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Date: 25 July 2017

TRIAL CHAMBER II

Before: Judge Marc Perrin de Brichambaut, Presiding
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 document

**Draft implementation plan
relevant to Trial Chamber II's order for reparations of 24 March 2017
(ICC-01/04-01/07-3728)**

with

Confidential Annex 1: Detailed Overview of beneficiary categories, proposed awards within each category, and estimated values and budget costs thereto

Public Annex 2: Defence correspondence regarding Mr Katanga's potential participation

Confidential, ex parte available to the Registry only Annex 3: Table of harm categorizations on an individual basis of all 297 victims

Confidential, ex parte available to OPCV Legal Representative only Annex 4: Table of harm categorization of victims represented

Confidential, ex parte available to the Legal Representative only Annex 5: Table of harm categorization of victims represented

Source:

The Trust Fund for Victims

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

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I. EXECUTIVE SUMMARY

1. Today, 25 July 2017, the Trust Fund for Victims submits its draft implementation plan with respect to Trial Chamber II's order for reparations of 24 March 2017 in the *Katanga* case. In its order for reparations, the Trial Chamber ordered awards for reparations to 297 identified victims, comprised of an individual symbolic compensation award of \$250 to each victim and four collective awards to all identified victims in the form of housing assistance, education assistance, income generating activities, and psychological rehabilitation.

2. In accordance with the Trial Chamber's instruction, the present plan proposes categorizations of the harms suffered by the victims with corresponding reparations awards packages per category, in order to maintain the proportional link between the reparations and the differing types and degrees of harm suffered by the individual victims. Within these categories, the plan offers flexibility to the victims in order to account for their current situation and needs. The plan also provides concrete details of the types of activities proposed to be offered to the victims under each collective award. Finally, the plan provides information to the Trial Chamber regarding the potential participation of Mr Katanga in the reparations awards, as well as proposing concrete actions in support of the reparations programme that are requested of various government authorities of the Democratic Republic of the Congo.

3. The Trust Fund's draft implementation plan was informed and greatly assisted by the Trial Chamber's findings in its order for reparations, as well as by extensive consultations with the legal representatives of the victims in this case regarding the victims current situation, needs, and desires with respect to how best to remedy the harms that they suffered from Mr Katanga's crimes. The overarching goals of the present draft implementation plan are to provide victims with a strengthened ability to cope with the livelihood, financial, and psychological trauma caused by Mr Katanga's crimes and their aftermath, as well as to ensure that the victims of Mr Katanga's crimes receive meaningful and tangible benefits from the reparations, which are a result of judicial measures undertaken by the Trial Chamber to remedy the harms that the victims suffered from Mr Katanga's crimes.

II. BACKGROUND

A. The Trial Chamber's order for reparations

4. On 24 March 2017, Trial Chamber II (hereinafter: "Trial Chamber") issued an order for reparations pursuant to article 75 of the Statute (hereinafter: "Order for Reparations")¹ in the amount of \$1,000,000 USD against Mr Katanga.² Therein, the Trial Chamber ordered awards for reparations to 297 victims,³ comprised of an individual symbolic compensation award of \$250 per victim⁴ and four collective awards « ciblées au bénéfice de chaque victime de M. Katanga que la Chambre a identifiée », ⁵ in the form of housing assistance, education assistance, income generating activities, and psychological rehabilitation.⁶

5. The Trial Chamber attached as an annex to the Order for Reparations its determinations of the harms that it found to be established for each of the 297 identified victims (hereinafter: "Annex 2").

6. Pursuant to rules 98 (2) and (3) of the Rules of Procedure and Evidence and regulations 54, 59, 66-68, and 69-72 of the Regulations of the Trust Fund (hereinafter: "TFV Regulations"), the Trial Chamber tasked the Trust Fund for Victims (hereinafter: "Trust Fund" or "TFV") with implementing the individual and collective awards contained in the Order for Reparations.⁷

7. The Trial Chamber also instructed the Trust Fund « de prendre contact avec le Gouvernement de la RDC en vue d'établir la manière dont il pourrait contribuer au processus des réparations », ⁸ as well as to discuss with Mr Katanga's defence team his possible contribution to the modalities of reparations ordered.⁹

8. Finally, in light of Mr Katanga's indigence, the Trial Chamber requested that the Trust Fund's Board of Directors (hereinafter: "TFV Board of Directors") consider

¹ « Ordonnance de réparation en vertu de l'article 75 du Statut », [ICC-01/04-01/07-3728](#).

² [Order for Reparations](#), para. 264.

³ [Order for Reparations](#), para. 168.

⁴ [Order for Reparations](#), pp. 112-113.

⁵ See [Order for Reparations](#), paras 295, 303-307.

⁶ [Order for Reparations](#), para. 306.

⁷ [Order for Reparations](#), para. 307.

⁸ [Order for Reparations](#), para. 325.

⁹ [Order for Reparations](#), para. 318, p. 130.

complementing the payment of both the individual and collective awards ordered against Mr Katanga pursuant to regulation 56 of the TFC Regulations.¹⁰

9. The Trial Chamber instructed the Trust Fund to submit its draft implementation plan relevant to the Order for Reparations by 27 June 2017,¹¹ which was extended to 25 July 2017.¹²

B. Relevant procedural history pre-Order for Reparations

10. On 8 December 2016, Mr Fidel Nsita, the common legal representative of victims, filed a submission regarding the modalities of reparations and the grouping of the reparations applicants he represented, based on the various types and degrees of harm alleged to have been suffered, which he proposed that the Trial Chamber adopt in its then upcoming order for reparations (hereinafter: "LRV Reparations Proposal").¹³

11. On 15 March 2017, the Trial Chamber issued an order, *inter alia*, designating the Office of Public Counsel for Victims as the legal representative of 37 reparations applicants in the case,¹⁴ with the remaining applicants continuing to be represented by Mr Nsita (hereinafter: "OPCV Legal Representative", "Legal Representative", and collectively "Legal Representatives").

C. Relevant procedural history post-Order for Reparations

12. On 24 March 2017, the Trial Chamber set a deadline of one month for, *inter alia*, the Legal Representatives to obtain the consent of their respective clients for the transmission of their confidential information to the Trust Fund (hereinafter: "Consent Order").¹⁵

13. On 13 April 2017, the Trust Fund submitted a request for an order to the Victims Participation and Reparations Section (hereinafter: "VPRS") to provide it with certain victim

¹⁰ [Order for Reparations](#), para. 342, p. 130. *See generally* paras 330-342.

¹¹ [Order for Reparations](#), para. 309.

¹² *Infra.* para. 33.

¹³ « Propositions des victimes sur des modalités de réparation dans la présente affaire (Article 75 du Statut et norme 38-1-f du Règlement de la Cour) », [ICC-01/04-01/07-3720](#) with public annex 1 entitled « Tableau des modalités et mécanismes de réparation », [ICC-01/04-01/07-3720-Anx1](#).

¹⁴ « Décision relative à la requête du Représentant légal commun des victimes du 2 mars 2017 », [ICC-01/04-01/07-3727](#).

¹⁵ « Ordonnance enjoignant aux parties de soumettre des propositions d'expurgations et aux victimes de donner leur consentement à la communication au Fonds au profit des victimes de leurs coordonnées », [ICC-01/04-01/07-3729](#).

demographic and statistical information for purposes of assisting the Trust Fund with the development of its draft implementation plan.¹⁶

14. On 19 April 2017, the Legal Representative submitted an *ex parte*, available only to the Trust Fund, table of the harms suffered by the victims he represents.¹⁷

15. On 24 April, the OPCV Legal Representative submitted a filing relevant to the Consent Order,¹⁸ explaining therein that, due to the timing of her appointment, she had only been able to obtain the consent of six of the victims she represents¹⁹ and requested that the Registry transmit without delay the confidential information relevant to these victims to the Trust Fund.

16. On 3 May 2017, pursuant to regulation 70 of the TFV Regulations,²⁰ the Trust Fund and the Legal Representative held a full day working session, whereat, *inter alia*, the Legal Representative provided the Trust Fund with information gathered during several missions he had undertaken to consult with his clients following the issuance of the Order for Reparations and the possible nature of the ordered collective awards were discussed.

17. On 10 May 2017, VPRS provided the Trust Fund with access to the files of the above-mentioned six victims represented by the OPCV Legal Representative.²¹

18. On 17 May 2017, the Trust Fund submitted a notification pursuant to regulation 56 of the TFV Regulations regarding the TFV Board of Directors' decision on the complement request (hereinafter: "Complement Notification").²²

19. On 24 May 2017, VPRS transmitted in a database format updated information relevant to 283 of the victims identified as eligible in the Order for Reparations to the Trust Fund (hereinafter: "VPRS Updated Victim Information Database").²³

¹⁶ ICC-01/04-01/07-3731-Conf-Exp.

¹⁷ Annex to « Transmission des tableaux récapitulatifs de préjudice des victimes bénéficiant des réparations », registered on 21 April 2017, ICC-01/04-01/07-3733-Conf-Exp-Anx.

¹⁸ « Proposition d'expurgations de l'Annexe II à l'Ordonnance de réparation du 24 mars 2017 et Informations relatives au consentement des victimes représentées par le BCPV afin de transmettre leurs dossiers au Fonds au profit des victimes », [ICC-01/04-01/07-3736](#) (hereinafter: "OPCV Client Information Filing").

¹⁹ [OPCV Client Information Filing](#), para. 10.

²⁰ Regulation 70 provides in relevant part that the Trust Fund "may consult victims [...], as well as their legal representative [...] on the nature of the collective award(s) and the methods for its/their implementation".

²¹ See Email communication from VPRS to the Trust Fund sent at 14:44. The Trust Fund notes that legal staff of the Trial Chamber was copied on all communications relevant to this matter.

²² "Notification pursuant to regulation 56 of the TFV Regulations regarding the Trust Fund Board of Director's decision relevant to complementing the payment of the individual and collective reparations awards as requested by Trial Chamber II in its 24 March 2017 order for reparations", [ICC-01/04-01/07-3740](#).

20. On 9 June 2017, via conference call, the Trust Fund consulted with Dr Zoe Marks regarding an already established grant through the University of Edinburgh with the intended purpose of providing expert support to the Trust Fund in relation to its reparations monitoring and evaluation activities (hereinafter: “Edinburgh M&E Partnership”).

21. On 12 to 16 June 2017, the Trust Fund conducted a joint mission with the Legal Representative to the Democratic Republic of the Congo (hereinafter: “DRC”), during which meetings were held with DRC government officials in Kinshasa and Bunia, as well as with a large group (approximately 120) of victims in Bogoro.

22. On 20 June 2017, the Trust Fund requested an extension of time until 11 July 2017 to file its draft implementation plan,²⁴ which was granted by the Trial Chamber.²⁵

23. On 21 and 29 June 2017, the Trust Fund and the defence team of Mr Katanga communicated via email regarding Mr Katanga’s possible contribution in the reparations awards.

24. On 27 June 2017, further consultations were held, via phone conference, regarding the Edinburgh M&E Partnership.

25. On 28 June 2017, the Trust Fund and the OPCV Legal Representative met to discuss the development of the draft implementation plan in regards to the victims that she represents, as well as to discuss new information received from them that was obtained during field consultations following the issuance of the Order for Reparations.

26. On 29 June and 5 July 2017, further consultations were held between the Trust Fund and the Legal Representative, including in relation to those victims who are presently located in the Republic of Uganda (hereinafter: “Uganda”).

27. On 7 July 2017, via email,²⁶ the Legal Representative requested that the Trust Fund be granted access to Annex 2 (hereinafter: “LRV Request”).

28. Also on 7 July 2017, Mr Katanga’s defence team communicated further information to the Trust Fund relevant to his possible contribution in the reparations awards.²⁷

²³ “Registry Transmission to the Trust Fund for Victims of Updated Information on 283 Victims”, ICC-01/04-01/07-3742-Conf-Exp.

²⁴ “Request for an extension of time”, [ICC-01/04-01/07-3743](#).

²⁵ « Décision accordant une prorogation de délai au Fonds au profit des victimes afin de déposer le projet de plan de mise en œuvre des réparations », 22 June 2017, [ICC-01/04-01/07-3744](#).

²⁶ Email communication from the Legal Representative to the Trial Chamber, sent at 11:39.

29. On 10 July 2017, the OPCV Legal Representative, via email,²⁸ informed the Trial Chamber that she has “no objections in the [Trust Fund] being granted access to Confidential [Annex 2]”.

30. Also on 10 July 2017, the Trust Fund submitted a filing joining the LRV Request and requesting a one week time extension for the filing of its draft implementation plan (hereinafter: “Extension Request”).²⁹

31. Later that same day, the Legal Representatives, via email,³⁰ informed the Trial Chamber that they did not object to the Extension Request.

32. On 11 July 2017, Mr Katanga’s defence team informed the Trial Chamber, via email, that it had not objection to the Extension Request.³¹

33. Later on that same day, 11 July 2017, the Trial Chamber granted the LRV Request and the Extension Request, extending the deadline for the submission of the draft implementation plan to 25 July 2017.³²

34. On 13 July 2017, the Trust Fund was granted access to Annex 2.³³

35. On 15 July 2017, the Trust Fund sent consultation requests and a list of specific questions, via email, regarding various aspects of the draft implementation plan and its ongoing assessment of Annex 2 to the Legal Representatives.

36. On 18 and 19 July 2017, consultations, in person and in writing, were held with the OPCV Legal Representative.

37. From 20 July to 22 July 2017, consultations, via email and phone, were held between the Trust Fund and the Legal Representative.

²⁷ Email communication sent at 13:53. See annex 2.

²⁸ Email communication from the OPCV Legal Representative to the Trial Chamber, sent at 8:36.

²⁹ “Joinder to the access request of the Legal Representative and Request for an extension of time”, [ICC-01/04-01/07-3748](#).

³⁰ Email communication from the OPCV Legal Representative to the Trial Chamber, sent at 14:36; email communication from the Legal Representative to the Trial Chamber, sent at 14:45.

³¹ Email communication from Mr Katanga’s defence team to the Trial Chamber, sent at 12:34.

³² « Décision accordant l’accès au Fonds au profit des victimes au document ICC-01/04-01/07-3728-Conf-Exp-AnxII ainsi qu’une prorogation de délai afin de déposer le projet de plan de mise en œuvre des réparations », [ICC-01/04-01/07-3749](#).

³³ Email communication from Court Management-Court Records to the Trial Chamber, sent at 10:32.

38. The Trust Fund hereby submits the draft implementation plan relevant to the Trial Chamber's Order for Reparations of 24 March 2017 for the benefit of the 297 victims identified in the *Katanga* case.

III. CLASSIFICATION OF THE PRESENT SUBMISSION

39. Trust Fund has classified the present filing confidential pursuant to regulation 23 *bis* (1) of the Regulations of the Court due to the fact that some of the information contained herein relates to proposed monetary values associated with the reparations services (i.e. housing assistance, education assistance, income generating activities, and psychological rehabilitation) awarded to the victims in this case. It is the Trust Fund's view, following consultations with the Legal Representative, that this specific information could potentially endanger the security and safety of the victims if it were made publicly available at this time.

40. The Trust Fund also submits, based on discussions with the Legal Representative, that making this information public at this time risks causing confusion and misunderstanding for the victims, due to *inter alia* the possibility of inaccurate media portrayals and/or rumours in the communities where the victims reside, which could interfere with the Legal Representatives' ability to effectively consult with their clients for purposes of submitting their observations on the draft implementation plan. In this regard, the Trust Fund is of the view that the current status of the draft implementation plan hereby submitted is also a relevant consideration for the present classification, namely that the draft implementation plan has not yet been approved by the Trial Chamber at this point in time and may be further modified by the Trial Chamber based on its own review or the parties' observations.

41. Finally, the Trust Fund would respectfully suggest that the Legal Representatives be consulted as to whether, and if so, when the present submission may be reclassified in full as public. The Trust Fund will file a public redacted version simultaneously with this submission.

IV. PRELIMINARY REMARKS

A. The current status of the victims represented by the OPCV Legal Representative

42. The Trust Fund recalls that the OPCV Legal Representative previously explained regarding her ability to contact her clients following her appointment that « certaines victimes seraient désormais décédées et il est donc nécessaire d'entrer en contact avec les membres de la famille

afin d'identifier d'éventuels héritiers ». ³⁴ Based on the most recent information provided by the OPCV Legal Representative, the Trust Fund understands that the process of identifying the successor beneficiaries of these deceased victims, as well as having them admitted by the Trial Chamber for purposes of receiving the reparations awarded in this case, is still ongoing.

43. For purposes of the present submission, the Trust Fund has included and assessed all of the victims represented by the OPCV Legal Representative who were found to be eligible for reparations without regard to this particular issue. This is because, in the Trust Fund's understanding, any successor beneficiary (already admitted or still to be identified) has a right to proportionate reparations based on the individual victim assessments of the types and degree of harm suffered that are laid out in Annex 2, which relate to the harms found to have been suffered by the deceased victim. Therefore, as a general matter, the Trust Fund does not intend to modify its draft implementation plan based on the potentially different individual circumstances of the individual who is stepping into the place of the deceased victim.

44. However, as is described in more detail below, ³⁵ the current location of the successor victim, specifically if they are located outside of the DRC, may require a slight adjustment to the plan. For purposes of this draft implementation plan, the Trust Fund has included all of the OPCV Legal Representative's deceased clients within the DRC reparations programme because this is where the deceased victims resided according to the information provided in their victim participation forms. The Trust Fund will continue to consult with the OPCV Legal Representative in regards to this matter and will revert to the Trial Chamber with any modifications to the draft implementation plan, if necessary.

B. The TFCV Board of Directors' decision regarding complementing the payment of the awarded reparations pursuant to TFCV regulation 56

45. The Trust recalls that, in the Order for Reparations, the Trial Chamber requested that the TFCV Board of Directors consider complementing the payment of the individual and collective reparations awards in light of Mr Katanga's current financial indigence. ³⁶

³⁴ [OPCV Client Information Filing](#), para. 11.

³⁵ *Infra* paras 60-67.

³⁶ *Supra* para. 8.

46. In this regard, on 17 May 2017, the Trust Fund submitted a notification pursuant to regulation 56 of the TFV Regulations, wherein it informed the Trial Chamber of the TFV Board of Directors' decision to provide \$1,000,000 USD towards the payment of the awards for the reparations ordered, i.e. to provide payment for the total amount of the individual and collective reparations awards ordered for the benefit of the 297 identified victims.³⁷

47. The Trust Fund submitted the Complement Notification at that time due to the then imminent public announcement of the Government of The Netherlands' decision to make a voluntary contribution of the Euro equivalent of \$74,250 USD, which it earmarked for the individual reparations awards in the *Katanga* case.³⁸

48. The Trust Fund informs the Trial Chamber that, after the Complement Notification's submission, The Netherlands announced an increased voluntary contribution of the Euro equivalent of \$125,750 USD, for a total contribution of €200,000. The Trust Fund decided to use this increase for the payment of the collective reparations awards in the *Katanga* case.

49. As indicated in the Complement Notification, the TFV Board of Directors reiterates its decision to actively pursue fundraising opportunities for the collective awards in the *Katanga* case and calls upon other States Parties and private donors to join in making the Rome Statute's promise of reparations to victims a reality by making a voluntary contribution to the Trust Fund.

C. The level of detail provided in the present submission

50. In the Order for Reparations, the Trial Chamber instructed the Trust Fund to submit a draft implementation plan, which it stated should be « un programme décrivant les projets de reparations que le Fonds entend développer »³⁹ and should include « des informations concrètes et précises sur les projets, comportant notamment un descriptive de ces projets, de leurs coûts et de leur modalités d'adoption, de mise en œuvre et de suivi par la Chambre ». ⁴⁰ The Trial Chamber also stated that « les réparations collectives ciblées au bénéfice de chaque

³⁷ *Supra* footnote 22.

³⁸ [Complement Notification](#), paras 39-41.

³⁹ [Order for Reparations](#), para. 309 (footnotes omitted).

⁴⁰ [Order for Reparations](#), para. 309 (footnotes omitted).

victime devront s'accompagner d'explications claires et suffisantes afin d'informer les victimes et de leur donner confiance en ces mesures ». ⁴¹

51. Over the last three months, the Trust Fund has done its utmost to ensure that the present draft implementation plan meets the standard of specificity and detail requested by the Trial Chamber. In this regard, the Trust Fund expresses its commitment to the Trial Chamber to provide any further details in as prompt a manner as possible, should the Trial Chamber or the parties consider that any aspect of the draft implementation plan is unclear or insufficiently described. Furthermore, the Trust Fund equally stands prepared to implement in a prompt manner any modifications, additions, or adjustments that may result from the observations to be submitted by the parties following the submission of the present draft implementation plan.

52. The Trust Fund recalls that the draft implementation plan, once approved by the Trial Chamber, will serve as the basis for the procedure to select appropriate implementation partners, in accordance with the Court's procurement regulations and based on specific project proposals received by the Trust Fund from prospective implementing partners. In view of the procedure adopted in the *Lubanga* reparations proceedings, the Trust Fund proposes to first review and, if necessary, modify these proposals, which the Trust Fund will then provide to the Trial Chamber for final review and possible final modification, prior to the Trust Fund engaging the selected implementing partner(s).

V. DRAFT IMPLEMENTATION PLAN

A. Introduction

53. As required under the Court's legal framework, the Trust Fund has developed the present draft implementation plan in accordance with the Trial Chamber's Order for Reparations. As such, the Trust Fund has proceeded in accordance with how it has understood various aspects of the Order for Reparations. In this regard, the Trust Fund has endeavored to discuss as transparently as possible its understanding with the Legal Representatives in order to avoid potential delays caused by any misunderstanding or divergence of interpretations. Given that there are five principle matters that underpin the Trust Fund's understanding of the Order for

⁴¹ [Order for Reparations](#), para. 306 (footnote omitted).

Reparations and thus also the overall logic of the below draft implementation plan, the Trust Fund first discusses each in turn under a separate heading.

54. Below, the Trust Fund addresses the following five issues:

- 1) the scope of the beneficiaries of the collective reparations awarded in this case;
- 2) the Trust Fund's explanation regarding impediments to providing the four modalities of collective reparations to all of the victims;
- 3) the participation of the DRC government in facilitating the implementation of the reparations awards;
- 4) the harms suffered during the Bogoro attack that fall outside of the present order for reparations; and
- 5) the creation of beneficiary categories based on a proportional link between the reparations awards and the harms suffered by each victim beneficiary.

1. The scope of the beneficiaries of the collective reparations awarded in this case

55. The Trust Fund considers it necessary to begin with this issue in particular because it has come to its attention that various media outlets appear to be operating under the, in the Trust Fund's view, mistaken understanding that the Trial Chamber ordered community-based collective reparations awards. The Trust Fund therefore considers that it is important both in terms of mitigating the possible negative effects of any raised expectations amongst the broader Bogoro community as well as any confusion amongst the identified victims to directly address this matter and to hopefully resolve any potential ambiguity in relation to the beneficiary scope of the collective reparations awarded by the Trial Chamber.

56. The Trust Fund has taken particular note of the distinction the Trial Chamber set out between the two categories of possible collective reparations: 1) community-based collective reparations and 2) collective reparations for an identifiable group of victims that, while remaining collective in nature, may be tailored to the needs and harms suffered by the individuals within the group.⁴² In regards to this second category, the Trust Fund has equally taken note of the

⁴² [Order for Reparations](#), paras 278-280.

Trial Chamber's discussion of the various possible definitions (or characteristics) of a "group" of victims for purposes of collective reparations.⁴³ In respect of these two points, the Trust Fund also noted that the Trial Chamber determined that the 297 victims identified as eligible for reparations in the *Katanga* proceedings constitute a "group" in the sense that they have « subi des préjudices en commun à l'occasion de l'attaque de Bogoro »⁴⁴ and that the second category of collective reparations, i.e. those tailored for the individual members of the aforementioned group, was appropriate in this case.⁴⁵

57. Based on the above considerations, it is *not* the Trust Fund's understanding that the collective reparations were awarded on a community-wide basis. In the Trust Fund's understanding, the Trial Chamber ordered collective reparations for the benefit of *only* the group of 297 identified beneficiaries and it is on this understanding that the draft implementation plan, specifically in relation to the collective reparations awards, is premised.

2. Explanation of impediments to providing the four modalities of collective reparations to all of the victims

58. The Trust Fund recalls that the Trial Chamber awarded collective reparations under the four modalities of: 1) housing assistance; 2) educational assistance; 3) income generating activities; and 4) psychological rehabilitation. In its Order for Reparations, the Trial Chamber stated that « si le Fonds estime qu'il ne peut pas retenir certaines mesures au titre de ces modalités, le Fonds devra en expliquer les raisons ».⁴⁶

59. The Trust Fund hereby informs the Trial Chamber that it regrettably is not able to implement a collective reparations programme under the modalities awarded for a select sub-set of the victims due to their current geographic location. In this regard, the Trust Fund respectfully informs the Trial Chamber of the following information relevant to the victims' current location:

- 265 victims currently reside in the DRC, either in Bogoro, Bunia, Kasenyi or in nearby villages.

⁴³ [Order for Reparations](#), paras 274-275.

⁴⁴ [Order for Reparations](#), para. 288.

⁴⁵ [Order for Reparations](#), para. 304. *See also* in particular para. 303 (« [L]a Chambre considère que les réparations collectives devront être ciblées au bénéfice de chaque victime de M. Katanga que la Chambre a identifiée » (emphasis added)).

⁴⁶ [Order for Reparations](#), para. 309.

- 17 victims currently reside in a refugee camp in Uganda.
- 15 victims have been resettled based on their refugee status to a European country or the United States of America (hereinafter: "USA").

a) *Victims that have been resettled in the USA and Europe*

60. Regarding the victims who have been relocated within Europe and the USA, the Trust Fund informs the Trial Chamber that it is not feasible programmatically to provide any of the collective reparations modalities to these victims. This is because of the fact that these beneficiaries are located throughout several different states in the USA, the cost differential between the four modalities of assistance in Europe/the USA and in the DRC/Uganda, as well as because the resettlement programmes in which they are a part already provides them with the same assistance as that contained in the Order for Reparations.

61. Following discussions with the Legal Representative, the Trust Fund proposes to provide each of these victims with a symbolic monetary sum in addition to the \$250 individual compensation award. The Trust Fund notes that monetary compensation is not one of the collective reparations modalities, but submits that, exceptionally, this modality should be provided to compensate for the fact that these beneficiaries will not have access to any of the collective reparations to which they have an established right. At section 5.a)(3)(c) below, the Trust Fund provides the symbolic monetary equivalents that it proposes to transfer to these resettled victims.

62. With respect to these resettled refugee victims, the Trust Fund also does not intend to use implementing partners for the transfer of the individual or (if accepted by the Trial Chamber) collective symbolic monetary award amounts. Rather, these transfers will be made directly by the Trust Fund in coordination with the relevant Registry financial sections.

63. The Trust Fund has also been informed by the Legal Representative that other victims who have refugee status are currently on a waiting list to be resettled in Europe or in the USA. Given that it is not clear at this point in time whether⁴⁷ and, if so, when⁴⁸ these individuals may be

⁴⁷ In this regard, it is not clear to the Trust Fund whether the individuals have been approved for resettlement and are waiting placement or are at an earlier stage in the process. Furthermore, the Trust Fund notes that the annual total number of refugees that may be resettled in the USA is currently subject to domestic court proceedings as well as an internal Executive branch review process, which is not yet concluded.

resettled, the Trust Fund has included them in the reparations programme for the country where they are currently located. Should any additional victims be resettled before they have been able to access some or all of the reparations awards to which they have a right, the Trust Fund proposes to provide them with the same symbolic monetary award described above.

b) ***Victims located in Uganda***

64. With respect to the victims located in the Ugandan refugee camp, the Trust Fund has been informed by the Legal Representative that there may be difficulties in implementing some or all of the awarded modalities due to possible restrictions relevant to the refugee status of these individuals. For example, the possibility has been raised that the victims' ability to assume ownership of land or a house may be limited by law due to their refugee status and/or current residence in the refugee camp. At this time, the Trust Fund does not have sufficient information regarding what is programmatically feasible in terms of the four modalities of collective reparations with respect these refugee victims.⁴⁹

65. In this regard, the Trust Fund and the Legal Representative consider that it is necessary to conduct a mission to discuss this matter with the relevant Ugandan government officials. Unfortunately, due to the time constraints facing the Trust Fund, it was not possible to organize this mission in advance of the submission of the present draft implementation plan.

66. Given this uncertainty, the Trust Fund proposes to implement two separate collective programmes, one for the victims in the DRC and one for those located in Uganda. In principle, the two programmes will be identical, but will be implemented by different locally-based implementing partners, which will also have the benefit of not delaying the DRC reparations programme if additional time is needed to clarify the situation for the Uganda-located victims.

⁴⁸ See in this regard The Associated Press, 6 July 2017, "US says refugee admissions won't be suspended until July 12", reporting in relevant part that "[refugee] arrivals [to the USA] can continue until July 12 [2017], when a cap of 50,000 refugee admissions for the current fiscal is expected to be reached. Once the cap is hit, only refugees with a close relationship with a person or business in the United States will be eligible for admission. As of Thursday morning, admissions for fiscal 2017 stood at 49,501". Available at: <https://www.nytimes.com/aponline/2017/07/06/us/politics/ap-us-united-states-refugees.html>.

⁴⁹ The Trust Fund had unsuccessfully sought to participate in the Uganda Solidarity Summit on Refugees, held on 22-23 June 2017 in Kampala, to address the issue of providing collective reparations for refugee victims of Katanga with government representatives.

The Trust Fund has therefore provided the Trial Chamber with two programme cost estimates; one for Uganda and one for the DRC.⁵⁰

67. The Trust Fund and the Legal Representative have begun taking preliminary steps⁵¹ to organize the mission to Uganda. The Trust Fund intends to undertake this mission as soon as possible and will inform the Trial Chamber by way of a supplementary filing once it has any further information in this regard.

3. The participation of the DRC government in facilitating the implementation of the reparations awards

68. The Trust Fund recalls that, in compliance with the Trial Chamber's instruction « de prendre contact avec le Gouvernement de la RDC en vue d'établir la manière dont il pourrait contribuer au processus des réparations », ⁵² it undertook a joint mission on 12-16 June 2017 to the DRC with the Legal Representative to meet with various government officials. ⁵³ The discussions with the DRC government officials related to concrete ways in which the government could facilitate the implementation of the reparations awards. ⁵⁴

69. In this regard, some of the requested actions would enable more activities under the awarded reparations modalities to be available to the victims and/or would reduce the estimated cost of some of the proposed projects. As one example, the Trust Fund currently proposes that the activity of constructing a home under the housing assistance modality would only be available in Bogoro, due in part to the difference in housing construction costs in Bogoro and Bunia. This is also due to the fact that, unlike in Bogoro where the victims have a right to a plot of land without cost, the land on which a home could be built outside of Bogoro would also have to be purchased, rendering this activity cost prohibitive. In this regard, one of the requests made to the government authorities of Ituri Province is that they consider donating plots of land located on the outskirts of

⁵⁰ See annex 1 to this submission.

⁵¹ The timing of the mission is dependent upon the availability and schedules of the government officials, which needs to be coordinated in advance. The Trust Fund and the Legal Representative are currently in the process of drafting meeting requests for the relevant government ministries and officials that they would need to meet.

⁵² *Supra* para. 7.

⁵³ *Supra* para. 21.

⁵⁴ As indicated in the Order for Reparations, the Trust Fund took note of the areas for which the Legal Representative had requested the DRC government's assistance during the reparations proceeding leading up to the issuance of the Order. See [Order for Reparations](#), paras 321-322, footnote 464. The Legal Representative's requests served as the basis of the discussions with the DRC government authorities during the joint mission.

Bunia to the victims. If provided, it would then be possible to extend the home construction activity to those victims.

70. The following concrete requests are proposed for the DRC government authorities' consideration and response:

- Provide an increased security presence around Bogoro for the period of the implementation of the reparations programme (Ministry of Interior and Security, Ituri Province).
- The release of any outstanding back salary due to Mr Katanga to go towards the payment of the reparations awards (Ministry of Justice and Ministry of Defence).
- Allow Mr Katanga to participate, under strict security conditions and if desired by the victims, in a public or private apology ceremony (Ministry of Justice).
- Ensure that no local taxes or fees are imposed with respect to the individual and collective reparations awards (Ministry of Economy and Ministry of Small and Medium Enterprises, Ituri Province and/or Bunia municipal).
- Waive all or some of the primary and secondary school fees (Ministry of Primary, Secondary and Vocational Education).
- Provide a plot of land free of cost outside of the city center of Bunia for the purpose of home construction for eligible victims currently residing in Bunia (Ituri Province and Bunia municipal authorities, Chief of the Chiefdoms around Bunia, Ministry of Land Affairs).
- Facilitate the provision of a plot of land in Bogoro to those victims who have a right to such a plot for no cost (Bogoro village authorities, Ministry of Land Affairs).
- Contribute housing construction materials at no cost (Ituri Province and/or Bunia municipal and Bogoro village authorities).
- Conduct conflict mediation and reconciliation between local communities, especially in regard of land ownership and land use (Ituri Province and/or Bunia municipal and Bogoro village authorities).
- Allocate one of the three currently planned integrated rural development centres to Bogoro (Ministry of Rural Development and Ituri Province), which could serve as the location for activities under the income generating collective modalities.

71. The Trust Fund would respectfully suggest that the DRC government be invited to submit observations on the present draft implementation plan, particularly in terms of the above areas

where it has been requested to consider undertaking concrete actions, within the same time frame of 30 days allowed for the parties' observations on the draft implementation plan.

72. Upon receipt of the parties and the DRC government authorities' observations, the Trust Fund would be able to inform the Trial Chamber of the feasibility of adjustments, including as to costs and available activities, to the draft implementation plan within a relatively short period of time in order not to delay the implementation process.

4. Harms that fall outside of the order for reparations

73. In the Order for Reparations, the Trial Chamber stated that:

343. La Chambre rappelle qu'elle a décidé qu'elle ne pouvait pas retenir aux fins des réparations, dans la présente affaire, le préjudice physique et psychologique du fait d'un viol ou d'esclavage sexuel et le préjudice transgénérationnel. En outre, elle a décidé que les anciens enfants soldats n'étaient pas éligibles aux réparations dans la présente procédure de réparation.

344. Dès lors, la Chambre invite le Fonds à prendre en compte, dans son mandat d'assistance, chaque fois que cela lui sera possible, des préjudices qu'ont subis les Demandeurs lors de l'attaque de Bogoro que la Chambre n'a pas été en mesure de retenir dans la présente affaire. [Footnotes omitted.]⁵⁵

74. The Trust Fund also recalls that the Trial Chamber found that that two victims suffered physical injury (« blessure par balle ») from Mr Katanga's crime⁵⁶ and that other victims also suffer from physical injuries, though these injuries were not established to have been caused by Mr Katanga's crimes. In this regard, the Trust Fund also recalls that physical rehabilitation is not one of the collective modalities awarded in the Order for Reparations.

75. To explain how it proposes to implement the Trial Chamber's request, the Trust Fund discusses two issues in this section: a) the current status of the Trust Fund's assistance mandate projects in the DRC and b) the inclusion of a referral process in the draft implementation plan.

a) *The current status of the Trust Fund's assistance mandate projects in the DRC*

76. In the DRC and in accordance with the relevant ICC Financial Rules and Regulations, the Trust Fund's assistance mandate projects are contracted with locally-based implementing

⁵⁵ [Order for Reparations](#), paras 343-344.

⁵⁶ See [Order for Reparations](#), p. 87, F. Tableau recapitulative.

partners for a period of several years. Towards the end of this period, projects are subject to a closing procedure while a procurement process for new project proposals is launched. Implementing partners of closed projects may be selected again based on the merits of their new project proposal, but they must compete without advantage in the open tender process.

77. The Trust Fund informs the Trial Chamber that the term of assistance mandate projects in the DRC expired on 31 May 2017. The Trust Fund launched an open tender for new assistance project proposals in 2016, which is still ongoing. The Trust Fund expects this process to be concluded within the next 3 months. The scope of activities that will be available under the DRC assistance mandate from 2017 and onward depends upon the merits of the project proposals that are ultimately selected during this procurement process.

78. Based on the above, the Trust Fund cannot at this point in time state with certainty and in detail which projects and associated services will be a part of its DRC assistance mandate activities during the time frame of the *Katanga* reparations programme. Notwithstanding this uncertainty, to the extent that the selected new assistance mandate projects address the types of harms suffered by the victims, but which fall outside of the scope of the Order for Reparations, the Trust Fund assures the Trial Chamber that it has taken note of these harms and will to the extent feasible refer these individuals to the relevant assistance mandate projects.

b) ***Inclusion of a referral process in the implementation plan***

79. Following from the above, the Trust Fund proposes to create a list of organisations to which victims can be referred for those harms that they have suffered that are not included in the present reparations awards. This includes the victims who were found to have suffered physical harm during the attack on Bogoro. In this regard, referrals will first be made to Trust Fund-supported assistance projects. However, in the situation where the assistance mandate projects do not address the harms at issue, referrals will be made to other organisations that do provide the relevant services.

5. The creation of beneficiary categories with a proportional link between the reparations awards and the harms suffered by each victim

80. The Trust Fund has taken careful note of the fact that, in the Order for Reparations, many of the Trial Chamber's considerations and determinations are footnoted to the LRV Reparations

Proposal, in particular the portion related to the collective reparations awards.⁵⁷ Furthermore, the Trust Fund has based its draft implementation plan in particular on the instructions contained at paragraph 305 of the Order for Reparations, which is footnoted, *inter alia*, to the LRV Reparations Proposal and provides that:

Comme le Représentant légal l’a indiqué, la Chambre est également d’avis que les modalités de réparations doivent préserver une certaine flexibilité et garantir un lien de proportionnalité entre les réparations et les préjudices subis par chacune des victimes. Cela peut être réalisé par la création de différentes catégories de bénéficiaires, par exemple selon les types des préjudices subis ou selon l’ampleur des préjudices subis.⁵⁸

a) ***Beneficiary categories based on harm suffered***

(1) Standard beneficiary categories

81. Based on its understanding of the above-quoted paragraph of the Order for Reparations, the Trust Fund has created different categories in order to maintain proportionality between the collective reparations awards and the differing degrees and types of harms suffered by the individual members of the group of 297 victims (“harm categorization”). In developing these categories, the Trust Fund has used the LRV Reparations Proposal as its starting point and has consulted in this regard with the Legal Representatives. The Trust Fund has relied extensively on Annex 2 for purposes of matching the victims with the appropriate category that corresponds to the degree and types of harm that each individual suffered, as established by the Trial Chamber.

82. In conducting this exercise, the Trust Fund decided to proceed according to a harm categorization, as opposed to a “needs categorization”, because it is more programmatically feasible to build flexibility that takes into account the differing specific victim needs within the proposed awards per harm category. In addition, the Trust Fund took into account that the categorization suggested by the Trial Chamber at paragraph 305 of the Order for Reparations and the LRV Reparations Proposal are based on a harm categorization and the Trust Fund sees no reason to deviate from this approach.

83. In addition, the Trust Fund recalls that all 297 victims suffered psychological harm from the Bogoro attack. Accordingly, this harm is applicable across all of the categories proposed below.

⁵⁷ See in particular [Order for Reparations](#), paras 302-303.

⁵⁸ [Order for Reparations](#), para. 305, referring to [LRV Reparations Proposal](#), paras 23-70.

84. Based on the above, the Trust Fund has created 5 categories of beneficiaries in which it has placed each of the 297 victims. These categories are:

- Category 1 – Loss of home and livestock (plus general moral harm covered in part by the individual symbolic compensation of \$250)
- Category 2 – Loss of home or equivalent material loss⁵⁹ (plus general moral harm covered in part by the individual symbolic compensation of \$250)
- Category 3 – Loss of an immediate family member (plus general moral harm covered in part by the individual symbolic compensation of \$250)
- Category 4 – Loss of personal affairs and minor material loss (plus general moral harm covered in part by the individual symbolic compensation of \$250)
- Category 5 - General moral harm only covered in part by the individual symbolic compensation of \$250

(2) Sub-categories based on specific types and degree of harm suffered

85. In the Trust Fund's view, a select sub-set of victims suffered harms that are not adequately reflected in the above standard harm categories. This conclusion is based on an analysis of the detailed individual assessments carried out by the Trial Chamber that are contained in Annex 2, in particular in relation to the Trial Chamber's determinations regarding the extent or degree of certain harms suffered by individual victims. Recalling that it has been instructed to account not only for the different *types* of harm suffered, but equally for the different *degrees* of harm suffered by the victims, the Trust Fund proposes to create three sub-categories in order to fairly and accurately reflect the harm actually suffered by these victims.

(a) Loss of an immediate family member in addition to other harms falling within the standard categories

86. The Trust Fund notes that many of the victims suffered the loss of an immediate family member in the attack on Bogoro, in addition to suffering other harms contained in the standard harm categories, such as the loss of their home or livestock. The Trust Fund has chosen not to

⁵⁹ This includes those victims who did not suffer the loss of a home, but did suffer, for example, the loss of their business, cattle, or land that they farmed for income and daily subsistence.

create additional standard categories for this harm, due in part to the manner in which this was proposed to be categorized in the LRV Reparations Proposal.

87. Following consultations with the Legal Representatives, the Trust Fund has incorporated the Legal Representative's proposal that: 1) those victims who suffered the loss of an immediate family member are grouped into one standard category (Category 3 above) and 2) the other harm categories each contain a sub-group of those victims who suffered the harms corresponding with the category, and additionally suffered the loss of an immediate family member (i.e. "Augmented Category 1", "Augmented Category 2", etc.).⁶⁰

(b) Extensive loss of multiple immediate family members

88. The Trust Fund notes that some victims suffered the loss of multiple immediate family members. In particular, the Trust Fund has taken note of the fact that the Trial Chamber determined that certain victims lost more than five immediate family members in the attack on Bogoro. Given the extensive degree of loss suffered by these victims, the Trust Fund proposes to create a separate category for these victims, which is *in addition to* the standard/augmented category in which they have been assessed ("Extensive family loss Category").⁶¹

(c) Loss of a family home

89. Finally, the Trust Fund notes that, for a select number of victims, the Trial Chamber assessed and attributed the loss of a home at the family level, as opposed to the individual level. The Trust Fund therefore understands that these losses, while attributed to only one individual victim, actually include a loss suffered by multiple eligible victims. Therefore, in order to ensure fairness and parity for these victims, the Trust Fund has created a separate category for this particular harm ("Loss of a family home Category").⁶²

⁶⁰ See in this respect [LRV Reparations Proposal](#), para. 34.

⁶¹ This separate category is only applicable to the victims in the DRC and Uganda. It does not include resettled victims.

⁶² This separate category is only applicable to the victims in the DRC and Uganda. It does not include resettled victims.

(3) Proposed collective awards per standard category and sub-categories

90. In this section, the Trust Fund first describes the logic and reasoning that informed the creation of the various awards packages that correspond to the different harm categories explained above. Following that, the Trust Fund provides a comprehensive overview detailing the proposed awards packages for each category.

(a) Standard harm categories' awards packages

91. With respect to each of the above standard categories of harm suffered, based in part on the proposal developed by the Legal Representative,⁶³ the Trust Fund proposes corresponding reparations awards (“baseline reparations package”) with a maximum monetary value per victim for each reparations modality within each harm category that is in proportion to the degree and types of harms of that category.

92. With regard to the resettled victims, the Trust Fund has included these individuals in their corresponding category, each of which has a different proposed symbolic compensation amount associated with it in proportion to the degree and types of harms relevant to that category.

93. Regarding the victims who suffered the loss of an immediate family member (Category 3), the Trust Fund has taken into account the Legal Representative’s request that this reparations package not be the same as that for the augmented sub-group within the other harm categories.

94. Finally, for each reparations awards package proposed per category, the Trust Fund has included a maximum monetary value per modality award. These differing values take into account the types of harms suffered by the victims. However, the Trust Fund wishes to clarify that these *maximum* monetary values are of an indicative nature and do not necessarily equate to the actual amount of money that will be spent during implementation per victim or overall. For example, for the provision of housing materials and livestock, the Trust Fund’s implementing partners are expected to utilize bulk purchasing, which may result in a lower actual cost than if the materials and livestock were purchased on an individual basis. Further, as indicated above, it is also possible that contributions by the DRC government may reduce the actual costs of implementing some of the awards.

⁶³ [LRV Reparations Proposal](#), paras 23-70.

95. The Trust Fund will keep the Trial Chamber apprised of any major deviations in this regard in its regular reporting to the Trial Chamber during implementation. In the case that the costs of the implementation of certain awards end up being below the expected budget, the Trust Fund will repurpose those funds within the other awards for the benefit of the 297 victims and will inform the Trial Chamber accordingly regarding how it proposes to proceed in this regard.

(b) Sub-categories' awards packages

96. With respect to the augmented sub-group in each category representing the additional loss of an immediate family member, the Trust Fund has incorporated the Legal Representative's proposal that each individual who falls within this sub-category will receive in addition one cow with 4 teeth and a corresponding veterinary kit⁶⁴ of a maximum value of \$600 ("augmented reparations package").⁶⁵

97. With respect to the Extensive family loss Category, the Trust Fund proposes that each individual will receive a second additional cow with 4 teeth and a corresponding veterinary kit.

98. With respect to the Loss of a family home Category, the Trust Fund proposes an increased maximum value that is proportionate to the number of victims included within the family unit in light of the baseline value proposed for the loss of a home at an individual level.

(c) Detailed description of the awards packages

99. The Trust Fund's proposed reparations awards packages, including the corresponding maximum monetary value per modality, for each harm category and sub-category are the following:

• **Category 1** (Loss of home and livestock, general moral harm)

<u>Baseline reparations package</u>	<u>Value</u>
Housing assistance -	\$1000

⁶⁴ See [LRV Reparations Proposal](#), para. 37 (2) (a), specifying that a "veterinarian kit" contains "premiers vaccins, premiers contrôles vétérinaires".

⁶⁵ See [LRV Reparations Proposal](#), para. 37 (2) (a) for the calculation of the estimated maximum cost of a cow with 4 teeth and a "veterinarian kit".

Education assistance -	\$600 (= \$150 school fees per year for a maximum of two children for two years)
Income generating activities -	\$1200 (one cow with 4 teeth and veterinarian kit ⁶⁶ with value of \$600 and an additional \$600 value of income generating activities chosen by the victim)
Psychological rehabilitation	

<u>Resettled victims</u>	<u>Amount</u>
Symbolic Compensation	\$750

<u>Augmented reparations package</u>	<u>Value</u>
Income generating activity -	\$600 (one cow with 4 teeth and veterinarian kit)

• **Category 2** (Loss of home or equivalent material loss, general moral harm)

<u>Baseline reparations package</u>	<u>Value</u>
Housing assistance -	\$1000
Education assistance -	\$600 (= \$150 school fees per year for a maximum of two children for two years)
Income generating activities -	\$600
Psychological rehabilitation	

⁶⁶ It is the Trust Fund's understanding that a "veterinarian kit" is sufficient for only one cow. Accordingly, the Trust Fund proposes a kit for each cow provided.

<u>Resettled victims</u>	<u>Amount</u>
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Symbolic compensation	\$500
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<u>Augmented reparations package</u>	<u>Value</u>
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Income generating activity -	\$600 (one cow with 4 teeth and veterinarian kit)
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• **Category 3** (Loss of immediate family member, general moral harm)

<u>Baseline reparations package</u>	<u>Value</u>
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Housing assistance -	\$600
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OR

Education assistance -	\$600 (= \$150 school fees per year for a maximum of two children for two years)
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Income generating activities -	\$600 (one cow with 4 teeth and veterinarian kit)
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Psychological rehabilitation

<u>Resettled victims</u>	<u>Amount</u>
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Symbolic compensation	\$250
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• **Category 4** (Loss of personal affairs and minor material loss only, general moral harm)

<u>Baseline reparations package</u>	<u>Value</u>
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Housing assistance -	\$600
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OR

Education assistance -	\$600 (= \$150 school fees per year for a maximum of two children for two years)
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OR

Income generating activities -	\$600
Psychological rehabilitation	

<u>Resettled victims</u>	<u>Amount</u>
Symbolic compensation	\$100

<u>Augmented reparations package</u>	<u>Value</u>
Income generating activity -	\$600 (one cow with 4 teeth and veterinarian kit)

- **Category 5** (general moral harm only)

<u>Baseline reparations package</u>	
Psychological rehabilitation	

- **Extensive family loss Category**

<u>Value</u>
\$600 (one additional cow with 4 teeth and veterinarian kit)

- **Loss of a family home Category**

<u>Value</u>

Loss of a two person home	Additional \$1000 ⁶⁷ in housing assistance
Loss of a five person home	Additional \$2000 in housing assistance

b) ***Proposed flexibility within the collective reparations programme framework***

100. In the Order for Reparations, the Trial Chamber stated that it « souligne que ces réparations, bien que collectives, ciblent les besoins et la situation actuelle des victimes individuelles membres du groupe ». ⁶⁸ The Trust Fund equally notes that the Trial Chamber held that « les modalités de réparations doivent préserver une certaine flexibilité ». ⁶⁹ Accordingly, the Trust Fund has attempted to build in flexibility to the above standard reparations awards packages in order to take into account the fact that the needs and actual situations of victims are different even within a single category.

(1) Individual symbolic compensation award

101. First, regarding the individual reparation award of a symbolic \$250 compensation award, the Trust Fund has taken note of the Trial Chamber's statement that:

En effet, ce montant pourrait contribuer à l'autonomisation économique des victimes, en leur permettant par exemple d'acheter des outils ou du bétail, ou de monter une petite entreprise. Les victimes pourront ainsi prendre leurs propres décisions sur la base de leurs besoins actuels. [Footnote omitted]. ⁷⁰

102. The Trust Fund understands this to mean that individuals should have the option to choose to put the \$250 towards one of the collective modalities of reparations. For example, a beneficiary may wish to put the \$250 USD towards adding an annex or additional rooms under the modality of housing assistance or for the purchase of additional livestock under the income

⁶⁷ The Trust Fund proposes this value because it has been brought to its attention by the Legal Representative that, for certain cohabitating couples, the loss of a home was assessed on an individual level for each household member. Thus, under those calculations, the individually assessed couples would each receive \$1000 in housing assistance, totalling \$2000. The Trust Fund therefore considers it a matter of fairness to have the same value for the loss of a two person family home that was attributed to only one of the eligible victims, as opposed to both.

⁶⁸ [Order for Reparations](#), para. 280.

⁶⁹ [Order for Reparations](#), para. 305.

⁷⁰ [Order for Reparations](#), para. 300.

generating activities modality. The Trust Fund considers that permitting the victims to augment an award under one of the collective modalities will have the benefit of maximizing the spending power of the individual compensation amount (for example, a beneficiary could decide to use his or her \$250 in combination with his or her income generation award for the purchase a cow with 6 teeth), as well as providing the beneficiaries with additional options for the use of their symbolic compensation award that would not necessarily otherwise be possible if the individual award were isolated from the collective awards that the beneficiary will also receive.

103. As also indicated by the Trial Chamber, the victims will also have the option to receive a cash transfer of the symbolic compensation award that they can then choose to use for any purpose, including those unrelated to the collective awards.

(2) The needs and actual current situation of the victims

104. The Trust Fund equally notes that some victims may not choose to participate in all of the reparations modalities awarded to them. In this regard, the Trust Fund notes that education assistance may not be of particular relevance or benefit to victims who do not have minor dependants. Accordingly, the Trust Fund proposes that the victims may also choose to “shift” the monetary value associated with this reparations modality to “top up” the monetary value allotted to them under the modalities of housing assistance or income generating activities. In other words, a victim in Category 1 would be able to choose not to access the education assistance modality (maximum value \$600), but instead increase his or her maximum housing assistance monetary value to \$1600 (set at \$1000 in the standard reparations package for Category 1) or, for example, choose to receive an additional cow with 4 teeth and an accompanying veterinarian kit.

105. Conversely, for those victims who have minor dependants of primary and secondary school age, the Trust Fund is aware, taking into account family sizes in the region and based on consultations with the Legal Representative, that the current proposed per child limit under the education assistance modality may not be sufficient to cover all of the school age children in a household. The Trust Fund therefore proposes the inverse of the above, namely that victims may also choose to “shift” the monetary value associated with the modalities of housing assistance and/or income generating activities to “top up” the monetary value allotted to them under the education assistance modality, thereby allowing for more school age children within the household to attend school.

B. Detailed explanation of the proposed projects within each modality of reparations awarded

1. Introduction

106. In this section, the Trust Fund first provides the overall results framework of the draft implementation plan and, second, the concrete details of the proposed activities under each modality of reparations awarded by the Trial Chamber. Finally, following a description of the concrete proposed activities, the Trust Fund provides information relevant to what the Trust Fund will require of its prospective implementing partners in their project proposals in response to the Request for Proposals that the Trust Fund will launch following the Trial Chamber's approval of the draft implementation plan.

107. Similar to the considerations informing the flexibility aspects of the draft implementation plan proposed above, the Trust Fund notes that the concrete activities actually needed under each of the ordered modalities vary depending on the current situation of the victim. For example, some victims have indicated that they would like to have a home built for them. However, not all victims need a new home, having already received, purchased, or constructed their own in the intervening years since the attack. Victims instead may prefer to have their current home improved, either by reinforcing it with more durable building materials or by expanding its size.

108. The Trust Fund has carefully reviewed the VPRS Updated Victim Information Database with regard to the specific reparations requests made by each then victim applicant and has also consulted with the Legal Representatives to the extent possible to try to ensure that the widest scope of activities/options possible, and which match the current needs and situation of the victims, have been included under each modality of reparations.

2. Information relevant to the selection of implementing partners

a) *Solicitation of proposals from consortia of implementing partners*

109. In the Trust Fund's view, the integrated and flexible nature proposed for the implementation of the awards contained in the Trial Chamber's Order for Reparations has certain ramifications for the selection of its implementing partners. The Trust Fund considers that the successful implementation of the different modalities of the collective awards cannot be effectively ensured by engaging implementing partners under separate contracts, as this would endanger the cohesion

of the awards and the transparency of implementation. It is unlikely that one agency alone would possess all competencies related to the full range of modalities of the collective awards.

110. Therefore, the Trust Fund considers that it is appropriate to solicit proposals from one or more consortia of prospective implementing partners, coordinated by one lead partner. The Trust Fund considers that this will facilitate the monitoring and tracking of the various options across modalities that the Trust Fund has proposed herein. Such a procurement process is permissible under the Court's applicable financial Rules and Regulations. The Trust Fund intends to carry out further preparations, including consultations with the relevant Registry sections, towards the identification of prospective implementing partners in accordance with regulation 71 of the TFCV Regulations. The Trust Fund will update the Trial Chamber regarding how the procurement process will take place as soon as any developments occur in this regard.

b) ***Programme support costs***

111. It is the Trust Fund's policy to allow its locally based implementing partners a maximum level of programme support costs (PSC) of 15%. This maximum level has accordingly been used for the development of this draft implementation plan, in as far as it relates to the estimated budget costs of activities to be implemented in the DRC and Uganda. As explained above, any implementation costs related to awards to victims in Europe or the USA will be borne directly by the Trust Fund.

112. In the eventual request for proposals, which will invite detailed project proposals from prospective implementing partners, the Trust Fund will stipulate that more competitive PSC rates are encouraged and will be a relevant factor in its selection criteria. Any monetary difference between the actually selected and the maximum PSC rates will be repurposed directly into the activities under the collective awards.

c) ***Concluding remark***

113. Finally, the Trust Fund wishes to note an additional matter in relation to the feasibility of the draft implementation plan. The Trust Fund recalls that the draft implementation plan endeavours to constitute a faithful, legally sound and operationally viable translation of the reparations order into a concrete plan of action. Yet, it must be noted that this is the first time for the Court and the Trust Fund to undertake the realisation of collective and individual reparations awards at this level of detail and complexity. The wealth of information currently available about

the individual circumstances of a relatively small number of victims eligible for reparations has allowed for a significantly high resolution of detail in the draft implementation plan. This level of detail, however, still needs to pass the test of further detailed design (in the project proposals) and of the actual implementation of the awards. The Trust Fund will inform the Trial Chamber forthwith should further adaptations of a substantive nature be required.

3. Explanation of the intake process

114. Once the actual implementation of the Order for Reparations begins, the programme will begin with a brief “intake” procedure with each victim beneficiary. Present at the start of the programme will be: 1) the TFV programme officer(s) dedicated to the *Katanga* reparations awards implementation; 2) the respective Legal Representative (if desired); 3) the programme coordinator of the lead implementing partner; 4) a financial advisor; and 5) a counsellor. The Trust Fund and the implementing partner will endeavour to ensure that the composition of participants are gender inclusive, and that participants are sensitive to gender specific issues during the intake process. Participants will also identify various channels for women and girls’ access to registration and services of their preference that ensure confidentiality as needed and avoid stigmatization. Below, the activities that will take place at this point in time are described.

a) *Individual compensation award*

115. The victims will have the opportunity to discuss with a financial advisor the options available to them to receive and potentially use their \$250 symbolic compensation award. The financial advisor will be responsible for ensuring the timely, confidential, and discreet transfer of the monetary award to the victim beneficiary, under the overall oversight of the lead implementing partner and TFV programme officer. The Trust Fund notes that \$250 is not an insignificant sum of money in the DRC. Accordingly, the financial advisor will also be responsible for offering assistance to the victims with setting up a bank account to receive the money if they so wish, advising as to whether they wish to receive a lump payment or instalments, and providing advice on how they may maximise the award by putting it towards a collective award if they are inclined to do so. The Trust Fund is aware of potential gender and power dynamics that may affect victims. Accordingly, the Trust Fund will take steps to ensure that the individual compensation award is received by the victim regardless of their gender and age, unless the individual wishes to proceed differently. The Trust Fund will furthermore ensure

that the modes of distribution permit female victims to not only have the same access, but also retain control over, the benefits that are preferable to them.

116. Finally, noting that the proposed duration of the reparations programme is two years, the financial advisor is also responsible for helping those victims who select the education assistance award of two year's payment of primary and secondary level school fees for their children with developing a financial plan that will enable them to continue to pay these school fees after the reparations programme has ended. In this regard, the Trust Fund views the education assistance and income generating modalities as being inter-related and considers the continuation of school attendance by the victims' children after the end of the reparations programme to be a critical success benchmark of the programme.

b) *Selection of concrete activities under each modality*

117. The victims will then meet with the lead implementing partner and the TFV programme officer to confirm their selection of the activities that they wish to participate in under each modality. The lead implementing partner will be responsible for coordinating, communicating, and monitoring that the other implementing partners have incorporated the specific choices of the victims, including, for example, where a victim has decided to forego the educational assistance award towards an increased benefit of the housing and/or income generating modalities or, conversely, has chosen to receive an increased education assistance award.

c) *Referrals for harms outside of the Order for Reparations*

118. In addition, the TFV programme officer will discuss with each victim any harms suffered that fall outside of the scope of the present reparations programme and provide referrals to qualifying organisations that can assist the victim. The TFV programme officer will be responsible for working towards these referrals being appropriately acted upon by these other organisations and monitoring the assistance received in this regard by the victims.

d) *Psychological rehabilitation*

119. Finally, the victims will have an introductory meeting with a counsellor trained in trauma-based counselling. This will neither be a formal intake nor a fully-fledged counselling session. The counsellor will discuss what types of counselling are available to the victim (individual and/or group counselling) as well as ensure that the victim understands that they can access

counselling at any point during the two year period of the reparations programme. The counsellor will be responsible for promptly scheduling sessions with those individuals who indicate they would like to participate in this reparations modality. The counsellor will also be responsible for group therapy sessions open to any of the victims who wish to attend.

4. Detailed description of collective reparations proposed projects

a) *Overall programme results framework*

120. The Trust Fund recalls that the Trial Chamber held that the objective of reparations « est de remédier autant que faire se peut aux préjudices subis par les victimes résultant des crimes pour lesquels M. Katanga a été condamné ». ⁷¹ The Trial Chamber also recalled that reparations should be meaningful for the victims and that, in as far as possible, victims should receive reparations that are appropriate, adequate and swift. ⁷² The Trust Fund considers these objectives to be the overall goal in the results framework that underlies the draft implementation plan.

121. The Trust Fund foresees the long-term impact of the reparations programme to be as follows:

- Victims have a strengthened ability to cope with the livelihood, financial, and psychological trauma caused by Mr Katanga's crimes and their aftermath.
- Victims are able to appreciate the symbolic value of the individual compensation award, as well as the benefits received from the collective awards, as the result of judicial measures undertaken to remedy the harm that they suffered from Mr Katanga's crimes.

122. The Trust Fund identified the following risks that inform the draft implementation plan:

- The security situation in Bogoro and its surrounding areas may negatively impact the security and personal safety of victims.
- Misunderstandings and disinformation about the exact scope of reparations awards to victims, as well as about the implementation of the awards, may cause jealousy and stigmatisation towards victims, jeopardise the integrity of the reparations programme, and cause damage to the reputation of the Court and the Trust Fund.

123. Finally, the Trust Fund identified the following assumptions that also inform the draft implementation plan:

⁷¹ [Order for Reparations](#), para. 267.

⁷² [Order for Reparations](#), para. 15.

- The vast majority of victims (those in DRC and Uganda) will have access to the collective reparation awards.
- A secure and safe environment will be established and maintained in the programme intervention areas for the duration of the implementation period.
- The implementation of the reparations order proposed by the Trust Fund will successfully mitigate the risks of jealousy and stigmatisation for victims.
- The symbolic individual compensation awards will enhance the victims' acceptance and confidence in the service-based collective reparation projects.
- Collective reparation projects will be implemented in or near the localities where the victims currently reside and are concentrated.
- The existing local service delivery capacity and infrastructure in the programme intervention areas will mobilised to expeditiously implement projects and to efficiently use available resources.
- The national and local DRC government authorities will cooperate with the Trust Fund to enable the successful implementation of the reparations awards to the extent possible.
- No (local) taxes of administrative fees will be levied against any of the monetary or non-monetary awards received by victims

b) ***Housing assistance***

124. Under this modality, the Trust Fund proposes the following types of specific activities:

- Construction of a home with basic household furnishings;
- Renovation of current home (reinforcement or expansion);
- Assistance in purchasing a plot of land;
- Assistance in purchasing a home outside of Bogoro; or
- Assistance with rent payments.

125. With respect to prospective implementing partners, the Trust Fund will request that they include the following in their project proposals:

- Model home plans (layout and proposed materials, including basic household furnishings) for all of the possible maximum award amounts (loss of a family home: \$2000 and \$3000, respectively; loss of an individual home: \$1000, \$1250 (+ individual award), \$1600 (+ shifted education assistance modality amount), \$1850 (+ individual award + shifted education assistance modality amount)).
- Ability to assist those victims in Bogoro proper (and potentially Bunia) administratively with acquiring or obtaining a plot of land from the government to which they may have a right free of cost.
- Ability to provide assistance with any necessary legal registration including any certificates needed for the victims, including to ensure that female victims retain ownership, if they so desire.
- Description of how funds will be transferred for the purchase of a plot of land or a home, or for the payment of rent, as well as how the use of the funds is to be verified.

c) *Education assistance*

126. Under this modality, the Trust Fund proposes the following activity:

- Payment of primary or secondary school fees and related costs, such as a school material kit, for the children (or minor dependents residing in the same household) of victims.

127. With respect to prospective implementing partners, the Trust Fund will request that they include the following in their project proposals:

- Description of the contents of the school material kit (i.e. notebooks, backpack, uniform, etc.).
- Description of how funds for the payment of the school fees will be transferred (either to the parent/guardian or directly to the school) and how the use of the funds is to be verified.

d) ***Income generating activities***

128. Under this modality, the Trust Fund proposes the following specific activities:

- Assistance with the payment of higher-education (university-level) enrolment and fees;
- Vocational training in small business enterprises (ex. dress making, taxi driver, etc.), animal husbandry, agriculture, and fishing;
- Training on how to develop business plans and budgets;⁷³
- Provision of a business kit (ex. Sewing machine and clothes making materials, farming kit, including seeds and tools, etc.);
- Provision of (small) livestock and veterinary kit; and
- Formation of and participation in village savings and loans associations mutuelles de solidarité (VSLA/MUSO)⁷⁴

129. With respect to prospective implementing partners, the Trust Fund will request that they include the following in their project proposals:

- A description of the contents proposed within the various kits.
- Ability to conduct the various trainings or (depending on the number and location of the participating victims) to pay for the enrolment in such courses offered by other organizations.
- With respect to the assistance with the payment of higher-education (university-level) enrolment and fees, a description of how the funds will be transferred (either to the victim or directly to the university) and how the use of the funds is to be verified.

⁷³ The Trust Fund notes that the first three activities could also be classified as falling under the educational assistance modality. However, after discussion with the Legal Representative, the Trust Fund proposes to place them under this modality as their intent is to place the victim in a better position to improve their current income level, as well as to better maintain the proposed flexibility available to victims by “shifting” award values across modalities.

⁷⁴ The Trust Fund notes that the creation of MUSOs may not be possible for all of the victims and needs to be further considered in light of the project proposals submitted by the selected implementing partners. For example, the victims currently located in the refugee camp in Uganda may be relocated either to another country or potentially within Uganda. Therefore, they may not remain a cohesive “group” for purposes of a MUSO scheme.

- Proposal of additional income generating activities based on a market survey of the current economic activities where the victims are currently located, including specific activities for women victims.

e) *Psychological rehabilitation*

130. Under this modality, the Trust Fund proposes the following specific activities:

- Individual trauma-based counseling sessions; and
- Group counseling sessions

131. With respect to prospective implementing partners, the Trust Fund will request that they include the following in their project proposals:

- The CV of the project proposed counsellor demonstrating qualification to provide trauma-based counseling, including in terms of gender-sensitive strategies to ensure the participation of female victims in both individual and group counseling.
- Description of the proposed range of frequency of individual counseling sessions based on the specific needs of the victims (ex. twice a week, once a week, monthly, etc.).
- Description of the proposed range, content and programming of group counseling sessions that may be offered to victims.
- Description of a referral process if any victims are in need of specialized intensive therapy that exceeds the skills of the project counsellor (ex. referral to psychological centers in Bunia for specific psychological care).

C. Participation of Mr Katanga in the reparations programme

132. The Trust Fund recalls that it was instructed to discuss Mr Katanga's possible contribution to the modalities of reparations with his defence team.⁷⁵ In accordance with that instruction, the Trust Fund and Mr Katanga's defence team exchanged email communications.⁷⁶ The results

⁷⁵ *Supra* para. 7.

⁷⁶ *Supra* paras 23, 28. See annex 2.

of these discussions indicates that additional letters, written apologies or public pronouncements do not appear possible at this time in part due to Mr Katanga's continued detention in the DRC.

133. The defence recalled Mr Katanga's statements in court at his sentence review hearing where he expressed his regret for causing suffering to the victims and his written statements to that same effect when he terminated his appeal. The defence also suggested the possibility of showing the recorded video message of apology at a venue in Ituri. The defence gave their assurance that Mr Katanga would endeavor to comply with reasonable requests for additional statements or acts of apology and regret. In the Trust Fund's view, it is not clear that there is a desire from the victims for these types of actions, given the views expressed to date regarding the public apologies and statement already expressed by Mr Katanga. The Trust Fund considers that the Legal Representatives may wish to comment upon this offer in their observations.

134. Mr Katanga's defence also raised his willingness to participate in an inter-communal traditional ceremony of penitence that could be presided over by elders and the cultural leadership in Bogoro. The defence suggested that such a ceremony could contribute to healing the inter-communal rift and to mitigate future occurrences of violence. However, Mr Katanga's present incarceration renders his participation in such an event unlikely. As observed by Mr Katanga's defence team, at present there is "no prospect of his being released in the reasonably foreseeable future".

135. The Trust Fund will continue to engage with the Legal Representatives and Mr Katanga's defence team regarding Mr Katanga's possible participation in the reparations modalities. Should a written or video-taped message of apology be of interest to the victims, the Trust Fund will incorporate such a programme into its implementation plan. Should there be any change in Mr Katanga's personal situation or should the DRC government permit him to leave detention to participate in a public ceremony, the Trust Fund will revert to the Trial Chamber with any new information in this regard.

D. Monitoring and evaluation

136. The Trust Fund considers monitoring, evaluation, and learning to be key components of the TFV programme cycle, from the design and implementation to phase out stages. In order to track the progress of each reparation activity and their results towards the programme objectives, and following best practice from previous Trust Fund programmes, the Trust Fund has incorporated

performance monitoring and evaluation into its draft implementation plan. This ensures that implementation is well documented and guided by evidence so that adjustments can be made as changes arise on the ground.

137. To achieve the expected results of the reparations programme, the Trust Fund will include detailed instructions regarding monitoring, evaluation and learning expectations, requirements, and necessary resources in its request for proposals in order to ensure that prospective implementing partners include appropriate emphasis on these efforts in their project proposals. Implementing partners will be requested to submit a monitoring and evaluation plan (hereinafter: "M&E plan") in their project proposal that demonstrates an emphasis on the systematic process of collecting and analyzing performance data and other information to track the progress toward the planned programme/project results.

138. Further, selected implementing partners must submit a revised M&E plan before implementation begins. The Trust Fund will ensure that implementing partners M&E plans are consistent and meet the data collection needs of the implementation plan, the Trust Fund's performance monitoring plan and the Order for Reparations' reporting requirements.

139. Although an implementing partner typically proposes a project M&E plan, the Trust Fund reviews, collaborates on any necessary changes, and approves the plan. These M&E plans will be revised as needed in response to changes in the programme or context that occur during the period of the programme implementation.

140. While an implementing partner executes the project M&E plan, both the Trust Fund's headquarters and field staff have performance management responsibilities. Programme monitoring enables the Trust Fund's headquarters staff and field program managers to effectively: 1) track implementation progress; 2) monitor the quantity, quality, and timeliness of project outputs; 3) monitor achievement of project outcomes; and 4) ensure the quality of performance monitoring data collected by partners. This typically entails the following tasks: reviewing performance indicator data and monitoring reports; conducting or participating in data quality assessments (hereinafter: "DQAs"); conducting site visits; examining technical reports and deliverables; and meeting with implementing staff and other stakeholders. This also involves monitoring programmatic assumptions and the operational context of the programme in order to recognize trends and shifts in external factors that might affect its performance.

141. During the implementation of the programme, the Trust Fund's headquarters staff and field programme managers will:

- Collaborate with the implementing partner to ensure all necessary monitoring information is being collected per the implementation plan's outlined results, expected outcomes and performance indicators to support the management and learning needs of the programme. This includes setting performance indicator targets and collecting performance indicator baselines and results data as per the programme framework that will be part of the programme scope of work.
- Review performance monitoring indicator data and technical reports to ensure the quality of the monitoring information is sufficient for decision-making and reporting, and conduct DQAs as appropriate.
- Perform site visits to provide programme oversight, inspect implementation progress and deliverables, verify monitoring data, and learn from programme implementation.
- Meet with partners, other stakeholders and the host government(s) to share monitoring information as well as review programme progress as necessary.
- Analyze performance and context monitoring information to inform management, the TFV Board of Directors and the Trial Chamber in particular on a regular basis.
- Analyze performance monitoring indicator data to identify gender gaps (the extent to which females and males are participating in and benefiting from the reparations programme and specific projects).

1. Programme impact evaluation

142. As part of the monitoring and evaluation strategy for the *Katanga* reparations programme, the Trust Fund will conduct an impact evaluation to measure both tangible material impacts from the programme, and experiential and perception-based outcomes amongst participants and other community members. This will consist of:

- a baseline assessment of victims (the program's target population) and community members (the control group);
- a midline assessment during reparations delivery; and

- an endline assessment after the program concludes.

143. The Trust Fund will measure the success of the reparations programme through a survey of victims and community members' perceptions regarding the programme processes, their expectation of the reparations programme, and the success of the programme. Success of the reparations programme will be measured based on the material impact of the programme on individual and community welfare, particularly *vis-à-vis* health and livelihoods. The impact assessment will be designed and coordinated by the Trust Fund in partnership with its implementing partners, who will have the primary responsibility for data collection.

144. In the Trust Fund's view, analyzing these two impact streams together will not only allow it to better evaluate and report on the *Katanga* reparations programme's results and benefits to the victims in this case, but will also improve the design and efficacy of future reparations programmes at the Court.

145. Finally, with regard to the Edinburgh M&E Partnership, the Trust Fund intends to make use of an already existing grant to partner with Dr Zoe Marks, of the School of Social and Political Science at the University of Edinburgh. In 2016, Dr Marks received a United Kingdom Economic and Social Research Council (ESRC) Impact Accelerator Grant through the University of Edinburgh. This £20,000 grant's purpose is to support a partnership between Dr. Marks and the Trust Fund, whereby Dr Marks' research base will be used to help strengthen the M&E and impact evaluation strategy/implementation of the Trust Fund's reparations programmes at the Court. In addition to providing strategic monitoring and evaluation input, the grant will also be used for the design and implementation of the control group aspect of the baseline assessment. The Edinburgh M&E Partnership will therefore permit the Trust Fund to gather additional relevant information and data to enable it to better assess the results and outcomes of the reparations activities, without needing to use Court resources for this purpose.

2. Financial monitoring

146. The Trust Fund's field-based oversight structure – consisting of a Programme Manager and two Associate Field Programme Officers, all based in the Bunia Field Office – is geared not only to ensure effective oversight and control of programme implementation, but also to detect possible implementation irregularities as well as positive accomplishments in order to take timely and informed decisions to address problems and to accentuate constructive actions.

147. The Trust Fund's oversight and reporting is monitored by the TFV Board of Directors through the Executive Director, assisted by the Legal Adviser, Financial Officer, Programme Monitoring and Evaluation Officer, and Associate Programme Officer.

148. The Trust Fund's oversight and reporting is further subject to annual review by an External Auditor, who generates a separate report on the Trust Fund's accounts and programme implementation practice, and subject to periodic review by the Court's independent Office of the Internal Auditor.

149. All Trust Fund implementing partners on service contract with a higher value than €50,000 are required to commission independent annual external audits. The Trust Fund has agreed with its own External Auditor on a systematic monitoring and guidance on any follow-up action required in relation to audit recommendations to implementing partners.

E. Other matters relevant to the implementation process

1. Past and ongoing support from the Registry and Legal Representatives

150. The Trust Fund would like to express its gratitude to the Registry for the helpful and collaborative nature in which its various sections have assisted the Trust Fund over the past three months. In particular, the Trust Fund is aware of the amount of resources expended by VPRS and appreciates not only the amount of effort and work, but also the high quality of the assistance provided. The Trust Fund also expresses its appreciation to the Registry DRC field offices in Kinshasa and Bunia for its invaluable assistance in organizing the joint field mission, without which the mission would not have been as successful. Finally, the Trust Fund also wishes to acknowledge the technical assistance provided by the Finance section with respect to integrating and testing the reparations business processes in the Trust Fund's SAP Grants Management system.

151. The Trust Fund would also like to express its appreciation for the collegial and helpful manner in which the Legal Representatives have worked with it during the development of the present draft implementation plan.

152. The Trust Fund considers that the support of the relevant sections of the Registry and the Legal Representatives will continue to be necessary during the implementation stage in order to ensure the ultimate success of the plan. The Trust Fund is committed to continuing to work in this

same collegial manner with the Registry and the Legal Representatives throughout the various stages of the implementation process for the benefit of the victims in the *Katanga* case.

2. Reporting to the Trial Chamber

153. The Trust Fund proposes to submit progress reports every six months to the Trial Chamber. In the experience of the Trust Fund, this reporting period will allow for meaningful and in-depth analysis and reporting on project by project results and achievements towards the collective reparations programme objectives. In case of significant developments affecting implementation and/or requiring programme or project adjustments, the Trust Fund will submit *ad hoc* reports to the Trial Chamber indicating the Trust Fund's management and operational response. At the end of the implementation period, the Trust Fund will submit a final narrative and financial report to the Trial Chamber.⁷⁷

VI. CONCLUSION

154. The Trust Fund wishes to reiterate its appreciation to the Legal Representatives for the constructive and collaborative manner in which they have worked with the Trust Fund in developing the present draft implementation plan. The Trust Fund also wishes to acknowledge the tremendous detail of analysis carried out by the Trial Chamber in its Order for Reparations and specifically contained in Annex 2, which has greatly assisted the Trust Fund in being able to develop a detailed plan that is tailored to the harms and needs of the individual 297 victims comprising the group of eligible reparations beneficiaries in the *Katanga* case.

155. As instructed, the Trust Fund has endeavored to provide the Trial Chamber with as much specific detail as possible with regards to its draft implementation plan, as well as to provide clear explanations of the proposed projects in order to provide confidence to the victims regarding what they may expect with regard to the reparations that they have been awarded.

156. The Trust Fund assures the Trial Chamber of its continued willingness to provide further details and information in relation to any aspect of the present draft implementation plan if so desired by the Trial Chamber or the parties.

⁷⁷ See e.g. TFV regulations 68, 72.

FOR THE FOREGOING REASONS

The Board of Directors of the Trust Fund for Victims respectfully submits this draft implementation plan.



Pieter W.I. de Baan

Executive Director of the Secretariat of the Trust Fund for Victims,
on behalf of the Board of Directors of the Trust Fund for Victims

Dated this 25 July 2017

At The Hague, The Netherlands