

**Cour
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**International
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Court**

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07 March 2023

TRIAL CHAMBER II

Before: Judge Chang-ho Chung, Presiding
Judge Péter Kovács
Judge María del Socorro Flores Liera

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO IN THE CASE OF *THE PROSECUTOR* v. *GERMAIN KATANGA*

Public Redacted Version of

“Observations in response to the *“Requête du Représentant légal en vue d’une de la situation sécuritaire des victimes dans le cadre de l’exécution des réparations”*”, dated 09 February 2023, ICC-01/04-01/07-3911-Conf

Source: Trust Fund for Victims

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:**The Office of the Prosecutor****Legal Representative of Victims**

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I. RELEVANT PROCEDURAL HISTORY

1. On 7 March 2014, Trial Chamber II (the “Chamber”), in its previous composition, issued by majority the “Judgment pursuant to article 74 of the Statute” convicting Mr Katanga.¹ On 23 May 2014, the same Chamber, by majority, sentenced Mr Katanga to twelve years of imprisonment, pursuant to article 76 of the Rome Statute.²
2. On 13 November 2015, the panel of three judges of the Appeals Chamber reduced Mr Katanga’s sentence by 3 years and 8 months and set the date for the completion of his sentence to 18 January 2016.³
3. On 24 March 2017, the Trial Chamber issued an order for reparations against Mr Germain Katanga, awarding USD 1 million for individual and collective reparations to 297 victims of the case (“Reparations Order”).⁴ The individual reparations consist of an award of symbolic compensation at the amount of USD 250 for each beneficiary. The modalities of the collective reparations awarded have been: (i) housing assistance; (ii) educational assistance; (iii) income generating activities; and (iv) psychological support.⁵
4. Following the appeals lodged by Mr Katanga and both Legal Representatives, the Appeals Chamber partially confirmed the Reparations Order on 8 March 2018.⁶
5. On 25 July 2017, the Trust Fund for Victims (“Trust Fund”) submitted its draft implementation plan.⁷ The Trust Fund complemented the payment of the reparation award fully.

¹ See the “Judgment pursuant to article 74 of the Statute (Trial Chamber II)”, No. [ICC-01/04-01/07-3436](#), 7 March 2014, and the “Minority Opinion of Judge Christine Van den Wyngaert”, No. [ICC-01/04-01/07-3436-Anx1](#).

² See the “Decision on Sentence pursuant to article 76 of the Statute” (Trial Chamber II), 23 May 2014, No. [ICC-01/04-01/07-3484](#) and the “Dissenting opinion of Judge Christine Van den Wyngaert”, No. [ICC-01/04-01/07-3484-Anx1](#).

³ See the “Decision on the review concerning reduction of sentence of Mr Germain Katanga (Appeals Chamber)”, 13 November 2015, No. [ICC-01/04-01/07-3615](#).

⁴ See the “Ordonnance de réparation en vertu de l’article 75 du Statut (Trial Chamber II)”, 24 March 2017, No. [ICC-01/04-01/07-3728](#), (the “Reparations Order”).

⁵ [Reparations Order](#), para. 304. See also paras 302-303.

⁶ See the “Judgment on the appeals against the order of Trial Chamber II of 24 March 2017 entitled ‘Order for Reparations pursuant to Article 75 of the Statute’ (Appeals Chamber)”, 08 March 2018, No. ICC-01/04-01/07-3778-Conf. A public redacted version was made available on the same day, see No. [ICC-01/04-01/07-3778-Red](#).

⁷ Draft implementation plan relevant to Trial Chamber II’s order for reparations of 24 March 2017 (ICC-01/04-01/07-3728) With one confidential annex, one public annex and three confidential, *ex parte* annexes, 25 July 2017, No. [ICC-01/04-01/07-3751-Conf](#).

The Trust Fund concluded the implementation of the individual reparation awards in 2018. The Trust Funds' implementation of the collective reparations will foreseeably conclude in 2023.⁸

6. The Trust Fund submitted its latest quarterly update report on the implementation of collective reparation awards on 19 January 2023.⁹

7. On 27 January 2023, the LRV submitted the “*Requête du Représentant légal en vue d’une de la situation sécuritaire des victimes dans le cadre de l’exécution des réparations*” (the “LRV’s Request”).¹⁰ He requests that the Chamber, on the basis of article 68 and rules 17, 87 and 88 of the Rules of Procedure and Evidence, instruct the Victims and Witnesses Unit to conduct a report on the security situation of Bogoro village and its surroundings, including an analysis of the type and extent of the threat currently faced by the victims, in particular in relation to their movements.

8. Having reviewed the LRV’s Request, the Trial Chamber directed the Trust Fund and the Registry, in accordance with regulation 28 of the Regulations of the Court, to file any observations they may have within the same deadline as for responses pursuant to Regulation 34(b) of the Regulations of the Court.¹¹

9. On 8 January 2023, the Registry submitted observations on the « *Requête du Représentant légal en vue d’une de la situation sécuritaire des victimes dans le cadre de l’exécution des réparations* » (sic) (ICC-01/04-01/07-3909-Conf).¹²

10. The Trust Fund hereby provides its observations pertaining to the above-mentioned LRV’s Request.

⁸ See the “Public redacted version of the seventh quarterly update report pursuant to regulation 58 of the Regulations of the Trust Fund for Victims”, 19 January 2022, No. [ICC-01/04-01/07-3893-Red](#).

⁹ Eleventh quarterly update report pursuant to regulation 58 of the Regulations of the Trust Fund for Victims, 19 January 2023, No. [ICC-01/04-01/07-3908-Conf](#) (“Eleventh quarterly update report”).

¹⁰ See the “*Requête du Représentant légal en vue d’une de la situation sécuritaire des victimes dans le cadre de l’exécution des réparations*”, 27 January 2023, [ICC-01/04-01/07-3909-Conf](#). (“LRV’s Request”).

¹¹ See email of the Trial Chamber of 30 January 2023 at 10.25 am.

¹² See the Registry’s observations on the « *Requête du Représentant légal en vue d’une de la situation sécuritaire des victimes dans le cadre de l’exécution des réparations* » (sic) (ICC-01/04-01/07-3909-Conf), 8 February 2023, No. [ICC-01/04-01/07-3910-Conf](#) (“Registry’s observations”).

II. CLASSIFICATION OF THE PRESENT OBSERVATIONS

11. Pursuant to regulation 23 *bis* (1) of the Regulations of the Court, the present observations are classified as confidential following the level of confidentiality chosen by the Legal Representative. A public redacted version will be filed in due course.

III. OBSERVATIONS

12. The Trust Fund respectfully submits that it does not oppose the LRV's Request.

13. The Trust Fund recalls that it has previously indicated in its Eleventh quarterly update report that there is a number of beneficiaries who were found to be sceptical towards psychological support due to reasons that include the impact that the deteriorating security situation, as also reported in the LRV's Request, has on their overall wellbeing and the anticipated effect of the implementation of psychological support to their benefit. The Trust Fund further recalls that it has also indicated in its Eleventh quarterly update report that the Trust Fund's psychologists team was planning a meeting to assess progress and the efficiency of the reparation modality, at which they would also assess whether and which mitigation measures relevant to the security situation needed to be adopted.¹³

14. The above-mentioned meeting was held by the Trust Fund's locally based psychologist together with the locally based resource persons [REDACTED]. The outcome of the meeting was that they are able to continue to provide psychological support even though the security situation has deteriorated. The mitigation measures taken by the locally based resource persons tasked with providing counselling sessions under the supervision of the Trust Fund's psychologists team discussed at the meeting include measures such as actively alerting beneficiaries of the potential danger of travelling to areas posing a security threat, refraining from unnecessary travels to these areas, respecting the safety instructions given by the authorities, refraining from working on public holidays or during demonstrations, refraining from working too early or too late to avoid exposure, checking the security situation before confirming appointments, and closely reporting any issues to the Trust Fund on an ongoing basis. The next evaluation meeting is scheduled to take place by the end of February 2023.

¹³ Eleventh quarterly update report pursuant to regulation 58 of the Regulations of the Trust Fund for Victims, 19 January 2023, No. [ICC-01/04-01/07-3908-Conf](#), para 25.

15. To further address the additional difficulties posed by the gradually deteriorating security situation, the Trust Fund is in close contact with the Field Security Officer of the Registry in order to continue assessing the security situation in Bunia and in the Ituri region in an ongoing way.

16. The Trust Fund has also requested that the psychologists team is particularly attentive to whether the beneficiaries experience acute adverse effects due to the gradually degrading security situation. Any such cases should be recorded and evaluated by the psychologists.

17. The Trust Fund's locally based psychologist informed the Trust Fund on 8 February 2023 that, by end of January 2023, counselling sessions with victims continued normally, and that by 28 January 2023, 60% of victims had received a minimum of 7 visits from the locally based resource persons providing counselling, and 21% had received 10 or more.

18. Counselling sessions are to continue under the close supervision of the Trust Fund's psychologists team until the first part of February 2023 and aim thereafter at continuing for an indefinite period of time. [REDACTED] This will in turn enable victims, even after the end of the close supervision by the Trust Fund's psychologists, to have [REDACTED] psychological support.¹⁴

19. The Trust Fund stands ready to provide the Trial Chamber with further information pertaining to the success and challenges in implementing the psychological support modality and will, in any event, continue informing the Trial Chamber on an ongoing basis of the progress made in that regard in its next report.¹⁵

20. Finally, the Trust Fund takes note of the Registry's observations to the LRV's Request filed on 8 February 2023. [REDACTED]¹⁶ [REDACTED]

FOR THE FOREGOING REASONS

The Trust Fund respectfully requests the Trial Chamber to take note of the present observations.

¹⁴ See in this respect Tenth quarterly update report pursuant to regulation 58 of the Regulations of the Trust Fund for Victims, 19 October 2022, No. [ICC-01/04-01/07-3907-Conf](#), para 27 and the references cited therein.

¹⁵ See also Eleventh quarterly update report pursuant to regulation 58 of the Regulations of the Trust Fund for Victims, 19 January 2023, No. [ICC-01/04-01/07-3908-Conf](#), para 30.

¹⁶ Registry's observations on the « Requête du Représentant légal en vue d'une de la situation sécuritaire des victimes dans le cadre de l'exécution des réparations » (sic) (ICC-01/04-01/07-3909-Conf), 8 February 2023, No. [ICC-01/04-01/07-3910-Conf](#), para. 10.



Franziska Eckelmans
Acting Executive Director of the Trust Fund for Victims

Dated this 7th of March 2023
(Date of original 09 February 2023)
At The Hague, The Netherlands