

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **French**

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

Date of original: **20 September 2018**

Date of submission: **2 April 2025**

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

Public Redacted Version of

**Order Directing the Trust Fund for Victims to File Information on
the Modalities of Collective Reparations**

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

☐ **The Office of the Prosecutor**

☒ **Counsel for the Defence**

☒ **Legal Representatives of the Victims**

☐ **Legal Representatives of the Applicants**

☐ **Unrepresented Victims**

☐ **Unrepresented Applicants
(Participation/Reparation)**

☒ **The Office of Public Counsel for
Victims**

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

☐ **States' Representatives**

☒ **Trust Fund for Victims**

Registrar
Mr Osvaldo Zavala Giler

☐ **Counsel Support Section**

☐ **Victims and Witnesses Unit**

☐ **Detention Section**

☐ **Victims Participation and Reparations
Section**

TRIAL CHAMBER II (“Chamber”) of the International Criminal Court (“Court”), acting pursuant to article 75 of the Rome Statute (“Statute”), orders the following.

1. On 24 March 2017, the Chamber issued its Order for Reparations (“Order for Reparations”) against Germain Katanga (“Mr Katanga”), 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 was convicted.¹ Accordingly, the Chamber decided to award reparations in the case at hand to the 297 victims.² Moreover, the Chamber ordered both individual and collective reparations under the following modalities: support for housing, support for an income-generating activity, support for education and psychological support.³ Lastly, the Chamber directed the Trust Fund for Victims (“Trust Fund”) to prepare a draft implementation plan in the light of the Chamber’s decisions on the types and modalities of reparations, and to file it by 26 June 2017.⁴

2. On 25 July 2017, after having been granted two extensions of time,⁵ the Trust Fund filed its draft implementation plan⁶ (“Draft Plan”).

¹ “Order for Reparations pursuant to Article 75 of the Statute”, 24 March 2017, ICC-01/04-01/07-3728-tENG, p. 118, and its public annex and one confidential annex *ex parte*, Legal Representative of Victims, Office of Public Counsel for Victims and Defence team for Germain Katanga, ICC-01/04-01/07-3728-Conf-Exp-AnxII (“Annex II”).

² Order for Reparations, p. 118.

³ Order for Reparations, para. 306.

⁴ Order for Reparations, pp. 118-119.

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, and French translation registered on 21 August 2017, ICC-01/04-01/07-3751-Conf, with one confidential annex, one public annex, one confidential annex *ex parte*, Registry, one confidential annex *ex parte*, Principal Counsel of the Office of Public Counsel for Victims, and one 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.

3. On 29 August 2017, the Chamber granted an extension of time until 11 September 2017 for the parties to file their observations on the Draft Plan.⁷

4. On 8 September 2017, the Chamber granted the request of the Legal Representative of Victims⁸ ("Legal Representative") and authorized the parties to file their observations on the Draft Plan in no more than 40 pages.

5. On 11 September 2017, the OPCV,⁹ the Legal Representative¹⁰ and the Defence¹¹ submitted their respective observations on the Draft Plan.

6. On 10 October 2017, the Legal Representative and the Trust Fund jointly filed additional observations on the Draft Plan.¹²

7. On 12 October 2017, the Chamber handed down a decision approving the implementation of individual reparations ("Decision of 12 October 2017").¹³

The Chamber also directed the Trust Fund: to conduct the interviews with the victims to whom the award applies so as to determine the specific services they would prefer from among those proposed; to present the contents of the calls for tenders relating to collective reparations by 1 February 2018; to provide the Chamber with a copy of the memorandum sent to the government authorities of the Democratic Republic of the Congo (DRC), by 1 December 2017; to provide the Chamber with the

⁷ "Decision Granting an Extension of the Time Limit to File Observations on the Draft Implementation Plan of 25 July 2017", 29 August 2017, ICC-01/04-01/07-3759-tENG.

⁸ "Request by the Legal Representative of Victims for Extension of the Authorized Page Limit for his Observations on the Trust Fund for Victims' Draft Implementation Plan (ICC-01/04-01/07-3751-Red)", dated 7 September 2017 and registered on 8 September 2017, ICC-01/04-01/07-3760-tENG.

⁹ "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 ("OPCV Observations").

¹⁰ "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) ("Observations of the Legal Representative").

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

¹² "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.

¹³ "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.

reasons why, in the Trust Fund's view, the administrative costs of delivering the services to Mr Katanga's victims may be charged to the overall award against him, by 15 November 2017; and to provide the Chamber with explanations concerning the 15 per cent figure for programme support costs, by 15 November 2017.¹⁴

8. On 30 November 2017, after the Trust Fund's request filed on 14 November 2017,¹⁵ the Chamber extended the time limits provided in its Decision of 12 October 2017 to 4 December 2017 for the implementation of individual reparations, to file additional information on the collective reparations modalities and to send the Memorandum to the DRC authorities and the copy of that memorandum to the Chamber.¹⁶

9. On 5 December 2017, the Trust Fund filed a report on the implementation of individual reparations and some of the additional information requested by the Chamber regarding the modalities of collective reparations ("Trust Fund Submission of 5 December 2017").¹⁷ The Trust Fund also sought an extension of time until 15 December 2017 to file the missing information, such as the explanations concerning the 15 per cent figure for support costs under the Draft Plan.¹⁸ The Trust Fund further stated that after the amendments made to the Draft Plan it would file a revised budget on 15 December 2017.¹⁹

¹⁴ Decision of 12 October 2017, pp. 24-25.

¹⁵ "Request for an extension of time", dated 13 November 2017 and registered on 14 November 2017, ICC-01/04-01/07-3770-Conf. Email from the OPCV to the Chamber on 14 November 2017 at 09.17, and Email from the Legal Representative to the Chamber on 14 November 2017 at 15.58.

¹⁶ "Decision Granting the Request for an Extension of Time Filed by the Trust Fund for Victims on 14 November 2017", 30 November 2017, ICC-01/04-01/07-3771-Conf-tENG.

¹⁷ "Report on the Trust Fund's execution of the payment of the individual reparations awards and additional information regarding the implementation of the collective reparations awards in compliance with Trial Chamber II's decision of 12 October 2017", dated 5 December 2017 and registered on 5 December 2017, ICC-01/04-01/07-3772-Conf, and one confidential annex *ex parte*, Legal Representative and the OPCV.

¹⁸ Trust Fund Submission of 5 December 2017, para. 48.

¹⁹ Trust Fund Submission of 5 December 2017, para. 49.

10. On 14 December 2017, the Legal Representative filed observations on the Trust Fund Submission of 5 December 2017.²⁰ The Legal Representative stated, *inter alia*, that the time limit to file a revised budget should be extended at least to 5 January 2018 to afford it adequate time to formulate its proposals to the Trust Fund.²¹

11. On 11 May 2018, the Legal Representative filed a progress report on the reparations implementation process.²²

12. The Chamber recalls that it has not yet approved the implementation of collective reparations, as it has not obtained the requisite information. In that connection, the Chamber also recalls that it directed the Trust Fund:

[...] to present to it, by 1 February 2018, the content of the tender procedures with the specific terms of reference of each collective reparations modality and the related awards. Each of the modalities must comprise a precise assessment of its cost, its programme support costs, its implementation modalities and provisions that allow the Chamber to fulfil its duty. The time limits for the implementation of each award must also be given.²³

13. The Chamber further recalls that the Trust Fund had undertaken to file a revised budget in December 2017.

14. The Chamber also takes note of the Legal Representative's observations in which he raises the need to set an implementation schedule in response to the victims' requests that reparations be carried out swiftly.²⁴ The Legal Representative observes in this regard that the victims have worked with the Trust Fund and the Legal Representative to expedite the implementation of collective reparations, and that "[TRANSLATION] the victims have expressed the desire for [educational]

²⁰ "Observations relatives au Rapport du Fonds au profit des victimes du 4 décembre 2017 (ICC-01/04-01/07-3772-Conf)", dated 13 December 2017 and registered on 14 December 2017, ICC-01/04-01/07-3773-Conf ("Legal Representative's Observations of 14 December 2017").

²¹ Legal Representative's Observations of 14 December 2017, para. 33.

²² "Rapport du Représentant légal relatif à l'avancement du processus de mise en œuvre des réparations", 11 May 2018, ICC-01/04-01/07-3792-Conf, and two confidential annexes (annex 1 and annex 2) ("Legal Representative's Observations of 11 May 2018"). On 18 May 2018, a public redacted version was filed, along with a public redacted version of annex 2.

²³ Decision of 12 October 2017, para. 51.

²⁴ Legal Representative's Observations of 11 May 2018, paras. 46-50.

support being organized as of the final term of the 2017-2018 year, to which the Trust Fund has responded positively.”²⁵

15. Having regard to the foregoing, the Chamber directs the Trust Fund to provide it with the following information:

- (1) a summary of the latest developments since the Decision of 12 October 2017;
- (2) the decision of the Trust Fund’s Board of Directors on the question of assumption of support costs;
- (3) the budget, updated in the light of the amendments ordered by the Chamber and the choices of the 297 victims; and
- (4) a specification of the processes planned and the entities/persons which/who will be responsible for putting into effect the reparations modalities as well as the implementation schedule contemplated.

16. With regard to point 4, the Chamber considers itself prepared to approve the implementation of each collective reparations modality separately so as not to delay the start of implementation further. The Trust Fund may, therefore, file the implementation specifications for each modality separately according to the availability of the information and the progress made in the production thereof.

17. The Chamber, lastly, takes note that [REDACTED]

[REDACTED]

[REDACTED]

²⁶

²⁵ Legal Representative’s Observations of 11 May 2018, para. 49.

²⁶ Legal Representative’s Observations of 11 May 2018, para. 54.

FOR THESE REASONS, the Chamber

DIRECTS the Trust Fund to file the information referred to in paragraph 15 by 28 September 2018.

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 20 September 2018

At The Hague, Netherlands