the Registry and the Court's country office in Bunia, *remote* consultations on the housing support, by telephone or videoconference, until such time as it is possible to undertake field missions. To that end the Chamber relies on the Legal Representative and his team to conduct the interviews under optimal conditions, on the basis of the relationship of trust that he and his team have built up with their clients over the years. The Chamber also agrees with the Legal Representative⁷³ to ensure that all interviews with the beneficiaries, whether they reside in Bunia or in other localities, are held within a limited time frame.

42. It is, however, in the Chamber's view, paramount that a close dialogue be maintained with the Registry so that field missions can take place as soon as circumstances permit.

43. Furthermore the Chamber directs the Legal Representative to file observations, in the light of the consultations, by 15 March 2021 so that the Chamber can rule on this modality of collective reparations promptly.

44. Lastly, the Chamber would emphasize that the implementation of the various modalities of collective reparations has, thus far, been arranged so as to favour a flexible approach to delivering the reparations, in response to the many challenges that have arisen; in the Chamber's view, such an approach must be maintained.

C. Trust Fund Request of 19 January 2021 concerning the Psychological Support

(a) Subject matter of the request and observations of the Trust Fund

45. The Trust Fund asks the Chamber to approve a proposal for implementation of the psychological support modality of collective reparations.⁷⁴ To that end it submits further particulars on that modality and a document by the expert psychologist, "*CADRE DE TRAVAIL Prise en charge psychologique des victimes du conflit de Bogoro avec*

⁷³ See Legal Representative's Observations of 3 February 2021, para. 42.

⁷⁴ Trust Fund Report of 19 January 2021, paras. 48, p. 23.

trouble de stress post traumatique" ("Project Framework for Psychological Support").⁷⁵

The Trust Fund reports that it has also submitted the further particulars and the Project Framework for Psychological Support to the Legal Representatives of Victims.⁷⁶

46. The Project Framework for Psychological Support provides for a two-level approach to addressing the post-traumatic stress disorder affecting victims as a result of Mr Katanga's crimes.⁷⁷ The first level consists of an informational and educational component, aimed at informing and educating victims and other members of the community about how best to identify and recognize post-traumatic stress disorder, and of group and family therapy sessions.⁷⁸ The second level involves psychological counselling sessions to teach victims and their families about post-traumatic stress disorder and foster coping mechanisms to replace negative ideas and behaviours with thoughts and reactions that are more in line with reality.⁷⁹

47. The Trust Fund underscores that, given the shortage of qualified mental health professionals in the Democratic Republic of the Congo, its proposal is to have a local psychologist identify persons who can be trained in the management of post-traumatic stress disorder. It states that in return for a small remuneration those persons will then be responsible, under the supervision of the local psychologist, for conducting the group and family therapy and psychological counselling sessions. The Trust Fund goes on to say that a consultant will guide and supervise the work of the psychologist.⁸⁰

48. The Trust Fund notes that the expert psychologist's work may be used either to write the scope of work for the issuance of an invitation to bid, or as a basis for the Trust Fund to implement this modality directly, with the assistance of a consultant engaged for that purpose.⁸¹ The Trust Fund submits that the latter alternative is more appropriate in terms of cost-effectiveness and insofar as it entails less travel, since the

⁷⁵ Trust Fund Report of 19 January 2021, paras. 34-40.

⁷⁶ Trust Fund Report of 19 January 2021, para. 33.

⁷⁷ Trust Fund Report of 19 January 2021, para. 34.

⁷⁸ Trust Fund Report of 19 January 2021, para. 35.

⁷⁹ Trust Fund Report of 19 January 2021, para. 36.

⁸⁰ Trust Fund Report of 19 January 2021, para. 37.

⁸¹ Trust Fund Report of 19 January 2021, para. 39.

consultant could conduct the training remotely, which would provide a constructive way forward that takes into account the security situation and travel restrictions.⁸² The next step planned by the Trust Fund is to engage a consultant to begin writing a more concrete plan with a detailed budget and to verify the availability of a psychologist based in Bunia.⁸³ The Trust Fund explains that other options will have to be explored if it is unable to identify a local psychologist.⁸⁴

49. The Trust Fund reports that the OPCV has conveyed its support for the approach proposed.⁸⁵

50. The Trust Fund does not believe that it is necessary to consult with each beneficiary before the Chamber approves the mode of implementation proposed, as it considers that the proposal is in line with the Legal Representative's suggestions regarding the approach suggested and the use of local human resources,⁸⁶ and with the wishes of the beneficiaries.⁸⁷

51. Furthermore, the Trust Fund states that the security situation and travel restrictions in force call for exploring the possibility of holding remote interviews to obtain the victims' updated contact details once the Chamber's approval has been secured for the mode of implementation of the psychological support.⁸⁸

(b) Observations of the Legal Representative concerning the request

52. The Legal Representative moves the Chamber to approve the implementation of the psychological support as described in the Project Framework for Psychological Support.⁸⁹

⁸² Trust Fund Report of 19 January 2021, para. 39.

⁸³ Trust Fund Report of 19 January 2021, paras. 40, 49.

⁸⁴ Trust Fund Report of 19 January 2021, para. 40.

⁸⁵ Trust Fund Report of 19 January 2021, para. 41.

⁸⁶ Trust Fund Report of 19 January 2021, paras. 43-44, 32.

⁸⁷ Trust Fund Report of 19 January 2021, para. 47.

⁸⁸ Trust Fund Report of 19 January 2021, para. 46.

⁸⁹ Legal Representative's Observations of 3 February 2021, p. 19.

53. The Legal Representative seconds the Trust Fund's observations to the effect that a consultant needs to be designated as soon as possible.⁹⁰

54. As to the Trust Fund's proposal to hold remote information sessions with the victims, the Legal Representative points out that the consultations could be conducted by telephone but maintains that this would take considerable time, with no assurance of success in reaching all the victims directly, and that intermediaries would have to be used for a substantial part of the work.⁹¹ Furthermore the Legal Representative emphasizes the sensitive nature of the information to be gathered and the need "[TRANSLATION] to apprise the victims of the content of the support they will be offered and the importance of their participating in the process, notwithstanding all the criticisms they may have", and reiterates the necessity of conducting a field mission to meet with the victims.⁹²

(c) Determination of the Chamber

55. The Chamber welcomes the progress made by the Trust Fund, not least thanks to the work of the expert psychologist, culminating in the presentation of the proposal for implementation of the psychological support modality of collective reparations.

56. The Chamber notes that the Project Framework for Psychological Support aims to provide victims with uninterrupted access to treatment using the means available so as to improve their psychological well-being, social reintegration, mental health and quality of life, and, through them, the well-being of the community. It is also directed at building local capacity and providing families and the community with a basic knowledge of post-traumatic stress disorder and how to identify and treat it, thereby fostering the victims' ability to cope with the psychological trauma in their everyday environment.

⁹⁰ Legal Representative's Observations of 3 February 2021, para. 27.

⁹¹ Legal Representative's Observations of 3 February 2021, para. 32.

⁹² Legal Representative's Observations of 3 February 2021, para. 34.

57. Having studied the Trust Fund's proposals, in particular the Project Framework for Psychological Support, the Chamber is of the view that the information provided lays down sufficiently specific guidelines as to the framework, work plan and mode of delivery of the psychological support project, in accordance with its directions. The Chamber also notes that the OPCV and the Legal Representative do not object to the proposals put forward by the Trust Fund. Accordingly, the Chamber sees fit to approve the implementation of the psychological support modality of collective reparations as recommended by the Trust Fund in its report of 19 January 2021 and in the Project Framework for Psychological Support.

58. The Chamber notes that the implementation of the psychological support project will begin with the designation of a consultant to develop a more concrete work and action plan, including a detailed budget, and to verify the availability of a psychologist *in situ*.

59. The Chamber also notes that it will be necessary not only to consult with the beneficiaries to apprise them of the psychological support project and verify that they are in agreement with it, but also to collect up-to-date information on the victims' places of abode. In this connection the Chamber notes the Legal Representative's observations as to the challenges of consulting with these clients *remotely* by telephone. The Chamber would reiterate, in this respect, that it believes in the need to make as much headway as possible in the implementation of the collective reparations, regard being had to the public health and security situation as it stands. Accordingly the Trust Fund, the Legal Representative and the OPCV are directed to look further into the possibility of conducting remote victim consultations with the assistance of the Registry and the Court's country office in Bunia, and into the possibility of merging those consultations with the consultations on housing support.

60. Lastly, the Chamber would underscore, it is paramount that a close dialogue be maintained with the Registry so that field missions can be authorized as soon as circumstances permit.

FOR THESE REASONS, the Chamber

DIRECTS the Trust Fund to submit, in the next quarterly report, observations on the monitoring undertaken after a beneficiary was awarded a sum of money to purchase fish;

DENIES in part the Legal Representative's Request of 14 January 2021;

DIRECTS the Legal Representative and the Trust Fund, with the assistance of the Registry and the Court's country office in Bunia, to conduct *remote* interviews with the beneficiaries concerned, by telephone or videoconference, regarding the Trust Fund's proposals as to the housing support;

DIRECTS the Legal Representative to file further observations on the Trust Fund's proposals as to the housing support by 16.00 on 15 March 2021;

GRANTS the Trust Fund Request of 19 January 2021 concerning the Psychological Support;

DIRECTS the Trust Fund, the Legal Representative and the OPCV, with the assistance of the Registry and the Court's country office in Bunia, to look further into the possibility of conducting *remote* interviews with the victims on the implementation of the psychological support project; and

INVITES the Trust Fund, the Legal Representative and the OPCV to maintain a close dialogue with the Registry so that field missions can be authorized as soon as circumstances permit.

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

[signed]

Judge Marc Perrin de Brichambaut
Presiding Judge

[signed]

Judge Olga Herrera Carbuccion

[signed]

Judge Péter Kovács

Dated this 18 February 2021

At The Hague, Netherlands