

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: **10 June 2024**

TRIAL CHAMBER II

Before: Judge María del Socorro Flores Liera, Presiding Judge
Judge Kimberly Prost
Judge Nicolas Guillou

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
*THE PROSECUTOR v. GERMAIN KATANGA***

Public Redacted Version of

**Decision on the request for reconsideration of or leave to appeal the ‘Order on the
mandate of the Legal Representative of Victims’ (ICC-01/04-01/07-3925)**

**Decision to be notified, in accordance with Regulation 31 of the *Regulations of the Court*,
to:**

Office of the Prosecutor

Counsel for the Defence

Mr David Hooper

Ms Caroline Buisman

Legal Representatives of Victims

Mr Fidel Nsita Luvengika

The Office of Public Counsel for Victims

Ms Paolina Massidda

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

States Representatives

Trust Fund for Victims

Ms Deborah Ruiz Verduzco

REGISTRY

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Mr Osvaldo Zavala Giler

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Trial Chamber II of the International Criminal Court (the ‘Chamber’), in the case of *The Prosecutor v. Germain Katanga*, having regard to articles 68 and 82(1)(d) of the Rome Statute (the ‘Statute’), rule 155 of the Rules of Procedure and Evidence (the ‘Rules’), and regulation 65 of the Regulations of the Court issues this ‘Decision on the request for reconsideration of or leave to appeal the “Order on the mandate of the Legal Representative of Victims” (ICC-01/04-01/07-3925)’.

I. PROCEDURAL HISTORY

1. On 19 October 2023, the Trust Fund for Victims (the ‘TFV’) reported that the implementation of reparations in the present case concluded on 6 October 2023.¹ The TFV reported that ‘all steps relevant to the full implementation of the psychological support modality were taken by the end of the penultimate reporting period.’² Accordingly, the TFV reported that the psychological support modality was completed.³
2. On 25 October 2023, the Legal Representative of Victims (the ‘LRV’) filed the ‘Rapport du Représentant légal consécutif à sa dernière mission et sur diverses questions relatives à l’exécution et à la clôture des réparations’ (‘LRV Report on the Fourteenth Report’), in which the LRV communicated, *inter alia*, that not all planned sessions of psychological support could be attended by some victims and that the evaluation of the psychological program had not been fully completed.⁴
3. On 1 December 2023, the Chamber, in a prior composition, issued the ‘Decision on the Fourteenth quarterly update report pursuant to regulation 58 of the Regulations of the Trust Fund for Victims and on the Rapport du Représentant légal consécutif à sa dernière mission et sur diverses questions relatives à l’exécution et à la clôture des réparations’ (the ‘Decision on Fourteenth Report’), in which it acknowledged the conclusion of the implementation of the different modalities of reparations in the present case and urged the TFV to ensure that the psychological evaluation was completed before formally concluding the programme.⁵

¹ Fourteenth quarterly update report pursuant to regulation 58 of the Regulations of the Trust Fund for Victims, [ICC-01/04-01/07-3916](#) (‘Fourteenth Report’), para. 6.

² Fourteenth Report, [ICC-01/04-01/07-3916](#), para. 11.

³ Fourteenth Report, [ICC-01/04-01/07-3916](#), para. 11.

⁴ LRV Report on the Fourteenth Report, [ICC-01/04-01/07-3917-Red](#), para. 11

⁵ Decision on Fourteenth Report, [ICC-01/04-01/07-3918](#), paras 11-12, page 7.

4. On 19 January 2024, the TFO reported that all eligible victims who were present in Ituri who were able to be reached by the TFO psychologist team, and who indicated an interest in the psychological support modality, were offered the possibility of benefiting from counselling sessions as part of the reparation programme.⁶ The TFO noted that, as previously reported, ‘whilst victim counselling has concluded as part of the formal programme of reparation, several beneficiaries have continued benefitting from counselling sessions that are provided by locally-based psychological support counsellors who had been trained as part of the programme’.⁷ The TFO further explained that ‘the counselling sessions are now being given by [the locally-based psychological support counsellors] on a *pro bono* basis’.⁸ The TFO also reported that it and its expert psychiatrist are in the process of finalising the final report on the implementation of the psychological support modality.⁹
5. On 19 April 2024, the TFO reiterated that despite the conclusion of victim counselling as part of the formal programme of reparations, several beneficiaries have continued benefitting from *pro-bono* counselling sessions provided by locally-based psychological support counsellors.¹⁰
6. On 6 May 2024, the LRV filed its observation on the Sixteenth Report,¹¹ in which the LRV submitted that according to some victims, not all the sessions were held and that the TFO had not produced the evaluation report, making it difficult to assess the state of the support and whether it can be considered as closed.¹²
7. On 7 May 2024, the LRV filed the ‘Requête du Représentant légal relative à la clôture de l’affaire’, requesting that the Chamber issue a decision closing the present case and thereby end the LRV’s mandate.¹³ The LRV submitted that his application was made subject to the

⁶ Fifteenth quarterly update report pursuant to regulation 58 of the Regulations of the Trust Fund for Victims, 19 January 2024 (‘Fifteenth Report’), [ICC-01/04-01/07-3919](#), para. 12.

⁷ Fifteenth Report, [ICC-01/04-01/07-3919](#), para. 13.

⁸ Fifteenth Report, [ICC-01/04-01/07-3919](#), para. 13.

⁹ Fifteenth Report, [ICC-01/04-01/07-3919](#), para. 14.

¹⁰ Sixteenth quarterly update report pursuant to regulation 58 of the Regulations of the Trust Fund for Victims, 19 April 2024 (‘Sixteenth Report’), [ICC-01/04-01/07-3922](#), para. 13.

¹¹ Observations du Représentant légal relatives au rapport du Fonds au profit des victimes intitulé « Sixteenth quarterly update report pursuant to regulation 58 of the Regulations of the Trust Fund for Victims » (ICC-01/04-01/07-3922) (‘LRV’s Observations on the Sixteenth Report’), 6 May 2024, [ICC-01/04-01/07-3923](#).

¹² LRV’s Observations on the Sixteenth Report, [ICC-01/04-01/07-3923](#), paras 7-10.

¹³ Requête du Représentant légal relative à la clôture de l’affaire, 7 May 2024, [ICC-01/04-01/07-3924](#), para. 25.

prior resolution and determination on the submissions made in the LRV's Observations on the Sixteenth Report.¹⁴

8. On 23 May 2024, the Chamber issued the 'Order on the mandate of the Legal Representative of Victims' (the 'Impugned Order'), in which it held that as the implementation of reparations had concluded and the closing ceremony had been held, the intervention of legal representatives for victims was no longer required.¹⁵ The Chamber notes that its conclusion concerns all victims in the case, including the victims not represented by the LRV.
9. On 24 May 2024, the LRV filed the 'Requête urgente en reconsidération de la décision intitulée « Order on the mandate of the Legal Representative of Victims » (ICC-01/04-01/07-3925)' (the 'Request for Reconsideration') with a confidential Annex A.¹⁶ In the Request for Reconsideration, the LRV asked that the Chamber reconsider the Impugned Order and allow the LRV's mandate to continue until the formal closing of the proceedings.¹⁷
10. On 27 May 2024, the Chamber clarified to the parties and participants that the Impugned Order did not designate the Office of Public Counsel for Victims (the 'OPCV') as a new representative of the victims represented by the LRV.¹⁸
11. On 28 May 2024, the OPCV filed the 'Observations du BCPV sur la «Requête urgente en reconsidération de la décision 'Order on the mandate of the Legal Representative of Victims (ICC-01/04-01/07-3925)»' (ICC-01/04-01/07-3926-Conf)' (the 'OPCV Observations') in which it, *inter alia*, recalled that the Chamber, in its previous composition, assessed the case of each victim in detail and all individuals represented by the OPCV and awarded reparations were found to have suffered harm in the 2003 Bogoro attack.¹⁹

¹⁴ Requête du Représentant légal relative à la clôture de l'affaire, 7 May 2024, [ICC-01/04-01/07-3924](#), para. 2.

¹⁵ Impugned Order, [ICC-01/04-01/07-3925](#), para. 8.

¹⁶ Request for Reconsideration, [ICC-01/04-01/07-3926-Red](#).

¹⁷ Request for Reconsideration, [ICC-01/04-01/07-3926-Red](#), para. 38.

¹⁸ Email from Trial Chamber II to Parties and Participants, 27 May 2024 at 10:37.

¹⁹ OPCV Observations, [ICC-01/04-01/07-3927-Red](#), para. 9, referring to Annex II to the Reparations Order, 24 March 2017, ICC-01/04/01/07-3728-Conf-AnxII-Red. In so far as the Chamber refers to a document classified as confidential or confidential *ex parte*, the Chamber considers that its reference does not warrant confidential classification.

12. On 29 May 2024, the LRV filed the ‘Requête aux fins d’autorisation de faire appel de l’ordonnance intitulée « Order on the mandate of the Legal Representative of Victims » (ICC-01/04-01/07-3925)’ (the ‘Request for Leave’).²⁰
13. On 31 May 2024, the LRV transmitted a confidential *ex parte*, available only to the LRV, Annex to the Chamber, which contained a letter from select victims expressing their concern that the mandate of the LRV had ended.²¹

II. SUBMISSIONS

A. Request for Reconsideration

14. In the Request for Reconsideration, the LRV submits that the Impugned Order is based on a manifest error of reasoning and is likely to create an injustice.²² Specifically, the LRV argues that the designation of the OPCV to ensure the rights and interests of the victims: (i) creates a conflict of interest; and (ii) is contrary to the rights and interests of victims in light of the specific circumstances in this case.²³ The submissions of the LRV on these issues are detailed below.

1. Alleged Conflict of Interest

15. The LRV submits that the appointment of the OPCV creates a conflict of interest.²⁴ The LRV states that a conflict exists because the OPCV was appointed as the legal representative of certain victims in the *Katanga* case after the Chamber granted the LRV’s request to withdraw from its representation of these victims.²⁵ The LRV submits that the

²⁰ Request for Leave, [ICC-01/04-01/07-3928-Red](#).

²¹ Transmission d’un document avec Annexe Confidentielle, *EX PARTE*, réservée au Représentant légal des victimes, [ICC-01/04-01/07-3930](#), ICC-01/04-01/07-3930-Conf-Exp-Anx.

²² Request for Reconsideration, [ICC-01/04-01/07-3926-Red](#), paras 14, 20.

²³ Request for Reconsideration, [ICC-01/04-01/07-3926-Red](#), para. 20.

²⁴ Request for Reconsideration, [ICC-01/04-01/07-3926-Red](#), paras 20, 29-30.

²⁵ Request for Reconsideration, ICC-01/04-01/07-3926-Conf, paras 21-26, referring to [REDACTED]

[REDACTED] and 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](#), p. 7. [REDACTED]

withdrawal of its representation of these victims was [REDACTED]

[REDACTED]²⁶

16. The LRV therefore submits that the Chamber's statement in the Impugned Order that it 'may request the intervention of the Office of the Public Counsel for Victims, should the Chamber deem it necessary for the protection of the rights and interests of the victims prior to the official closing of the reparations proceeding'²⁷ creates a situation in which groups of victims with different or opposing interests would be represented by the same office.²⁸ This, in the submission of the LRV, would create a serious conflict of interest on the part of the OPCV that could not be remedied by having different individuals within OPCV manage separate tasks.²⁹

2. *Rights and Interests of Victims*

17. The LRV submits that the appointment of the OPCV is contrary to the rights and interests of the victims.³⁰ The LRV submits that the issue of psychological support remains pending before the Chamber³¹ and that various proposals from the LRV could be considered in this context.³² The LRV states that some victims voiced concerns that any issues arising pending the closure of the reparations proceeding, which would involve their rights and interests, would be managed by anyone other than their legal representative.³³

B. Request for Leave

18. The LRV proposes two issues for appeal in its Request for Leave.

19. The first issue for appeal submitted by the LRV is what legal test should be applied by the Chamber to determine whether a conflict of interest exists, particularly in its application

[REDACTED] See Request for Reconsideration, ICC-01/04-01/07-3926-Conf, para. 25, citing, [REDACTED]

²⁶ Request for Reconsideration, ICC-01/04-01/07-3926-Conf, paras 26, 28.

²⁷ Impugned Order, 23 May 2024, [ICC-01/04-01/07-3925](#), para. 9.

²⁸ Request for Reconsideration, [ICC-01/04-01/07-3926-Red](#), para. 27.

²⁹ Request for Reconsideration, [ICC-01/04-01/07-3926-Red](#), paras 29-30.

³⁰ Request for Reconsideration, [ICC-01/04-01/07-3926-Red](#), para. 20.

³¹ Request for Reconsideration, [ICC-01/04-01/07-3926-Red](#), para. 33. The Chamber notes, however, that the TFV has confirmed that the implementation of the psychological support modality is finalised. This is discussed by the Chamber in greater detail below. See Fourteenth Report, [ICC-01/04-01/07-3916](#), para. 11.

³² Request for Reconsideration, [ICC-01/04-01/07-3926-Red](#), para. 33.

³³ Request for Reconsideration, [ICC-01/04-01/07-3926-Red](#), para. 34.

under Article 16 of the Code of Professional Conduct for counsel.³⁴ The LRV submits, *inter alia*, that the resolution of this issue is essential for the determination of matters arising in this case, namely whether the appointment of the OPCV to represent the victims who were represented by the LRV gives rise to a conflict of interest.³⁵ The LRV further states that this question concerns questions of law relating to the legal standard applicable to the determination of a conflict of interest.³⁶

20. The second issue for appeal identified by the LRV is whether it is justified that following the completion of the judicial phase of reparations: (i) victims are no longer represented; or (ii) that their only option for representation would conflict with the standards provided in the Code of Professional Conduct for counsel or would be in violation of article 68 of the Statute and rule 90 of the Rules.³⁷ The LRV submits that both issues clearly result from the Impugned Order and require a decision for their resolution.³⁸

III. APPLICABLE LAW

21. While not explicitly provided for in the Statute, the Chamber adopts the jurisprudence of previous Chambers in considering that it has the power to reconsider its decisions upon request of the parties or *proprio motu*.³⁹ The Chamber notes that reconsideration remains an exceptional remedy and should only be done if there is a clear error of reasoning or in order to prevent an injustice.⁴⁰ During this assessment, the Chamber will also consider whether new facts or arguments have arisen since the decision in question was rendered.⁴¹

³⁴ Request for Leave, [ICC-01/04-01/07-3928-Red](#), para. 14.

³⁵ Request for Leave, [ICC-01/04-01/07-3928-Red](#), para. 17.

³⁶ Request for Leave, [ICC-01/04-01/07-3928-Red](#), para. 18.

³⁷ Request for Leave, [ICC-01/04-01/07-3928-Red](#), para. 15.

³⁸ Request for Leave, [ICC-01/04-01/07-3928-Red](#), para. 16.

³⁹ Trial Chamber VI, *The Prosecutor v. Mahamat Said Abdel Kani*, Decision on the Defence's Request for Reconsideration of or Leave to Appeal the Decision on the Prosecution's Fifth Request under Rule 68(2)(b), 21 December 2022, [ICC-01/14-01/21-575](#) ('Said Decision on Reconsideration and Leave to Appeal'), para. 20; *See, also* Trial Chamber I, *The Prosecutor v. Thomas Lubanga Dyilo*, Decision on the defence request to reconsider the "Order on numbering of evidence" of 12 May 2010, 30 March 2011, [ICC-01/04-01/06-2705](#); Trial Chamber V(B), *The Prosecutor v. Uhuru Muigai Kenyatta*, Decision on the Prosecution's motion for reconsideration of the decision excusing Mr Kenyatta from continuous presence at trial, 26 November 2013, [ICC-01/09-02/11-863](#); Trial Chamber VII, *The Prosecutor v. Jean-Pierre Bemba et al.*, Decision on Kilolo Defence Request for Reconsideration, 15 July 2015, [ICC-01/05-01/13-1085](#); Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Decision on Defence request for reconsideration and, in the alternative, leave to appeal the 'Decision on witness preparation and familiarisation', 9 April 2020, [ICC-01/12-01/18-734](#) or Trial Chamber I, *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman ('Ali Kushayb')*, Decision on the Defence's request for reconsideration of the Decision on victims' participation, 29 September 2022, [ICC-02/05-01/20-759](#).

⁴⁰ Said Decision on Reconsideration and Leave to Appeal, [ICC-01/14-01/21-575](#), para. 20.

⁴¹ Said Decision on Reconsideration and Leave to Appeal, [ICC-01/14-01/21-575](#), para. 20.

22. With respect to the application of article 82(1)(d) of the Statute, the Chamber will have regard to whether: (i) the matter is an ‘appealable issue’; (ii) the issue would significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial; and (iii) in the opinion of the Chamber, an immediate resolution by the Appeals Chamber may materially advance the proceedings.⁴²

23. Regarding the first criterion, the Appeals Chamber has held:

An issue is an identifiable subject or topic requiring a decision for its resolution, not merely a question over which there is disagreement or conflicting opinion. There may be disagreement or conflict of views on the law applicable for the resolution of a matter arising for determination in the judicial process. This conflict of opinion does not define an appealable subject. An issue is constituted by a subject the resolution of which is essential for the determination of matters arising in the judicial cause under examination.⁴³

24. The Appeals Chamber has further held that the ‘onus is on the party to identify one or more issues containing legal or factual errors that arise directly from the impugned decision’.⁴⁴ Further, an appealable issue cannot be based on a misunderstanding of the decision.⁴⁵ Finally, the Chamber notes that the three criteria under article 82(1)(d) of the Statute are cumulative and that failure to fulfil one or more of the criteria will result in dismissal of the Request for Leave.⁴⁶

IV. ANALYSIS

A. Request for Reconsideration

25. In the Impugned Order, the Chamber noted that should the Chamber deem it necessary for the protection of the rights and interests of the victims prior to the official closing of the

⁴² *The Prosecutor v. Bosco Ntaganda*, Decision on the Application on behalf of Mr Bosco Ntaganda seeking leave to appeal Decision on the Registry submission in compliance with the “Order for the implementation of the Judgment on the appeals against the decision of Trial Chamber VI of 8 March 2021 entitled ‘Reparations Order’”, 21 December 2022, [ICC-01/04-02/06-2805](#) (‘Ntaganda Leave Decision’), para. 12; Said Decision on Reconsideration and Leave to Appeal, [ICC-01/14-01/21-575](#), para. 21.

⁴³ Appeals Chamber, Situation in the Democratic Republic of the Congo, Judgment on the Prosecutor’s Application for Extraordinary Review of Pre-Trial Chamber I’s 31 March 2006 Decision Denying Leave to Appeal, 13 July 2006, [ICC-01/04-168](#), para. 9

⁴⁴ Appeals Chamber, *The Prosecutor v. Mahamat Said Abdel Kani*, Decision on the admissibility of the appeal, 25 October 2022, [ICC-01/14-01/21-514](#), para. 14.

⁴⁵ Ntaganda Leave Decision, [ICC-01/04-02/06-2805](#), para. 15; *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Decision on Defence request for reconsideration, or leave to appeal, “Decision on Defence request in relation to P-0626”, 10 February 2021, [ICC-01/12-01/18-1295-Red](#) (‘Al Hassan Decision’), para. 14.

⁴⁶ Said Decision on Request for Reconsideration and Leave to Appeal, [ICC-01/14-01/21-575](#), para. 23.

reparations proceedings in this case, it may request the intervention of the OPCV to provide general support and assistance.⁴⁷

26. The Chamber notes that much of the Request for Reconsideration is premised on the assumption that the Chamber has appointed the OPCV to represent the rights and interests of the victims represented by the LRV,⁴⁸ which is a misunderstanding of the Impugned Order. As was clarified to the parties,⁴⁹ the Chamber did not appoint the OPCV to represent the rights and interests of victims previously represented by the LRV in this case.
27. Instead, the Impugned Order contemplated the engagement of the OPCV to assist in providing general assistance to protect the rights and interests of victims if the Chamber deemed it necessary. The Chamber considers such a circumstance to be highly unlikely given that the implementation of reparations has concluded, and the Chamber is simply awaiting the submission of two final reports from the TFV.
28. Nevertheless, the Chamber acknowledges that some victims expressed concerns regarding the potential engagement of the OPCV and considers this to be a new argument raised since the Impugned Order was rendered. The Chamber therefore reconsiders the Impugned Order, in part, and finds that should it be necessary to engage general support or assistance for victims, the Chamber will consider the submissions of the LRV and assess the appropriate representative to engage at that time.

B. Request for Leave to Appeal

29. The first issue for appeal submitted by the LRV is what legal test should be applied by the Chamber to determine whether a conflict of interest exists, particularly in its application under Article 16 of the Code of Professional Conduct for counsel.⁵⁰
30. The Chamber finds that the issue identified does not arise from the Impugned Order. As was explained above,⁵¹ and clarified to the parties,⁵² the Chamber has not appointed the OPCV to represent the rights and interests of victims previously represented by the LRV in this case. As such, the legal test to be applied by the Chamber to determine the issue of

⁴⁷ Impugned Order, [ICC-01/04-01/07-3925](#), para. 9.

⁴⁸ See for example Request for Reconsideration, [ICC-01/04-01/07-3926-Red](#), paras 9, 20, 27, 30.

⁴⁹ Email from Trial Chamber II to Parties and Participants, 27 May 2024 at 10:37.

⁵⁰ Request for Leave, [ICC-01/04-01/07-3928-Red](#), para. 14.

⁵¹ See para. 26 above.

⁵² Email from Trial Chamber II to Parties and Participants, 27 May 2024 at 10:37.

a conflict of interest does not arise from the Impugned Order and is therefore not an appealable issue.⁵³

31. The second issue for appeal identified by the LRV is whether it is justified that following the completion of the judicial phase of reparations: (i) victims are no longer represented; or (ii) that their only option for representation would conflict with the standards provided in the Code of Professional Conduct for counsel or would be in violation of article 68 of the Statute and rule 90 of the Rules.⁵⁴
32. With respect to part (i) of the second issue, the LRV questions whether it is justified that victims are no longer represented outside of the judicial phase of reparations.⁵⁵ The Chamber notes that the jurisprudence of the Court has held that no legal representation of potential beneficiaries is required outside the context of judicial proceedings.⁵⁶ Further, in the present case, the Chamber has concluded that the implementation of reparations has concluded, and as such, the representation of victims is no longer required.
33. The Chamber considers that the LRV, in this second issue, fails to articulate a legal or factual error arising from the Impugned Decision and its line of argument is a mere disagreement with the Chamber's finding. As the Appeals Chamber previously stated, such general disagreement does not constitute an appealable issue within the meaning of Article 82(1)(d) of the Statute.

⁵³ Appeals Chamber, *The Prosecutor v. Mahamat Said Abdel Kani*, Decision on the admissibility of the appeal, 25 October 2022, [ICC-01/14-01/21-514](#), para. 14, holding that the onus is on the party to identify one or more issues containing alleged legal or factual errors that arise directly from the impugned decision; *The Prosecutor v. Mahamat Said Abdel Kani*, Decision on the Defence's Request for Leave to Appeal the 'Decision on Mr Said's Fitness to Stand Trial' and Further Directions on Sitting Schedule, 17 January 2024, [ICC-01/14-01/21-672](#), para. 27, holding that issues identified for leave to appeal that are based on a misrepresentation of the impugned decision do not constitute appealable issues. See also Ntaganda Leave Decision, [ICC-01/04-02/06-2805](#), para. 15; Al Hassan Decision, [ICC-01/12-01/18-1295-Red](#), para. 14.

⁵⁴ Request for Leave, [ICC-01/04-01/07-3928-Red](#), para. 15.

⁵⁵ Request for Leave, [ICC-01/04-01/07-3928-Red](#), para. 15.

⁵⁶ See Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, Reparations Order, 28 February 2024, [ICC-02/04-01/15-2074](#) ('Ongwen Reparations Order'), para. 812(b); *The Prosecutor v. Bosco Ntaganda*, First Decision on the Trust Fund for Victims' Draft Implementation Plan for Reparations, 30 August 2023, [ICC-01/04-02/06-2860-Red](#), para. 182; Trial Chamber VIII, *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, Decision on the TFV's twenty-ninth update report on the updated implementation plan including report on the finalisation of individual reparations, 11 December 2023, [ICC-01/12-01/15-470-Red](#), para. 31; *The Prosecutor v. Thomas Lubanga Dyilo*, Twelfth Decision on the TFV's administrative decisions on applications for reparations and additional matters, 30 August 2023, [ICC-01/04-01/06-3558-Red](#), para. 19.

34. The Chamber considers part (ii) of the second issue to be moot having clarified above that in the event it deems intervention necessary to protect the rights and interests of victims, the Chamber shall consider the possibility of a conflict of interest at that time.
35. Finally, the Chamber wishes to address the views expressed by the victims as to the contribution of their legal representative and their concern as to how their views are to be represented to the Chamber in the absence of the LRV, particularly in relation to the psychological support modality.⁵⁷
36. The Chamber commends the legal representatives for their work and their efforts on behalf of the victims. In its oversight function in this case, the Chamber has taken care to consider the views expressed by the victims and ensure that these views informed the implementation of the reparations programme. The Chamber considers that the views expressed by victims in this case will also greatly aid the Chamber in its oversight of future reparations programmes and in its goal to ensure the delivery of prompt, effective and meaningful reparations to victims in all the reparations programmes that it oversees.
37. Regarding the submissions that not all planned sessions of psychological support could be attended by some victims,⁵⁸ the Chamber deems it necessary to reiterate that as noted above, on 19 October 2023, the TFV informed the Chamber that the implementation of all the modalities of reparations in this case was completed on 6 October 2023, including the psychological support modality as a collective reparation.⁵⁹ In subsequent Update Reports, the TFV again reiterated that the psychological support modality has concluded, with only the evaluation report on the modality still pending, and that some psychological support was still available on a *pro-bono* basis provided by locally-based counsellors trained through the reparations programme.⁶⁰ On 24 April 2024, the TFV held a closing ceremony attended by victims, members of the Court, the LRV and other stakeholders.⁶¹ While the Chamber appreciates that the LRV made proposals on the need for continued assistance to the victims in relation to the provision of psychological support, the Chamber is satisfied that the implementation of the psychological support modality ordered as part of the Katanga

⁵⁷ Annex A to the Request for Reconsideration, ICC-01/04-01/07-3926-Conf-AnxA; Annexe to the Transmission d'un document, 31 May 2024, ICC-01/04-01/07-3930-Conf-Exp-Anx.

⁵⁸ LRV Report on the Fourteenth Report, [ICC-01/04-01/07-3917-Red](#), para. 11.

⁵⁹ Fourteenth Report, [ICC-01/04-01/07-3916](#), para. 6.

⁶⁰ Fifteenth Report, [ICC-01/04-01/07-3919](#), para. 14; Sixteenth Report, [ICC-01/04-01/07-3922](#), para. 13.

⁶¹ Email from Trial Chamber II to Parties and Participants, 27 May 2024 at 10:37; Requête du Représentant légal relative à la clôture de l'affaire, 7 May 2024, [ICC-01/04-01/07-3924](#), para. 14.

reparations has concluded. The Chamber assures victims that it expects the TFV to include their feedback in its evaluation of the psychological support modality.

38. While the two final reports will be submitted to the Chamber in the coming months, the Chamber reiterates that it is satisfied that the implementation of the reparations programme has concluded and the intervention of legal representatives for victims is no longer required. The Chamber assures victims that in its review of the reports, the Chamber will consider whether there is any issue raised which would necessitate seeking additional input from the victims.⁶²

FOR THESE REASONS, THE CHAMBER HEREBY

GRANTS the Request for Reconsideration in part; and

REJECTS the Request for Leave.

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

Judge María del Socorro Flores Liera, Presiding Judge

Judge Kimberly Prost

Judge Nicolas Guillou

Dated 10 June 2024

At The Hague, The Netherlands

⁶² Should the Chamber decide to invite submissions from victims on the reports, the Chamber may exceptionally request the intervention of the victims' representatives. See Ongwen Reparations Order, [ICC-02/04-01/15-2074](#), footnote 2771.