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TRIAL CHAMBER II

Before: Judge Marc Perrin de Brichard, President, Judge
 Judge Olga Herrera Carbuccion, Judge
 Judge Péter Kovács

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
 IN THE CASE OF
 THE PROSECUTOR VS GERMAIN KATANGA

Public Document

Order on Reparations pursuant to Article 75 of the Statute

With the participation of the Office of Public Counsel for Victims
 Legal Representative of the Victims
 Defence team for Germain Katanga (Angaki)

Order to be notified in accordance with Regulations 33 and 34 of the

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In the case of the Prosecutor Germain Katanga and Bembe the International Criminal Court (Chamber and Court , respectively) acting of the Rome Statute (State) and rules 97(2) and 98(3) of the Rules of Procedure and Evidence are imposed down the present order for reparations

I. PROCEDURAL OVERVIEW

1. On 7 March 2014, Trial Chamber sitting in its previous, composed handed down Judgment pursuant to article 74 of the Rome Statute (Handing Down Conviction).

2. On 23 May 2014, Trial Chamber sitting in its previous, also composed by majority issued decision on sentence pursuant to article 76 of the Rome Statute (Decision on Sentence) imposing a 12 year term of imprisonment on Germain Katanga (Mr Katanga).

3. On 1 April 2015, Chamber acting pursuant to article 75 of the Statute and rules 97 and 98 of the Rules of Procedure and Evidence ordered instructing the parties to file observations on the independent procedure applicable to reparations in the case at the same day, cited leave to address Trust Queen's University Belfast's Human Rights Centre Ulster's Transitional Justice Centre and the United Nations Office of Human Rights.

¹ A comprehensive review of the entire proceedings is provided in Annex I

² Judgment pursuant to article 74 of the Statute, ICC-01/04-01/07-3728-10-EN, ICC Minority Opinion of Judge Christine Mumba, ICC-01/04-01/07-3728-10-EN, 14 March 2014.

³ Decision on Sentence pursuant to article 76 of the Rome Statute, ICC-01/04-01/07-3728-10-EN, 23 May 2014, and separate opinion of Judge Christof Dewaen and Judge Tadić, dated 23 May 2014, registered on 24 May 2014, ICC-01/04-01/07-3728-10-EN, Annex 1.

⁴ Order instructing the parties and participants to file observations in proceedings, ICC-01/04-01/07-3728-10-EN, 12 April 2015.

⁵ Order granting leave to file representations of victims, ICC-01/04-01/07-3728-10-EN, 12 April 2015 and reclassified as public, ICC-01/04-01/07-3728-10-EN, 12 April 2015.

4. On 8 May 2015 the Chamber instructed the Common Legal Representative of Victims (Legal Representative) to have consultations with the Registry to file by 10 October 2015 applications for participation or reparations initially made by the victimized participants in proceedings and where possible supporting documentation in the context of the harm suffered and the causal link between the harm alleged and the crime. The Chamber directed the Registry to redact the names of the parties, other than the applicants, from any victim's identification (Decision of 8 May 2015⁶).

5. Between 12 November 2015 and 29 February 2016 the beneficiaries of the Chamber Registry participated in the Chamber applications for reparations in several batches of consolidated applications (batches).

⁶ Decision on the demande de clarification concernant la mise en Suvre de la procédure et de préférence statées proceeed on 8 May 2015, ICJ/04/0375-4-ENG, p.9. For the Applicants to whom Trial Chamber II, sitting in its previous locus standi participating in the proceedings against Mr. Katanga, see Decision of 8 May 2015, ICJ/04/0375-4-ENG; Decision on the Defence Request for the Disclosure of Unredacted or Less so Redacted Material, ICJ/04/0375-8-ENG; Demande de réplique au document de Défense Consolidated Response to the Legal Representative of Victims and the extension of time limit (ICJ/04/0375-9-1), 11 September 2015, ICJ/04/0375-9-2 Decision on the requests of the Common Legal Representative of Victims and the time limit for transmitting and filing applications (ICJ/04/0375-9-3), 11 September 2015, ICJ/04/0375-9-4-ENG; Decision on the request of the common legal representative assistance from the Victims and Witnesses Unit (ICJ/04/0375-10-1), 10 February 2015, ICJ/04/0375-10-1-ENG; 2015, ICJ/04/0375-10-2-ENG; Décision accordant une nouvelle prorogation de délai de dépôt des demandes en réparation, 20 novembre 2015, ICJ/04/0375-28-1-ENG; Decision granting extension time to submit Defence observations on reparations (ICJ/04/0375-28-2-1), 16 February 2016, ICJ/04/0375-53-1-ENG (February 2016 Corrected Version of the Order of 1 February 2016).

⁸ Transmission de demandes de réparation (Batch One) and 43 confidential annexes, Registry and Legal Representative of Victims. A confidential version of the annexes was filed on 24 November 2015 for attention of the Registry (ICJ/04/0375-19-1); Seconde transmission de demandes de réparation (Batch Two) and 19 confidential annexes, Registry and Legal Representative of Victims.

6. On 24 February and 11 April 2016 the Defence team Kforanga (Defence), as directed by the Chamber, submitted the following observations:

7. On 15 July 2016 the Chamber directed the Legal Representative of the Defence and the Trust Fund for Victims (TFV) to submit observations on the monetary value considered fair for each type of harm alleged.

8. On 6 September 2016 the Chamber decided to enter the names of persons whom Trial Chamber III, in its previous decision, had considered the focus of individual participation in the targeted killing of a participating victim), and the forms for persons who had applied for reparations.

confidential redacted version of the Defence on 27 November 2015 (ICJ/041/0376 22); troisième transmission de demandes en réparation, ICJ/041/0376 21 (Batch Three) and 33 confidential annexes and Legal Representative of Victims. A confidential redacted version of the annexes was filed for the attention of the Defence on 24 February 2016 (ICJ/041/0376 24) Quatrième Transmission de Demandes en réparation, ICJ/041/0376 46 (Batch Four) and 35 confidential annexes and Legal Representative of Victims. A confidential redacted version of the annexes was filed for the attention of the Defence on 17 February 2016 (ICJ/041/0376 48) Cinquième transmission de Demandes en réparation, ICJ/041/0376 56 (Batch Five) and 85 confidential annexes, Registry and Legal Representative of Victims. A confidential redacted version of the annexes was filed that day for the attention of the Defence on 16 February 2016 (ICJ/041/0376 59) Sixième transmission de Demandes en réparation, ICJ/041/0376 61 (Batch Six) and 80 confidential annexes, Registry and Legal Representative of Victims. A confidential redacted version of the annexes was filed that day for the attention of the Defence on 16 February 2016 (ICJ/041/0376 63) Septième transmission de Demandes en réparation, ICJ/041/0376 64 and 15 confidential annexes, Registry and Legal Representative of Victims. A confidential redacted version of the annexes was filed that day for the attention of the Defence on 16 February 2016 (ICJ/041/0376 65).

⁹ Defence Observations on the Victims Applications for Reparations 2016 and reclassified confidential on 3 March 2016 (ICJ/041/0376 60) Conf (First Defence Observations) and on 17 April 2016 (ICJ/041/0376 60) Conf Annex A; Second Defence Observations on the Victims Applications for Reparations 2016 and reclassified confidential on 17 April 2016 (ICJ/041/0376 80) Conf Annex B; Second Defence Observations on the Victims Applications for Reparations 2016 and reclassified confidential on 17 April 2016 (ICJ/041/0376 80) Conf Annex A and public on 17 April 2016 (ICJ/041/0376 80) Conf Annex B.

¹⁰ Order instructing the parties and the Trust Fund for Victims to file observations on the value of the alleged harm, 15 July 2016 (ICJ/041/0377 02) ENG.

in 2008¹¹ On 20 September 2016¹² the Defence filed observations¹³ and the victims the aforementioned¹⁴ and participating victims.

9. On 30 September 2016¹⁵ the Legal Representative of the Defence and the TFV filed observations¹⁶ on the monetary value of the harm alleged.

10. On 8 December 2016¹⁷ the Legal Representative of the Trial Chamber proposed¹⁸ regarding the modalities of reparation in the case.

11. On 30 December 2016¹⁹ the Defence conveyed to the Chamber response to the proposals.

12. On 22 February 2017²⁰ the Chamber issued the order for reparations to be pronounced²¹ on 4 March 2017.

13. On 15 March 2017²² the Chamber decided to consider further the victims' proposals regarding the modalities of reparation for their death.

¹¹ Second decision on the Legal Representative of the Victims' request for representation against 6 September 2006 / 041/0377-06 on tENG.

¹² Defence Observations on 41 victims' application for withdrawal of the demand for retraction of the mandate of the Legal Representative 12 October 2016 / 041/0377-06 on tENG.

¹³ Observations des victimes sur la valeur monétaire des préjudices allégués 30 septembre 2016 / 041/0377-05) 30 September 2016 / 041/0377-05 (Victims' Observations 30 September 2016).

¹⁴ Defence Observations on the Monetary Value of the Harm Alleged 30 September 2016 / 041/0377-06 (Defence Observations of 30 September 2016).

¹⁵ Observations in response to the Trial Chamber's proposals 30 September 2016 / 041/0377-06 on tENG (TFV Observations of 30 September 2016).

¹⁶ Propositions des victimes sur des modalités de réparation dans la pré-norme 138 du Règlement de la Cour 8 décembre 2016 / 041/0377-20 (Victims' Proposals of 8 December 2016) annex 1.

¹⁷ Defence Response to the proposals of the victims on the modalities of reparation 30 December 2016 / 041/0377-22 (Defence Response of 30 December 2016).

¹⁸ Ordonnance fixant la date du prononcé de 22 février 2017 / 041/0377-24.

¹⁹ Décision relative à la requête du Représentant légal, 15 mars 2017 / 041/0377-27.

II. INTRODUCTION

14. From the outset the Chamber underscores the importance of reparations which mark a significant time in the administration of justice and the success of the Court is, to some extent, linked to the success of the reparations system.

15. The Chamber treats the purpose of the reparations proceedings as obliging those responsible to repair the harm they caused to victims and to enable the Court to ensure that offenders are held accountable by virtue of the reparations proceedings. The Court gives public knowledge to the suffering and the gravity of the crimes committed by convicted persons to the victims and delivers justice by alleviating, as far as possible, the consequences of the facts. To such end, the Court must strive to the utmost to ensure that reparations are meaningful to victims and that the extent possible, receive reparations which are appropriate, adequate.²⁵ The Chamber further underlines that reparations to victims and convicted persons are an essential part of the proceedings.

²⁰The Prosecutor v. Thomas Lubanga Dyilo, Decision establishing the procedures to be applied to reparations, dated 7 August 2012, [French] 19 February 2013, ICJ 0269 04 para. 17 (Subsidiary Chamber I, Decision on Reparations); Prosecutor v. Thomas Lubanga Dyilo, Order for reparations (amended), 3 March 2015, [French] translation registered 21 August 2015, Anx A para. 1 (Lubanga Appeals Chamber, Order for reparations, Anx A.)

²¹Lubanga Appeals Chamber, Order for reparations, Anx A para. 2.

²²See Christopher Muttukrishna, *Reparations to Victims* (The International Criminal Court: The Making of the Rome Statute), 99 (1999), pp. 210-211, R in particular p. 264; Luke Moffett, *Victims before the International Criminal Court* (2014), pp. 195-43.

²³Lubanga Appeals Chamber, Order for reparations, Anx A para. 71.

²⁴Report of the Bureau on the impact of the Rome Statute system on victims, ASP/9/25, Appendix III, 22 November 2010, para. 19.

²⁵Lubanga Appeals Chamber, Order for reparations, Anx A para. 44.

²⁶See Lubanga Decision on the request of the Trust Fund for Victims for leave of absence, order of 9 February 2016, ICJ 0362 02 ENG, para. 12. Furthermore, article 82(4) of the Statute provides that both the victim and the convicted person have the right to be heard.

16. The Chambers separation process does not distinct from the proceedings they are connected in that they are intrinsically linked in the sense that the person was²⁷ they are distinct that they constitute a discrete proceeding²⁸ where the victims tender evidence in order to that and where possible redacted the convicted person must be that the parties engage in exchange of observations and written the value and facts of the proceedings. The order for reparations is attached to such exchanges

17. An order for reparations must reflect the context from which it arises that is, the Court, a legal system by individual criminal responsibility of offenders the Sita test and must be created in the same manner as a conviction sentence

18. The reparations proceedings before the judicial process according to the Chamber's fair balance between the

appeal against an order for reparations made pursuant to article 75(2) of Appeals Chamber, Order on Reparations, ICC-01/04-01/07-3728-Annex A para. 29: The victims [& should be able to participate throughout the reparations process and the support in order to make their participation meaningful and effective .

²⁷Lubanga Appeals Chamber, Appeals Judgment - 01/04/07-3728-Annex A para. 199C it is the obligation of the convicted person to remedy the harm caused by the was convicted .

²⁸The Prosecutor v. Thomas Lubanga Dyilo, Decision on the admissibility of appeals against Trial Chamber I's Decision establishing the principles and reparations and directions on the further, 14 December 2010, IJC 01/04/07-3728-Annex A para. 70: the reparations proceedings stage of the proceedings conceivable if the evidentiary standards and procedures apply to who is a victim for the purposes of those proceedings .

²⁹The Prosecutor v. Thomas Lubanga Dyilo, Appeals Judgment on the appeals against Decision establishing the principles and procedures to be applied to re with AMENDED order for reparations (Annex A) and 31 March 2015, IJC 01/04/07-3728-Annex A para. 165 Lubanga Appeals Chamber, Appeals Judgment on Reparations

³⁰Lubanga Appeals Chamber, Appeals Judgment 01/04/07-3728-Annex A para. 67C

³¹Lubanga Appeals Chamber, Appeals Judgment 01/04/07-3728-Annex A para. 237: the Appeals Chamber considers it to be beyond question that a person of law must know the precise extent of his or her obligations arising from

rights and interests of the convicted person
 on the other

in light of the corresponding right to effectively appeal such an order, a
 obligations must be determined by a court in a judicial process

³²Lubanga Appeals Chamber, Order for Reparations, paras. 202, 245
 and 49. Nothing in the principles applicable to reparations will prejudice
 rights of the convicted person to a fair and impartial trial; rule 97(3) of
 Evidence.

III. CONTEXT OF THE ATROCITIES

19. The attack on Bogoro took place on 24 February 2003 at the central Bogoro village, located at the intersection of the local and administrative boundaries of the Bahema subsector. The population made up of 18 different ethnic groups of which the Hema, the Ngiti and the Lendu are the largest. The Chamber, sitting in its previous, *in absentia* civil trial in Bogoro in 2003

20. When tension between the Hema and Lendu tribes escalated, the school known as the Bogoro Institute was a military camp by Ugandan army soldiers in Bogoro at the time of the *Unité des Patriotes* [Unité des Congolais (UPC) Patriots] subsequently overthrew the government of Bogoro. The Bogoro camp was thus established

21. All the militias present in the district of Ituri between 2003 and launched attacks assaulted unarmed civilians who killing, pillaging and destroying houses, and subjecting women

22. Mr Kata, of a Ngiti ethnic background, joined the military leadership group which consisted of Ngiti combatants. The group allegedly became known in Ituri as the *Forces de résistance patriotes* [Patriotic Resistance Force]. Mr Kata was subsequently appointed General in the *Forces Armées* [Armed Forces] of the Democratic Republic of the Congo by the President of the DRC in December 2003

³³Judgment Handing Down on 7 March 2011/0041/0074 316 ENG, para 4.

³⁴Judgment Handing Down Conviction of 7/0041/0374 216 ENG, para 230.

³⁵Judgment Handing Down Conviction of 7/0041/0374 216 ENG, para 25.

³⁶Judgment Handing Down Conviction of 7 March 2012/0074 316 ENG, para 26.

³⁷Judgment Handing Down Conviction of 7/0041/0374 216 ENG, para 16.

³⁸Judgment Handing Down Conviction of 7/0041/0374 216 ENG, para 65.

23. On 7 March 2014, Trial Chamber III, sitting in its previous, composed of Judges Luedersmann, van den Berg and van der Werf, found that the attack on Bogoro began at around 5.30 p.m. on 24 February 2003. Attackers, who included women and children, came from several directions via roads and tracks leading from areas mostly inhabited by the Banyarwanda. Various testimonies confirmed that Ngiti combatants from Walen-Bundi and Lendu combatants from Ezekele surrounded the village of Bogoro in order to attack it.

24. In the Judgment Handing Down Conviction on 7 March 2014, the Chamber found that

on 24 February 2003, Ngiti combatants committed the crimes of murder as a crime against humanity and as a war crime; attack on civilians as a war crime; pillaging and destruction and slavery, rape and, as of 24 February 2003, sexual slavery as war crimes and as crimes against humanity.

25. It further determined that

the influence of all of [Mr Katanga's] actions to pass the crimes of attack on civilians, (as a war crime and as a crime against humanity), pillaging and destruction of property is important.

26. The Chamber says:

[Mr Katanga's] activities as a whole and the various forms which his actions took, in the circumstances, had a significant influence on those crimes.

27. Further, it found

beyond reasonable doubt that [Mr Katanga] intentionally contributed to the crimes of murder (as a war crime and as a crime against humanity), attack on civilians, destruction of property and pillaging (as war crimes) with knowledge of the intention of the group to commit the crimes.

28. Ultimately, the Chamber found by majority that Katanga is guilty under article 25(3)(d) of the Statute, as an accessory to the crimes of murder as a crime against humanity (as defined in article 7(1)(a) of the Statute) committed on 24 February 2003.

³⁹Judgment Handing Down Conviction on 7 March 2014, paras. 1065-1066.

⁴⁰Judgment Handing Down Conviction on 7 March 2014, paras. 1066-1067.

⁴¹Judgment Handing Down Conviction on 7 March 2014, paras. 1067-1068.

⁴²Judgment Handing Down Conviction on 7 March 2014, paras. 1068-1069.

⁴³Judgment Handing Down Conviction on 7 March 2014, paras. 1069-1070.

murder as a war crime 8(2)(c) of the Statute against a civilian population as against individual civilians not taking direct part in hostilities as a war crime under article 8(2)(b)(v) of the Statute, the property of the State as a war crime under article 8(2)(e); and (ii) the Statute war crime under article 8(2)(e)(v) of the Statute. The Chamber unanimously finds Mr Katanga guilty under article 25(3)(d) of the Statute for the crimes of rape and sexual slavery as crimes against humanity under the Statute and rape and sexual slavery as war crimes under article 8 of the Statute. The Chamber unanimously finds Mr Katanga guilty under article 25(3)(a) of the Statute for the crime of enlisting or conscripting children to participate in hostilities as a war crime under article 8 of the Statute.

⁴⁴Judgment Handing Down Conviction Co. 7041/07-26-ENG, p. 709 and 710.

IV. PRINCIPLES AND CRITERIA APPLICABLE TO THE ORDER FOR REPARATIONS AND THE CHAMBER'S GENERAL APPROACH

29. In the first place, the Chamber would recall that the Appeals Chamber acting pursuant to article 75(1) of the Statute, applicable to the reparation procedure, is not bound by the principles that may be applied, adapted, expanded upon, or added to by the Chamber.

30. The Chamber takes the view that the principles established by the Chamber in the Lubanga judgment are applicable in this case.⁴⁷ The Chamber points out that in all matters arising prior to its decision, it shall treat the victims with humanity and shall respect their dignity and human rights further and treat all victims fairly and equally, irrespective of whether they participated in the trial proceedings leading to its decision. The Chamber would also recall that article 68 of the Statute and rule 80 of the Rules of Procedure and Evidence take into account the needs of victims, and that articles 7 and 8 of the Rules of Procedure and Evidence and the appropriate measures put in place ensure the victims' safety, physical and psychological, and their privacy. Furthermore, it is paramount that reparations be awarded and accessible to victims without adverse distinction on grounds of gender, race, colour,

⁴⁵Lubanga Appeals Chamber, Appeals Judgment-01/04-01/07-3728-1, paras. 13 and 52. See also Lubanga Appeals Chamber, Order for Reparations, paras. 1 and 52.

⁴⁶Lubanga Appeals Chamber, Order for Reparations, paras. 1 and 52, nxA para. 5.

⁴⁷Article 75(1) of the Statute provides that the Court must state the principles

⁴⁸Lubanga Appeals Chamber, Order for Reparations, paras. 1 and 52, nxA para. 15.

⁴⁹Lubanga Appeals Chamber, Order for Reparations, paras. 1 and 52, nxA para. 12.

⁵⁰Lubanga Appeals Chamber, Order for Reparations, paras. 1 and 52, nxA para. 34.

⁵¹Lubanga Appeals Chamber, Order for Reparations, paras. 1 and 52, nxA para. 34.

⁵²Lubanga Appeals Chamber, Order for Reparations, paras. 1 and 52, nxA para. 18.

language, religion or belief, political or other opinion, sex, ethnic or social origin, wealth, birth or other status

31. Secondly, the Chamber must, at a minimum, identify essential elements

- (1) The order for reparations must be made against the convicted person
- (2) The Chamber must identify the victims eligible to benefit from reparations or set out the criteria of eligibility between the harm suffered by the victim and the crime of which the person was convicted
- (3) The Chamber must define the harm caused to victims as a result of the crime of which the person was convicted and set out the criteria for the assessment of that harm for the purposes of determining the nature and size of the reparation award to be made by the Trial Chamber in the order for reparations by the TFV thereafter
- (4) The Chamber must determine the liability of the convicted person for reparations and inform him or her of the Chamber's findings

⁵³ See also Appeals Chamber, Order for Reparations, 2011/0312 paras. 16.

⁵⁴ Lubanga Appeals Chamber, Judgment on Reparations, 2011/0312 paras. 1 and 32. The Appeals Chamber has pointed out that a Chamber may address these issues in a different sequence for the purposes of issuing an order for reparations. See Lubanga Appeals Chamber, Appeals Judgment, 2011/0312 paras. 118-120, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

⁵⁵ See Section V. CONCEPT OF VICTIM, Section VI. EVIDENTIARY CHALLENGES, Section VII. INDIVIDUAL ANALYSIS OF APPLICATIONS FOR REPARATIONS and Annex II to the present order.

⁵⁶ See Section V. CONCEPT OF VICTIM and Section VII. C. Definition of the evidence presented to substantiate the harm alleged by the Applicant.

⁵⁷ Rule 97(f) of the Rules of Procedure and Evidence provides that the Chamber may appoint an expert to assist it in its work. See Lubanga Appeals Chamber, Appeals Judgment, 2011/0312 paras. 1183-1184. See also Section VII. C. ASSESSMENT OF THE EXTENT OF THE HARM.

⁵⁸ Lubanga Appeals Chamber, Appeals Judgment, 2011/0312 paras. 1183-1184.

⁵⁹ See Section X. MR KATANGA'S LIABILITY FOR REPARATIONS.

⁶⁰ Lubanga Appeals Chamber, Appeals Judgment, 2011/0312 paras. 1183-1184.

must delineate the scope of that liability by setting the size of the award for which that person is liable. It is to be noted in this respect that convicted persons are reparations are founded on and confined to the harm caused by each individual person who was convicted. Lubanga's Appeals Chamber therefore is intrinsically linked to the individual whose responsibility is established in a conviction and whose culpability for this is determined in the sentence.⁶⁴ The Appeals Chamber further underlined that it is a question that a person should be expected to be apprised of the precise extent of his or her obligations arising, particularly in the light of the right to appear under article 48(2) of the Statute, and that the extent of those obligations must be determined by the Chamber concerned in a judgment.

(5) The Chamber must specify and provide reasons for the type of reparation ordered, be they collective, individual or substantial, under articles 97(1) and 98 of the Rules of Procedure and Evidence and identify the

⁶¹Lubanga Appeals Chamber, Appeals Judgment on 01/04/07-3728-tENG, para. 237: At the outset, the Appeals Chamber stresses that the imposition of liability, including the precise scope of that liability, should be based on the facts of the reparations.

⁶²Lubanga Appeals Chamber, Appeals Judgment-01/04/07-3728-tENG, paras. 241-242.

⁶³In this connection, see Section V. CONCEPT OF VICTIM.

⁶⁴Lubanga Appeals Chamber, Appeals Judgment-01/04/07-3728-tENG, paras. 65. See also Lubanga Appeals Chamber, Appeals Judgment-01/04/07-3728-tENG, paras. 238.

In the present case, the Appeals Chamber notes that in order to give effect to this judgment with respect to liability for the awards of reparations, it must specify the scope of Mr Lubanga's liability for reparations and include an amended order on Annex A to the present judgment. In order to make such an order, the Appeals Chamber would need to be provided with relevant information. As the Chamber had only made limited enquiries previous to the issuance of the judgment, in the view of the Appeals Chamber, this would require it to engage in an activity which is better placed to do.

⁶⁵Lubanga Appeals Chamber, Appeals Judgment-01/04/07-3728-tENG, para. 237.

modalities of reparation. The Chamber considers appropriate on the basis of the circumstances of the case.

32. In the 34 applications for reparation, the Chamber considers that the victims of the crimes against Mr. Katanga, together with the other victims, should be granted reparation for the harm caused by the crimes of which Mr. Katanga was convicted. The Chamber notes that the crimes of which Mr. Katanga was convicted took place on the day of the attack and continued throughout the course of the day.

33. That being the case, the Chamber considers that the Appeals Chamber requires that the 34 applications for reparation be considered individually and that the Chamber assesses the total extent of the harm caused by the crimes of which Mr. Katanga was convicted. The Chamber notes that the total extent of the harm caused by the crimes of which Mr. Katanga was convicted is a factor to be taken into account in the determination of the sentence for which Mr. Katanga is personally liable. The Chamber notes that the Appeals Chamber has determined that the total extent of the harm caused by the crimes of which Mr. Katanga was convicted is a factor to be taken into account in the determination of the sentence for which Mr. Katanga is personally liable.

⁶⁶See Section II. TYPES AND FORMS OF REPARATIONS

⁶⁷See Section I. PROCEDURAL MATTERS to the present order.

⁶⁸See Annex I to the present order, *Procédure de réclamation des victimes* (Procédure de réclamation des victimes déposées qui ne se sont pas encore fait, voir l'annexe 1 de la décision de la Chambre de première instance du 20 mars 2012, ICC-01/04-01/07-3728-1, par. 149; First Defence Observations, 24 February 2012, ICC-01/04-01/07-3728-1, par. 149; Second Defence Observations, 11 October 2012, ICC-01/04-01/07-3728-1, par. 149; Confidential Annex A and public Annex B.

⁶⁹Procedure at rules 94 and 95 of the Rules of Procedure and Evidence (L'Union africaine et l'Union européenne, *Appeals Judgment on Reparations*, ICC-01/04-01/07-3728-1, par. 149).

⁷⁰The Chamber notes in this respect that rule 145(1)(c) of the Rules of Procedure and Evidence provides that the extent of the harm is among the factors to be given weight in the determination of sentence.

more, the parties may thereby exercise fully the rights appraised in them by article 482 (1) of the Statute.

34. In the section which follows, the Chamber will define the concept of victim for the purposes of the Statute.

⁷¹The Chamber is nonetheless cognizant that the modus operandi adopted in this case necessarily apply to other contexts, where the number of potential victims and/or where the acts of which the person was convicted encompass a larger number and/or their geographical reach is much greater than it is here.

V. CONCEPT OF VICTIM

35. For the purposes of the Rules of Procedure and Evidence

- (a) Victims means natural persons who have suffered harm as a result of the commission of any crime within the jurisdiction of the Court
- (b) Victims may include organizations or institutions that have sustained any of their property which is dedicated to religion, education, charitable purposes, and to their historic monuments, hospitals and other objects for humanitarian purposes as a result of the commission of any crime within the jurisdiction of the Court

36. The Chamber shall take into account the status of the victim participating at the trial stage of the proceedings who has applied to the Chamber and have relied on the four conditions defined by the Appeals Chamber in paragraph 73. The applicant must be a natural or legal person who has suffered the harm which caused the harm to fall within the jurisdiction of the Court and there must be a causal nexus between the harm suffered and the crime.

37. The Chamber shall also consider the conditions of the application at the time of the phase of the qualification of the crime which caused the harm falls within the jurisdiction of the Court to be a crime of which the person in question was convicted.

38. From the outset the Chamber shall understand the matter to be whether a person suffered harm as a consequence of one or more

⁷² See also Queen's University Belfast Human Rights Centre (HRC) and University of Toronto Transitional Justice Institute (TIJ) Submission on Reparations Issues pursuant to Statute of the Court, ICC-01/04-01/07-3728-Conf-ENG, para. 4.1 (HRC and TIJ Submission of 14 May 2015).

⁷³ The Prosecutor v. Thomas Lubanga Dyilo, Appeals Chamber Judgment on the appeals of the Prosecutor and The Defence against Trial Chamber I's Decision on Victims Participation, 2008 dated 11 July 2008, [French] translation registered on 27 August 2008, paras. 651 (Lubanga Appeals Chamber Decision on Victims Participation).

⁷⁴ In Katanga see corrigendum of Operative part of the Decision on the application for participation as victim in the proceedings, ICC-01/04-01/07-3728-Conf-ENG, para. 6 (Decision on the application for participation as victim in the proceedings, ICC-01/04-01/07-3728-Conf-ENG, para. 57. Moreover, as explained hereinafter, the standard for a victim to qualify for reparations is more stringent than that for a person to participate at trial (See Standard VI).⁷⁵

⁷⁵ The Chamber defines the harm resulting from the crimes of which Mr. Lubanga was convicted in Section II. INDIVIDUAL ANALYSIS OF THE APPLICATIONS FOR REPARATIONS.

of the time by the convicted persons, in the view of the victims, a victim must be determined in the light of the particular circumstances.⁷⁶

39. The Chamber at the Court has consistently held that in determining whether a natural person, the Chamber must inquire as to whether that person has suffered that respect to victim necessarily implies existence of personal harm and such direct harm. The Chamber goes that the harm suffered by reason of the commission of a crime within the jurisdiction of the institution, by reason of the commission of a crime of which the person was convicted, may be the cause of harm to persons other than the direct victim. Accordingly, a person may be a direct victim or an indirect victim.⁷⁷

40. The Chamber at the point made by the Bench must take care to ensure that the family members are not considered to be

⁷⁶ Lubanga Appeals Chamber, Appeals Judgment - 01/04/07-3728-Annex A, paras. 80; ICC Lubanga Appeals Chamber, Decision on Victims' Participation, 32 CC

⁷⁷ Lubanga Appeals Chamber, Decision on Victims' Participation, 32 CC; Lubanga Appeals Chamber, Order for Reparations, Annex A, para. 10. See also

Observations of the victims on the principles and procedures to be applied in 2015, ICC 01/07-3728-ENG, para. 36 (Victims' Observations of 15 May 2015).

⁷⁸ Lubanga Appeals Chamber, Decision on Victims' Participation, 32 CC. 38. Therefore, the Chamber does not accept the Defence's submissions in its Observations on Reparations of 14 May 2015, ICC 01/07-3728-ENG, para. 5a. (Defence Observations of 14 May 2015). See also Defence Consolidated Response to the Parties, Particularly Interested Persons' Observations on Reparations of 16 June 2015, ICC 01/07-3728-ENG, para. 3. (Defence Consolidated Response of 16 June 2015). See also Observations on Reparations Procedure of 13 May 2015, ICC 01/07-3728-ENG, para. 102 (TFV Observations of 13 May 2015).

⁷⁹ Lubanga Appeals Chamber, Decision on Victims' Participation, 32 CC

⁸⁰ Lubanga Appeals Chamber, Decision on Victims' Participation, 32 CC, para. 32; Lubanga Appeals Chamber, Order for Reparations, Annex A, para. 6. See also Prosecution's Observations on the Procedure for Reparations of 30 April 2015, ICC 01/07-3728-ENG, para. 6. (Prosecution's Observations of 30 April 2015); TFV Observations of 01/07-3728-ENG, para. 129. As to legal persons, rule 85(b) of the Rules of Procedure defines the definition of victims to those such persons who have lost any of their property.

victims eligible for reparations. It would, however, underscore that the Trial Chamber, sitting in its previous, composed of Judges Tria and Bensch, determined that although the attack on the Bogoro Institute was a strategic military operation, those who lived there also led civilian lives. It further stated that

while the Chamber cannot rule out that on 24 February 2003, some individuals who were members of the defence force group participated directly in the hostilities, and that some soldiers were dressed in civilian clothing, it considers that most of those who were readily identifiable as civilians who were not taking direct part in combat.

41. Further, the Trial Chamber, sitting in its previous, composed of Judges Tria and Bensch, determined that the findings of the Trial Chamber regarding the attack on the Bogoro Institute

although it can be reasonably assumed that some individuals who directly participated in the hostilities may have been present in or around the Institute when it was entered, the Chamber considers it established that the villagers who were killed on the day of the attack put up any resistance, and it notes that the vast majority of them were defenceless and only seeking refuge in the classrooms.

42. The Chamber also underlines that the villagers of Bogoro were systematically targeted and attacked by the armed forces of the DRC in accordance with a regular pattern and great violence during the attack. The Chamber notes that the attack was carried out against a defenceless population.

43. Having regard to the conditions provided in Article 85 of the Statute of the Court and Article 17 of the Rome Statute, the Chamber will undertake an individual assessment of each of the applications for reparations.

⁸¹Defence Observations of 140 M/04/07-3728-9, para. 21. See also TFV Observations of 13 May 2011, 1/04/07-3728-9, para. 106 (c).

⁸²Judgment Handing Down Conviction of 07/04/07-3728-16-ENG, para. 630.

⁸³Judgment Handing Down Conviction of 07/04/07-3728-16-ENG, para. 620. See also Judgment Handing Down Conviction of 07/04/07-3728-16-ENG, paras. 864, 1656-1657.

⁸⁴Judgment Handing Down Conviction of 7 March 2011, 07/04/07-3728-16-ENG, para. 620. See also Judgment Handing Down Conviction of 07/04/07-3728-16-ENG, paras. 864, 1656-1657.

⁸⁵Judgment Handing Down Conviction of 07/04/07-3728-16-ENG, Section IX(A)(2)(b) and para. 656.

⁸⁶Judgment Handing Down Conviction of 07/04/07-3728-16-ENG, paras. 656 and 657, and Section VIII(b)(2)(h).

placed before it to determine whether the Applicant qualify as victim for the purposes of article 87ns

44. In the subsequent Chamber set out the criteria underpinning evaluation of evidence brought by the Applicant to substantiate allegations.

⁸⁷In this regard, see February 2016 Corrected Version of the Order of 1 February 2016/03653-tENG, para. 12.

VI. EVIDENTIAL CRITERIA APPLIED BY THE CHAMBER

A. Object and burden of proof

45. The Chamber recalls that it rests upon witnesses and other evidence to provide sufficient proof of the harm that victims suffered from the attack between said harm and the crime of which the person was convicted.

B. Standard of proof

46. It bears recalling that the statute, article 17 of the ECCC Statute requires the Prosecution to establish the material facts beyond a reasonable doubt.

47. In determining the standard of proof applicable to the reparation proceedings, the Chamber is aware of the fact that the specific nature of the difficulty victims may face in obtaining evidence in support of their claims, the unavailability of evidence in certain circumstances in the case at hand, and the fact that fourteen years have elapsed since the events in question took place in Bogoro.

48. Also worthy of note is that the Extraordinary Chambers in the Courts of Cambodia (ECCC) has considered the admissibility of Civil Party applications, in *American Court of Human Rights v. American Court*

⁸⁸ Lubanga Appeals Chamber, Appeals Judgment - 01/04/07-3728-01/09, para. 131; Lubanga Appeals Chamber, Order for Reparations, paras. 21 and 22.

⁸⁹ In this connection, see Lubanga Appeals Chamber, Order for Reparations, paras. 21 and 22; Lubanga Appeals Chamber, Appeals Judgment - 01/04/07-3728-01/09, paras. 312 and 313. The Prosecution elaborates on that aspect (Prosecution's Observations, ICC-01/04/07-3728-01/09, para. 18) as does the Legal Representative of Victims (ICC-01/04/07-3728-01/09, para. 79).

⁹⁰ Internal Rules of the ECCC, rule 136. January 2015 Working Paper, considering the admissibility of the Civil Party application, the Chamber shall be satisfied if the evidence alleged to sustain the application are more likely than not to be true. *See* *Prosecution v. Germain Ruzindana*, 26 July 2010, ICC-01/04-01/07-3728-01/09, paras. 523 and 527.

⁹¹ See e.g. *Alvarez-Cabrera v. Mexico*, Merits, 20 July 1988, I.A.C.H.R. Report No. 12/88, paras. 127-128; *Alvarez-Cabrera v. Venezuela* (Preliminary Objections, Merits, Reparations, and Costs), 28 January 2009, paras. 112-114; *Alvarez-Cabrera v. Mexico* (Preliminary Objections, Merits, Reparations, and Costs), 14 July 2009, paras. 105-106; *Alvarez-Cabrera v. Mexico* (Preliminary Objections, Merits, Reparations, and Costs), 14 July 2009, paras. 105-106; *Alvarez-Cabrera v. Mexico* (Preliminary Objections, Merits, Reparations, and Costs), 14 July 2009, paras. 105-106.

and certain national justice mechanisms apply criteria more flexible beyond reasonable doubt and determine whether a person seeking reparations has proven the facts alleged.⁹³ or she

49. Lastly it is noted that the reparations procedure before the Appeals Chamber made clear that the standard of proof is a balance of probabilities and is germane.

50. Having regard to the foregoing, the Chamber will avail itself of the balance of probabilities and the Chamber must be satisfied that the alleged applicant claiming reparations has established a balance of probabilities that the standard means the applicant must show that it is more probable than not that he or she has suffered as a consequence of the crimes of which Mr. Katanga was convicted.

⁹² Claims Resolution Tribunal for Dormant Accounts in Switzerland Claims Resolution Process CRT (http://www.icrc.org/pdf/governing_rules_en.pdf (17 March 2017)); Steven Less, International Administrative Compensation: The International Commission on Holocaust Era Insurance Claims (ICHEL) , (November 2008) pp.165-169 and pp.166 (Relax Standard of Proof (https://static1.squarespace.com/static/56330ad3e4b0733dcc0c8495/t/56b22922252/GLJ_Vol_09_No_1_addresses.pdf (17 March 2017)); German Federal Compensation Programme, Article 11 (2) of the Law on the Creation of Remembrance Responsibility for Future (http://www.stiftzucht.de/the_foundation/baw.html, accessed on 17 March 2017); United Nations Compensation Provisional Rules for Claims Procedures, UN Doc. S/AC.26/1991/10, 26 (Category C) (http://www.uncc.ch/sites/default/files/26_attachments/S_DEC%2010%20%5B1992%5D.pdf (17 March 2017)); The Chilean Commission on Truth, Imprisonment and Torture, see Lisa Maguire, *Reparations in International Center for Transitional Justice* (2007), 8, pp. 8. See also Heike Niebergall, *Overcoming Evidentiary Weaknesses in Reparation Claims Programmes* (eds) *Reparations for Victims of Genocide, War Crimes and Crimes Against Humanity* 159. See also Section IV, supra, on circumstantial evidence.

⁹³ The Chamber is mindful that save for the ECCC, those bodies address the crime and not that of the individual.

⁹⁴ Lubanga Appeals Chamber, Order for the Prosecution to Produce Evidence, paras. 65-66; Lubanga Appeals Chamber, Appeals Judgment on the Prosecution's Appeal, paras. 48-49.

⁹⁵ See Lubanga Appeals Chamber, Order for the Prosecution to Produce Evidence, footnote 37. See also Lubanga Trial Chamber I, Decision on the Prosecution's Appeal, paras. 253: Given the Article 74 stage of the trial has concluded, the standard of a balance of probabilities is proportionate to establish the facts that are relevant to an order for reparations against the convicted person.

51. Last, it is apposite, in the Chamber's findings on its part that a fair and balanced assessment of probabilities however small that the Chamber determining regard the standard of, that insufficient evidence has been put before it for adjudication of the harm alleged in the proceedings

C. Evidence admissibility

52. Rule 41) of the Rules of Procedure and Evidence shall contain particulars

- (a) The identity and address of the claimant
- (b) A description of the injury, loss or harm
- (c) The location and date of the incident, if possible, the identity of the person or persons the victim believes to be responsible for the injury
- (d) Where restitution of assets, property or other tangible items is sought
- (e) Claims for compensation
- (f) Claims for rehabilitation and other forms of remedy
- (g) To the extent possible, any relevant supporting documentation, including addresses of witnesses

53. As aforementioned, the Chamber takes account of the fact that the case before it has the Chamber attention to the difficulties which the victim may have to contend in presenting documentation many years which have passed since the attack on. The Chamber therefore takes note of the representative observations which it takes account

⁹⁶ In this connection, Appeals Chamber, Order of 10 April 2012, Anx A para. 12 and Appeals Chamber, Appeals Judgment of 10 April 2012, ICJ para. 3.1.

of the context of the fact of ownership of property farm lands not exist

54. Also worthy of the Chamber's consideration is the fact that the population of the region may wish to take advantage of their circumstances to improve their living conditions. The Chamber notes that the Defence is still to require victims sufficient evidence to place them on the list of victims.

55. The Chamber recalls that the Decision of 8 May 2015⁹⁷ the Legal Representative consulted with the Registry and by 1 October 2015⁹⁸ applications for participation and/or intervention made by persons authorized to participate in the proceedings to the extent possible documented the extent of the harm suffered as a result of the crime committed and the application for reparations for persons who had yet to make their claims to the extent possible supported by documentary evidence. Further to the Decision of 8 May 2015⁹⁹ applications for reparations with statements from witnesses, certificates of habitation, family relationships, medical certificates and declarations of ownership.

56. The Chamber considers the evidence to be admissible subject to the determination of its probative value.

⁹⁷Victims' Observations of 15 May 2015, paras. 79 and 80; Registry's Observations pursuant to ICC-01/04-01/07-3728-15 May 2015, paras. 10 (Registry Observations of 15 May 2015).

⁹⁸See Registry Observations of 15 May 2015, paras. 10.

⁹⁹Defence Observations of 14 May 2015, paras. 41 and 44.

¹⁰⁰The Legal Representative was subsequently afforded an opportunity to comment on the present order).

¹⁰¹See articles 64(9)(a) and 68(4) and rule 63(2) of the Rules of Procedure and Evidence. See also in that regard the Chamber's practice in the *Prosecution v. Thomas Lubanga Dyilo*, Decision on the admissibility of four joint and several victims' applications, 13 July 2008, paras. 28; 29; Judgment on the appeal of Mr. Jean Gombo and the

D. Use of presumptions and circumstantial evidence

57. The Chamber notes that the American Court cannot certain transitional justice mechanisms proceed on the basis of presumptions and circumstantial evidence determining the harm suffered by victims. For instance, the American Court considers to be the indicators of the human rights violations suffered by offspring and that the psychological result of the cruel death of their offspring presumed to be family relations.¹⁰² What is more, difficulties encountered by claimants in causal nexus between the involvement of German companies and the German Forced Labour Program are only on a presumption that the harm was the involvement of German companies

Prosecutor against the decision of Trial Chamber III entitled Decision on the admissibility of materials contained in the prosecution file, May 12, 2014, ICC-01/04-01/07-3728-PT para. 37. Prosecutor v. William Samoei Ruto & co-accused, Decision on a Request for Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute, 13 January 2014, ICC-01/09-01/11-3723-PT para. 6667. The Prosecutor v. Francis Kirimi Muthaura, Uhuru Muigai Kenyatta & co-accused, Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute, 23 January 2014, ICC-01/09-01/11-3723-PT para. 89. The Prosecutor v. Jean-Bemba Gombo & co-accused, Judgment pursuant to Article 74 of the Statute, dated 19 June 2014, ICC-01/05-01/08-43, para. 232. See also Section VI. General findings and assessment of the evidence

¹⁰²The Chamber notes that the American Court and certain transitional justice mechanisms apply standards which, in principle, and large, resemble the balance of probabilities, however, be stressed that the American Court and said mechanisms address the responsibility of the State and not that of the individual. See, *Order on the Weaknesses in Reparation Claims Program* (see footnote 101 to the present order). By way of example, see the practice of the Chilean Commission on Political Imprisonment and Torture, *Reparations in Theory and Practice*, Centre for Transitional Justice (2007), para. 8, and the practice of the Truth and Reconciliation Commission of Argentina, *Inscripción en el Registro Único de Víctimas de la Violencia Política* (Vigo de la Cruz, 2007), para. 10. The European Court of Human Rights (ECtHR), which in appraising evidence, applies a reasonable doubt standard of proof also proceeds on presumptions. See *United Kingdom v. Gurbanguly Mamedov*, Grand Chamber Judgment of 18 January 2005, para. 107. See also *Aydin v. Turkey*, Grand Chamber Judgment of 25 September 2005, para. 172, and *Chiriac v. Romania*, Grand Chamber Judgment of 23 November 1997, para. 66. See also *Hrachova and others v. Bulgaria*, Grand Chamber Judgment of 6 July 2005, Application nos. 43577/98 and 43579/98, para. 147.

¹⁰³*Inter-Am.C.H.R., Case 10.036, Boetoe et al. v. Suriname* (Report of the Commission, 1993), para. 7.6: it can be presumed that the parents have suffered morally as a result of the death of their offspring, for it is essentially human for all persons to feel pain at

if it had occurred in a certain territory occupied by the Reich.
 The United Nations Compensation Commission is a nexus between
 the forced departure of a person claiming compensation on occupation
 Kuwait to be established where the claimant provides ample document
 showing departure from Kuwait at a date within the period of occupation.

58. As to circumstantial evidence on this matter, although a soft
 the proceeding, negligence thereon has not been the objective of the
 Court in determining that certain facts are established to proceed as not been
 regarded as a synthetic standard of proof beyond reasonable
 doubt.¹⁰⁶

59. The Chamber calls at this phase in the proceedings, and it is
 substantiated by a balance of probabilities standard of proof
 flexible that is beyond reasonable doubt, which applies at the
 phase of the proceedings.

60. Furthermore, the Chamber's rule 91(g) of the Rules of Procedure
 and Evidence requires victims to furnish supporting documents to their
 applications. It is to the extent possible is the view of the Chamber
 that the Chamber makes allowance for the evidence that is not
 gathered in evidence including the passage of time in the crimes as were
 committed.

61. That being said, having regard to the fact that the American
 Court of International Justice, the Chamber is to proceed on

¹⁰⁴ Heike Niebergall, *Overcoming Evidentiary Weaknesses in Reparations*, p.160 (See footnotes to the present order).

¹⁰⁵ Linda A. Taylor, *The United Nations Compensation Commission (UNCC) and Reparations for Victims of Genocide, War Crimes and Crimes against Humanity*.

¹⁰⁶ Judgment Handing Down Conviction of -01/001/07-2009-14-G, ICJ 09.
 (direct evidence) Prosecutor v. *Amir al-Bachraji*, Chamber Judgment pursuant to Article
 of the Statute 20 March 2012, [French] translation registered on 31 A
 01/001/07-2009-14-G, para. 11 Prosecutor v. *Matthieu Ngudjolo*, Chamber II, judgment
 to article 74 of the Statute, 18 Dec 2012, E-2012-02-CACB-71, Trial
 Chamber III, Judgment Handing Down Conviction of -01/001/07-2009-14-G, para. 239.

presumptions and circumstantial evidence itself in the case

E. General mode of assessment of the evidence

62. The Applicant states and the evidence in support of applications for revocation by the Chamber on individual basis as a whole vis-à-vis the Defence submission. The Chamber assesses merit advert also findings which Trial Chamber sitting in its previous composition entered the Judgment Handing Down on the Decision on Sentence. Further as aforementioned Chamber, where it sees fit, proceed on presumptions and circumstantial evidence itself of certain facts in the case

63. From said analysis, the Chamber will determine whether Applicant has established on a balance of probabilities the harm alleged and the causal nexus between the behaviour and the crimes of which Mr Katanga was convicted.

¹⁰⁷See Section VII. INDIVIDUAL ANALYSIS OF THE APPLICATIONS FOR REVOCATION

¹⁰⁸See Section V. Causal nexus between alleged crimes of which Mr Katanga was convicted

VII. INDIVIDUAL ANALYSIS OF THE APPLICATIONS FOR REPARATION

64. The Chamberes to the individual analysis of 4 the applications for reparations and the evidence presented in support of a decrease of consultation presentation the individual analysis of 4 the applications for reparations Annelherter¹⁰⁹

65. The modus operandi of the Chamberes set out

A. Credibility of the various evidence created in minor discrepancies

66. By and large, the Chamberes some easiness in the allegations which form the applications for reparations not, at first sight, seem to be exaggerated or exaggerated allegations, a part of which are included in the findings of fact of the Chamberes, setting in its previous, in its previous Judgment Handing Down. Conviction

67. The Chamberes pay particular attention to the real consistency of the details and the plausibility of the applications in view of the evidence as a whole provided by the Chamberes. Furthermore, where it sets forth the Chamberes considers the situation of the Applicant in the light of the information furnished in other applications.

68. Minor discrepancies are discernible in the various supporting documents contained in the applications for reparations. The Chamberes corrects or corrects the additional information in the initial application and names and dates of birth of the Chamberes. The Chamberes disputes the credibility of the information for reparations of discrepancies itself that

69. In that regard, the Chamberes that the legal Representatives given to distinguish between the Chamberes by the attack on those which

¹⁰⁹Annex II is an integral part of the present order.

¹¹⁰Second Defence Observations, C/01/04/07-3728-06-Pr-Exp para. 26.

occurred at some other point in time.¹¹¹ The enquiries carried out are within a short time period from the application to the site and date of the harm suffered. The legal Representative affirms that he has promptly and when finalized the additional facts, to correct and, in some cases, retract some of the allegations made in their preliminary findings. Individual analysis undertaken in the applications for reparations and therefore, circumstances considering the initial application separations comparing them with the additional facts identified by the Legal Representative.

70. Having regard to the aforementioned, the Legal Representative for the victims certifies that the correction must be made in the same vein as the applications, which have been made in the Trial Chamber considerations have of Chambers of the Court in relation to applications for participation. The mere fact of participation for reparations is not a right. Discrepancies does not, on the face of it, cast doubt on

¹¹¹ Similarly, Report sur la mise en Suvre de la Décision n°3546, en ce préjudice par les victimes suite aux crimes c 751 mis par Ct. de la Cour (38 1-f) du Règlement de la Cour, 1061, / 001 C 0376 87, p 24. (Legal Representative Report of 13 May 2016).

¹¹² Similarly, Legal Representative s Report of IC30M 042/0376 87 par 24.

¹¹³ Similarly, Legal Representative s Report IC 11/04M/0376 20 p 6, 24.

¹¹⁴ Decision on the treatment of applications for participation [original and 2 French version] registered on 27 Feb 2014/0376 20 p 6, 24. Cras. 33 and 34; Grounds for the Decision on the 345 Applications for Participation in the Victims , 23 September 2014/0376 20 p 6, 24. Prosecutor v. Bosco Ntaganda Trial Chamber Decision on victims' participation at the confirmation hearing and in the related proceedings-011/042/0376 20 p 6, 24. Prosecutor v. Bosco Ntaganda Trial Chamber VI, Decision on victims' participation in trial 6 February 2015, [French] translation registered on 11/042/0376 20 p 6, 24. ICC Prosecutor v. Abdallah Banda Abakaer Nourimo and Saleh Mohammed Corrigendum to Decision on the Registry Report on six applications proceedings , 28 October 2014/0376 20 p 6, 24.

B. Evaluation of the evidence presented to substantiate Applicants' identity

71. The Chamber recalls that it has consistently applied that applicants may use official or unofficial identification or other means. Where an applicant is unable to present acceptable documentation, the Chamber may accept statements made by two credible witnesses as to the identity of the applicant.¹¹⁵

72. In the case at hand, the Chamber notes that its proof of identity requirements have been relaxed where credible evidence is presented as to the identity of the applicant.¹¹⁶

73. Upon examination of the applications for reparations, the Chamber finds that all of the Applicants have established the identity balance of probabilities.¹¹⁷

C. Definition of the harm and evaluation of the evidence presented to substantiate the harm alleged by the Applicant

1. Introduction

74. The Chamber finds that the harm to natural persons is the harm caused to legal persons as a result of the actions of which Mr. Katan was convicted.¹¹⁸ Harm within the meaning of Rule 85(b) of the Rules of Procedure and Evidence includes dignitary injury, loss or damage to reputation, injury and damage.¹¹⁹ The Chamber further recalls that it has previously held that

¹¹⁵ Lubanga Appeals Chamber, Order for Reparations, paras. 57-58, paras. 57-58.

¹¹⁶ Lubanga Appeals Chamber, Order for Reparations, paras. 57-58, paras. 57-58.

¹¹⁷ See Section, PRINCIPLES AND CRITERIA APPLICABLE TO THE OBTAINMENT OF REPARATIONS AND THE CHAMBER'S GENERAL APPROACH TO THE CONCEPT OF VICTIM.

¹¹⁸ Rule 85(b) of the Rules of Procedure and Evidence lays down that harm must be direct.

¹¹⁹ Lubanga Appeals Chamber, Order for Reparations, paras. 10-11. See also Lubanga Appeals Chamber, Decision on Victims' Applications for Reparations, paras. 31-32. See also Victims' Observations of 15 October 2013, paras. 5-10; and Defense Observations of 13 May 2014, paras. 48-49.

harm equal by species harm compassed by the Rules of Procedure and Evidence where suffered partly by victim.¹²⁰

75. The Chambers that applications for reparation by the Applicant allege material physical, psychological and moral

2. Harm ensuing from or more crimes of which Mr Katanga was convicted

(a) Material harm

i. Destruction of houses, outbuildings, houses and business premises

a. Introduction

76. The Chambers that in applications for reparation Applicant alleged the most harmful attack on the victims suffered material harm resulting from destruction of houses, outbuildings, houses and business premises.¹²¹

77. The Chambers will treat material harm resulting from the destruction of houses, outbuildings, houses and business premises as determining whether the harm alleged by Applicant is from one or more crimes of which Mr Katanga was convicted.¹²² In assessing the evidence presented by the Applicant supporting the harm allegations and, lastly, deciding with the evidence and findings of the Trial Chamber, in its previous, composition whether the harm at issue is the subject of the particular circumstances

01/07549, para. 29. See also the definition in the United Nations, Basic the Right to a Remedy and Reparation for Victims of Gross Violations of Law and Serious Violations of International Humanitarian Law, paras December 2001 (mental injury, emotional suffering, economic loss or substantial impairment rights <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAddRep>, 17 March 2017).

¹²⁰ See *Seubang*, Appeals Chamber, Order for Reparation, paras 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

¹²¹ See para 23 of the present order.

¹²² The Chamber considers that business premises include small shops, hairdressing salons.

c. Evidence presented in support of the farm and defence observations

80. To lend support to its allegations, the Applicant has tendered documents titled "attestation de résidence" and "certificat d'attestation de logement habitable" and other titled documents of the kind. On that subject, the Defence submits that the documents presented by the Applicant must be treated with caution given that they were issued at least 12 years before the events in question and were signed by a witness for the prosecution in the proceedings against Mr. Katar. Furthermore, the Defence argues that the extensive attacks on the village over the years and the destruction of the farm and the harm alleged by the Applicant are necessarily the result of the attack on 24 February 2001.¹³⁰

81. The Chamber notes that the certificates and other untitled documents of the kind considered above were signed by a person acting in an official capacity and that they bear the official seal of the DRC. Regarding the evidence presented in the proceedings against Mr. Katar, the Trial Chamber, settling in its previous judgment, relied on a number of occasions on witness evidence corroborating the evidence of information about the population in the village of Bogoro and the events before, during and after the attack on 24 February 2001. The Chamber notes that the Defence has not presented anything to cast doubt on the credibility of the reliable statements.

¹³⁰ First Defence Observations, 24 February 2006, ICC-01/04-01/07-3728-06, para. 16: [T]he certificates of residence show with reasonable certainty that they were issued 12 years before the events with the specific purpose of being tendered in the proceedings by a victim/prosecution witness, and are drafted in a standard form.

¹³¹ First Defence Observations, 24 February 2006, ICC-01/04-01/07-3728-06, para. 16 (former chef of Bogoro village.)

¹³² First Defence Observations, 24 February 2006, ICC-01/04-01/07-3728-06, para. 8; see also Defence Observations of 14 May 2001, ICC-01/04-01/07-3728-01, para. 4.8.

¹³³ See e.g. Judgment Handing Down Conviction of 7 July 2001, ICC-01/04-01/07-3728-01, paras. 601, 693, 695, 724, 727, 738, 842, 837, 917, 922, 933, 936, 1207 and 1213.

82. Moreover, the Chamber notes that the residence certificates state that Applicant variously described the destroyed property as a house, an outbuilding, a small shop, and that the immovable property was destroyed in an attack on 13 February 2003. The Chamber notes that some residence certificates state that Applicant was living in Bogoro until February 2003. The Chamber notes that the residence certificates specify when the destruction occurred during the attack.¹³⁴

83. In view of the information contained in the residence certificates, particularly their signature by a person who was acting in an official capacity, the Chamber finds that the certificates have sufficient probative value to be entertained in its analysis of Applicant's allegations.

d. Determination of the Chamber

84. The Chamber recalls that the standard of proof is a balance of probabilities. The Chamber determines that it is more probable than not that Applicant suffered the harm alleged that the harm was a consequence of one or more crimes of which Mr Katanga was convicted. The Chamber has undertaken an individual analysis of Applicant's application for reparations and has afforded consideration to the evidence before it and, as a result, has concluded that the presumption in the light of the evidence is that the Chamber is satisfied that Applicant was not always in a position to document the evidence supporting the harm alleged, given the circumstances in the DRC, and it takes into account the Defence observations.

¹³⁴The Chamber notes that the residence certificates use for the most part the term "house" where the Applicant alleges the destruction of an outbuilding or a business premises. Therefore, the Chamber uses the term "house" as building. So, where a residence certificate refers to the destruction of one or more houses, it might denote a house in the strict sense, an outbuilding, a small shop or some other business premises.

¹³⁵The Chamber would further point out that it is not necessary to establish a causal nexus, that is, whether the harm alleged was a consequence of the crime of which Mr Katanga was convicted. See Section VI C. 3. d. Nexus between the harm and the crime of which Mr Katanga was convicted.

¹³⁶See paragraph 50 of the present order.

85. The Chamber considers that the individual analyses, in a matter of fact, harm resulting from the destruction of a house or an outbuilding on business premises established to the requisite standard of proof in paragraph 10 of the statement by the Applicant alleging the destruction of a house or an outbuilding on a house or a business premises is a certificate or a similar evidence where issued in a matter of fact by the Applicant and signed by persons acting in an official capacity and it is stated that the movable property belonging to the Applicant was destroyed in the attack and the findings of the Trial Chamber, settling in its previous position concerning the destruction of enemy property as a crime under article 8(2)(e)(xii) of the Statute.

86. Lastly, in so far as the Defence argues that the residence certificate does not provide particulars of the movable property that consists of houses and, in some cases, of business premises. According to the Chamber is not in the possession of such movable property, for example, made of steel, wood or brick or of iron.

ii. Destruction of furniture, personal effects and wares

87. The Chamber notes that the applications for reparations. Applicants allege that they suffered harm as a result of the destruction of their furniture, personal effects and their wares and large, the Applicants have not presented any supporting documents to prove ownership of their personal effects. For what is stated, the Defence submits that the Applicants have presented sufficient and credible

88. The Chamber notes that the Trial Chamber settling in its previous composition found that in the attack on Begar, the attackers did not stop at destruction of some dwellings and other civilian property also took away

¹³⁷See Annex II to the present order.

¹³⁸Defence Observations of 14 October 2015, para. 17.

¹³⁹See Section X. ASSESSMENT OF THE EXTENT OF THE HARM.

¹⁴⁰Defence Observations of 14 October 2015, para. 14.

much household furniture and other personal belongings from the warehouse¹⁴³ finding that such property belonged predominantly to the civilian population of Bogoro¹⁴⁴ and its daily life

89. Having regard to the harm alleged by the Applicant from the time when Mr Katanga was convicted of pillaging as a war crime under article 8(2)(e)(v) of the Statute¹⁴⁵ insofar as the extent of the harm¹⁴⁶ and the causal nexus with the crime¹⁴⁷ are established on a balance of probabilities

90. In the view of the Chamber it is reasonable to conclude that the great majority of the population of Bogoro own property essential to their daily life and by reason of the destruction of houses, buildings, houses and business premises the attack on, the property within a village destroyed

91. Therefore, the Chamber of the view that the Applicant establishes that he or she suffered harm as a result of the destruction of an outbuilding or a house or business premises material resulting from

¹⁴¹Judgment Handing Down Conviction of 7/04/07-2014-924

¹⁴²Judgment Handing Down Conviction of 7/04/07-2014-925 and 928.

¹⁴³Judgment Handing Down Conviction of 7/04/07-2014-928 and 932.

¹⁴⁴Judgment Handing Down Conviction of 7/04/07-2014-928 and 932. See Judgment Handing Down Conviction of 7/04/07-2014-953: the property represented the bulk of the ownership. See Decision of 23 May 2014, ICC-01/04-07-2014-EN-Corr, para. 52a.

¹⁴⁵Judgment Handing Down Conviction of 7/04/07-2014-924 p. 710.

¹⁴⁶Judgment Handing Down Conviction of 7/04/07-2014-924 p. 710.

¹⁴⁷See Annex II to the present order.

¹⁴⁸See Section C(a) nexus between the crime of which Mr Katanga was convicted

¹⁴⁹See Section V(d) Presumption of circumstantial evidence

¹⁵⁰See Section VII. C. (a) destruction of houses, buildings, houses and business premises

the destruction of personal effects for war is presumed to be established, absent any specific evidence.

92. The Chamber considers that the material sustained by a Applicant as a result of destruction of property essential to daily life is presumed to be established where the Applicant provides proof of the destruction of the house in which the items were stored.

93. As to an Applicant's allegations of destruction of personal effects essential to daily life, the Chamber regards as established where through corroborated Applicant's testimony the requisite standard of proof is met for the present living conditions during the attack.

94. However, from the evidence presented, the Chamber is in a position to determine the type and quantity of furniture, personal effects and other items owned by Applicant.

iii. Pillaging livestock and destruction of fields and harvest; pillaging arable land

95. The Chamber notes that in applications for reparations Applicants allege that they have suffered harm as a result of the destruction of their livestock and the destruction of their fields and harvest and the pillaging

¹⁵¹The Chamber regards personal effects to encompass clothing, school supplies, bicycles and other effects. See e.g. *Decision on the Appeal of the Applicant against the Judgment of the Trial Chamber I in the case of the Applicant against the Judgment of the Trial Chamber I in the case of the Applicant against the Judgment of the Trial Chamber I*, Conviction of 7 March 2004, ICC-01/04-01/07-3728-ENG, para. 2028.

¹⁵²The Chamber also takes account of the Applicant's testimony. See e.g. *Decision on the Appeal of the Applicant against the Judgment of the Trial Chamber I in the case of the Applicant against the Judgment of the Trial Chamber I*, Conviction of 7 March 2004, ICC-01/04-01/07-3728-ENG, and the Decision on the Appeal of the Applicant against the Judgment of the Trial Chamber I, ICC-01/04-01/07-3728-ENG, Corr.

¹⁵³See Section V of the Statute on circumstantial evidence.

¹⁵⁴See e.g. Annex 6 to the Report of the Panel of Experts, ICC-01/04-01/07-3728-ENG, Annex 6.

¹⁵⁵That is the case where a finding is made of harm resulting from the destruction of the house and that person's family relationship (as claimed by the Applicant) and the destruction of personal effects is established.

¹⁵⁶See Section IX of the Statute on pillaging of furniture.

¹⁵⁷See Section IX of the Statute on pillaging of personal effects.

¹⁵⁸See Section IX of the Statute on pillaging of arable land.

of their harvest to lend support to the operations of stockme
 Applicants have presented documents titled *déclaration de possession de*
 [de la rati on livestock own. *Tribe D] e f e a r g e s t h a t* applica have
 no presents sufficient and p c o o f e h o t t r e s s h a r m l e g e d¹⁵⁹

96. It is not that Trial Chamber in its previous composition
 entered a finding of pillaging of livestock domestic animals (cows, goats and
 h e a) and pillaging of food belonging to the population of Bogo. Of
 further note keeping livestock significant by Brg o r a n d i t s
 population med the¹⁶⁰ land

97. Having regard to the Chamber in the material
 harmed by Applicants of the crimes of which Mr Katanga
 convicted, *viz.* pillaging as a crime under article (2) (v) of the Statute,¹⁶¹
 in as far as the existence of said harm and the causal nexus between the
 established a d a n c e o f p r o b a b i l i t i e s

98. The Chamber would reiterate its observation that the population of
 Bogo is a livelihood part from keeping livestock farming the land.
 Moreover Trial Chamber in its previous composition of
 pillaging of domestic animals is of great importance to the local

¹⁵⁹Defence Observations of 14-01/04-01/07-3728-tENG, para. 14 and 15. See also
 Consolidated Response of 1-01/04-01/07-3728-tENG, para. 29.

¹⁶⁰Judgment Handing Down Conviction of 7 March 2012/04-01/07-3728-tENG, para. 932,
 953 and Decision on Sentencing of 23 May 2014/04-01/07-3728-tENG, para. 2a.

¹⁶¹Judgment Handing Down Conviction of 7 March 2012/04-01/07-3728-tENG, paras. 724 and
 730.

¹⁶²Judgment Handing Down Conviction of 7 March 2012/04-01/07-3728-tENG, para. 710.

¹⁶³See Annex II to the present order.

¹⁶⁴See Section C. *Legal nexus between alleged and proven crimes of which Mr Katanga
 was convicted*

¹⁶⁵Judgment Handing Down Conviction of 7 March 2012/04-01/07-3728-tENG, paras. 724 and
 730 (livestock market). *See also* *Statut; Règles 89 à 93 et 97 du Règlement de la Cour* (2012) art. 68(3) et
 Statut; Règles 89 à 93 et 97 du Règlement de la Cour (2012) art. 68(3) et 97
 as confidential registry, Trust Fund for Victims and the Legal Representative
 01/07-3728-tENG, para. 21 (Victims Observations of 8 January 2015).

¹⁶⁶Decision on Sentencing of 23 May 2014/04-01/07-3728-tENG, para. 2a; Judgment
 Handing Down Conviction of 7 March 2012/04-01/07-3728-tENG, paras. 932 and 953

society by agriculture and keeping livestock. The Chamber considers that it is reasonable to presume that a great majority of Bogoro population owned livestock and fields to meet their daily needs. It is more probable than not that during the attack on the Bogoro construction of houses accompanied by pillaging of livestock and harvest.

99. Having regard to the Chamber's determination that when an Applicant establishes the destruction of his or her material harm resulting from pillaging of livestock or the destruction of fields and harvest to the pillaging of his or her property, the presumption is that the destruction is a result of the pillaging, absent any evidence to the contrary.

100. The Chamber determines that the material harm resulting from pillaging of livestock and the destruction of fields and harvest to the pillaging of his or her property is presumed to be a result of the destruction of the house in which he or she lives, unless the Applicant provides proof to the contrary.

101. As to the extent of the harm alleged, the Chamber is not in a position to determine the specific type and quantity of livestock pillaged in the area of fields destroyed and the type and quantity of harvest destroyed. For that reason, the Chamber has stated that the general presumption is that the consumption per capita of the total livestock is equivalent to the value of the total livestock.

¹⁶⁷See Section V of the Statute on circumstantial evidence.

¹⁶⁸See Section VII. CD on the destruction of houses and business premises.

¹⁶⁹See Section V of the Statute on circumstantial evidence.

¹⁷⁰The Chamber also takes into account the Applicant's statement that the Conviction of 7 March 2014, ICC-01/04-01/07-3728-tENG and the Decision on Sentencing of 23 May 2014, ICC-01/04-01/07-3728-tENG. The Chamber further notes that some Applicant declarations of livestock ownership.

¹⁷¹See Section V of the Statute on circumstantial evidence.

one cow two goats and either are consumed in the harvest per capita amounts the price fetched by a quantity of stock commoners says Bongo.¹⁷²

102. As the Chamber has observed, the applicant's representative declarations of stock ownership. The Defence submits that these documents were written and signed by persons who were not acting in any official capacity and contain incomplete information and must be treated with caution. Chamber.¹⁷³

103. The Chamber of the trial Chamber's previous decisions on identity find application in the present case. The applicant's representative declaration signed by a person in an official capacity and signed by two credible witnesses may be accepted by the Chamber as official and uncontradicted documents support of the allegations before it. Chamber regards these two persons who declare stock ownership as credible, specifically given their previous involvement with the Chamber. The Chamber has not heard any declarations of stock ownership specifically of any individual livestock owned by the applicant. 20.03

104. The Chamber regards statements signed by two credible witnesses mentioning the type and quantity of livestock owned in 2008 as sufficient probative value in the context of the harm described in the indictment. Where, for example, an applicant alleges loss of so many cows and goats and the respondent declares stock ownership signed by two credible witnesses, stating that he owns them or so. 20.03. In Chamber's determination of the extent of the harm suffered by the applicant amounts to the loss of ten cows.

¹⁷²See Section ASSESSMENT OF THE EXTENT OF THE HARM

¹⁷³See e.g. the Defence observations on ACP/001/07-69/03-08/PA-X-00-GN Annex A to Defence Observations' applications pursuant to a decision relative à la demande de retrait de mandat du Représentant le 16 décembre 2011/001/0377-00 on Exp Annex A, p. 5.

¹⁷⁴See paragraph of the present order.

105. The Chambers as some declarations in vestocknership rendered state a lower quantity than the consumption per capita in a particular circumstances the Chamber justification arriving at a figure below the consumption per capita in the Section so proceed would give rise a situation of unfairness, due to the fact that the quantity of livestock could result a figure below the derived from proof which provide little detail and does not mention the type of livestock, the Chamber takes the view a presumption of pillaging livestock an amount corresponding consumption per capita applicable to an Applicant who did not declare livestock, it must apply the more Applicant who declare a quantity of livestock which falls below that consumption per capita Applicant who presents a declaration which does not specify the type or quantity of livestock. Accordingly, fairness does not require the Chamber to assess the harm suffered by persons based on equivalence of consumption per capita

iv. Destruction of family property

106. The Chamber notes that the applications for reparations Applicants allege that the respondent bears responsibility for the destruction of family property as a result of the attack on Bogoro. The Applicants mainly present evidence in the form of affidavits and other evidence to substantiate the destruction of family property specifically

107. The Chamber does not consider itself to adjudicate such matters which are the province of Congolese courts. The Chamber is not in a position to make a finding of responsibility for the destruction of family property and hence of personal harm suffered by Applicants who allege destruction of family property

(b) Physical harm

108. The Chamber notes that in the applications for reparations Applicants allege that they suffered physical harm as a result of the attack on Bogoro

109. It is found that the Trial Chamber, sitting in its previous, composed of judges, found beyond reasonable doubt that the victims sustained bullet or bladed wounds in the attack on 17 August 2002, which have meant that some survivors have had a limb amputated and/or suffered from physical disability.

110. Having regard to the findings of the Chamber that the physical harm alleged by the victims is a result of the crimes of which Mr. Katanga was convicted, i.e., the attack against a civilian population as such or against civilians not taking part in hostilities, as a war crime under article 8(a)(ii) of the Statute, the existence of a causal nexus with the crimes are established as a matter of probabilities.

111. The Chamber notes that in support of its findings, the Applicants have, for the most part, presented medical reports from the Chamber's medical certificates from a government hospital in Uganda and a hospital in Congo and forensic reports that the Chamber notes that, and large of the documents tendered by the Applicants do not specify that these wounds

¹⁷⁵ See e.g. Judgment Handing Down Conviction of - 01/04/07-3728-TENG, ICC paras 1617, para 241 and para 4825.

¹⁷⁶ Decision on Sentencing, 2014, ICC 01/07-3728-EN-Corr, para 5 and 57.

¹⁷⁷ Judgment Handing Down Conviction, ICC 01/04/07-3728-EN-Corr, p. 710.

¹⁷⁸ See Annex II to the present order.

¹⁷⁹ See Section C, causal nexus between alleged and crimes of which Mr. Katanga was convicted.

¹⁸⁰ See e.g. Annex 33 to Batch Three, 2011/04/07-3728-Corr-EN-Corr, p. 11; Annex 14 to Batch Four, 2 February 2016, 01/07-3728-EN-Exp-Anx14, p. 26; Annex 29 to Batch Four, 2 February 2016, 01/07-3728-EN-Exp-Anx29, p. 27; Annex 32 to Batch 2 February 2016, 01/04/07-3728-EN-Exp-Anx32, p. 27; Annex 5 to Batch Four, 2 February 2016, 01/04/07-3728-EN-Exp-Anx52, p. 9; Annex 16 to Batch Four, 2 February 2016, 01/07-3728-EN-Exp-Anx16, p. 18; Annex 26 to Batch Four, 2 February 2016, 01/07-3728-EN-Exp-Anx26, p. 13; Annex 5 to Batch Four, 2 February 2016, 01/07-3728-EN-Exp-Anx59, p. 11.

¹⁸¹ See e.g. Annex to Batch Five, 17 February 2016, 01/07-3728-EN-Exp-Anx61, p. 9.

¹⁸² See e.g. Annex 1 to Batch Five, 29 February 2016, 01/07-3728-EN-Exp-Anx1, p. 2.

¹⁸³ See D-RCPI 03025, Annex to Batch Five, 29 February 2016, 01/07-3728-EN-Exp-Anx7.

sustained the attack on. In most such cases the causal nexus established to the applicant is of¹⁸⁴

(c) Psychological harm

i. Psychological harm connected to the death of a

a. Introduction

112. The Chamber notes that in applications for reparations Applicants allege psychological harm connected to the death of a family member. Applicants have mostly presented death certificates and family relations with the deceased.

113. The Chamber recalls that it has been consistently held that victims are eligible for reparations if the harm caused and directly may include psychological suffering as a consequence of the sudden loss of a family member. To qualify as indirect victims, the Chamber holds that applicants must also establish that the harm was personally suffered. To that end, an applicant must show that he or she had a close personal relationship with the deceased. In Lubanga the Appeals Chamber particularly noted close personal relationships including grandparents.

114. The Chamber will treat psychological harm as a result of the death of a relative if it is satisfied that the harm alleged by the applicant is directly

¹⁸⁴A hospital record dated 26 February 2003 and a forensic report allowed the Chamber to find that the wound was connected to the attack (Applicant a/0013 tendered a hospital record. See Second Defence Observations, 111 April 2004, Annex 1; Applicant a/1205/10, who tendered a forensic report. See Observations, 1011 April 2004 / 03768 on Exp Annex 7).

¹⁸⁵See Section V. CONCEPT OF VICTIM.

¹⁸⁶Lubanga Appeals Chamber, Order for Reparations, Annex A, para. 5. Lubanga Appeals Chamber, Decision on Victims' Participation, paras. 32-33. See also Lubanga Trial Chamber I, Decision on Indirect Victims, paras. C50.

¹⁸⁷Lubanga Appeals Chamber, Order for Reparations, Annex A, para. 10.

¹⁸⁸Lubanga Appeals Chamber, Decision on Victims' Participation, paras. 32. See also Lubanga Trial Chamber I, Decision on Indirect Victims, paras. C50.

¹⁸⁹Lubanga Appeals Chamber, Decision on Victims' Participation, paras. 32; Lubanga Trial Chamber I, Decision on Indirect Victims, paras. C50.

one or more of the crimes which Mr Katanga was convicted of. The Chamber is to determine whether the Applicant's claim that the Chamber is satisfied that the death of a direct victim is a result of an attack on his person (b) and that the Applicant had a close personal relationship with the victim (c).

b. Whether the harm alleged consists of the crimes of which Mr Katanga was convicted

115. The Chamber notes that the Trial Chamber in its previous decision took note of the murder of civilians,¹⁹⁰ the separation of families after the attack on Bogoro, the appearance of corpses, the lack of mourning ceremonies and the fear of returning home harboured by survivors due to traumatic memories of the attack on Bogoro. It found that 60 people, including 25 children, were killed on the day of the attack on Bogoro. However, it considered that death toll a minimum and that the attack claimed considerably¹⁹¹ more lives.

116. Having regard to the foregoing, the Chamber determines that psychological suffering from death or relative alleged by Applicant ensues from the crimes of which Mr Katanga was convicted, i.e. murder as a crime against humanity under article 7(1)(a) of the Statute and murder as a war crime under article 8(2)(c)(i) of the Statute, as the facts set out below establish a balance of probabilities

c. Death of direct victim

117. The Chamber notes discrepancies between the information provided by the Applicant in 2008 and 2009 and the case file of 2015. According to

¹⁹⁰ Decision on Sentencing of Mr Katanga, ICC-01/04-01/07-3728-tENG, para 748.

¹⁹¹ Decision on Sentencing of Mr Katanga, ICC-01/04-01/07-3728-tENG, para 50a.

¹⁹² Decision on Sentencing of Mr Katanga, ICC-01/04-01/07-3728-tENG, para 58.

¹⁹³ Decision on Sentencing of Mr Katanga, ICC-01/04-01/07-3728-tENG, para 58a.

¹⁹⁴ Judgment Handing Down Conviction of Mr Katanga, ICC-01/04-01/07-3728-tENG, paras 839 and 481.

¹⁹⁵ Judgment Handing Down Conviction of Mr Katanga, ICC-01/04-01/07-3728-tENG, para 710.

the Defence 2015 certificate is adapted to hang on the Applicant statement. The Defence in the Chamber tentatively states the fact that the certificate appears to have been issued on the basis of a word of the Applicant, who did not witness the direct victim. The Defence notes that in some instances, Applicants claim to have heard or seen the attack or, in other instances, death from disappearance of the direct victim. The Defence certifies that it is not aware of any evidence that the direct victims as Applicants claim. The Defence notes that those persons might have fled the attack in Bangladesh. The Defence notes that the Chamber treats the Applicant's certificate with caution where there are discrepancies between the certificate and the death certificate.

118. The Chamber finds that the most recent death certificate for the direct victim was issued on 24 February 2003 in Bogota. The Chamber notes that some death certificates issued in 2008, state 24 February 2008. However, it takes note of a slip which should read 24 February 2003.

119. Turning to the Defence's remark that death certificates entail an irrefutable finding of direct victimhood, the Chamber notes that an Applicant's statement as to where the death certificate was signed by a status registrant in DR Congo¹⁹⁶ are sufficient evidence to establish to the requisite standard of proof that the direct victim was in fact in the attack on Bogota. This finding is conditional upon an individual analysis

d. Close personal relationship with victim

120. The Chamber finds that as proof of close personal relationship with a direct victim, the Applicant generally provides a certificate of family relationship dated and signed by a civil status registrar of a family relationship between

¹⁹⁶First Defence Observations, 24 February 2006, para. 15.

¹⁹⁷See *par* of the present order.

the direct victim of the crime. The Chamber notes that the Defence submissions show family relationships with a direct victim and an applicant are recorded in the certificate of death. The Chamber notes that rests with individual analysis of applications for reparations as to how the direct victim of the crime is related to the direct victim of the crime. The Chamber notes that the evidence in support of the applications for reparations is such that the Chamber is of the opinion that family relationships may be proved without tendering any evidence. This will be so where family relationships may be established by the fact that the same person is named in a death certificate. The Chamber notes that the Chamber looks at family relationships in the present application for reparations in light of the Chamber's findings.

121. The Chamber notes that the Defence submissions that family members of direct victims qualify for reparations where they are sufficiently close to the direct victim, as in the present case, children, where they otherwise show that they were a dependent victim in connection with the crime. The Chamber recalls that the Chamber's findings in the Lubanga Appeals Chamber have led to the widely accepted principle that an individual is succeeded by his or her family members.

¹⁹⁸ See e.g. the observations on Application 001/04-01/07-3728-Sub C (AG) in Annex A to Defence Observations on 41 victims' applications for reparations in the demande de retrait de mandat du Représentant du Procureur Général, 2015, paras. 370-371, Annex A, p. 3.

¹⁹⁹ Defence Consolidated Response of 16 June 2015, para. 6.9; Defence Observations of 14 July 2015, para. 49, para. 20, and, in particular, footnote 1. The Prosecutor v. Thomas Lubanga Dyilo, Decision on the Application for Participation in the Proceedings Submitted by VPRS 1 to WP/RTS/01/01, 29 June 2010, paras. 167-168, paras. 75-76. See also Victims Observations of 15 May 2015, paras. 5-15, para. 33.

²⁰⁰ Lubanga Appeals Chamber, Order for Reparations, paras. 7-9, Annex A para. 7. See also Victims Observations of 15 May 2015, paras. 5-15, para. 33. Réponse consolidée de victimes aux observations déposées par la Défense, les participants et les observations sur les productions de la Défense, 2015, paras. 65, para. 8 (Victims Consolidated Response of 16 June 2015).

spouse and children. In the case, the Chamber has treated the concept of family with due regard for family and social structures and the cultural in particular. The issue which the Chamber must turn its attention to is a result of their [the indirect victims] with direct victims, loss, injury, or damage suffered by the latter gives rise to the same harm to circumstances of the attack on, the Chamber regards the loss of a family member as a traumatic experience entailing psychological suffering of little consequence whether the relative is near or distant.

e. Determination of the Chamber

122. According to the death of direct victims in the attack on a Bogoro family relative which direct victims have established in the light of the evidence as a whole and in support of application for reparations, the Chamber considers the psychological harm from the death of relatives established.

ii. Psychological harm resulting from the experience of the attack on Bogoro

123. The Chamber notes that the applications for reparations allege psychological harm resulting from the experience of the attack on Bogoro. Other witnesses who saw or fled the atrocities and mass killings perpetrated and is unconnected to the death of a Chamber notes that the applicant has provided mental health certificates

²⁰¹Lubanga Appeals Chamber, Order for Completion of Reparations, para. 7. See also Defence Consolidated Responses, ICC-01/04-01/07-3728, para. 9.

²⁰²Similarly, see Victims Consolidated Responses, ICC-01/04-01/07-3728, para. 205.58 ICC TFV Observations of 13 May 2010/137548, paras. 21 and 129. The Defence also argued to favour the applicant (Defence Consolidated Responses, ICC-01/04-01/07-3728, para. 15. ICC 1011).

²⁰³See *The Prosecutor v. Thomas Lubanga Dyilo*, Redacted version of Decision on Indirect Victims, dated 8 April 2009, [not yet entered into the e-Court], ICC-01/04-01/07-3728, para. 49 (Trial Chamber I, Decision on Indirect Victims).

²⁰⁴For the requirements of a family relationship, the Chamber has distinguished between the harm alleged and the crimes of which Katanga was convicted.

124. From the outset, the Chamber understands that the extreme violence which held Bogotá in its grip 24 February 2003 led to the murder of scores of civilians, children, women and elders, and to the destruction and pillaging of their property. The effects of the fighting, resistance and psychological trauma continue to be a burden on the population.

125. The Chamber regards the fact alone of having been on 24 February 2003 during the attack and having seen other lives sacrificed as atrocious, perpetrated and major inflections of the mental health of the persons present that day.

126. In the context of the Chamber's findings that

any victim present at the attack of 24 February 2003 can claim financial compensation for the psychological harm caused, and that this compensation, the same, fixed amount for all the applicants fulfilling this condition, and attempt to assess the psychological harm for each applicant is possible as only a few have tendered²⁰⁷ medical certificates

127. The Chamber notes the findings of the Inter-American Court

It is obvious that the victim suffered moral damages, for it is characteristic of human nature that anyone subjected to the kind of aggression and attack in an instant case will experience moral suffering. No evidence is required to find²⁰⁸

128. In a similar vein, the Inter-American Court held

The non-pecuniary damage inflicted on the victims is evident, because of human nature that all those subjected to brutal acts in the context of intense suffering, terror and insecurity, so that this damage does not need²⁰⁹

²⁰⁵ See, *Decision on Sentencing* of 12 July 2011, ICC-01/04-01/07-3728-tENG Corr, para. 47a. See also *Judgment Handing Down Conviction* of 17 July 2011, ICC-01/04-01/07-3728-tENG, para. 616.

²⁰⁶ *Decision on Sentencing* of 12 July 2011, ICC-01/04-01/07-3728-tENG Corr, paras. 59, 58.

²⁰⁷ Second Defence Observations, C-01/04-01/07-3728-tENG Corr, para. 27.

²⁰⁸ *Inter-American Court of Human Rights, Reparations and Non-pecuniary Damages*, 1998, 38.

²⁰⁹ *Inter-American Court of Human Rights, Pueblo Bello Massacre (Merits, Reparations and Costs)*, 2006, para. 55. *Inter-American Court of Human Rights, Pueblo Bello Massacre (Merits, Reparations and Costs)*; *Inter-American Court of Human Rights, Mapiripán Massacre (Preliminary Objections and Acknowledgement of Responsibility)*, 2005, para. 129. *Inter-American Court of Human Rights, Ecuador (Preliminary Objections)*, 2004, para. 244. See also

129. Having regard to those findings and considerations, decided to make a finding that an Applicant sustained psychological harm to the experience of the attack on Bogoro in that that person suffered other harm during the attack or makes no explicit allegation of psychological harm. The Chamber estimates, on the basis of the facts of the case, that the Applicant has established that he or she suffered a material or physical injury as a result of the attack on Bogoro, and is presumed to have suffered psychological harm as a result of the attack.

130. The Chamber has found that the Applicant has been in a position to obtain a medical certificate supporting the harm such as the Chamber has found the psychological harm connected to the experience of the attack on Bogoro established to the satisfaction of the Chamber. On balance of probabilities, subject to the particular circumstances which may emerge from an individual analysis of the applications for reparations.

131. Last, the Chamber reiterates that it will make a finding of psychological harm connected to the experience of the attack, irrespective of any other psychological harm suffered by an Applicant as a result of the attack on Bogoro. The Chamber considers that the Applicant has suffered a distinct type of psychological harm.

American Court of Human Rights (Preliminary Objections, Merits, Reparations and Costs), *Barrios Altos v. Peru*, 2001, I.A.C.H.R. Rep. at ¶¶ 43-44, 47-48, 51-52, 54-55, 57-58, 60-61, 63-64, 66-67, 69-70, 72-73, 75-76, 78-79, 81-82, 84-85, 87-88, 90-91, 93-94, 96-97, 99-100, 102-103, 105-106, 108-109, 111-112, 114-115, 117-118, 120-121, 123-124, 126-127, 129-130, 132-133, 135-136, 138-139, 141-142, 144-145, 147-148, 150-151, 153-154, 156-157, 159-160, 162-163, 165-166, 168-169, 171-172, 174-175, 177-178, 180-181, 183-184, 186-187, 189-190, 192-193, 195-196, 198-199, 201-202, 204-205, 207-208, 210-211, 213-214, 216-217, 219-220, 222-223, 225-226, 228-229, 231-232, 234-235, 237-238, 240-241, 243-244, 246-247, 249-250, 252-253, 255-256, 258-259, 261-262, 264-265, 267-268, 270-271, 273-274, 276-277, 279-280, 282-283, 285-286, 288-289, 291-292, 294-295, 297-298, 300-301, 303-304, 306-307, 309-310, 312-313, 315-316, 318-319, 321-322, 324-325, 327-328, 330-331, 333-334, 336-337, 339-340, 342-343, 345-346, 348-349, 351-352, 354-355, 357-358, 360-361, 363-364, 366-367, 369-370, 372-373, 375-376, 378-379, 381-382, 384-385, 387-388, 390-391, 393-394, 396-397, 399-400, 402-403, 405-406, 408-409, 411-412, 414-415, 417-418, 420-421, 423-424, 426-427, 429-430, 432-433, 435-436, 438-439, 441-442, 444-445, 447-448, 450-451, 453-454, 456-457, 459-460, 462-463, 465-466, 468-469, 471-472, 474-475, 477-478, 480-481, 483-484, 486-487, 489-490, 492-493, 495-496, 498-499, 501-502, 504-505, 507-508, 510-511, 513-514, 516-517, 519-520, 522-523, 525-526, 528-529, 531-532, 534-535, 537-538, 540-541, 543-544, 546-547, 549-550, 552-553, 555-556, 558-559, 561-562, 564-565, 567-568, 570-571, 573-574, 576-577, 579-580, 582-583, 585-586, 588-589, 591-592, 594-595, 597-598, 600-601, 603-604, 606-607, 609-610, 612-613, 615-616, 618-619, 621-622, 624-625, 627-628, 630-631, 633-634, 636-637, 639-640, 642-643, 645-646, 648-649, 651-652, 654-655, 657-658, 660-661, 663-664, 666-667, 669-670, 672-673, 675-676, 678-679, 681-682, 684-685, 687-688, 690-691, 693-694, 696-697, 699-700, 702-703, 705-706, 708-709, 711-712, 714-715, 717-718, 720-721, 723-724, 726-727, 729-730, 732-733, 735-736, 738-739, 741-742, 744-745, 747-748, 750-751, 753-754, 756-757, 759-760, 762-763, 765-766, 768-769, 771-772, 774-775, 777-778, 780-781, 783-784, 786-787, 789-790, 792-793, 795-796, 798-799, 801-802, 804-805, 807-808, 810-811, 813-814, 816-817, 819-820, 822-823, 825-826, 828-829, 831-832, 834-835, 837-838, 840-841, 843-844, 846-847, 849-850, 852-853, 855-856, 858-859, 861-862, 864-865, 867-868, 870-871, 873-874, 876-877, 879-880, 882-883, 885-886, 888-889, 891-892, 894-895, 897-898, 900-901, 903-904, 906-907, 909-910, 912-913, 915-916, 918-919, 921-922, 924-925, 927-928, 930-931, 933-934, 936-937, 939-940, 942-943, 945-946, 948-949, 951-952, 954-955, 957-958, 960-961, 963-964, 966-967, 969-970, 972-973, 975-976, 978-979, 981-982, 984-985, 987-988, 990-991, 993-994, 996-997, 999-1000.

²¹⁰ Psychological harm connected to the attack on Bogoro is established on the basis of the Applicant's statements; a medical certificate issued in the name of the Applicant, signed by a person acting in an official capacity (see *op. cit.*), stating that the harm alleged by the Applicant is a direct consequence of the attack on Bogoro; and the Chamber II, sitting in its previous composition.

²¹¹ Thus, the Chamber has used different monetary values for the two types of psychological harm (see Section IX.P.3.b). harm

iii. Transgenerational

132. The Chamber has in the applications for reparations for victims of the attack on Bogoro transgenerational psychological harm which the Rapport d'expertise sur l'évaluation de l'état psychologique des victimes de Bogoro du 24 février (2003) describes as a phenomenon, where by violence passes from ascendants to descendants with traumatic effects that²¹²

133. The Chamber in the findings of the Report which speaks of transgenerational psychological trauma that presents many children whose parents experienced the attack on Bogoro that the Chamber has regard to the Defence Observations²¹⁴ which argue that

[the children born after the 24th February 2003 should be entitled to compensation only because of the death of one parent during the Bogoro attack. The report remains extremely vague and hypothetical. It therefore insufficiently links the crimes for which a defendant has been convicted and any eventual harm which would be endured by the children²¹⁵ born after the

134. Even where those applications are in all likelihood suffering from transgenerational psychological trauma, the point must be made that the

²¹² Transmission du Rapport d'expertise sur l'évaluation de l'état psychologique de Bogoro du 24 février 2003 (ICC-01/04/07-09-ExpR-Expert Report of 26 May 2016) and one confidential annex and one public annex (Annex to the Expert Report of 26 May 2016) and one confidential redacted version (Annex to the Expert Report of 31 May 2016) with one confidential redacted annex and one public redacted annex (Annex to the Expert Report of 31 May 2016) intitulé Transmission du Rapport d'expertise sur l'évaluation de l'état psychologique des victimes de l'attaque de Bogoro du 24 février 2003 (Conf), 10 June 2016 (ICC-01/04/07-09-Conf and two public annexes).

²¹³ Annex to the Expert Report of 26 May 2016, ICC-01/04/07-09-ExpR-Annex 1, p. 32.

²¹⁴ Defence Observations on the Legal Representation of Victims of the Attack on Bogoro sur l'évaluation de l'état psychologique des enfants victimes de l'attaque de Bogoro (Defence Observations of 22 June 2016, ICC-01/04/07-09-DefO-1 and 13 (Defence Observations of 22 June 2016)).

²¹⁵ Defence Observations of 22 June 2016, ICC-01/04/07-09-DefO-1 and 13.

that evidence laid before Chamber establishes a balance of probabilities
the causal nexus between the attack on Bogoro

135. The Chamber recommends that the child protection
monitoring be particularly

(d) Sui generis loss of standard, loss of
opportunity forced departure

136. The Chamber notes that in applications for reparations
that the attack on Bogoro was of standard of living of
relative whom all of the family lived prior to the fact
that Applicants have dependent on the deceased family
members (loss of standard). The Chamber also notes that Applicant
alleges that the attack on Bogoro deprived them of the opportunity
or vocational training (loss of opportunity) also to be a member of
Applicant's family at the attack on Bogoro (loss of family member
forced departure).

137. Moreover, Trial Chamber, in its previous decision, stated that
[t]he survivors of the massacres were forced to flee, leaving
possessions and many locals have since been forced to start life
Bogoro, where they chose not to return as they would have
scratch or simply did not have the means to do so.

²¹⁶The Defence submits, in the first instance, that the Report should not be
in its view, its provenance and content cannot be authenticated. (Defence
IC 01/04/07-3728-tENG, paras. 9 and 18). The Chamber has decided that since
26 May 2016 did not set forth any information to allow it to determine that
attack on Bogoro and the trauma suffered by its victims need not entertain the
arguments further.

²¹⁷See Section A.1.1.1.1 of the FV: the Chamber invites to give TFV
consideration as part of its assistance mandate, wherever possible, to
Applicants in the attack on Bogoro upon which the Chamber has not been
case

²¹⁸Decision on Sentencing of 23 October 2014, IC 01/04/07-3728-tENG, p 50a.

²¹⁹Decision on Sentencing of 23 October 2014, IC 01/04/07-3728-tENG, p 52a.

the Appeals Chamber ~~finds~~ that the harm suffered by victims include material deprivation that accompanied the acts of victims' contributions.

138. Yet, the Chamber ~~finds~~ that the Applicants have ~~not~~ provided any specific proof ~~that~~ the harm ~~has~~ resulted from the ~~forced~~ departure ~~of~~ the ~~Applicants~~ ~~as~~ ~~refugees~~ ~~and~~ ~~not~~ ~~as~~ ~~a~~ ~~result~~ ~~of~~ ~~any~~ ~~further~~ ~~information~~ ~~or~~ ~~evidence~~. The Chamber ~~is~~ ~~not~~ ~~in~~ ~~a~~ ~~position~~ ~~to~~ ~~determine~~ ~~whether~~ ~~the~~ ~~acts~~ ~~constitute~~ ~~the~~ ~~required~~ ~~of~~ ~~proof~~ ~~as~~ ~~a~~ ~~consequence~~ ~~of~~ ~~the~~ ~~attacks~~ ~~in~~ ~~Bogoro~~ ~~or~~ ~~if~~ ~~the~~ ~~departure~~ ~~is~~ ~~material~~ ~~and~~ ~~psychological~~ ~~harm~~ ~~resulting~~ ~~from~~ ~~the~~ ~~lack~~ ~~of~~ ~~standard~~ ~~of~~ ~~living~~ ~~and~~ ~~opportunities~~ ~~forced~~ ~~departure~~. ~~Wherein~~ ~~support~~ ~~of~~ ~~the~~ ~~allegation~~, ~~the~~ ~~Applicants~~ ~~are~~ ~~not~~ ~~refugees~~ ~~and~~ ~~not~~ ~~as~~ ~~a~~ ~~result~~ ~~of~~ ~~any~~ ~~further~~ ~~information~~, ~~the~~ ~~Chamber~~ ~~is~~ ~~not~~ ~~in~~ ~~a~~ ~~position~~ ~~to~~ ~~determine~~ ~~whether~~ ~~the~~ ~~acts~~ ~~constitute~~ ~~the~~ ~~required~~ ~~of~~ ~~proof~~ ~~as~~ ~~a~~ ~~consequence~~ ~~of~~ ~~the~~ ~~attacks~~ ~~in~~ ~~Bogoro~~ ~~or~~ ~~if~~ ~~the~~ ~~departure~~ ~~is~~ ~~material~~ ~~and~~ ~~psychological~~ ~~harm~~ ~~resulting~~ ~~from~~ ~~the~~ ~~lack~~ ~~of~~ ~~standard~~ ~~of~~ ~~living~~ ~~and~~ ~~opportunities~~ ~~forced~~ ~~departure~~.

139. The Chamber ~~is~~ ~~not~~ ~~in~~ ~~a~~ ~~position~~ ~~to~~ ~~determine~~ ~~whether~~ ~~the~~ ~~acts~~ ~~constitute~~ ~~the~~ ~~required~~ ~~of~~ ~~proof~~ ~~as~~ ~~a~~ ~~consequence~~ ~~of~~ ~~the~~ ~~attacks~~ ~~in~~ ~~Bogoro~~ ~~or~~ ~~if~~ ~~the~~ ~~departure~~ ~~is~~ ~~material~~ ~~and~~ ~~psychological~~ ~~harm~~ ~~resulting~~ ~~from~~ ~~the~~ ~~lack~~ ~~of~~ ~~standard~~ ~~of~~ ~~living~~ ~~and~~ ~~opportunities~~ ~~forced~~ ~~departure~~.

²²⁰Luban Appeals Chamber, Decision on Victims' Application, 30 C See also Luban Trial Chamber Decision on Indirect Victims' Application, para. 50.

²²¹The European Court in the *Quinn* cases brought them to it should not speculate as to what the outcome would have been had a violation not occurred. As stated in the judgment, the possibility that a benefit might have existed could not be a violation. See ECtHR Judgment 9 April 1984, Application no. 8966/80; ECtHR, France, 9 December 1990, Application no. 1444/85; ECtHR, Belgium, 20 October 1992, Application no. 12351/86; ECtHR, Italy, 21 July 2010, Application no. 63630/00.

3. Harmot ensuing dñe mor mote eor fimes of whic Mr Katanga was convicted

(a) Physical and psychological as a ba eria by and or sexual violence regen dears edolence e eering the attack on Bogoro

140. The Chambers that the application se p arati osome Applica ad ge that they p hysic and psychological ch asioned by rape and sexual in sh e a rty attack on. Bogoro

i. Submission of the parties, the Prosecution and organizations have filed observations

141. The Legal Representative vis submits that the Chamber entered findings said crimes were committed e d our d r e e p aration programme s t include vict or n th e rime of rape and sexual slavery without, howe t e a q u o t e n g a s c r i b e d Mr Katanga

142. The Prosecution argues that the conviction handed down Mr Katanga under article (2) (b) (i) of the Statute encompasses acts of rape committed during the recording of the witness that the victims of the of rape are entitled to before the harm suffered as direct victims crimes committed a t a c k c i v i l a s.²²³

143. The TFV submits that Chamber should invite it to make use of assistance for the victims who were subjected to sexual violence during the attack, despite Mr Katanga's acquittal of crimes

144. The United Nations submit that the victims of sexual violence must be able to obtain reparations, where Trial Chamber determines that a causal nexus between the criminal violence and crimes of which Mr Katanga was

²²²Victims' Observations of 150 W/04120375515 ICC paras. 475

²²³Prosecution's Observations of 151/041/03754 para. 3.

²²⁴TFV Observations of 13 May 2010/037548, para. 130.

convicted has not been, the United Nations Security Council resolutions used so that the victims may nonetheless benefit from reparations specifically through TRV²⁵

145. It is the Defence submission that the Mf Katanga cannot be held liable for harm resulting from the AT FV should change its assistance mandate to include members of the affected communities who are victims.²⁶ It also makes the point that the Chamber should also establish a process of referral to other NGOs present in affected areas that can help the sexual violence.²⁷

ii. Analysis carried out by the Chamber

146. From the outset the Chamber understands that the three gravity crimes of rape and sexual slavery are not only inflicted from both the act and from the ensuing psychological consequences.²⁸ The Chamber considers that the physical pain from the rape is compounded by psychological pain which cannot be disregarded and which has repercussions on the life of the victims. The lives of the victims are in a state of distress and death is a real threat. The Chamber, sitting in its previous composition, subsequently visited the area of violence where they were often rejected by their community, which compounded the harm.²⁹

147. The Chamber calls, in the case at hand, for the evidence to show that he or she suffered serious harm, none or more of the forms which Mr Katanga

²²⁵ United Nations Joint Submission 1 May 2015, para. 669 (United Nations Submission of 14 May 2015)

²²⁶ Lubanga Appeals Chamber, Order for Trial, paras. 5.5.

²²⁷ Defence Observations of 14 May 2015, paras. 93.

²²⁸ Judgment Handing Down Conviction of 7/04/07-14-ENG, Trial Chamber sitting in its previous composition, victims of sexual violence are particularly vulnerable & the Chamber is alive to the fact that women who are victims of such acts run a very high risk of being completely intimidated when they decide to tell the truth about their ordeal.

²²⁹ Decision on Sentence of 20/12/07-14-ENG, Trial Chamber II, sitting in its previous composition, the women who had been abducted, disappeared and that some of them had been presumed dead until they were also seen in 2014, paras. 7.

convicted that being the Chamber considers to be of intrinsic gravity by the parameters of the conviction handed down by Trial Chamber II in its previous composition.

148. Of note in the findings of Chamber II in its previous composition is that the evidence established reasonable doubt during the attack on, Bigito combatants of the *Forces armées rwandaises* (FAR) committed crimes of rape and sexual slavery against many and war crimes.²³⁰

149. Furthermore in the context of the attack against a civilian population in which Mr. Katanga was convicted, Trial Chamber II in its previous composition found in accordance with the objective element of the crime acts of violence against a group of civilians in the pursuit of Bigito inhabitants hiding in a desecrated area.²³¹

150. Be that as it may, the Chamber II in its previous composition found Mr. Katanga guilty as an accessory to the rape and sexual slavery. The necessary evidence presented to the Chamber II in the *Ngiti* militia case regarding the crimes.²³² No evidence had been laid before it

to allow it to find that the *Forces armées rwandaises* were committed on a wide scale and repeatedly on 24 February 2003, or furthermore that the obliteration of Bigiro by the *Forces armées rwandaises* entailed the commission of such facts were

²³⁰ See Section V. CONCEPT OF INTRINSIC GRAVITY.

²³¹ Judgment Handing Down Conviction of 7/04/07-3728-ENG, paras. 1023. The gravity of the crimes of rape and sexual slavery and their use as a weapon of war has recently been affirmed in the judgment handed down by High Risk Tribunal for Rwanda (High Risk Tribunal for Rwanda) Judgment of 26 February 2016, p. 5).

²³² Judgment Handing Down Conviction of 7/04/07-3728-ENG, para. 88.

²³³ Judgment Handing Down Conviction of 7/04/07-3728-ENG, paras. 876 and 848.

²³⁴ Judgment Handing Down Conviction of 7/04/07-3728-ENG, para. 64.

entertained by the Chamber in the crime of attack against civilians in a war crime.²³⁵

151. In the context emphasized

although the acts of rape and enslavement formed an integral part of the attack on the [&] Hema civilians in the Ituri region, the Chamber cannot, however, find, that the criminal purpose necessarily encompasses the commission of specific crimes proscribed by articles 7(1)(g)²³⁶ and 8(2)(e)(vi) of the S

152. Having regard to the findings made by the Chamber in its previous decision on the facts and circumstances, the Chamber does not regard its earlier position on the physical and psychological harm occasioned by rape and sexual violence as being in error in the context of the attack on Bergendromone of which Mr. Katanga was convicted.

153. However, the Chamber points out that the Applicant alleges that they suffered physical and psychological harm, as well as sexual violence and gender-based violence, which have also suffered other harm resulting from the attack on Bergendromone. The Chamber finds that the harm to be established.

154. Further, the Chamber in the TFOV affords considerable weight to its assistance, wherever possible, to the Applicant.

(b) Harm alleged by the Applicant as to former child soldiers

i. Submissions on the Precedent and the TFOV

155. The Legal Representative of Mr. Katanga has argued that the crimes of using children under the age of 15 years to participate

²³⁵Judgment Handing Down on 10 March 2011, ICC-01/04-01/07-3728-ENG, para. 663.

²³⁶Judgment Handing Down on 10 March 2011, ICC-01/04-01/07-3728-ENG, para. 664. In its Decision on Sentence, Trial Chamber II, sitting in its previous decision on sexual violence perpetrated against some women in its analysis of [the crimes committed in the Ituri region], the Chamber found that the crimes of using children under the age of 15 years to participate in the commission of the crimes of sexual violence and gender-based violence are not distinct from the crimes of sexual violence and gender-based violence. (Decision on Sentence, Trial Chamber II, paras. 231-232, ICC-01/04-01/07-3728-ENG Corr, para. 48).

²³⁷Of further note is that the Legal Representative takes the view that Mr. Katanga is liable for reparation of the harm to his victims. (Observations on the Applicant's Request for Reparation, ICC-01/04-01/07-3728-ENG, para. 47).

²³⁸See Section A of the Defence Manifesto.

He submits, however, that the former soldiers should be treated as if they may benefit from the TFW's implemented part of its general assistance programme. The Prosecution had to conclude²³⁹

156. The Defence submits that in view of the nature of those crimes, some former child soldiers' specific needs should be taken into account in the record and in accordance with Article 86 of Rules of Procedure and Evidence

ii. Analysis of the Chamber

157. The Chamber first stresses the gravity of the crime of using children under the age of 15 years to participate actively in an armed conflict (2) (i) of the Statute, and its devastating consequences for former child soldiers.²⁴⁰

158. The Chamber notes that the Applicants have not alleged harm in respect of the further harm to be awarded reparations must have suffered as a consequence of the crimes which the person convicted.

159. The Chamber notes on the subject that the Chamber sitting in its previous composition

that children under the age of 15 years were fully integrated into the Walendibundi militia during the hostilities of the 24 February 2003 battle of Bogoro and that, alongside the adult combatants, they participated in the crimes committed.²⁴³

²³⁹ Victims Observations of 15 May 2012/0041/0375, paras. 40-48. See also Prosecution's Observations of 30 April 2011/0375, para. C.C.

²⁴⁰ Prosecution's Observations of 30 April 2011/0375, para. C.C. and TFW Observations of 13 May 2011/0041/0375, para. 3.0.

²⁴¹ Defence Observations of 14 May 2011/0041/0375, para. C.6.

²⁴² The Prosecutor v. Thomas Lubanga Dybal, Sentence pursuant to Article 76 of the Statute, Trial Chamber I, 10 July 2012, ICC-01/04-01/07-3728-10, paras. 8.9 (Lubanga, Chamber I, Decision on Sentences) Expert witness described child soldiers as particularly vulnerable.

²⁴³ Judgment Handing Down Conviction of 07 March 2012/0041/0375, paras. 1086-1088.

160. However, what Bench was unable to infer a direct nexus to suggest that the Accused used children to participate in the hostilities is that it could not find that [Mr.] Katanga committed the crime of using children under article 28(e)(vii) and, consequently, he is not responsible under article 28(e)(vii) of the Statute. Accordingly, the Trial Chamber found Katanga guilty under article 28(e)(vii) of the Statute of the crime of using children under the age of 15 years to participate actively in hostilities under article 28(e)(vii) of the Statute and it acquitted him of the other charges.

161. Having regard to the findings of the Trial Chamber that the former rebel soldiers are ineligible as combatants in the present proceedings in connection with the crimes for which Katanga was convicted, the Appeals Chamber will give consideration to part of its assistance mandate wherever possible to help them suffer the consequences of the attack on Bogoro upon which the Chamber has not been in a position to

D. Causal nexus between the crimes of which Mr. Katanga was convicted

1. Principles laid down by Appeals Chamber as standard of causation

162. The Appeals Chamber has set the standard of causation between the crimes and the harm as a further requirement that the crimes of which the person was convicted were the proximate cause of the harm for which reparations are sought.

²⁴⁴Judgment Handing Down Conviction of 07/04/07-3728-tENG, para 87.

²⁴⁵Judgment Handing Down Conviction of 07/04/07-3728-tENG, para 86-1088.

²⁴⁶See Section A.X.B.II.Dance mandate.

²⁴⁷Lubanga Appeals Chamber, Order for the Prosecution to file a written response to the Chamber's observations on the case at bar (Defence Observations - of 04/07/15, para 139 TFC Observations of 13 May 2015, para 26 and Observations of 30 April 2015, para 18).

163. As aforesaid, the Appeals Chamber has found that the Applicant did not provide sufficient proof of the causal nexus between the alleged crime and the harm which the person was convicted of. The Appeals Chamber has also made plain that the causal nexus between the crime and the harm in this case is not of the characteristic nature of the case under review.

2. The Chamber's approach

164. It is recalled that the Trial Chamber, sitting in its previous composition, found that Mr Katanga made a significant contribution to the commission of crimes by the group of commanders and combatants of the FDLR, since that contribution had considerable influence on the manner of perpetration.²⁵⁰ Further, said Chamber held that Mr Katanga had participated in the design of the attack on Bogoro²⁵¹ and without his contribution of weapons and ammunition, Ngiti combatants would not have had the means to successfully carry out the attack [on Bogoro].²⁵²

165. That said, the Trial Chamber, sitting in its previous composition, noted in the light of some of the evidence adduced during the attack or in the context of acts constituting the crimes of murder and attack that the elements were established, and that the testimonies briefly mentioned the participation of APC combatants in APC attacks. It is also concluded that most of the witnesses clearly identified the people who

²⁴⁸ See Section O of the Statute and the Rules of Procedure and Evidence.

²⁴⁹ Lubanga Appeals Chamber, Appeals Judgment, ICC-01/04-01/07-3728-Annex A, paras 80-81; Lubanga Appeals Chamber, Order for the Prosecution to Produce Evidence, ICC-01/04-01/07-3728-Annex A, para. 11.

²⁵⁰ Decision on Sentencing of Mr Katanga, ICC-01/04-01/07-3728-Annex A, paras 64-65; Decision on Sentence of Mr Katanga, ICC-01/04-01/07-3728-Annex A, paras 69-70; See Judgment on Sentence of Mr Katanga, ICC-01/04-01/07-3728-Annex A, paras 71-72.

²⁵¹ Judgment on Sentence of Mr Katanga, ICC-01/04-01/07-3728-Annex A, paras 73-74.

²⁵² Decision on Sentencing of Mr Katanga, ICC-01/04-01/07-3728-Annex A, para 65a.

²⁵³ Judgment on Sentence of Mr Katanga, ICC-01/04-01/07-3728-Annex A, paras 75-76.

these acts as being ~~Lenz~~ [from -Walendu Bind collective attacks

166. The Chamber has the causal nexus between the crime and must be determined with the characteristics considered. Hence, the causal nexus between the alleged attack of which Mr Katanga was convicted be considered in light of the aforementioned circumstances must particularly be under the Mr Katanga had a part in conceiving the design to attack the Bogoro provided weapons to the combatants, also that a combatant other than the NK part in the attack on Bogoro. Having regard to the Chamber's determination that the Applicant has established that the harm was a result of the attack on Bogoro, they have established the requisite for the purposes of the present reparations proceedings.

167. Accordingly, the Chamber finds that the harm alleged by the Applicant may attract an award of reparations.

²⁵⁴ Judgment Handing Down Conviction of 07/0041/07 2014, paras 343-346 (footnote 16). See also Judgment Handing Down Conviction of 07/0041/07 2014, paras 755 and 933. The Chamber notes that Trial Chamber II, sitting in its original composition, held against Mr Katanga only that evidence was that the attacks committed during the attack on Bogoro were committed by the ~~Gradii~~ collective (See Judgment Handing Down Conviction of 07/0041/07 2014, paras 842 and 933).

²⁵⁵ Lubanga Appeals Chamber, Judgment on Appeal of 01/0041/07 2014, paras 80-81. Lubanga Appeals Chamber, Order for Reparations of 01/0041/07 2014, paras 11-12.

²⁵⁶ In the Chamber's analysis of Mr Katanga's liability it is noted that the combatants also took part in the attack on Bogoro. MR KATANGA'S LIABILITY REPARATIONS

VIII. FINDINGS OF THE CHAMBER ON INDIVIDUAL ANALYSIS OF THE APPLICATIONS FOR REPARATIONS

168. The Chamber received 34 applications for reparations and has undertaken individual analyses of each application. The Chamber has determined that 29 Applicants have shown a balance of probabilities in favour of the crimes of which Mr Katanga was convicted and are accordingly entitled to reparations ordered by the Chamber in the case.

169. The Chamber found that Applicants have established that 2 houses were destroyed. The Chamber determined that the destruction of outbuildings has been established. The Chamber found that Applicants have established destruction of pillaging of business premises of considerable material and business premises whose building materials had not been in a position to be

170. As regards Applicants who established destruction of a house, the Chamber found that the materials were a result of the destruction and looting of furniture that has been shown. The Chamber found that Applicants have established that actual evidence of pillage. Applicants established that the pillaging of a warehouse used for business premises which she was renting

171. The Chamber has that the population of Bogbon the village appears to have engaged in subsistence farming and livestock. Applicants have drawn attention to the impact of various kinds of destruction on their fields and harvests through pillaging of various kinds. The Chamber determined that 13 Applicants have established that the loss of a result of a large number of livestock which has not been in a particular type and quantity of livestock which Applicants have shown. The Chamber determined that the loss amounted to the average total livestock in respect of other

²⁵⁷See Section VII. INDIVIDUAL ANALYSIS OF REPARATIONS, Para. 95

Applicants however the Chamber find that 50 cows were pillaged in the attack. The Chamber has found that Applicants have shown that they suffered material harm as a result of the destruction of their harvest and the pillaging of their property in the attack on Bogoro.

172. The Chamber recalls that Applicants made assertions as to the harm they suffered as a result of the attack on Bogoro. Applicants have shown that they suffered material harm as a result of the destruction of their harvest and the pillaging of their property in the attack on Bogoro. The Chamber has found that Applicants have shown that they suffered material harm as a result of the destruction of their harvest and the pillaging of their property in the attack on Bogoro. The Chamber has found that Applicants have shown that they suffered material harm as a result of the destruction of their harvest and the pillaging of their property in the attack on Bogoro.

173. Physical harm was found by the Chamber to be established by two cases.

174. The Chamber found instances of psychological harm connected to the death of a relative in the attack on Bogoro. The Chamber has found that Applicants have shown that they suffered material harm as a result of the destruction of their harvest and the pillaging of their property in the attack on Bogoro.

175. The Chamber considers every Applicant who has shown that he or she suffered harm of any kind as a result of the attack on Bogoro. The Chamber has found that Applicants have shown that they suffered material harm as a result of the destruction of their harvest and the pillaging of their property in the attack on Bogoro. The Chamber has found that Applicants have shown that they suffered material harm as a result of the destruction of their harvest and the pillaging of their property in the attack on Bogoro. The Chamber has found that Applicants have shown that they suffered material harm as a result of the destruction of their harvest and the pillaging of their property in the attack on Bogoro.

176. It must be noted that some Applicants have alleged that they are suffering from transgenerational trauma. The Chamber has found that Applicants have shown that they suffered material harm as a result of the destruction of their harvest and the pillaging of their property in the attack on Bogoro. The Chamber has found that Applicants have shown that they suffered material harm as a result of the destruction of their harvest and the pillaging of their property in the attack on Bogoro.

177. The Chamber has found that the Applicant's claim for reparations for loss of standard of living and loss of opportunities as a result of the attack on Bogoro. As the Chamber has found, the Chamber has been in a position to determine that the Applicant suffered a trauma from the harm brought about by the experience of the attack on Bogoro.

178. Some Applicants alleged that they suffered psychological damage as a result of the forced displacement by the attack on Bogoro. As a result, the Chamber has not been in a position to determine a balance of probabilities causal between that harm and the attack on Bogoro.

179. The Chamber has not found that the Applicant's claim for reparations for the rape, sexual violence, and gender-based violence which they were subjected to as a result of the attack on Bogoro. Regarding the Trial Chamber's findings in its previous judgment²⁵⁸ the Chamber concluded that it is in a position to determine that the acts have no sequence or form of the crimes of which Mr Katanga was convicted.

180. Lastly, regarding the Trial Chamber's findings in its previous judgment²⁵⁹ the Chamber concluded that it has not been in a position to consider the former child soldiers as victims for the purposes of the present case.

²⁵⁸ See paragraph 48.5 of the present order.

²⁵⁹ See paragraph 53.6 of the present order.

IX. ASSESSMENT OF THE EXTENT OF THE HARM

A. Introduction

181. The Chamber takes the view that the harm suffered by the victim for the purposes of the reparations is the harm which the Chamber has found to be established. The Chamber undertakes an assessment of the monetary value of the harm as defined in the present case to determine the size of the reparations award for which Mr Katanga

182. Before it so proceeds to assess the harm claimed by the parties regarding the time frame of reference for the assessment of the harm, the Chamber takes into account the context of the harm. The Chamber then examines each act of harm which it considers to be taking into account the views of the parties and the assessed monetary value

B. Time frame of reference for assessment of the monetary value of the harm

183. The Chamber notes that the Legal Representative of the victims has argued that the harm must be determined in accordance with the present value of the property which has been destroyed. In other words, in accordance with the value of the property at the time of the acts. The Chamber also takes note of the fact that the acts were committed in the past and that the property is now lost. On that point, the Chamber notes that the Legal Representative

²⁶⁰ See Section D. Definition of the harm and evaluation of the evidence presented to substantiate the harm alleged by the applicant.

²⁶¹ See Section X. MR KATANGA'S LIABILITY FOR REPARATIONS.

²⁶² Victims' Observations of 30 September 2011, paras. 136, 137. See also TFV Observations of 30 September 2012, paras. 14-16. Exp., para. 17.

difficulty providing proof of the value of property destroyed
 attack on Bogotó, over a decade ago.²⁶³

184. The Chamber takes note that the Defence has not presented any evidence to show that the value of the property destroyed at the time of the attack on Bogotó is significantly different from the value of the property destroyed at the time of the award.²⁶⁴

185. Having regard to the fact that the value of the property destroyed at the time of the attack on Bogotó is significantly different from the value of the property destroyed at the time of the award, the Chamber is of the view that the award should be based on the value of the property destroyed at the time of the award.²⁶⁵

C. General context of the harm suffered by victims

186. The Chamber notes that the Defence has not presented any evidence to show that the value of the property destroyed at the time of the attack on Bogotó is significantly different from the value of the property destroyed at the time of the award. The Chamber is of the view that the award should be based on the value of the property destroyed at the time of the award.²⁶⁶

²⁶³ Victims Observations of 30 September 2011, ICC-01/04-01/07-3728-Exp, para. 17.

²⁶⁴ Defence Observations of 30 September 2011, ICC-01/04-01/07-3728-Exp, paras. 9 and 10.

²⁶⁵ TFV Observations of 30 September 2011, ICC-01/04-01/07-3728-Exp, para. 20.

²⁶⁶ The TFV cites the following in its judgment: Si, T. Altwicker and A. Peters, *Measuring the impact of human rights violations: An empirical perspective - pecuniary damages*, 16 July 2015, revised version, http://www.mpil.de/files/pdf4/Quant_Human_Rights_Damages_15p.pdf, March 2017, p. 20.

pecuniary damage depends on the overall context in which the breach occurred, i.e. the local economic situation.

187. The Chamber is invited to consider the economic and social situation of the victims at the time of the attack.

188. The Chamber of the victims' monetary assessment of the harm is inseparable from the context of the region and that of the village of Bogoro. In particular, the Chamber is directed from the parties and the TFV observations to consider the local market prices and the destruction of property.

189. However, the Chamber regards the economic situation of the victims as immaterial to the determination of the amount of pecuniary harm. The monetary assessment is primarily psychological, reflecting the ordeal which the victims endured at the time of the attack and the psychological harm connected to the death of a family member in no circumstances should the victims' financial situation be taken into account.

D. Assessment of the monetary value of the harm

190. As aforesaid, the Chamber is directed from the Representative of the Defence to take into account the monetary value of the various kinds of harm.

191. Harm under each of the heads is by the Chamber to be examined against the information in the applications, reports and the observations of the parties and the TFV. Where it cannot identify specific particular losses, the Chamber will make an *ex aequo et bono* assessment of the harm which has been established. The Chamber has considered that it need not call on experts in the case at bar.

²⁶⁷TFV Observations of 30 September 2011/037110, para. 21.

²⁶⁸Defence Observations of 30 September 2011/0372016, para. 11.

192. The primary value head of the set follows state the tabular summary conclusions.

1. Material harm

(a) Destruction of houses

193. The Legal Representative advised sum derived from the average type and size of houses in Hauts de Kivu wattle houses at US\$ 600 and a made of masonry or stone value of a four room house made of rammed earth US\$ 2000. He put a value of durable material on a house made of unfired US\$ 2000.²⁶⁹ The Defence agrees which figures point out that Bogoro was attacked several times before 24 February 2003 and that on that day of the houses were new.²⁷⁰

194. The TFV consulted several NGOs working in the region: Caritas, COOP Missionnaires and AFDI. The chief of Bogoro group named the Société de Génie de l'information et de la communication at the house US\$ 450-500.²⁷¹

195. The Chamber calls that the certificate does not specify the type of house and its condition. Hence the Chamber fits to accept the minimum figure suggested by the Legal Representative and the Defence whereby the houses connected to destruction at US\$ 600 as to the Defence argument Bogoro was subjected to several attacks in 2003. The Chamber calls that the causal link between them suffered and the crimes committed by Mitter Katanga the individual applications.

²⁶⁹Victim Observations of 30 September 2012/037613, para. 17.

²⁷⁰Defence Observations of 30 September 2012/0372016, para. 16.

²⁷¹Defence Observations of 30 September 2012/0372016, paras. 28 and 32.

²⁷²TFV Observations of 30 September 2012/037714 on Explanations.

(b) Destruction of buildings

196. The Legal Representative of the Defence did not put forward any assessment of the buildings

197. From the analysis of applications for repairs it has not been in a position to determine the features of the buildings so as to equate the material connected to the destruction with US\$ 100.

(c) Destruction of pillaging of furniture

198. The Legal Representative of the Defence agreed as to the basic set of items, stating that US\$ 5⁷³

199. They agreed that the furniture diverge slightly how much furniture is basic. The Legal Representative of the basic set of furniture is a fixed sum of US\$ 100.⁷⁴ The Defence stated that furniture for a family is US\$ 25.⁷⁵

200. The TFV's voice from local shops give the following estimate: dining room (US\$ 150-190), double bed (US\$ 70), three single bed (US\$ 95) and kitchen (US\$ 50).⁷⁶

201. To be the Chamber's Legal Representative's proposal to factor in for each case destroyed fixed sum of US\$ 1,000 or loss of a set of furniture for a two-parent family with five children, a fixed sum for kitchen utensils, personal effects, live stock, goats, sheep, chickens and five hands the month is a plot of 77. The Chamber did not proceed on that basis but assessed material separately

²⁷³Victims Observations of 30, September 2011/0372036 para. 17; Defence Observations of 30 September 2011/0372036 Annex A.

²⁷⁴Victims Observations of 30, September 2011/0372036 para. 17.

²⁷⁵Second Defence Observations, C-01/041/0372036 para. 36.

²⁷⁶TFV Observations of 30 September 2011/0372036 Annex 7.

²⁷⁷Victims Observations of 30, September 2011/0372036 para. 23.

202. The Chambers fit to accept the Representative figure for a basic set of furniture for a severe destruction resulting from the destruction of a house in a US\$ 500 per house that figure includes kitchen utensils

(d) Destruction of personal effects

203. The Legal Representative of the Defence put forward a figure of US\$ 500 for a family with five children.

204. The TFV presented invoices from shops which show the prices amongst a pair of shoes (US\$ 10), a dress (US\$ 10), a shirt (US\$ 10) and a hat (US\$ 10).²⁷⁹

205. As to personal effects, Chambers that the Applicant alleged mostly pillaging of clothing and school supplies. Chambers calls that, absent detailed evidence, it has not been in a position to make a precise Applicant loss. According to the Defence, destruction of personal effects is *pro rata* at US\$ 75 per person.

(e) Destruction of business premises

206. The Legal Representative put forward a fixed sum of US\$ 250 for each of the 36 small shops, the six small shops and restaurants from durable materials, a fixed amount of US\$ 1,000 for the building and its contents. The total amount of damages is equal to US\$ 430,000 which includes losses connected to the pillaging.

²⁷⁸Victims' Observations of 30 September 2016, 2016/041/0370 136 para. 17; Defence Observations of 30 September 2016, 2016/041/0370 1-Anx A.

²⁷⁹TFV Observations of 30 September 2016, 2016/041/0370 1-Anx 7.

²⁸⁰Victims' Observations of 30 September 2016, 2016/041/0370 13, para. 31.

207. As a guide, the Defence puts forward USD 500 as a small shop and its contents, USD 1,000 for a small shop made stone or brick, USD 500 for a restaurant, USD 100 for a small bakery and USD 1,000 for the home of a

208. The Tribunal does not provide any specific information

209. The Chamber calls, in almost all cases, not in a position to determine the business premises, such as buildings, etc. The Chamber therefore accepts the suggestion of the Defence that the average value of a business premises is USD 100,000. The Chamber sets at the amount connected to the destruction of business premises features it has not been in a position to determine a figure of USD 100,000 which includes its contents.²⁸²

210. The Chamber has been in a position to find destruction and pillaging of business premises of a restaurant (the Chamber sets the harm connected to the destruction and pillaging at a figure of USD 100,000, which includes the contents). The Chamber has also been in a position to make a finding of destruction and pillaging of a home made of brick material. It puts the harm connected to the destruction and pillaging at a figure of USD 100,000 which includes its contents.

(f) Destruction and pillaging of premises

211. In the view of the Trial Representative with regard to a small, shop and the shop's stock, reasonably USD 100,000 at

212. The Defence suggests USD 500 as a small shop's contents.²⁸³

213. The Tribunal makes no assessment of the

²⁸¹Defence Observations of 30 September 2016, paras. 6372-6373, ACC

²⁸²That figure appears in the over Business premises (building material and contents).

²⁸³Victims Observations of 30 September 2016, para. 28.

²⁸⁴Defence Observations of 30 September 2016, paras. 6372-6373, ACC

214. The Chamber calls that Applicants alleged that they were rent the business premises and that the premises were pillaged. Having regard to the specific facts of the Chamber, the harm connected to the destruction of the business premises is USD 0.

(g) Pillaging of stock

215. The Legal Representative of the cow, a goat and USD 200 and USD 100 respectively. This estimate of 5 cows make up the total livestock in Bogoro.

216. The Defence a cow, a goat and USD 200 and USD 100 and USD 100 respectively.

217. The TFV a cow, a goat and USD 200, USD 100 and USD 100 respectively.²⁸⁷

218. Where the Chamber in a preliminary finding has set out the type and quantity of livestock in an Application and to determine the type and number exceed monetary value that the Chamber considers to be a total livestock, the Chamber has set out the corresponding amount on the basis of the following: USD 400 for a cow, USD 150 for a goat, USD 100 for a hen. Where the Chamber is not in a position to find the precise type and quantity of livestock in an Application, the harm is to be determined from the pillaging of livestock in the past, which corresponds to the monetary value of what the Chamber considers to be the livestock kept.

²⁸⁵Victims Observations of 30, Sept 2011/0372036 para. 17.

²⁸⁶Defence Observations of 30 Sept 2011/0372046 x ACC

²⁸⁷TFV Observations of 30 Sept 2011/0377164 on ExpAnx2 and -DC/0401/0377164 on ExpAnx6.

²⁸⁸As aforementioned, livestock consists of one cow, two goats and 10 (ten) hens of the present order).

²⁸⁹See Section VI Harm at 3 ensuing of former motives of which Mr Katanga was convicted.

(h) Destruction of banana harvest stillaging harvest

219. The Legal Representative gives a figure of USD 50 per hectare for the loss of harvest from fields outside the Applicant's land that figure is predicated on a banana yield of 4500 kg per hectare and on a price of USD 10 per quintal for the most frequently grown and sweet potato which is USD 5 per quintal.²⁹⁰

220. The Defence also comments that the average farmer puts forward a price of USD 10 per quintal for the most frequently grown crops (cassava and sweet potato) and USD 5 per quintal for banana and USD 10 per quintal for dried catfish and USD 8 per quintal for beans.²⁹¹

221. The TFV offers various estimates which change from 350000 m² of land farmed per household²⁹² in Bogoro

222. It is to be noted that a analysis of the applications for ratification of the Chamber's decision on the Applicant's case has resulted in the destruction of fields for banana harvest stillaging harvest, absent sufficient evidence has not been in a position to determine the area of fields for the type of crops grown. Given the considerable disparity in the tracts of land, the crops grown and, hence, the harm suffered by the Applicant, the Chamber accepted the Legal Representative's suggestion of USD 50 per hectare which corresponds to the price fetched by a quintal of sweet potato or corn.

2. Physical harm

223. The Legal Representative also claims that a personal injury would attract USD 300 compensation which would cover emotional and physical and material harm.²⁹³

²⁹⁰Victims' Observations of 30 September 2014, ICJ 2014/36 para. 36.

²⁹¹Defence Observations of 30 September 2014, ICJ 2014/36 Annex A.C.C.

²⁹²TFV Observations of 30 September 2014/2017-10 on Exp Annex 2 and ICJ 2014/01/0377-10 on Exp Annex 6.

224. In the Defence's testimony, and in the 2000 compensation

225. The TFV's medical files

226. The Chamber found that it had to be established that two Applicants in both cases involved. The Chamber is not in a position to determine precisely the harm on the basis of the claims for reparations according to each case by the physical harm. *in re: Kordaequo et bono* at USD 50.

3. Psychological harm

(a) Psychological harm to relatives

227. The Legal Representative for the following categories of victims: very near relatives (spouses, offspring, persons deemed as offspring), near relatives (siblings, parents, and other more distant relatives). He suggests USD 50,000, USD 25,000, and USD 10,000 for the first, second and third categories, respectively.

228. The Defence has proposed identical in composition to the put forward by the Legal Representative: USD 10,000, USD 5,000 and USD 4,000 for the first, second and third categories, respectively.

229. The TFV's report on the matter

230. The Chamber reviewed the *Francine and Bégin*²⁹³ in that regard, and that of the courts in *DRC*²⁹⁴ the United Nations

²⁹³Victims' Observations of 30 September 2014, ICJ 2014, paras. 54.

²⁹⁴Defence Observations of 30 September 2014, ICJ 2014, paras. 10-11.

²⁹⁵TFV Observations of 30 September 2014, ICJ 2014, paras. 1-2 on Explanatory Annex 11 and 11C/04/01/0377-12 on Explanatory Annex 12.

²⁹⁶Victims' Observations of 30 September 2014, ICJ 2014, para. 70.

²⁹⁷Defence Observations of 30 September 2014, ICJ 2014, paras. 10-11.

²⁹⁸Référentiel indicatif de l'indemnisation des victimes de crimes internationaux (proposed by the appeal hearing appeals from civil and criminal first instance courts) (www.avocatparis.org/system/files/worksanddocs/indemnisation_17_mars_2017.pdf)

Compensation Commission of the American Court. The results of the review are tabulated below.

Deceased in	France (1993)	Belgium (1994)	DRC initial court (US\$)	UNCC (US\$)	Inter-American Court (US\$)
Spouse	20000 30000	12500			
Father/ mother	10000 30000	Household member			
		Child household member who has already lost			
		20000			
		Not household member		2500	8,000 ³⁰⁷
Child	15000 30000	Household member	10000/ 20000	per person	2000 ³⁰⁸
		Not household member			
Grandchild	7,000 14000	Household member		per family	
		Not household member	1,250		
Grandparent	7,000 14000	Household member			
		Not household member	1,250		
Sibling	6,000 12000	Household member			
		Not household member	1500		500 ³⁰⁹
Other relatives or close relatives persons		1500 5000			

²⁹⁹ Tableau Indicatif de l'Indemnité (Dilek 2012, Charte 2012.)(6, p. http://www-fcgb.bgwf.be/documents/Tabl_Inda_2012.pdf)

³⁰⁰ La réparation des crimes internationaux par l'Arbitrage sans frontières, December 2014, http://www.asf.be/wp-content/uploads/2015/09/ASF_RDC_ReparationCrimesInternat_201509.pdf

³⁰¹ United Nations Compensation Commission, <http://www.uncc.org/category>, accessed 17 March 2017.

³⁰² Inter-American Court, *Urbano Bello Massacre (Merits)*, Reparations, para. 258 (pts) Inter-American Court, *Urbano Bello Massacre v. Guatemala (Reparations)*, para. 88.

³⁰³ Référentiel indicatif de l'indemnisation pour les victimes de la violence armée

³⁰⁴ Tabulated Belgian Guidelines, p. 12.

³⁰⁵ La réparation des crimes internationaux sans frontières, p. 82.

³⁰⁶ United Nations Compensation Commission, <http://www.uncc.org/category>, accessed 17 March 2017.

³⁰⁷ Inter-American Court, *Urbano Bello Massacre (Merits)*, Reparations, para. 258 (pts)

³⁰⁸ Inter-American Court, *Urbano Bello Massacre v. Guatemala (Reparations)*

³⁰⁹ Inter-American Court, *Urbano Bello Massacre (Merits)*, Reparations, para. 258 (pts)

231. The Chamber has paid close attention to the facts needed by the Inter-American Court as being connected to the lives of the event of the death of several members, ³¹⁰ of a large and diverse family condition as was caused by the suffering experienced by the nearest and dearest to the impossibility of burying corpses with the indignity of burials not performed in keeping with the rites and customs, to the point of the destruction of family roles and fragmentation of the community as a result of mass and the exacerbation of suffering due to the failure of the national authorities to prosecute or convict the Chamber has a particular regard to Puerto Rico. *Me v. Colombia* in the Inter-American Court

reiterates that the suffering caused to a victim extends to the close family, particularly those who were in close affective contact with the victim. In addition, the Inter-American Court has presumed that the suffering due to the death of a person causes their children, spouse or companion, mother, father and siblings damage that need not be proved.

232. The Chamber says that the death of each victim affects each victim's death of family relations (spouse, parents, children, grandparents and children) and death of other more distant relatives. Psychological harm connected to the death of a relative is a *daño conexo* at US\$ 50,000 and psychological harm connected to the death of a distant relative is a *daño conexo* at US\$ 10,000.

³¹⁰ See e.g. - *Almirante Cordero v. Colombia* (Merits, Reparations and Costs) para. 57.

³¹¹ See e.g. - *Almirante Cordero v. Colombia* (Merits, Reparations and Costs) para. 73.

³¹² *Almirante Cordero v. Colombia* (Merits, Reparations and Costs) para. 257.

(b) Psychological harm caused to victims of the attack on Bogoro

233. The Legal Representative has stated that all victims have, to some extent, suffered from a form of post-traumatic stress.³¹³ He proposes a sum of US\$ 50,000 per applicant.

234. The Defence proposes that psychological harm caused to the victims of the attack on Bogoro should be valued at US\$ 80,000 and post-traumatic stress at US\$ 10,000.³¹⁵

235. The TFV's recommend the matter.

236. The psychological harm caused to victims of the attacks is reckoned as equal to US\$ 20,000 per applicant. The Chamber reiterates that it has made a finding of psychological harm caused to the victims of the attack on Bogoro, irrespective of psychological harm caused to the relatives of a

E. Findings of the Chamber on the extent of the harm suffered by victims

237. The Chamber has reviewed the breakdown of the harm suffered by each victim during the period in which Katawa was convicted. It has established the monetary value of the harm done in a positive manner to the monetary value of the extent of the harm suffered by victims of the attack on Bogoro.

238. The table below sets out the extent of the total monetary value of the harm suffered by victims. The sum total for each such victim is the monetary value of the extent of the harm suffered by the victim. The Chamber has such

239. The monetary value of the extent of the harm is US\$ 75,000.

³¹³Victims' Proposals of 8 December 2011/2012, para. 71.

³¹⁴Victims' Observations of 30 September 2011/2012, para. 84. 78

³¹⁵Defence Observations of 30 September 2011/2012, para. 6x B.

³¹⁶See paragraph 30 of the present order.

F. Overview table

		DETERMINATION OF THE EXTENT OF HARM SUFFERED (USD)		
Head of harm		Total number of persons affected	Monetary value per unit of harm	Total monetary value of harm
Material harm	House	230	600	138 000
	Outbuilding	6	100	600
	Furniture	230	500	115 000
	Business premises (building materials unknown)	18	300	5,400
	Business premises made of durable material	2	800	1,600
	Hotel	1	3,000	3000
	Wares	1	100	100
	Personal effects	74	75	5550
	Average total livestock kept	130	524	68120
	Cows	150	400	60000
	Goats	8	50	400
	Harvested fields	109	150	16350
Physical harm	Bullet wound	2	250	500
Psychological harm	As a near relative of a victim	20	8,000	160 000
	As a distant relative of a victim	284	4,000	1 136 000
	Connected to experience of the attack	29	2,000	58 000
TOTAL MONETARY VALUE OF THE EXTENT OF HARM			USD 3 753 200	

³¹⁷See page 20 of the present order.

³¹⁸See page 23 of the present order.

X. MR KATANGA'S LIABILITY FOR REPARATIONS

A. Introduction

240. The Chamber proceeds to determine the scope of Mr Katanga's liability for reparations and the size of the award for which he is liable.

241. First, it is the Defence's contention that the Chamber should give consideration to Mr Katanga's diminished earning capacity and the size of the reparations award which reflects his means and capacity.³¹⁹ The Chamber takes the view that it must first determine whether Mr Katanga's current financial situation, taking into account the size of the reparations award for which he is liable

B. Whether Mr Katanga's current financial assets are able to bear the burden of the reparations award for which he is liable

242. The Defence suggests that consideration be given to Mr Katanga's indigence in defining the scope of his liability for reparations. In the view of the Chamber, the Defence's argument that Mr Katanga's reduced circumstances and the reparations award against him should be limited to a reasonable figure.

243. Regarding Mr Katanga's financial situation, the Chamber notes that the Chamber's opinion should be interpreted as acting in a concrete, realistic manner rather than in a theoretical manner divorced from reality.³²⁰ The Chamber so proceeds, in that it does not burden Mr Katanga with an order for reparations which he can never hope to make good on. The Chamber's order for reparations on his behalf has served his sentence.³²¹

³¹⁹Defence Observations of 14-01-2012, paras. 73; Defence Consolidated Response of 16 June 2011, para. 86.

³²⁰This determination has no bearing on the decision to be taken by the Chamber on the issue of reparations (SHOWS EFFECT IS IT TO BE GIVEN IN THE ORDER FOR REPARATIONS)

³²¹Defence Observations of 14-01-2012, para. 72.

³²²Defence Observations of 14-01-2012, para. 73.

³²³Defence Observations of 14-01-2012, para. 73.

244. The Legal Representative's views on the Defence submissions are argued in the points that the Chamber orders that Mr Katanga's assets and income be set aside in part of the assets which he was convicted irrespective of whether the assets are currently available.³²⁴

245. The Chamber calls on the Appeals Chamber to find that the Trial Chamber erred in ordering that awards be paid out of the resources of the Von account of Mr Lubanga.³²⁵ The Appeals Chamber arrived at that conclusion on the basis of article 7(4) of the Statute to the possibility of the assets of the convicted persons in the identification and freezing of property; that in its opinion, indicates that the diligence of the convicted persons is not an obstacle to the imposition of financial obligations that pertain to the Appeals Chamber under the Regulations of the Court which prescribe the financial situation of the convicted persons monitored by the Appeals Chamber thus the diligence of a convicted person on a Trial Chamber pronounced an order for reparation is not a impediment to the imposition of financial obligations.³²⁶ The Appeals Chamber advert to the Regulations of the Court which prescribe the financial situation of the convicted persons monitored by the Appeals Chamber thus the diligence of a convicted person on a Trial Chamber pronounced an order for reparation is not a impediment to the imposition of financial obligations.³²⁷

246. The Chamber has no reason in the case of Mr Katanga's current financial situation to be regarded as material to the determination of the reparations awarded to him.

³²⁴Victims Observations of 150 M/041/07-5, ICG, para. 86.

³²⁵Lubanga Trial Chamber I, Decision on Reparations, paras. 269. See also Lubanga Trial Chamber I, Decision on Reparations, paras. 70-74.

³²⁶Lubanga Appeals Chamber, Appeals Judgment, paras. 103.

³²⁷Lubanga Appeals Chamber, Appeals Judgment, paras. 102-105.

C. Determination of the scope of Mr Katanga's liability for reparations

1. Submission of the parties

247. It is the Legal Representatives' submission that the Chamber should not find determination of Mr Katanga's liability for reparations solely on the basis of the gravity of the various modes of liability in article 28 of the Statute.³²⁸ To buttress this argument, it cites Judgment Handing Down Conviction where Trial Chamber III, sitting in its previous, could position the distinction between perpetrator of and accessory to a crime in the Statute but does not, nonetheless, entail a hierarchy, whether in terms of penalty.³²⁹

248. The Legal Representatives contend that the findings of the Chamber on Mr Katanga's liability for reparations are based on the facts of the case and not on the true nature of the crimes of which he was convicted. The Chamber has regard to the gravity of the crimes of which Mr Katanga was convicted and the harm occasioned by the commission of the crimes in the context of the Legal Representatives' evidence on the factual Chamber sitting in its previous composition, found that Mr Katanga was a pivot to the commission of crimes of which he was convicted and that the attack by the DRC against Mr Katanga's contribution to the attack by the DRC. Thus, the legal Representatives maintain that had it not been for [Mr] Katanga and the support he gave to

³²⁸Victims Consolidated Response of 16 October 2011, paras. 49-50. See also Prosecution's Observations of 30 April 2011, paras. 23-24.

³²⁹Victims Consolidated Response of 16 October 2011, para. 52, referring to Judgment Handing Down Conviction of 14 July 2011, paras. 31-32.

³³⁰Victims Consolidated Response, paras. 49-50. See also Prosecution's Observations of 30 April 2011, paras. 23-24.

³³¹Victims Observations of 15 March 2011, paras. 88-89.

³³²Victims Observations of 15 March 2011, para. 89; See also Victims Consolidated Response of 16 October 2011, paras. 49-50.

³³³Victims Observations of 15 March 2011, para. 90.

would not have had its inhabitants and property decimated in
It is submission that liability must rest with Katan for the totality of
harm suffered by victims

249. The Defence sets out the scope of Katan's liability for reparation
must be assessed in the light of the criminal responsibility against
him.³³⁶ In that connection, the Defence points out that Katan was
charged on the basis of article 3 of the Statute, but was ultimately convicted on
the basis of article 25(3)(D) of the Statute. The Defence argues that a lower
degree of culpability for Katan should be taken into consideration which
Chamber must factor into its findings.³³⁷ The Defence goes on to argue that
Mr Katan was not convicted for committing the crimes physically
having contributed to them, and his criminal responsibility was
established on the basis of his role in the crimes which should also
occur.³³⁸

250. Lastly, the Defence maintains that it would be proper to
apply the common law principle of joint and several liability before the

³³⁴Victims Observations of 15-OM/041/07555, paras. 90. See also
Consolidated Response of 10-OM/041/07565, para. 56 (noted).

³³⁵Victims Observations of 15-OM/041/07555, paras. 90. See also Victims
Consolidated Response of 10-OM/041/07565, para. 51. See also TFV Observations
of 13 May 2011/041/07548, paras. 34. In that regard, the Legal Representative cites the
responsabilité, which is the damage sustained by the victim is foreseeable,
indivisible, and, hence, the liability incurred for the debt of reparation
is several. (Victims Consolidated Response of 10-OM/041/07565, footnote 55. See
also TFV Observations of 13 May 2011/041/07548, para. 32.)³³⁹

³³⁶Defence Consolidated Response of 11-OM/041/07562, para. 179.

³³⁷Defence Observations of 10-OM/041/07549, para. 67.

³³⁸Defence Observations of 11-OM/041/07549, para. 67. See also
Consolidated Response of 10-OM/041/07563, para. 80.

³³⁹Defence Observations of 14 May 2011/041/07549, para. 67.

³⁴⁰Defence Observations of 10-OM/041/07549, para. 67.

³⁴¹Defence Observations of 10-OM/041/07549, para. 68.

³⁴²In certain legal systems, the principle of joint and several liability is referred
responsabilité in solidum.

Court³⁴³ instead of principle enunciated by the Appeals Chamber³⁴⁴ given that the legal gain to an accused person is to be determined to be very wide in, involving many criminal acts of perpetrators may be held responsible and what is, prosecutions secret and determined by the choices made by the³⁴⁵ Therefore, it would be unfair if one individual, who played a minor role in or for the crime were to be held liable for the harm to the totality, persons who potentially bear liability for the crimes should ever be brought to justice.³⁴⁶ Furthermore, the Chamber adopted the principle that the Defense submission in the case of Mr. Katarwa would never be able to recover amounts paid as reparations from the other persons involved in the commission of the crimes in the attack.³⁴⁷

2. The Chamber's approach

251. First, it is worth recalling that the Appeals Chamber held that an order for reparations is intrinsically linked to the individual whose criminal responsibility is established in a conviction and whose culpability acts is determined in a sentence.³⁴⁸

252. It must be understood that in said case the Appeals Chamber made the point that reparations may differ depending on the

³⁴³ Defence Observations of 14 - 01 - 2011 / 0375 49 / C.C. Defence Consolidated Response of 16 - 01 - 2011 / 0375 64, paras. 82 and 84.

³⁴⁴ Defence Consolidated Response of 16 - 01 - 2011 / 0375 64, paras. 85 and 86.

³⁴⁵ Defence Observations of 14 - 01 - 2011 / 0375 49 / C.C. para. 70.

³⁴⁶ Defence Consolidated Response of 16 - 01 - 2011 / 0375 24, 15, paras. 85. See also Defence Observations of 14 - 01 - 2011 / 0375 49, para. 70.

³⁴⁷ Defence Consolidated Response of 16 - 01 - 2011 / 0375 24, 15, para. 87.

³⁴⁸ Lubanga Appeals Chamber, Appeals Judgment of 01 - 08 - 2012, paras. 50 - 51. Note is that rule 145 of the Rules of Evidence expounds on article 78 of the Statute, which governs determination of sentence, and prescribes that in determining the extent of reparations participation [in the commission of the crimes]. The Chamber further stated that the extent of the damage caused [in the commission of the crimes] and the reparation proceedings. Therein, in the Chamber's view, lies confirmation of the intrinsic link between the crime and the reparation proceedings.

mode of individual criminal responsibility established in
and the specific elements of that responsibility Appeals Chamber
enunciated in the applicable law to determine the scope of the liability
for participation follows a convicted person's liability must be proportionate to the harm caused, and her participation in
commission of the crimes for which he or she was found guilty of the
circumstances of the case.

253. In the first place, the Chamber held that the Defence submitted that Mr
Katanga was convicted on the basis of a mode of responsibility other than
that of which he initially stood charged.

254. Mr Katanga must be held, as convicted, on the basis of the
253) (d) of the Statute as an accessory in any other way to the
commission of a crime by a group of persons acting with a common purpose.

255. The Chamber has held that the Trial Chamber
II, sitting in its previous, mode of participation.

article 25 of the Statute provides that persons individually or jointly
responsible for a crime, including those who are instigators, for
of article 25 (3) (b), may incur a penalty akin to that provided against
a person found responsible as a perpetrator of the same crime. In the
Statute merely identifies various forms of participation, and, in a sense, the
distinction between the liability of a perpetrator and an accessory to a crime does not
under any circumstances bear a relationship to the harm caused, but the Chamber
enunciates a tariff, not even implicitly. Hence, it is not precluded that having a
may choose to mete out mitigated penalties, although to do so is
peremptory. The fact remains that neither the Statute nor the Rules
Evidence prescribe a rule for the mitigation of penalty for forms of
commission and the Chamber sets out the correlation between mode of liability

³⁴⁹ Lubanga Appeals Chamber, Appeals Judgment - 01/04/07 para. 118.

³⁵⁰ Lubanga Appeals Chamber, Order for Review - 01/04/07 para. 25, and Lubanga
Appeals Chamber, Appeals Judgment - 01/04/07 para. 108.

³⁵¹ Judgment Handing Down Conviction - 01/04/07 para. 658 and
659.

³⁵² Victims Consolidated Response of 11/04/07 para. 51.

and penalty. From this it is perceived that the crime as viewed as more reprehensible than³⁵³ an accessory

256. The Chamber best point in Lubanga Appeals Chamber, after stating that the Statute differentiates between forms of criminal responsibility by principal and accessory³⁵⁴ on the basis

this distinction is not merely terminological; making this distinction is generally speaking not harmful things being equal, a person who is found to have committed a crime himself bears more blameworthiness than a person who committed a crime of another person³⁵⁵ or persons.

257. However, the Appeals Chamber and the Trial Chamber must first and foremost examine *vis-à-vis* the specific circumstances of the case, Katanga's participation in the commission of the crimes of which he was convicted. Accordingly, the Chamber should proceed to the actual and legal elements

³⁵³Judgment Handing Down Conviction of 7 March 2012, paras. 3386-3387. See also Decision on Sentencing of 23 July 2014, paras. 84-85.

³⁵⁴ Public redacted Judgment on the appeal of Mr Thomas Lubanga Dyilo of 1 December 2014, paras. 462-463 (Lubanga Appeals Chamber, Judgment on Appeal against Conviction for the Individual Criminal Responsibility in the International Criminal Tribunal for the Congo (Oxford University Press 2012), pp. 37-38 and 67-69; see also *van der Meer and B. Burgh*, Establishing Degree of Responsibility. Modes of Participation in Article 30 of the Rome Statute of the International Criminal Court, in *Evan Sliedregt and S. Vasiliev* (eds.), *International Criminal Law* (Oxford University Press 2014), pp. 302 and 303; *van der Meer*, Organizational Criminality, in *Sliedregt and S. Vasiliev* (eds.), *Pluralism in International Criminal Law* (Oxford University Press 2014), pp. 720-721; *van der Meer*, Separate Judgment Handing Down Conviction of 7 March 2012, paras. 3389. For an opinion against differentiation of the two modes of participation and/or in the model: J. G. Stewart, *The End of Modes of Liability in International Criminal Law* (2011), p. 65. See also J. G. Stewart, *Ten Reasons for Adopting a Mode of Participation in Atrocity*, in E. van Sliedregt and S. Vasiliev (eds.), *International Criminal Law* (Oxford University Press 2014), pp. 320-321; J. M. Jolly, *Seven Canons of ICC Treaty Interpretation: Making Sense of Article 25 of the Rome Statute of the International Criminal Court* (2014), p. 73; *Dubler*, Criminalizing Co-Perpetrative Analysis of International Criminal Law (2017), pp. 1000 and 1001.

³⁵⁵Lubanga Appeals Chamber, Judgment on Appeal of 1 December 2014, para. 462, referring to *Katanga*, *International Criminal Tribunal for the Congo* (Oxford University Press 2013), pp. 147-148; *Prosecutor v. Thomas Lubanga Dyilo*, Judgment pursuant to Article 74 of the Statute, Separate Opinion of Judge Tadić, paras. 10-11, paras. 20-21, paras. 30-31, paras. 40-41, paras. 50-51, paras. 60-61, paras. 70-71, paras. 80-81, paras. 90-91, paras. 100-101, paras. 110-111, paras. 120-121, paras. 130-131, paras. 140-141, paras. 150-151, paras. 160-161, paras. 170-171, paras. 180-181, paras. 190-191, paras. 200-201, paras. 210-211, paras. 220-221, paras. 230-231, paras. 240-241, paras. 250-251, paras. 260-261, paras. 270-271, paras. 280-281, paras. 290-291, paras. 300-301, paras. 310-311, paras. 320-321, paras. 330-331, paras. 340-341, paras. 350-351, paras. 360-361, paras. 370-371, paras. 380-381, paras. 390-391, paras. 400-401, paras. 410-411, paras. 420-421, paras. 430-431, paras. 440-441, paras. 450-451, paras. 460-461, paras. 470-471, paras. 480-481, paras. 490-491, paras. 500-501, paras. 510-511, paras. 520-521, paras. 530-531, paras. 540-541, paras. 550-551, paras. 560-561, paras. 570-571, paras. 580-581, paras. 590-591, paras. 600-601, paras. 610-611, paras. 620-621, paras. 630-631, paras. 640-641, paras. 650-651, paras. 660-661, paras. 670-671, paras. 680-681, paras. 690-691, paras. 700-701, paras. 710-711, paras. 720-721, paras. 730-731, paras. 740-741, paras. 750-751, paras. 760-761, paras. 770-771, paras. 780-781, paras. 790-791, paras. 800-801, paras. 810-811, paras. 820-821, paras. 830-831, paras. 840-841, paras. 850-851, paras. 860-861, paras. 870-871, paras. 880-881, paras. 890-891, paras. 900-901, paras. 910-911, paras. 920-921, paras. 930-931, paras. 940-941, paras. 950-951, paras. 960-961, paras. 970-971, paras. 980-981, paras. 990-991, paras. 1000-1001.

that participated and determined by Trial Chamber sitting in its previous composition the Judgment Handing Down, Co-accused the preparations award for which he is liable

258. In the connection with the Chamber sitting in its previous composition Mr. Katanga

lent his assistance:

- by travelling to Beni, by forging, on behalf of the militia, alliance authorities there and by taking part, as the figure of choice, in military strategy in conjunction with such authorities;
- thereby helping the militia as a group, by making the case to the militia in Beni for its interest in the struggle against the Hema enemy, seen with the UPC;
- by assuming a role, upon return from his first trip to Beni, and, by his position of authority, the role of facilitator so as to establish smooth relations between the local commanders, the authorities in Beni and the APC, settling disputes between, amongst others, local commanders and the militia;
- by facilitating, and at times personally ensuring that the weapons from Beni were received, securely stored and distributed in an orderly manner among the various combat units which came to take delivery of their allotted share in preparation for the attack on Bogoro.

259. The Chamber reserves that Chamber sitting in its previous composition found that the attack on Bogoro was a crime delimiting from the area the Hema civilian population. The Chamber is confident, beyond reasonable doubt

[Mr] Katanga's intentional contribution to the crimes of murder (as a war crime against humanity), attack against property and pillaging (as war crimes) was significant and made in the knowledge of the intent to commit the crimes

260. Of further notes that the Decision on Sentences Chamber sitting in its previous composition mentioned the gravity of the crimes and the particularly cruel conditions in which the crimes

³⁵⁶Judgment Handing Down Conviction of ICC-01/04-01/07-2001-1067.1.

³⁵⁷Judgment Handing Down Conviction of ICC-01/04-01/07-2001-1067.1.

³⁵⁸Judgment Handing Down Conviction of ICC-01/04-01/07-2001-1067.1.

were committed.³⁵⁹ In particular, the violence and the magnitude of the crimes committed in 24 February 2003, considering only the very conditions in which the attack took place but also its discrimination against the predominantly Hema population which were such that the attack on Bogoro was one of the most significant in 2003. It furthermore had the effect of an attack on a Bogoro village to this day.³⁶²

261. That same Chamber has held that Mr Katanga made his contribution to the context of a criminal purpose harboured by many persons and whereas Mr Katanga was at the apex of the Interahamwe militia in the Democratic Republic of the Congo, it is not established that at that point in time the militia was an organized apparatus of power which exercised control over the militia and exert control over the crimes for the purposes of article 25(3).

262. As aforesaid, the Trial Chamber, sitting in its previous composition, found that combatants other than the Ngiti took part in the attack.

263. Before reaching its determination, the Chamber has underscored that it is not bound by national practices and that the view just advanced is not a defence to the order against conviction. It is a matter of fact that the totality of the harm suffered by victims, namely, the civilian population, is not the result of the insolvency of the offender and cannot be imported into the particular context of cases before the Court. It is not a defence to the charges.

³⁵⁹ Decision on Sentencing of 12 July 2012, ICC-01/03/04-01/0374-84-ENG Corr, para. 48.

³⁶⁰ Decision on Sentencing of 12 July 2012, ICC-01/03/04-01/0374-84-ENG Corr, para. 44. See also Decision on Sentencing of 12 July 2014, ICC-01/03/04-01/0374-84-ENG Corr, para. 65.

³⁶¹ Decision on Sentencing of 12 July 2012, ICC-01/03/04-01/0374-84-ENG Corr, para. 48.

³⁶² Decision on Sentencing of 12 July 2012, ICC-01/03/04-01/0374-84-ENG Corr, para. 44. See also Decision on Sentencing of 12 July 2014, ICC-01/03/04-01/0374-84-ENG Corr, para. 52.

³⁶³ Decision on Sentencing of 12 July 2012, ICC-01/03/04-01/0374-84-ENG Corr, para. 48.

³⁶⁴ Decision on Sentencing of 12 July 2012, ICC-01/03/04-01/0374-84-ENG Corr, para. 66.

³⁶⁵ Decision on Sentencing of 12 July 2012, ICC-01/03/04-01/0374-84-ENG Corr, para. 66.

³⁶⁶ See Section 3.1.1.1. nexus between alleged crimes of Mr Katanga and the crimes of which he was convicted.

plural of persons potentially responsible for having contributed to the commission of crimes which caused harm to victims. That said, must be emphasized that the competence over such crimes of a chamber tasked with overseeing the conduct of a trial is not in a position to confirm against an accused person the evidence tendered by the bench is not in a position to hold anyone responsible for every person who had part in the crime. As regards the case before the Chamber, knowledge, convictions have been against not those for the attack on Bogoro or other.

3. Reparations award for Mr. Katanga

264. The scope of the convicted person's liability is recalled, be proportionate to the harm caused, as a result of her participation in the commission of the crime for which she or she was found guilty, in the circumstances of the case. The Chamber sets the total amount of reparations at USD 10000.00.

XI. TYPE AND MODALITIES OF REPARATION

A. Types of reparations

1. Introduction

265. The Chamber calls upon rule 97(f) of the Rules of Procedure and Evidence that reparations may be awarded on an individualized basis or a collective basis (rule 98) and that individual and collective reparations are mutually exclusive and may be awarded concurrently.

266. In determining the most appropriate reparations in the circumstances, the Chamber views, to heed the expectations and needs of the victims.

³⁶⁷ Lubanga Appeals Chamber, Appeals Judgment of 28 July 2009, para. 1108.

³⁶⁸ Lubanga Appeals Chamber, Order for Reparations of 28 July 2009, para. 33.

victims the various consultations.³⁶⁹ The Chamber has regard to the facts set down in the Rules of Procedure and Evidence and any extent of damage, loss or injury to victims and the scope and modalities of reparations.³⁷⁰ It takes account of the future which has been determined by the Trial Chamber.

267. As the Appeals Chamber laid down, victims should receive appropriate, adequate and prompt reparation.³⁷¹ The Chamber also concurs that [r]eparations must to the extent achievable redress the suffering caused by the serious crimes committed [and] afford justice to the victims and the consequences of the war.³⁷² The Chamber is of the view that the extent of the harm suffered by victims is a consequence of the crimes of which Mr. Katanga was convicted.

268. What is more, the Chamber considers that reparations should be proportionate to the harm, injury, loss and damage as established by the Trial Chamber. The Chamber is of the view that, wherever possible, reparations should reflect local cultural and customary practices.

³⁶⁹ See above, Section II. INTRODUCTION, Article 75(6) of the Statute and rule 97 of the Rules of Procedure and Evidence. Lubanga Appeals Chamber, Order for Reparations, ICJ/01/0041/0361-2-A, paras. 14 and 71. See also Observations of 15 May 2015, ICJ/01/0041/0375-51-ENG paras. 97-114, the same Trial Chamber Observations of 13 May 2015, ICJ/01/0041/0375-48, para. 184. United Nations Submission of 13 May 2015, paras. 223-233. Redress Trust Observations pursuant to Article 75 of the Statute, 15 May 2015, ICJ/01/0041/0365-54, para. 85. See also Observations of 13 May 2015, ICJ/01/0041/0375-48 para. 39.

³⁷⁰ Rule 97(1) of the Rules of Procedure and Evidence.

³⁷¹ Rule 98(3) of the Rules of Procedure and Evidence.

³⁷² Rule 98(3) of the Rules of Procedure and Evidence.

³⁷³ Lubanga Appeals Chamber, Order for Reparations, ICJ/01/0041/0361-2-A, para. 44. See also United Nations, Basic Principles and Guidelines on the Right to a Remedy of Gross Violations of International Human Rights, Human Rights Commission, Humanitarian Law, 16 December 2005, accessed 17 May 2015, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>.

³⁷⁴ Lubanga Appeals Chamber, Order for Reparations, ICJ/01/0041/0361-2-A, para. 71.

³⁷⁵ See para. 59 of the present order.

³⁷⁶ Lubanga Appeals Chamber, Order for Reparations, ICJ/01/0041/0361-2-A, paras. 46 and 71.

discriminatory, exclusive or deny victims equal access to
regard, the Chamber emphasizes that reparations [&] should avoid replicating
discriminatory practices or structures that exist at the time of the crime.³⁷⁷
It is also desirable that reparations support programmes that aim to
enable victims to benefit from these measures over a long period.³⁷⁸
Ultimately, the Chamber keeps in mind that the utmost must be done
to ensure that victims themselves perceive the reparations as meaningful.

269. The Chamber notes that the TFV's assistance to victims in individual
and collective reparations is the TFV's of the operation regulated in the
Regulations of the TFV. The TFV manages its funds with a view to being
complementary to other reparations. The Chamber notes that the TFV's
regarding individual reparations is in line with the view of the Chamber that
effect is to be given to reparations and will be provided in the Section
XI. How effect is to be given to reparations.

2. Conceptual issues

270. The Chamber notes that the Statute and the Regulations of the TFV
leave both types of reparations, individual and collective. The two types
of reparations are the subject of the conceptual analysis that follows.

(a) Individual reparations

271. The Chamber regards reparations as individual when the
benefit is provided directly to the individual who has suffered the harm or she

³⁷⁷ Lubanga Appeals Chamber, Order for Compensation, paras. 47.

³⁷⁸ Lubanga Appeals Chamber, Order for Compensation, paras. 34. See also
Prosecution's Observations of 30/04/2010, paras. 17.

³⁷⁹ Lubanga Appeals Chamber, Order for Compensation, paras. 48.

³⁸⁰ Report of the Bureau on the impact of the Rome Statute on the
ASP/9/25, Appendix III, 22 November 2010, para. 19.

³⁸¹ See Section XI. HOW EFFECT IS TO BE GIVEN TO REPARATIONS

suffered a consequence of which the person was convicted. Individual reparations confer a benefit to which the person is entitled, but differently benefited is particularly the victim. Compensation paid into a bank account by the victim would be an example of individual reparations. The involvement of an intermediary in the administrative proportion of the reparations does not change the view of the Chamber that the award is individual in character.

(b) Collective reparations

272. The Chamber begins by analyzing the principle of collective reparations. When collective reparations are awarded, they address the harm the victims suffered on an individual and collective basis.

273. Of further note is the comment by the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence and the Legal Representative that the concept of collective reparations refers to the nature (type) of goods distributed among the victims and the recipients (collective group). The Chamber notes that for the Defence, collective reparations are a measure to address collective victimization or several victims administered through a collective fund. The Chamber is of the view that the observations of the International Center for Transitional Justice:

³⁸² Similarly, see United Nations Submission 6101/041/0375, para. 1517.

³⁸³ Lubanga Appeals Chamber, Order for Compensation, paras. 33.

³⁸⁴ OHCHR, Report by the Special Representative on the promotion of truth, justice, reparation and guarantees of non-recurrence, October 2014, A/69/518, para. 38.

³⁸⁵ The Prosecutor v. Thomas Lubanga Dyilo, for Victims Reparations and Draft Implementation Plan, ICC-01/041/0317-Corr-3, November 2015, [French] translation registered on 29 January 2016, paras. 165 b) and c) (Lubanga Document on Implementation Plan).

³⁸⁶ Victims Proposals of 8 December 2011, paras. 17 a).

³⁸⁷ Defence Response of 30 December 2011, paras. 48.

Collective reparations are conceived from the perspective of benefit. They are focused on delivering a benefit to groups of victims of human rights violations. These groups may be bound by a common identity or form of violation. Collective reparations may address both individual violations, such as sexual violence committed against individuals, and other instances, they might address violations affecting the population as a whole, such as those involving massacres of entire villages, the deliberate destruction of indigenous communities, or the targeting of civilian organizations, a regime or opposing

274. The Chamber determines that to receive collective reparations a group or category of persons may be bound by a shared predicament, but also by victimization by the same or a different crime within the jurisdiction of the Court. Collective reparations may be for a group, including an ethnic, racial, social, religious or cultural group, which perpetrated the crime, but also any group bound by collective hardships and suffering as a consequence of the crime of the convicted person.³⁸⁸

275. Accordingly, the Chamber holds that reparations to be of collective character, they must be for a group or category of persons who have suffered shared harm, so that the members within the jurisdiction of the Court are the victimized categories of persons in different cases. Each such person may have been the victim of the crime, or the crime may be the touchstone defining a group which may be awarded reparations. The crucial element of collective reparations is the perception of the members of the group who experienced shared harm. Accordingly, the Chamber determines that collective awards should be made only where the victims perceive themselves as having suffered shared harm.

³⁸⁸ International Center for Transitional Justice Report: Concept and Challenge of Reparations, February 2009, <https://www.ictj.org/sites/default/files/ICJ-TOJ-Rep-2009-English.pdf>, accessed 17 March 2017, by United Nations, see Nations Submission of ICJ/OM/041/0075, 50 para. 19.

³⁸⁹ In this connection the Chamber takes note of the discussions held by the experts as outlined in the TFV's submissions seeking to define the concept of collective reparations, the experts in Belfast stated that the basic principle of collective reparations is the perception of the victims of collective harm. TSV Document on Implementation Plan of 3 November 2011/041/03617-Conf, para. 174.

276. It also considers that to gain a collective remedy the group need not be vested with a prior legal personality or a prior legal personality. The Chamber holds that the view that collective reparations may be awarded to a group irrespective of how they are administered is broadly correct. It is clear that Chambers that shared harm do not necessarily suppose the violation of a collective right may be bound by a single act or omission. It is also clear that a violation of the individual rights of a large number of members of the group or individuals with a common interest.

277. What is meant by collective reparations is a form of reparation that is not exclusively for the benefit of individuals who are not members of the group.³⁹¹ By way of example, collective reparations may take the form of a rehabilitation project not put in place for the benefit of one victim, but aimed at the members of the group and the community.

278. In view of the remarks made by the experts in the Lubanga Trial Chamber II, the Chamber is of the opinion that two categories of collective reparations may be differentiated: those aimed at benefiting the community as a whole and those aimed at benefiting the individual victims of the

³⁹⁰ Similarly, see *Mege*, The case for collective reparations before the International Criminal Court in *A. J. Wemmers Reparations for victims of crimes against humanity* (2014), pp. 1-772; S. A. (University of Essex Transitional Justice Centre) *Justice for Victims of Collective Reparations and the International Criminal Court*, Briefing Paper, para. 4.

³⁹¹ See also *The Prosecutor v. Thomas Lubanga Dyilo*, First Trial Chamber Judgment, paras. 2442-2443, in practice the difference between an individual and collective form of reparation may be quite small, primarily in the role that the victim is to play in the design, implementation and their assistance.

³⁹² Lubanga Trial Chamber II Document on Implementation Plan of the Trial Chamber II, paras. 16-17.

groups as a matter of fact, as the State's concept of collective reparations and an open concept of collective reparations addressing both the group as a whole are, therefore, just one possible form of a much wider concept of collective reparations. The Chamber takes the view that this concept of collective reparations through various modalities places the emphasis on the potential benefit of such reparations both to the community and to the individual.

279. The first category of collective reparations (community reparations) therefore is intended to benefit the community as a whole and is not specifically addressed to individual members of the group. For example, the building of a school or hospital may be of general help to the community, but it may not specifically address the needs of the victims. As the Trial Chamber pointed out, such modalities of collective reparations, such as a symposium or a memorial, provide an inherently collective benefit to the community and may not be conceived in individual terms.

280. Reparations to the second category of collective reparations (individual members of the group) are those that are directed to individual members of the group. The Chamber considers, in the Legal Representative of the Defence's submission, that some forms of collective reparations might result in individual benefits, such as the provision of medical care to all members of the group, which is provided to all members of the group, but which is specifically addressed to individual victims. Such collective reparations are individualized and provided to group victims, but allow for the benefit to be adjusted to the

³⁹³Lubanga TFV Document on Implementation Plan of 3-NOV-2011/001/03, ICC para. 171.

³⁹⁴Lubanga TFV Document on Implementation Plan of 03-NOV-2011/001/03, ICC para. 169.

³⁹⁵Lubanga TFV Document on Implementation Plan of 03-NOV-2011/001/03, ICC para. 169; Victims' Proposals of 8 Dec 2011/001/03, para. 17; Defence Response of 30 December 2011/001/03, para. 48.

particular need and if not put otherwise, this is a collective reparations focused on individuals themselves

3. Determination of the Chamber

281. The Chamber is of the view that for the reasons that are set forth in the case reparations aim to be individual, in accordance with (9) and (12), and on a collective, in accordance with (9) and (13) of the Rules of Procedure and Evidence

282. First and foremost, it is noted that the Chamber is of the view that the Registry, the Prosecution and the Organization authorized to file observations but that the TFV considers appropriate award reparations aim to be individual and a collective. It is noted that the Legal Representative of the Defence are agreed that the award of collective measures and individual measures in the form of symbolic amounts of money. The Legal Representative sets out that the individual approach as the victim has suffered individual. Nonetheless, it is noted that there is nothing that precludes the award of more reparations mechanisms operating on a collective basis

³⁹⁶ Victims Observations of 15 May 2012/ICJ/0375515-13 paras. 95-104; Victims Consolidated Response of 11 June 2012/ICJ/0375515-13 para. 62.

³⁹⁷ Defence Observations of 14 May 2012/ICJ/0375491-13 para. 86; Defence Consolidated Response of 16 June 2012/ICJ/0375491-13 paras. 112-118.

³⁹⁸ Registry Observations of 15 May 2012/ICJ/0375515-13 para. 13.

³⁹⁹ Prosecution's Observations of 30 April 2012/ICJ/0375445-13 para. 22.

⁴⁰⁰ United Nations Submission of 14 May 2011/ICJ/0375150 paras. 242-243; Defence Consolidated Response of 16 June 2012/ICJ/0375491-13 para. 87; Defence Consolidated Response of 15 May 2012/ICJ/0375491-13 para. 85 and TIJ Submission of 14 May 2015, 01/0375515 paras. 228

⁴⁰¹ The TFV nonetheless acknowledges that the types and amounts of reparations should be based on the assessment of the extent of harm experienced by victims, as evidenced by consultations and/or evaluations. Likewise, it should be based on the findings regarding the individual proposals of appropriate reparations (of 13 May 2015, ICJ/0375491-13 para. 134).

⁴⁰² Victims Proposals of 8 December 2011/ICJ/037520, paras. 19-20; Defence Response of 30 December 2011/ICJ/037722, para. 64.

⁴⁰³ Victims Consolidated Response of 11 June 2012/ICJ/03756250 paras. 64-62

283. The Chamber notes that the American Centre for Human Rights and the African Commission on Human and Peoples' Rights, in the *Case of the Economic Community of West African States*,⁴⁰⁴ in similar circumstances ordered the simultaneous implementation of individual reparations.

284. Turning specifically to reparations, the Chamber notes that the Redress Trust's submission that domestic courts as additional justice mechanisms have ordered individual reparations where large numbers of victims were involved. The Chamber observes that the United Nations and the Registry have argued that collective reparations may be in addition to, but not instead of, individual reparations.⁴⁰⁵ The Chamber notes that in recommending a combination of individual and collective reparations the Truth and Reconciliation Commission for South Africa stated

The individual reparations are granted to persons suffering due to his/her experience of a gross human rights violation. It is based on the

⁴⁰⁴The Chamber notes that individual reparations have been via a number of orders in the form of a fiduciary or trustee arrangement. See, for example, *Case of the American Centre for Human Rights v. Guatemala*, paras. 23; *Case of the American Centre for Human Rights v. El Salvador*, paras. 118 and 208; *Case of the American Centre for Human Rights v. the State of the Dominican Republic* (Preliminary Objections, Merits, Reparations), 15 June 2005 (194).

⁴⁰⁵See e.g. *Case of the African Commission on Human and Peoples' Rights v. Kenya* (Minority Rights of Endorois Welfare Community) No-227/V/08, 10 September 2009 (ACHPR), Human Rights Organisation & Centre on Housing Rights and Eviction Communications No 239/2006/05-2713, 13 May 2009; *Case of the African Commission on Human and Peoples' Rights v. Nigeria* (SERAC) and the Centre for Economic and Social Rights (CESR) 155/96-2713, 13 October 2001.

⁴⁰⁶See *Case of the ECOWAS Community Court of Justice v. the Republic of Nigeria* (Judikatou Mani Koraou v. The Republic of Nigeria) No-17/08, 17 October 2008; *Case of the ECOWAS Community Court of Justice v. Nigeria* (CCJ/JUD/18/12), 14 December 2012.

⁴⁰⁷Redress Trust Observations of 0115/011/0355, paras. 17 and 29.

⁴⁰⁸See *Case of the Redress Trust Observations of 15-011/0420035, 54 paras. 23-31*

⁴⁰⁹Ex parte Annex 1 to the Report on applications for reparations in accordance with the Order of 27, A.C.C. 011/0375-1-2 on Exp. Annex 1, dated 16 December 2014, translation registered February 2015, A.C.C. 011/0375-1-2 on Exp. Annex 1, para. A.1.1.1 to the Registry Report of 16 December 2014 on Submission by C-04/04 May 2015, 01/0375-50 para. 22. also High Risk Tribunal for East Africa, *Case No. 26* February 2016, Judgment 10720-1-2002 of 2, pp. 5-9. In its judgment, the Tribunal was directed to implement a comprehensive set of measures with an individual, collective and impact benefit the victims of sexual violence and forced disappearance.

of human rights violations have a right to a fair trial. The individual reparation grant provides resources to victims in an effort to restore

285. The Chamber also underscored that where collective reparations, individual reparations ensure that the victim does not feel excluded, marginalized or stigmatized. The Chamber further held that individual reparations are important to the victims and may, in addition to the material relief orders and symbolic acknowledgment of the harm suffered. The Chamber also considered that individual reparations allow the victims to regain their self-sufficiency to make decisions for themselves on the basis of their

286. The Chamber is of the view that access to collective reparations could prove difficult for victims who no longer live in their individual reparations, due to the complex nature of the conundrum

287. Ultimately, the Chamber calls for finding that victims are eligible for reparations in its view, a figure which makes individual awards feasible

288. Turning to collective reparations, the Chamber considers its definition laid down above, the victims the task is to identify the group which suffered shared harm at the time of the attack on the group. It must be that the group is a joy of victimism in the case before it. Moreover, from the application which said victims submitted to the Chamber, even though individual did not

⁴¹⁰Report of the South African Truth and Reconciliation Commission, paras. 100-101, <http://www.justice.gov.za/trc/report/finalece.htm>, accessed 17 November 2017.

⁴¹¹United Nations Submission of ICJ 04/0041/0275, para. 19.

⁴¹²Victims Proposals of 8 December 2001/237120, para. 10.

⁴¹³Annex 1 to Registry Report of 16 December 2001/23754, 2001 Annex 1, para. 68; HRC and TIJ Submission of ICJ 04/0041/23751, para. 29.

⁴¹⁴Similarly Decision on Sentence, para. 52. See also paras. 13-15 of ICJ 04/0041/0275, para. 104.

⁴¹⁵Of note in this regard, the Trial Chamber determined that collective reparations were more appropriate in the limited number of individuals who had reparations versus the total number of victims. Trial Chamber I, Decision on Reparations, ICJ 04/0041/0269, para. 0.4.

⁴¹⁶See para. 274 and 275 of the present order.

suffer the same harm, either in themselves or as a group which was subjected to the attack on. According to the Chamber, at least said persons may receive reparations on a collective basis.

289. The Chamber further regards reparations as appropriate in the case in that they would address shared needs and suffering of the victims. Further, such collective reparations could foster reconciliation.

290. In this context, the Chamber reads the Registry's comment that [s]ubject to the concerns and risks identified by victims, adequately framed collective measures provided to the victims in addition to individual awards may provide a positive relief in the affected communities.

291. Further, the Chamber takes account of the United Nations' view that collective reparations may be considered as a way to fill the gap where individual reparations do not completely address the harm suffered by victims in mass crimes or other community.

292. It must, moreover, take into account the limited size of resources which are often available.

293. Having regard to the Chamber's findings in addition to individual reparations, collective reparations are appropriate in the instant case.

⁴¹⁷In this regard, M. Bécard and H. Van der Meer, *Reparations en Afrique Australe* and *Études africaines* (2004) 32623, para. 7, who point out the disadvantage of reparations mechanisms: they do not include any measures to facilitate the return of victims. See also *Subang Appeals Chamber, Appeals Judgment - 01/04/06*, paras. 2190-2191. The Chamber notes that there is a sense among the victims that the Congolese victims (Observations, 2005/04/037514, para. 25).

⁴¹⁸Annex 1 to the Registry Report of ICCD/04/037512-01-E4P, para. 94.

⁴¹⁹United Nations Submission, ICCD/04/037512-01-E4P, para. 22.

⁴²⁰HRC and TIJ Submission, ICCD/04/037512-01-E4P, para. 36.

294. That said, the Chambers consider that collective reparations should be the utmost priority for the victims and individuals in the context of the conflict. In that regard, the concept of collective reparations is a concept which places the emphasis on the benefit to both the individual and the community.⁴²² In that vein, the Chambers find that TFV underlined in its Annual Report Summary for that reparations proceedings at all stages should be organized with a victim's participation therein that should provide a direct and absolute benefit to the Chamber as a result of the position of the Legal Representative of the community. Reparations should be organized in a way that would go some way to meet the expectations.

295. According to the Chambers, it determines that appropriate and effective reparations which are designed to provide a meaningful remedy for the harm suffered by victims.

B. Modalities of Reparation

1. Introduction

296. Having determined the types of reparations, the Chambers call attention to article 75(1) of the Statute as the most appropriate modality of reparation on the basis of the specific circumstances of the case at hand. The case at hand is appropriate for modalities of reparations determined by reference to

⁴²¹ Similarly, see and TIJ Submission of C-01/04/07, para. 36.

⁴²² See also Section XI.C. Conceptual Issues.

⁴²³ TFV, Annual Report Summary p. 11 (TFV Annual Report Summary 2016, http://www.stfundforvictims.org/sites/default/files/imce/summary_2016_LR_C01_17_March_2017).

⁴²⁴ Victims' Observations of 15 October 2012, paras. 99-104. See also Victims' Observations of 8 January 2010, para. 27.

⁴²⁵ Lubanga Appeals Chamber, Appeals Judgment of 10 October 2012, paras. 101-102. See also TFV Observations of 13 May 2012, para. 134.

harm caused which the reparations seek to redress, and the Chamber attentive to victims' needs.

297. The Chamber calls attention to the fact that reparations are not confined to those set down in article 75(1) of the Statute. Compensation and rehabilitation may also be appropriate modalities of reparations, for instance, of symbolic, preventative or transformative value.

2. Ruling of Chamber

a. Modalities of individual reparations

298. The Chamber recalls that the legal Representative and the Defence suggested that a symbolic amount of 100,000 RWF be granted to the victims. The Chamber takes the view that a symbolic amount is a way of compensation which acknowledges personal and symbolic suffering and suffering occasioned. In the case at hand, the Chamber considers that

⁴²⁶ Lubanga Appeals Chamber, Appeals Judgment of 10 October 2012, paras. 1200; See also UN General Assembly Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Humanitarian Law, A/RES/60/147, 16 December 2005, paras. 15-17. Observations of the Prosecution, 13 May 2015, ICJ/01/037548, para. 134.

⁴²⁷ See above 20 of the present order.

⁴²⁸ In this regard, see the principles enunciated by the Appeals Chamber, Order for Reparations, 10 October 2012, paras. 334-335. See also the modalities ordered by the Appeals Chamber, Order for Reparations, 10 October 2012, paras. 39.6-39.7. See Prosecution's Observations, 10 April 2015, ICJ/01/037544, para. 24.

⁴²⁹ Victims' Proposals of 8 December 2011, ICJ/01/037120, paras. 80-81.

⁴³⁰ Defence Response of 30 December 2011, ICJ/01/037122, paras. 4-5.

⁴³¹ See also The individual reparation grant is an acknowledgement of a his/her experience of a gross human rights violation (South African Commission, Truth and Reconciliation Commission of South Africa. Report of the Commission, 2002, paras. 17.1-17.2. <http://www.justice.gov.za/trc/report/financial/appendix/vol11/march5.pdf>, p. 20.

Individual symbolic recognition emphasizes the importance of remembering not merely a statistic but actual people who often suffered intolerable cruelty. Normative Theory of Reparations, *Diem Traas*, *Metaphilosophy* 37(3/4) (2006), p. 33. See Report of the High Level Panel on Humanitarian Cash Transfers, *How Do we Give Cash to the Poor?* (2011), p. 15. Humanitarian aid, Center for Global Development, *How to Give Cash to the Poor* (2011), p. 15. effect way to reduce suffering

such individuals acknowledge the meaning of Mr. Kata's victory, as given to the victims which they were subjected to.

299. The Chamber concurs with the legal representatives, however, considers that a more substantial award of compensation that is meaningful to the victims but not the sole focus within the community.

300. From that standpoint, the Chamber states that each victim to whom it has accorded a symbolic award of USD 250 compensation scores the award towards not intended as compensation for harm in itself. Yet the Chamber believes that that award may provide some measure of relief from harm suffered by the victims. It could help the victims become financially independent, if they purchase the stock to set up a small business. In any case, the victims should be able to take their own decisions on the basis of their needs.

b. Modalities of reparations

301. In the application of personal compensation, the Chamber sets out that most requests for modalities of reparations are framed in terms of economic development/financial aid, such as support for agricultural education. The Chamber, however, notes that the victims specifically requested modalities such as commemorative events, broadcasts of the trial, the erection of monuments, the tracing of missing persons.

⁴³²Victims' Proposals of 8 December 2001, para. 10.

⁴³³See Lubanga Appeals Chamber, Order of 12 April 2004, paras. 29-33. The Prosecution points out that that consideration applies also to collective reparations (see Observations of 30 April 2001, paras. 14-15).

⁴³⁴See Resolution of 22 November 1999, para. 19.

⁴³⁵Similarly, see Annual Report Summary 2016.

⁴³⁶Annex 1 to the Registry Report of 6 October 2004, paras. 1-20, E4 p. 24-32.

⁴³⁷Victims' Observations of 8 January 2004, para. 24.

reasons for doing so are bound up with the sense among them that some of the suggestions at this point could cause fresh trauma or exacerbate existing

302. The Chamber notes that his most recent, at the Legal Representative's specific and manifestly collective wish, in his view may provide efficacious relief from the harm suffered through support measures: (2) an income-generating activity support measure; (3) an education assistance measure; and (4) a measure designed to provide psychological support. The measures submitted reflect the wishes voiced by the victims and are intended to involve them in and protect them at the hearing and in the proceedings. The Defence does not oppose the Legal Representative's proposals.

303. As explained above, the Chamber's view that the reparations must be designed to benefit Mr Katanga and the victims is clear. Thus, to its mind, the form of collective reparations must be decided by the Legal Representative and the individual victims in the question to be addressed. What is in the Chamber's opinion, the form of reparations could contribute in a meaningful way to the alleviation of the harm which the victims suffered, individually and collectively.

304. The set of modalities of collective reparations proposed would appear appropriate to the Chamber's view that collective reparations designed to benefit victims should be of a type that forms support for

⁴³⁸Victims Observations of 8 January 2011/001/07 para. 30.

⁴³⁹Victims Observations of 8 January 2011/001/07 para. 24.

⁴⁴⁰Victims Proposals of 8 December 2011/001/07 paras 191-200. One of the reasons is that in the DRC and Uganda the TFV has already implemented psychological and physical and material support projects, such as economic development projects, employment and education opportunities (Victims' Programme Progress Report, September 2015).

⁴⁴¹Victims Proposals of 8 December 2011/001/07 para. 190.

⁴⁴²Defence Response of 30 December 2011/001/07 para. 4.

⁴⁴³Victims Observations of 8 January 2011/001/07 para. 28.

housing support and income-generating activities and psychological support

305. The Chamber shares the Legal Representative's view that the modalities of reparations must retain flexibility and ensure that reparations are commensurate with the harm suffered by victims. Categorization of beneficiaries for example, according to the extent of harm suffered, should achieve that end.

C. Conclusion

306. In sum, the Chamber awards individual reparations in the form of a sum of US \$250. In addition, the Chamber makes an award for collective reparations in the form of support for housing support for income-generating activities and psychological support. The Chamber wishes to make plain that collective reparations designed to benefit victims include an explanation to inform the victims and foster their trust in the measures.

⁴⁴⁴Victims' Proposals of 8 December 2011/2011-2013-CP-6-7023. See also HRC and TIJ Submission of 14 May 2015/2015-CP-6-7023, para. 30.

⁴⁴⁵Lubanga Appeals Chamber, Order for Compensation of 24 January 2012/2012-AR-67-29, para. 45.

⁴⁴⁶The Defence envisages categorization of beneficiaries based on need, such as cattle or standard of living, etc. It could be envisaged that Applicants would request housing support; those who could ask for a livestock farming kit, etc. Response of 30 December 2011/2011-CP-6-7023, para. 12.

⁴⁴⁷The Legal Representative puts forward four categories of victims in order of harm suffered. For each category, he suggests a maximum award, whereby he combines support for housing, support for income-generating activities and support for education. Nevertheless, for all categories he proposes that the measures be similar: psychological support and disbursement of a sum of US \$250. Victims' Proposals of 8 December 2011/2011-CP-6-7023, para. 703.

⁴⁴⁸See Victims' Observations of 8 October 2011/2011-CP-6-7023, para. 28.

XII. HOW EFFECT IS TO BE GIVEN TO THE ORDER FOR REPARATIONS

A. Draft implementation plan

1. Procedure for the adoption of the draft implementation plan

307. Acting pursuant to (2) and (3) Rules of Procedure and Evidence and Article 54 of the Regulations of the CFV, the Chamber directs TFV to prepare a draft plan for the implementation of the order for reparations (Draft P) on behalf of Mr Katangwa whom the Chamber has identified. The Draft Plan Chamber understands in accordance with Regulations 59, 66 and 97 of the Regulations of the TFV.

308. So as to discharge the utmost responsibility for monitoring and overseeing the implementation of reparations ordered by the Chamber, the Chamber lays down the procedure for approval of the Draft Plan.

309. In the first instance, the Chamber directs TFV to develop a Draft Plan which must be put before the Chamber within three months of the order for reparations. The Draft Plan shall set out a program, describing the reparations projects which the TFV intends to develop in effect the order. The TFV shall, in crafting the Draft Plan, rely on the modalities determined by the Chamber. The Chamber directs TFV to impart to the Chamber the particulars of the projects, including a description of the projects, the costs, and the modus operandi for the adoption and implementation of the order for their oversight.

⁴⁴⁹ See Section XI. TYPES AND MODALITIES OF REPARATIONS

⁴⁵⁰ It is suitable, in the view of the Chamber, for compensation in the form provided as a cash transfer, either in the form of a plastic card or an e-mobile telephone so as to give the victims a dedicated facility which is subject to a report of the High Level Panel on Humanitarian Cash Transfers. How cash transfers can transform development. Global Development September 2015; p. 7. In most contexts, humanitarian cash transfers can be safely, efficiently and accountably.

Chamber⁴⁵¹The Chamber points out in this connection that the victims' views proposals regarding the modalities which they also most appropriate⁴⁵²The Chamber remains cognizant that not all of the modalities might be adopted down to last detail wherever the TFV of the view that it cannot incorporate measures in the modalities, it shall account for that decision.⁴⁵³

310. Furthermore, the TFV shall, within the draft Plan, appropriate measures to ensure the safety, physical and psychological well-being and the privacy of the victims and should proceed on a general basis, such that the reparations are accessible to all of them.⁴⁵⁴ More importantly, priority may need to be given to certain victims, particularly in a vulnerable situation or where urgent assistance⁴⁵⁵The TFV shall take on board the views of experts who are to be consulted before submission of the Plan.

⁴⁵¹In this connection, the Chamber has mulled with care the interests of the TFV in other cases before the Chamber. In the *Prosecution v. Bemba et al.* (TFV) said: it falls within the Trial Chamber's discretionary authority under these provisions to determine to order any combination of individual reparations, collective reparations, and reparation to a victim's organization (Observations relevant to reparations, The Trust Fund for Victims, ICJ/01/001/0384/57, para. 104). In the *Prosecution v. Thomas Lubanga Dyilo* (TFV) you set out some valuable considerations regarding the victims' savings and loans association in the context of collective reparations (Information regarding Collective Reparations, ICJ/01/001/0362/73 paras. 126). The Chamber heeds the remarks and draws on them *mutatis mutandis*.

⁴⁵²See Section XI. TYPES AND MODALITIES OF REPARATIONS, Regulations of the Chamber, Order for Reparations, ICJ/01/001/0361/200x A, paras. 29 and Regulation 55 of the Regulations of the TFV.

⁴⁵³Lubanga Appeals Chamber, Order for Reparations, ICJ/01/001/0361/200x A, para. 70.

⁴⁵⁴See Section II. INTRODUCTION, Lubanga Appeals Chamber, Order for Reparations, ICJ/01/001/0361/200x A, para. 34. See also Prosecution's Observations, 2015, ICJ/01/001/0375/44, para. 15.

⁴⁵⁵Lubanga Appeals Chamber, Order for Reparations, ICJ/01/001/0361/200x A, para. 34. See also Prosecution's Observations of 30/001/0372/45 para. C18 and Victims' Proposal of 8 December 2016, ICJ/01/001/0377/20, para. 89.

⁴⁵⁶Lubanga Appeals Chamber, Order for Reparations, ICJ/01/001/0361/200x A, para. 34. See also Prosecution's Observations of 30/001/0372/45 para. C18 and Victims' Proposal of 8 December 2016, ICJ/01/001/0377/20, para. 92.

⁴⁵⁷Regulation 55 of the Regulations of the Chamber, Order for Reparations, ICJ/01/001/0361/200x A, para. 79.

311. Upon the Draft Plan being laid before the Chamber, the parties will be afforded one month in which to make observations on matters affecting their interests and rights.

312. The Chamber will examine the Draft Plan and, where it may be amended, it will consider the needs of the parties in particular, and if it is of the view that the TFV should be obliged to address requests, if any, the TFV regarding the Draft Plan.

313. The decision whereby the Chamber approves the Draft Plan is for the TFV to carry out its duties very respectfully and to collect the Chamber's requirements for regular updates from the TFV to monitor and assess the implementation of the Draft Plan.

314. Lastly, it must be made clear that any matter of concern arising from the Chamber's decisions that the TFV may be brought before the Chamber at any point in the procedure.⁴⁵⁹

2. Mr Katanga's contribution to and cooperation in reparations

315. The Chamber is of the view that any person who contributes to the reparations process by way of a delay to individual victims or to the victims, on a public or confidential basis.⁴⁶⁰

316. The Chamber reserves the view that Defence counsel Mr Katanga is willing to assist, in his fullest capacity, in any rehabilitation program of the Chamber Trust Fund.⁴⁶¹

⁴⁵⁸ See Lubanga Appeals Chamber, Order for Repeal of Regulation 29 of the Regulations of the TFV, paras. 75-76. See also regulation 57 of the Regulations of the TFV. See also regulation 69 of the Regulations of the TFV.

⁴⁵⁹ Lubanga Appeals Chamber, Order for Repeal of Regulation 29 of the Regulations of the TFV, para. 76. See also regulation 69 of the Regulations of the TFV.

⁴⁶⁰ Lubanga Appeals Chamber, Order for Repeal of Regulation 29 of the Regulations of the TFV, para. 67 viii.

⁴⁶¹ Defence Response of 30 December 2011, paras. 29-30.

317. The Chamber concurs with the holding of the Trial Chamber that wherever possible, efforts should be made to encourage reconciliation between the convicted person, the victims of the crimes and the affected community.

318. According to the Defence, the direct approach to reparations should take into account the contribution of Mr. Katanga, and that the desire to provide reparations which for instance could be by way of a letter of apology, public apologies, or the holding of a reconciliation ceremony has served his sentence.

3. Reparations other than benefits which the victim already received from other bodies

319. The Chamber recalls that in selecting the projects to fund, it may take account of the awards or benefits received by victims from other sources, and that reparations should not be applied unjustly or in a discriminatory manner.

320. The Chamber notes that it is difficult to involve every victim in the process of reparations, and that the TFV should take account only of the most serious victims.

4. States and stakeholders

321. The Legal Representative of the Government of the DRC should devote much effort to take part in the implementation of reparations. [TRANSLATED] concerning its success [TRANSLATED] will in part

⁴⁶² Lubanga Trial Chamber I, Decision on Reparations of 18/09/2010, para. 193.

⁴⁶³ Lubanga Appeals Chamber, Order for Reparations of 11/03/2011, para. 9; See e.g. Requête des victimes sollicitant par l'entremise de la Défense le droit de participer au processus de réparation en République Démocratique du Congo au processus de réparation de 21/03/2016, para. 25, (Victims Request of 24 March 2016); First Defence Observations of 11/04/2016, para. 20; Defence Observations of 15/04/2016, para. 14 and Defence Consolidated Response of 16/04/2016, para. 53. See e.g. Victims Request of 24 March 2016, 001/037674, para. 24; Defence Response to the Requête des victimes sollicitant par l'entremise de la Chambre l'intervention de la République Démocratique du Congo au processus de réparation de 21/03/2016, para. 15. [French] translation registered on 25 April 2016/001/037683, para. 15. Defence Response of 15 April 2016, para. 15.

depend on the involvement of the DRC.⁴⁶⁴ Furthermore, the Legal Representative's role in the present proceedings does not absolve the Government of the DRC of its responsibility towards reparations to its citizens under the treaties and domestic legislation⁴⁶⁵ and the Government has hitherto cooperated a considerable extent.⁴⁶⁶ The Defence supports the Legal Representative's submission⁴⁶⁷

322. The Legal Representative maintains the present order for reparations should refer to the mechanisms for disbursing awards to victims of the convicted persons and a single air⁴⁶⁸

323. It must be noted that article 67(5) of the Statute lays down that nothing in this article shall be interpreted as prejudicing the rights of international⁴⁶⁹ law or order for reparations, not therefore relieve States Parties of their liability towards reparations pursuant to other treaties or domestic legislation.⁴⁷⁰

324. The Chamber could further read a duty of cooperation with the Court is cast on States which Parties intend to facilitate enforcement orders for reparations and implementation of reparations.

325. The Chamber calls that on September 2016 the Government of the DRC made known its interest in participating in the present proceedings.

⁴⁶⁴Victims' Request of 24 March 2014/0042/0376, para. 12. The Legal Representative like to see the DRC's involvement take the following forms: (1) measure between the local communities especially by states; also Victims' Observations of 8 January 2014/0041/0375, paras. 25 and 49); (2) schooling victims' children and children orphaned by the conflict; (3) to be provided with suitable housing (para. 21); (4) monetary contribution to the TFV (para. 49). See also TIJ Submission of 14 March 2015/0041/0375, paras. 35 and 40.

⁴⁶⁵Victims' Request of 24 March 2014/0041/0376, para. 23.

⁴⁶⁶Victims' Request of 24 March 2014/0042/0376, para. 24.

⁴⁶⁷Defence Response of 15 April 2014/0042/0376, para. 83.

⁴⁶⁸Victims' Observations of 8 January 2014/0041/0375, para. 38.

⁴⁶⁹See also Appeals Chamber, Order for Reparations of 10 April 2014/0041/0375, para. 9.

⁴⁷⁰See articles 25 and 75(6) of the Statute.

⁴⁷¹See Parts 9 and 10 of the Statute.

Accordingly, the Chamber directs the TFV to give consideration to the legal
Representative's submission and to contact the Government of the DRC with a view
to establishing a way to contribute to the reparations process.

B. Funding of reparations

1. Mr Katanga's current financial situation

326. The Chamber calls upon Mr Katanga to provide information on his reparations at
USD 100,000.⁴⁷³

327. The Chamber shows that Mr Katanga was found indigent for the
purposes of the proceedings instituted by the Office of the Prosecutor.⁴⁷⁴ The
Registry found that Mr Katanga does not appear to own any property or
asset which may be used to satisfy his reparations.⁴⁷⁵

328. Accordingly, the Chamber finds Mr Katanga indigent for the purposes of
reparations and orders the following:

329. In the context of the Chamber's findings, the Chamber, with the assistance
of the Registrar, monitors Mr Katanga's financial situation on an ongoing basis in
accordance with regulation 117 of the Regulations of the Court.⁴⁷⁶ The Chamber
recalls in this regard that full cooperation with the Court is a duty of the
Parties.⁴⁷⁶ The Chamber will, in due course, determine whether it should seek the

⁴⁷²The Prosecutor v. Thomas Lubanga Dyilo, Report du Greffier sur l'exécution de la
Décision 01/041/07-17 dated 28 September 2016, registered on 14 October
2016/0324 Annex 8 (a redacted version was filed that same day).

⁴⁷³See Section X. MR KATANGA'S LIABILITY FOR REPARATIONS.

⁴⁷⁴Decision of the Registrar on the applications for legal assistance provided to
Mr Germain Katanga, 22 November 2014, ENOC. See Observations du Greffier
relatives à la solvabilité, l'indemnisation des victimes et au comportement
dated 4 April 2014 and reclassified as public on 10/04/2014, 50 pages, 12
and one confidential annex. See CASP/RES/10, adopted at the 12th plenary
meeting on 17 December 2014 by consensus, para. 11 (Resolution of 17
December 2014).

⁴⁷⁵Registry's report on the financial situation of Mr Germain Katanga, 14
October 2014, ENOC, 20 pages, 12 and one confidential annexes.

⁴⁷⁶See Parts 9 and 10 of the Statute.

assistance statistics give effect to the order for reparations as to article 75 (1) of the Statute

2. Funding of reparations where a convicted person is indigent

330. The Chamber notes that where an account of indigent convicted persons not in a position to provide for reparations, the TFV may complement the resources collected through awards for reparations with the necessary funds from its other resources foreseen by regulation 56 of the Regulations of the TFV.

331. In that connection the Chamber notes the TFV's contention that the absence of reference to regulation 56 of the Regulations of the TFV in Rule 98(2) of the Rules of Procedure and Evidence does not preclude individual reparations awards that the resources of the TFV are not intended to complement individual reparations such as financial contributions in the view of the TFV regulation 56 of the Regulations of the TFV. It is in a position to complement awards by awards of reparations no such obligation regarding individual awards. The TFV's submission of Rule 98(2) of the Rules of Procedure and Evidence requires that individual reparations be funded by the convicted person in the TFV's view as a decision of the part of the Statute which adopted the Regulations of the TFV managing

⁴⁷⁷Regulations of the Trust Fund for Victims (TFV) adopted at the 4th plenary meeting on 3 December 2005 by the Security Council, the Rules of Procedure and Evidence of the Appeals Chamber, Judgment on the Appeal of the Prosecutor against the Trial Chamber I Judgment on the Appeal of the Prosecutor against the Trial Chamber I, paras. 115. See also TFV Observations of 13 October 2010/165748 para. 127; Victims Observations of 8 January 2011/1601/037514 para. 39. The Chamber, however, underlines that the involvement of the TFV does not absolve the convicted person of his or her responsibility and must (Leubal Appeals Chamber, Appeals Judgment on the Appeal of the Prosecutor against the Trial Chamber I, paras. 115; See also Appeals Chamber, Order for Reparations of 13 October 2010/165748 para. 139.

⁴⁷⁸TFV Observations of 13 October 2010/165748 para. 139.

⁴⁷⁹Rule 98(2) of the Rules of Procedure and Evidence provides that an award for reparations against a convicted person be deposited with the Trust Fund for Victims making the order it is impossible or impracticable to make individual awards.

its resources for the purpose of enabling individual reparations. Lastly, the Chamber has decided whether to complement reparations awarded in a case by the Board of Directors of the reparations with competing activities undertaken pursuant to a set of down regulations of the Regulations of the TFV with the other ongoing proceedings before the Court which may give rise to other reparations.

332. The Chamber emphasizes that article 75(1) of the Statute provides that reparations may be by way of collective or individual reparations. The Appeals Chamber in *Lubanga* said that compensation should be envisaged as a modality of reparations or collective reparations which would let out its individual reparations.⁴⁸²

333. The Chamber recalls further article 71 of the Rules of Procedure and Evidence makes express provision for two types of reparations: collective and individual. What is more, the Appeals Chamber finds that the two types may be awarded concurrently.⁴⁸³

334. According to the Chamber, it is where the Trial Chamber examines the issue of reparations to be awarded, it is open to the Chamber in view of the specific circumstances of the case to either award individual reparations or collective reparations, and to determine appropriate modalities of reparations in the circumstances of the case. Having acknowledged that it will do the same in the present case.

⁴⁸⁰ *Lubanga* TFV Document on Appeal, para. 205.

⁴⁸¹ *Lubanga* Appeals Chamber, Appeals Judgment, para. 1103.

⁴⁸² *Lubanga* Appeals Chamber, Order of the Appeals Chamber, para. 67.

⁴⁸³ *Lubanga* Appeals Chamber, Order of the Appeals Chamber, para. 33.

⁴⁸⁴ It is noted that the TFV acknowledged the distinction in *Daoud* Bench (The Prosecutor v. Thomas Lubanga Dyilo, Observations of the Trust Fund for Victims Appeals against Trial Chamber I's Decision establishing the principles and procedures for reparations, April 8 2013-01/001/03009, para. 118 and TFV Observations of 13 IC 01/001/037548, para. 49).

meaningful for the victims⁴⁸⁵ the Chambers in addition to dedicated reparations for make a symbolic award of US\$250 compensation to the victims in the⁴⁸⁶ case

335. In the view of the Chamber, it is not a matter of awarding reparations where the conditions are applied irrespective of the status of the individual persons liable for reparations. Furthermore, it is not the burden of a contingent fund should not be the victim's responsibility to award individual reparations should not hinge on the conduct of the convicted person

336. It is to be acknowledged that as prescribed by article 50 of the Regulations of the TFCV, whether the Fund is to be drawn from the resources of the TFCV to complement the resources collected through awards of reparations within the scope of the Board of Directors⁴⁸⁷ in the TFCV connection, the Chamber notes that regulation 50 of the Regulations of the TFCV provides that the Board of Directors shall make all reasonable endeavours to manage the Fund taking into consideration the need to provide to complement payments⁴⁸⁸ for awards

337. That said, the Chamber notes that the provision in the Regulations of the Board of Directors for the TFCV's resources to complement individual reparations in the Regulations does not impose such an obligation

338. The Chamber points out that a guideline is to earmark individual reparations at around 7% of the sum total of reparations awarded and is a modest amount. As aforementioned, this would allow individual

⁴⁸⁵ See paragraph 26 of the present Report of the Bureau on the impact of the Rome victims and affected persons, Appendix III, 22 November 2010, para. 1.

⁴⁸⁶ See Section XI. TYPES AND MODALITIES OF REPARATIONS

⁴⁸⁷ Lubanga Appeals Chamber, Appeals Judgment-01/04/06-2010, paras. 51, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114.

⁴⁸⁸ See also Resolution of 17 December 2013, I.C.J. Cr. 16; - R.S.B. 10/10/10, adopted at the 12th plenary meeting on 23 November 2013 by consensus ASP/11/Res.7, adopted at the 8th plenary meeting on 21 November 2012 by

reparations of symbolic value and the figure which the Chamber has determined reflects the gravity of the crime. The individual acknowledges that if they suffered

339. It is more over this Chamber's view that the reparations would, for the most part, be a mark of delivery of justice and of the harm done to the victims as a result of the crimes committed in Kaya'hga were it not for the almost unanimous preference for awarding only collective reparations.

340. Finally, the Chamber has established that the TFV is to be used to benefit the victims of crimes within the jurisdiction of the Court, which has the rule 85th Rules of Procedure and Evidence

341. So were the Board of Directors to use the TFV and other resources and implement the collective reparations in the case the Chamber has the view that other resources could also be used for the individual reparations awarded

342. Having regard to the fact that the Board of Directors of the TFV advise the Board whether it is to use other resources for the funding and implementation of the reparations, the Draft Plan then may amount to a specific plan which the Board of Directors of the TFV to avail itself of in the future by the instruments the Court to afford consideration of the provisions applicable to reparations with a view to award reparations which are meaningful to the victims thus advise the Board of Directors of the TFV in the event of the possibility of compensation with the collective reparations to provide resources complement the individual reparations

⁴⁸⁹ See paragraph 293 of the present order.

⁴⁹⁰ See paragraph 298 of the present order.

⁴⁹¹ Similarly see Appeals Chamber, Order for Reparations, para. 67 ii.

C. Assistance mandated by the TFV

343. The Chamber reiterates its findings that the purposes of reparations in this case could and should include physical and psychological suffering from rape or sexual slavery and other transgenerational harm. Furthermore, the fact that the former child soldier is still a minor and the present reparations proceedings are ongoing.

344. That being so, the Chamber asks the TFV to give consideration as to its assistance, in whatever possible form, to the applicant in the attack on Bogotá in which the Chamber has not been able to determine a position in the case.

D. Publication of the order for reparations

345. The Chamber expects the Registrar to take the necessary measures to give adequate publicity to the order for reparations and to ensure that outreach activities are held at the national level, the local communities and the population, and to afford the victims and their families timely and effective access to any awards.

⁴⁹² See above, Section VII. INDIVIDUAL ANALYSIS OF THE APPLICANTS' REPARATIONS, paras 3, 4, 4.4, 4.5 and 5-7.6.1.

⁴⁹³ TFV Observations of 13 May 2015, ICJ/01/0375-48 para. 130. See also Victims' Observations of 1 May 2015, ICJ/01/0375-51 ENGL, para. 44; Prosecution's Observations of 30 April 2015, ICJ/01/0375-44 footnote 17.

⁴⁹⁴ Lubanga Appeals Chamber, Order for Reparations, paras 525-1.

FOR THESE REASONS Chamber

HANDS DOWN unanimously order for reparation against Mr Katanga

FINDS that 297 of 344 Applicants have shown standard proof of a balance of probabilities are victims of which Mr Katanga was convicted

DECIDES, according to law award reparations to 297 victims

ASSESSES the total monetary value of the extent of the harm suffered 297 victims as US\$ 75,200

SETS the reparations award for Mr Katanga as US\$ 100,000

FINDS Mr Katanga liable for the purposes of reparations to the present defendants

AWARDS individual reparations by compensation in the form of baili award of US\$ 250, and collective reparations to be a benefit in the form of support for the purpose of generating a stipend for educational and psychological support

DIRECTS the TFV to prepare with due consideration of the findings that the type and modalities of reparations, draft implementation plan by 27 June 2011, which is a program of reparation projects the TFV tends to develop

DIRECTOR'S observation on the Legal Representative's letter regarding
Draft P1728 July 2017

DIRECTOR The Defendant should be contacted by the TFV as to discuss the contribution
Mr Katanga, should that be his sole liability, should be

DIRECTOR The TFV to contact the Government regarding the RIC may
cooperate in giving effect to and implementing the

DIRECTOR The Presidency, with the assistance of the Registrar
Mr Katanga's financial situation on an ongoing basis in accordance
117 of the Regulations of the Court;

DIRECTOR With due consideration of Mr Katanga's financial situation, the
Board of Directors of the TFV whether it is minded to use
other resources for the funding and implementation of individual
reparations should advise it in the Draft P1728 the monetary amount

INVITE The TFV afford consideration assistance wherever
possible, the harm suffered by the Applicant as a result of a sexual
nature as a result of a general psychological trauma to the harm
suffered by the former child, which the Chamber has not been in a position
to entertain in the case

DIRECTOR of the Registry to take all the necessary measures to give ad
to the present order for reparations

Done in both English and French, both being authoritative.

[signed]

Judge Marc Perrin de Brichambaut

Presiding Judge

[signed]

[signed]

Judge Olga Herrera Ca

Judge Péter Kovács

Dated ~~24~~ 24 March 2017

At The Hague, Netherlands