

Questions & Answers

on the Trust fund for Victims' Draft Implementation Plan for reparations in the Katanga Case – 25 July 2017

Situation: Democratic Republic of the Congo
The Prosecutor v. Germain Katanga

WHAT IS THE DRAFT IMPLEMENTATION PLAN?

On 25 July 2017, the Trust Fund for Victims (Trust Fund) submitted the draft implementation plan (DIP) for reparations in the *Katanga* case, as ordered by Trial Chamber II on 24 March 2017. The Trial Chamber previously granted the Trust Fund an extension for the filing of the DIP. The DIP describes the projects and services that the Trust Fund intends to implement for the individual and collective awards ordered by the Trial Chamber. The DIP includes concrete information and detailed descriptions of the modalities, proposed activities and costs entailed.

HOW DID THE TRUST FUND DEVELOP THE DRAFT IMPLEMENTATION PLAN?

The Trust Fund developed the DIP in accordance with the Trial Chamber's instructions and findings in its order for reparations. The Trust Fund also took into account the preferences expressed by the victims, based on extensive consultations with the legal representatives for victims. The Trust Fund also consulted with the authorities of the government of the Democratic Republic of the Congo (DRC) in Ituri Province and in Kinshasa, as well as the Defense counsel representing Mr Katanga.

WHO ARE THE ELIGIBLE BENEFICIARIES?

In its order for reparations, the Trial Chamber found that 297 individuals had established that they had suffered harm from Mr Katanga's crimes and were therefore eligible for reparations. These 297 individuals constitute the "group" that will receive the collective reparations awards. As ordered by the Trial Chamber, these same 297 individuals will also receive an individual award of symbolic compensation.

WHO WILL FINANCE THE IMPLEMENTATION OF THE REPARATIONS AWARDS?

Mr Katanga is liable for the reparations awarded to the victims of his crimes. In light of Mr Katanga's present indigence, the Trust Fund's Board decided to provide the \$1 million for the reparations awarded to victims in the Katanga case in May 2017. This means that the full

amount of the costs of the reparations awards ordered by the Trial Chamber will be provided by the Trust Fund.

This does not in any way displace Mr Katanga's financial liability for the reparations, which remains in place and will be enforced should his financial situation change.

The Trust Fund welcomed a voluntary contribution of €200,000 from the Netherlands, part of which is earmarked for the individual reparations awards in this case.

The Trust Fund's Board 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 an earmarked voluntary contribution to the Trust Fund in relation to the Katanga reparations awards.

WHAT IS IN THE DRAFT IMPLEMENTATION PLAN?

The DIP provides a detailed explanation of the proposed activities under each modality of reparations that was awarded to the 297 identified victims: individual symbolic compensation, housing assistance, educational assistance, income generating activities and psychological rehabilitation.

The proposed activities are tailored to take into account the different types and degrees of harm suffered by the victims, as well as their current situation and needs, which were identified on the basis of the order for reparations and subsequent consultations with the legal representatives of victims. The DIP also takes into account the current location of victims in the DRC, as well as in other countries.

The DIP presents a detailed monitoring and evaluation framework, which will allow for the measurement of the results of the reparations programme, as well as of the beneficiaries' satisfaction with the implementation of the awards.

The DIP suggests concrete actions that the DRC government is requested to consider undertaking to support the implementation of the reparations awards, based on discussions held during a joint mission in June with the Trust Fund, the legal representative of victims, and various government authorities.

Finally, the DIP discusses the possibility of Mr Katanga participating in the reparations programme, following consultations with his defence team.

WHAT TYPES OF REPARATIONS WERE AWARDED TO VICTIMS?

The Trial Chamber's order for reparations awarded the 297 identified victims two types of reparations: individual and collective.

Individual reparations awards in the form of symbolic compensation

All 297 eligible beneficiaries were awarded individual reparations in the form of symbolic compensation in the amount of \$250 per victim.

In the DIP, the Trust Fund proposes to offer the victims various options with regard to the manner of disbursement of this award, which will allow the victims to make an informed decision based on their current situation and needs.

Collective reparations awards

The Trial Chamber also awarded to the 297 identified victims collective reparations under the four modalities of: 1) housing assistance; 2) educational assistance; 3) income generating activities; and 4) psychological rehabilitation.

All the victims will have access to the collective reparations awards, except those relocated within Europe and the United States under refugee or similar statuses, as it would be programmatically unfeasible to do so. In the DIP, the Trust Fund has proposed an alternate modality of reparations for these resettled victims for the Trial Chamber's consideration.

WHAT ARE THE CATEGORIES OF HARM PROPOSED IN THE DRAFT IMPLEMENTATION PLAN?

As instructed by the Trial Chamber and based in part on the suggestion of the legal representative of victims, the Trust Fund has proposed categories of harm with corresponding reparations awards packages in order to maintain proportional link between the reparations and the different types and degrees of harm suffered by the victims. These categories are:

- Category 1 – Loss of home and livestock
- Category 2 – Loss of home or equivalent material loss
- Category 3 – Loss of an immediate family member
- Category 4 – Loss of personal affairs and minor material loss
- Category 5 - General moral harm

In addition to these standard categories of harm, the Trust Fund has equally proposed certain sub-categories in order to appropriately account for specific harms suffered by a limited number of victims that the Trust Fund felt was not adequately reflected in the standard categories.

Finally, the Trust Fund has also provided flexibility within the reparations awards packages, in order to allow the victims to make choices based on their specific situation and needs.

WHAT ARE THE NEXT STEPS?

After submission of the DIP, the parties to the case, i.e. the legal representative of victims and Mr Katanga's Defense counsel, will submit observations thereon. The parties have until 4 September 2017 to submit their observations to the Trial Chamber.

The Trust Fund has suggested to the Trial Chamber to similarly invite observations from the government of the DRC, specifically related to the concrete actions that the government has been requested to take in support of the implementation of the awards.

Following submission of the parties' observations, the Trial Chamber will then approve, reject, or modify the DIP submitted by the Trust Fund. The Trust Fund stands ready to propose any modifications to the DIP that may be requested by the Trial Chamber, either based on its own review or based on the parties' or DRC government's observations.

Only after the plan is approved by the Trial Chamber will the Trust Fund launch an international competitive bidding procedure to select locally based (international or national) service providers, that will be the Trust Fund's partners in implementing the reparations awards.

WILL OTHER VICTIMS RECEIVE ASSISTANCE FROM THE TRUST FUND FOR VICTIMS?

In addition to its case-specific reparations mandate, the Trust Fund also has an assistance mandate for victims in countries where the ICC has opened an investigation. Programmes under the assistance mandate are a separate activity from the implementation of reparations ordered by the Court. Since 2008, the Trust Fund has conducted assistance mandate activities in Ituri Province, with various projects covering a wider community of victims who are not necessarily related to ongoing judicial proceedings at the Court.

To the extent possible, the Trust Fund intends to take into account and refer to its assistance mandate activities those victims who suffered harm during the attack on Bogoro that was excluded from the scope of the reparations ordered against Mr Katanga.

WHAT IS THE EFFECT OF AN APPEAL?

The victims in the Katanga case are represented by two different teams of legal representatives. Both of the legal representatives, on behalf of their respective clients, and the Defence have appealed the order for reparations. The appellate proceedings are still ongoing. If the order for reparations is modified on appeal, the Trust Fund will make the required adjustments to the draft implementation plan, and potentially submit this adjusted plan to the Trial Chamber for approval, prior to the actual implementation of the reparations.

FOR WHICH CRIMES WAS MR KATANGA CONVICTED?

On 23 May 2014, Germain Katanga was sentenced by the ICC to a total of 12 years imprisonment after being found guilty as an accessory, of one count of crimes against humanity (murder), and four counts of war crimes (murder, attacking a civilian population, destruction of property and pillaging) committed on 24 February 2003 during the attack on the village of Bogoro, in the Ituri district of the DRC.