

 **CHAPTER VII**

REPARATIONS AND THE TRUST FUND FOR VICTIMS

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Unless otherwise specified:

“Article”: refers to the Rome Statute
“Rule”: refers to the Rules of Procedure and Evidence
“Regulation”: refers to the Regulations of the Court
“Regulation (RR)”: refers to the Regulations of the Registry
“Regulation (VTF)”: refers to the Regulations of the Trust Fund for Victims

INTRODUCTION

“... [I]n honouring the victims' right to benefit from remedies and reparation, the international community keeps faith with the plight of victims, survivors and future human generations, and reaffirms the international legal principles of accountability, justice and the Rule of law”.
Preamble, UN Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Van Boven/ Bassiouni Principles).

The right of victims of gross violations to reparation is a fundamental principle of international law¹. **For the first time in the history of international criminal justice, victims now have recourse to a mechanism that allows them to claim reparations before an international tribunal.** Before the International Criminal Court was established, no international regime existed that allowed victims to apply for and receive reparations from individual perpetrators. Victims are unable to claim reparations before the International tribunals for former Yugoslavia and Rwanda (ICTY and ICTR), and judges are only able to make orders for the restitution of property². The only hope that victims have of obtaining any compensation is to pursue their claims before national courts on the basis of convictions rendered by the international tribunals³. Originally, a similar model was submitted to the Preparatory Committee responsible for drafting the Rome Statute. However, in 1996 the French proposed a much stronger role for the Court with respect to reparations. The United Kingdom joined the French delegation in negotiating and refining this proposal.

During negotiations, several states expressed concern that the Court would be overwhelmed by demands for reparation. Various states with a common law approach emphasised that their national legal systems did not allow for claims for reparations to be made in criminal proceedings and argued that, as a criminal court, the ICC should not deal with civil claims. Yet eventually, states agreed to consider proposals for a role of the Court in providing reparations, not least because of years of effective lobbying by NGOs. The reparation regime finally adopted is set out in Article 75 of the Rome Statute and developed further in Rules 94 to 98 of the Rules of Procedure and Evidence.

Article 75 of the Statute provides that the Court can make orders against convicted persons for reparations to victims. **The ICC is not empowered to make reparation orders against States⁴.**

1. See Chapter I, *The Evolution of Victims' Access to Justice*.

2. Articles 24 (3) of the Statute of the ICTY and 23 (3) of the Statute of the ICTR state that the Court is authorized to make an order for the return of “any property and proceeds acquired by criminal conduct . . . to their rightful owners”. See further Chapter I, *The Evolution of Victims' Access to Justice*.

3. Rule 106 of the Rules of Procedure of both Tribunals states that the Registrar “shall transmit to the relevant national authorities” the judgement finding the accused guilty of a crime that has caused injury to a victim. The national court is bound by the judgement of the Tribunal: “the judgement of the Tribunal shall be final and binding as to the criminal responsibility of the convicted person for such injury”.

4. Article 75 (1) of the Rome Statute. The possibility of making orders for reparations against states was debated at length during the Rome Conference, but eventually rejected.

The reparation regime is independent from victims' participation in proceedings; victims do not have to have participated in preliminary and/or trial phases in order to apply and/or to be eligible for reparation awards.

The **Trust Fund for Victims** (Trust Fund) is one of the most important and innovative aspects of the Rome Statute's provisions for victims. It was established pursuant to Article 79 (1) of the Statute, Rule 98 of the Rules of Procedure and Evidence, and Resolution 6 of the Assembly of States Parties, adopted on 9 September 2002⁵, **“for the benefit of victims of crimes within the jurisdiction of the court, and of the families of such victims”**.

The statutes of the ICTY and ICTR did not provide for the establishment of trust funds⁶. This has been seen as a major defect in the contribution of these tribunals to justice for victims. Indeed, the Trust Fund was created partly as a result of the experiences of these two predecessors of the International Criminal Court.

The Trust Fund has two main roles. Firstly, under Article 75 (2), the Court may make awards to victims through the Trust Fund rather than to victims directly⁷. In such cases, the Trust Fund will be responsible for the implementation of the reparations orders. Secondly, the Trust Fund has a wider mandate: to use the voluntary contributions that it receives to carry out projects aimed at assisting larger groups of victims, who may not have necessarily suffered directly from the particular crimes of the particular individuals who are prosecuted before the ICC.

It should be highlighted that, in view of the unique nature of the ICC's reparations system, many aspects of the implementation of the provisions on reparation remain uncertain. The Court has not yet adopted principles relating to reparations (as required under Article 75(1)). Furthermore, at the time of writing the ICC has not yet dealt with requests for reparations and the Trust Fund has not begun its activities. It will be through the development of the Court's jurisprudence and the practice of the Trust Fund, that the details of the system, and its success, will be determined.

⁵. *Establishment of a fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims*, Resolution ICC-ASP/1/Res.6, 9 September 2002.

⁶. In 2000, the judges of both tribunals submitted recommendations to the UN Secretary General and the Security Council on the issue of compensation to victims. They proposed the establishment of trust funds or international claims commissions, considering that this would be the fairest and most appropriate means of enabling the *ad hoc* tribunals to provide reparations to victims. However, no such funds were established; see letter from the Secretary-General addressed to the President of the Security Council (2 November 2000), annexing a letter from the President of the International Criminal Tribunal for the former Yugoslavia, Judge Jorda, UN Doc. S/2000/1063; letter from the Secretary General addressed to the President of the Security Council (14 December 2000) annexing a letter from the President of the International Criminal Tribunal for Rwanda, Judge Navanethem Pillay, UN Doc S/2000/1198; and ICTY Judges' Report of 13 September 2000 on Victims Compensation and Participation. See further, Chapter I, *The Evolution of Victims' Access to Justice*.

⁷. Article 75 (2) of the Rome Statute: "Where appropriate, the Court may order that the award for reparations be made through the Trust Fund provided for in Article 79."

I. FORMS OF REPARATION

The general principle under international law is that “reparation must, as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed”⁸. Reparation should be proportionate to the harm suffered.

The various forms of reparation as defined under international law include **restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition**⁹. The term ‘reparation’ therefore encompasses, but goes far beyond, financial compensation. The ICC can make orders for all these types of reparation, in each case choosing the most appropriate form(s) to redress the particular damage suffered by the victim.



Restitution, compensation and rehabilitation are the only forms of reparation expressly referred to in the Rome Statute. Nonetheless, this list is not exhaustive. The wording of Article 75 (2) makes this clear: “The Court may make an order directly against a convicted person specifying appropriate reparations to, or in respect of, victims, including restitution, compensation and rehabilitation”. Furthermore, the 1998 Working Group on Procedural Matters of the Rome Conference expressly referred to and noted with approval the definitions of reparation set out in the Van Boven/ Bassiouni principles¹⁰, which include two further forms of reparation: satisfaction and guarantees of non-repetition.

Under Article 75(1), the Court is required to establish principles on reparations, which will detail the various forms of reparation which the ICC can order. At the time of writing, these principles have yet to be established. In drafting the principles, the Court should draw on the vast range of measures of reparations as defined and applied in international law. In implementing the right of victims to reparation, only a creative approach will serve the interests of victims and ensure a workable and effective reparations regime.



“**Restitution** should, wherever possible, restore the victim to the original situation before the [violations] occurred. Restitution includes, as appropriate: restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one’s place of residence, restoration of employment and return of property.”

Principle 19, UN Basic Principles and Guidelines on the Right to a Remedy and Reparation.

⁸. See Permanent Court of International Justice, Chorzow Factory Case, Merits, 1928, P.C.I.J., Sr.A, N°17 (September 13), at 47 or available At http://www.icj-cij.org/cijwww/cdecisions/ccpij/serie_A/A_17/54_Usine_de_Chorzow_Fond_Arret.pdf.

⁹. See Chapter I, *The Evolution of Victims’ Access to Justice* and UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law (*Van Boven/ Bassiouni Principles*), E/CN.4/2005/L.48; see also, for example, the Draft Articles on State Responsibility adopted by the International Law Commission in 2001 (UN Doc. A/CN.4/L.602/Rev.1, 26 July 2001); Principles 8-10 of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, General Assembly Resolution 40/34 of 29 November 1985; the Universal Declaration of Human Rights (Article 8); International Covenant on Civil and Political Rights (art. 2.3); the Convention against Torture and other Cruel Inhuman and Degrading Treatment (art.14); the International Convention on the Elimination of All Forms of Racial Discrimination (art.6); the Convention on the Rights of the Child (Article 39); the American Convention on Human Rights (art.25, 63.1); the European Convention of Human Rights (arts.5, 13, 41); the African Charter on Human and People’s Rights (arts. 7, 21.2).

¹⁰. See footnote 5 to Article 73 on reparation to victims in Working Group Report A/CONF.183/C.1/WGPM/L.2/Add.7, 13 July 1998. In that footnote, the Working Group makes reference to *Van Boven / Bassiouni Principles 12 to 15*, of the original 1996 expert report (which define five forms of reparation including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition). Principles 12-15 correspond to principles 19-23 of the last and final version of the expert report that was adopted by the Commission on Human Rights on 19 April 2005 and by the UN General Assembly on 16 December 2005.

Restitution is traditionally considered to be the primary form of reparation, since it aims to re-establish the situation of the victim as it was prior to the commission of crimes. However, given the types of crimes that will come before the ICC, it will generally be impossible to restore victims to their original situation before violations occurred¹¹. For many victims before the ICC, restitution alone will be inadequate.



“Compensation should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, resulting from violations of international human rights and humanitarian law, such as: (a) Physical or mental harm; (b) Lost opportunities, including employment, education and social benefits; (c) Material damages and loss of earnings, including loss of earning potential; (d) Moral damage; and (e) Costs required for legal or expert assistance, medicine and medical services, and psychological and social services.”

Principle 20, UN Basic Principles and Guidelines on the Right to a Remedy and Reparation.

Compensation can be awarded as a substitute for restitution. The role of compensation is to “fill in the gaps so as to ensure full reparation for the damage suffered”¹². Awards of compensation should be distinguished from awards to victims for other purposes, such as the costs of the proceedings.

Regional and international tribunals and commissions have dealt extensively with the issue of compensation to victims. As assessed under international law, awards of compensation can be provided for loss of earnings, pension, psychological and medical expenses, but also pain and suffering, mental anguish, humiliation, loss of enjoyment of life and loss of companionship or consortium. The United Nations Compensation Commission has elaborated principles in relation to compensation for international crimes¹³. The Inter-American Court of Human Rights has established particularly progressive principles, such as awarding compensation for damages to life plans, for the costs linked to the search of “disappeared” persons, and for the denial of justice¹⁴.



“Rehabilitation should include medical and psychological care as well as legal and social services.”

Principle 21, UN Basic Principles and Guidelines on the Right to a Remedy and Reparation.

Rehabilitation seeks to diminish as far as possible the psychological trauma as well as physical and social consequences of the crimes committed. Measures of rehabilitation have been included in judgements of the Inter-American Court of Human Rights and decisions of other international bodies such as the

11. *Commentary to the Draft Articles on State Responsibility for Internationally Wrongful Acts*, Report of the International Law Commission on its Fifty-Third Session, GA; Supplementary No. 10 (A/56/10); Ch. IV.E (November 2001), at 244. See also Draft Articles of State Responsibility, Articles 35 and 36.

12. *Commentary to the Draft Articles on State Responsibility for Internationally Wrongful Acts*, Report of the International Law Commission on its Fifty-Three Session, GA; Supplementary No. 10 (A/56/10); Ch. IV.E (November 2001), at 245, referring to the *Chorzow Factory Case*, 1928, P.C.I.J., Sr.A, N°17 (September 13), at 47-48.

13. See <http://www.unog.ch/uncc>.

14. See for example, *Loayza Tamayo v. Peru*, November 27, 1998, Series C n°42, (reparations) §145-148; *Bamaca Velasquez v. Guatemala*, February 22, 2002, Series C n°91(reparations) §54, 64-65; *Caracazo v. Venezuela*, August 29, 2002, Series C n°95, (reparations), §107.

UN Committee of Human Rights and the UN Committee against Torture¹⁵. These awards have included social, medical and psychological measures. Support services can be provided directly, or the cost of such services can be awarded to victims in the form of monetary awards. In such cases, monetary awards for the purpose of rehabilitation should be distinguished from awards of compensation.



“**Satisfaction** should include, where applicable, any or all of the following: (a) effective measures aimed at the cessation of continuing violations; (b) verification of the facts and full public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety and interests of the victim, the victim’s relatives, witnesses, or persons who have intervened to assist the victim or prevent the occurrence of further violations; (c) the search for the whereabouts of the disappeared, for the identities of the children abducted, and for the bodies of those killed, and assistance in the recovery, identification and reburial of the bodies in accordance with the express or presumed wish of the victims, or the cultural practices of the families and communities; (d) an official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim; (e) public apology, including acknowledgement of the facts and acceptance of responsibility; (f) judicial and administrative sanctions against persons liable for the violations; (g) commemorations and tributes to the victims; (h) inclusion of an accurate account of the violations in international human rights law and humanitarian training and in educational material at all levels.”

Principle 22, UN Basic Principles and Guidelines on the Right to a Remedy and Reparation.

Satisfaction includes measures aimed at establishing and publicising the truth about what occurred, including through judicial investigations and prosecutions, and symbolic measures, such as public apologies, monuments and commemorative ceremonies. The judgement of the Court itself can be considered a form of satisfaction, as a record of the truth surrounding violations, but the Court should consider the wide range of other measures.

Measures of satisfaction have been included in reparation judgements of the Inter-American Court of Human Rights, the European Court of Human Rights, and international bodies such as the UN Committee of Human Rights¹⁶.

¹⁵. See, for instance, the Inter-American Court of Human Rights, *Aloeboeote v. Surinam*, 10 September 1993, Series C, n°15 (reparations), §96; *Chumbipuma Aguirre et al v. Peru* (Barrios Altos case), 30 November, 2001, Series C, n°87 (reparations), §42-43; *Cantoral Benavides v. Peru*, 3 December 2001, Series C, n°88 (reparations), §80, *Durand y Ugarte v. Peru*, 3 December 2001, Series C, n°89 (reparations), §36-37; and the Human Rights Committee *Raul Sendic Antonaccio v. Uruguay*, communication n° 14/63/1979 (28 October 1981), §21; Elena Beatriz Vasilskis v. Uruguay, communication n°18/80/1980 (31 March 1983), §12; *Gustavo Raul Larrosa Bequio v. Uruguay*, communication n°88/1981 (29 March 1983), §13; and UN Committee against Torture, CAT/C/SR.40 (Chile).

¹⁶. See, for instance, the Inter-American Court of Human Rights, *Bámaca Velásquez*, Series C, n° 70, Judgement of 25 November 2000, at paragraphs 197- 201 and *Villagran Morales et al v. Guatemala* (the *Street Children* Case), Judgement of 19 November 1999, Series C, n° 63, at para 227; the European Court of Human Rights, *Tahsin Acar v Turkey*, 26307/95 [2003] ECHR 233 (6 May 2003); and Human Rights Committee, General Comment 6 (16) on Article 6, § 4; General Comment 20 on Article 7, § 14; *Almeida de Quinteros et al v. Uruguay*, 21 July 1983, CCPR/C/19/D/107/1981, §12; *Hugo Rodriguez v. Uruguay*, 19 July 1994, CCPR/C/51/D/322/1988, § 12 (3).



“**Guarantees of non-repetition** should include, where applicable, any or all of the following measures, which will also contribute to prevention: (a) ensuring effective civilian control of military and security forces; (b) ensuring that all civilian and military proceedings abide by international standards of due process, fairness and impartiality; (c) strengthening the independence of the judiciary; (d) protecting persons in the legal, medical and health-care professions, and human rights defenders; (e) providing, on a priority and continued basis, human right and international humanitarian law training for law enforcement officials, as well as military and security forces; (f) promoting the observance of codes of conduct and ethical norms, in particular international standards, by public servants, including law enforcement, correctional, media, medical, psychological, social service and military personnel, as well as by economic enterprises; (g) promoting mechanisms for preventing and monitoring social conflicts and their resolution; (h) reviewing and reforming laws contributing to or allowing gross violations of international human rights law and serious violations of international humanitarian law.”

Principle 23, UN Basic Principles and Guidelines on the Right to a Remedy and Reparation.

Guarantees of non-repetition have been included in reparations judgements of the Inter-American Court of Human Rights and decisions of other international bodies such as the UN Committee of Human Rights¹⁷. The Joinet/Orentlicher principles¹⁸ refer to “guarantees of non-recurrence”, including reform of state institutions, disbandment of parastatal armed forces, demobilization and social reintegration of child soldiers, and reform of laws and institutions that might perpetuate impunity¹⁹.

II. TYPES OF DAMAGE, INJURY AND HARM

The types of harm in respect of which reparations can be ordered by the ICC are not defined in the Rome Statute or the RPE. However, in accordance with international law and other provisions of the Statute and the Rules, the term ‘harm’ should include physical harm, psychological harm, and material harm²⁰.

¹⁷. See, for instance, the Inter-American Court of Human Rights, *Velasquez Rodriguez v. Honduras* (compensatory damages), Judgement of 21 July 1989, Series C, n° 7, §§ 34, 35 and *Castillo Paez v. Peru*, judgement of 3 November 1997, Series C, n° 34, § 90; and Human Rights Committee, General Comment 6 on Article 6, § 3; General Comment 20 on Article 7, §§ 8-10; *Bleir v. Uruguay*, 23 May 1978, CCPR/C/15/D/30/1978, § 5; and *Blanco v. Nicaragua*, 18 August 1994, CCPR/C/51/D/328/1988, § 11.

¹⁸. See Joinet, L., *Set of Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity*, E/CN.4/Sub.2/1997/20/Rev.1 of 2 October 1997, updated in 2005 by Orentlicher, D., *Updated Set of Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity*, E/CN.4/2005/102 and E/CN.4/2005/102/Add.1, 8 February 2005, available at http://ap.ohchr.org/documents/dpage_e.aspx?m=138.

¹⁹. See principles 35-38 and accompanying footnotes, *ibid*, E/CN.4/2005/102/Add.1.

²⁰. This was accepted by Pre-Trial Chamber I of the ICC in its *Decision on the Applications for Participation in the Proceedings of VPRS 1 to VPRS 6* of 17 January 2006, ICC-01/04, paras 81, 115-116 and 131, where the Chamber referred to internationally valid principles that recognise “emotional suffering” and “economic loss” as types of harm. In its decision, the Chamber made extensive reference to case law of the European and the Inter-American Courts of Human Rights.



ICC JURISPRUDENCE

In its *Decision on the applications for participation in the proceedings of VPRS 1–6*, the Pre-Trial Chamber I considered that “in the absence of a definition, the Chamber must interpret the term [harm] on a case-by-case basis in the light of Article 21 (3) of the Statute, according to which “[t]he application and interpretation of law pursuant to this Article must be consistent with internationally recognized human rights”²¹.

The Chamber referred to the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (UN Declaration on Justice for Victims), and the “Van Boven/ Bassiouni principles”, noting that both instruments recognize both “emotional suffering” and “economic loss” as forms of harm²².

The Pre-Trial Chamber I also cited jurisprudence of the Inter-American Court of Human Rights and the European Court of Human Rights, noting that both courts have repeatedly awarded reparations for harm due to emotional suffering or economic loss²³. In respect of emotional suffering, the Court highlighted the judgment of the European Court of Human Rights in the case of *Keenan v. the United Kingdom*²⁴, in which the victim, the mother of the direct victim, was awarded non-financial damages for the anguish and distress she had suffered on account of the conditions in which her son had been detained. The Chamber concluded that, “in accordance with internationally recognized human rights, emotional suffering and economic loss constitute harm within the meaning of Rule 85 of the Rules”²⁵. This decision concerned applications of victims to participate in proceedings²⁶, but the definition of harm is equally applicable to the issue of reparations.

III. ORDERS FOR REPARATIONS

1. Who is eligible for reparations orders?

Under Article 75 (2) the Court can make an order specifying appropriate reparations “**to, or in respect of, victims**”. Under Rule 85, the term “victims” includes individuals and, certain organisations where they have suffered direct harm to property. The term “in respect of” should be interpreted to include the families and dependents of victims²⁷.

21. *Decision on the Applications for Participation in the Proceedings of VPRS 1 to VPRS 6 of 17 January 2006*, ICC-01/04, paragraph 81.

22. *Ibid.*, para. 115. Under the *UN Declaration on Justice for Victims*, “Victims” means “persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights”. The Van Boven/ Bassiouni principles adopt the same definition, principle 8. See further Chapter I, *The Evolution of Victims' Access to Justice*.

23. *Ibid.*, paragraph 116. The Chamber cited the following cases at footnote 87: With regard to emotional suffering: European Court of Human Rights, *Aksoy v. Turkey*, “Judgment”, 18 December 1996, Application No. 21987/93, para. 113; European Court of Human Rights *Selmouni v. France*, “Judgment”, 28 July 1999, Application No. 25803/94, para. 123; Inter-American Court of Human Rights, *Aloeboetoe et al. v. Suriname*, “Judgment/Reparations (Art. 63(1))”, 10 September 1993, Series C No. 15, para. 52; Inter-American Court of Human Rights, *Neira Alegria et al. v. Peru*, “Judgment/Reparations (Art. 63(1))”, 19 September 1996, Series C No. 29, para. 57. With regard to economic loss: European Court of Human Rights, *Ayder and Others v. Turkey*, “Judgment”, 8 January 2004, Application No. 23656/94, paras. 141ff; Inter-American Court of Human Rights, *El Amparo v. Venezuela*, “Judgment/Reparations (Art. 63 (1))”, 14 September 1996, Series C No. 28, paras. 28 to 63.

24. European Court of Human Rights, *Keenan v. the United Kingdom*, “Judgment”, 3 April 2001, Application No. 27229/95, para. 138.

25. Pre-Trial Chamber I of the ICC in its *Decision on the Applications for Participation in the Proceedings of VPRS 1 to VPRS 6 of 17 January 2006*, ICC-01/04, paragraph 116.

26. See Chapter IV, *Participation*.

27. This is clearer in the French version of Article 75, which uses the term “leurs ayants droit”.

However, an important limit to those who can benefit from orders for reparations is that since they are awarded against individual perpetrators, they are restricted to the victims of crimes for which that individual has been convicted before the Court. The category of victims who may potentially benefit from reparations orders will be to a large extent dependent on the strategy of the prosecutor in terms of the cases, individuals and charges chosen for prosecution. Many victims within a particular situation will fall outside the limited cases selected by the Court for prosecution and will therefore not be able to obtain reparations through court orders. This is where the independent role of the Trust Fund will be most significant (see below IV).

2. Against whom can reparations orders be made?

Under Article 75 (2), the Court can make an order **“directly against a convicted person”**. During the negotiations of the Rome Statute, states discussed the possibility of also permitting the Court to make orders against states. However, this controversial proposal was eventually rejected and the final version of the Statute seems to exclude such orders.

However, an order of the Court does not exclude the possibility for victims to pursue other forms of reparation from states before other national or international bodies. Article 75 (6) provides that “Nothing in this Article shall be interpreted as prejudicing the rights of victims under national or international law”²⁸.

The fact that the Court can only order reparations following a conviction, affects the timing of such orders: orders can only be made at the conclusion of a trial²⁹. Furthermore, it means that the participation of victims’ during the pre-trial and trial stages may be vital : “If the investigation or prosecution is not successful the victims will lose the opportunity to have their requests for reparations dealt with by the Court”³⁰.

3. Procedure for reparations orders

3.1. Initiation of the procedure

Under Article 75 (1), the Court can order reparations either upon request or on its own motion. Rule 94 sets out the procedure for individual requests (1), while Rule 95 sets out the procedure for orders on the Court’s own motion (2).

3.1.1. The standard procedure: on request

Victims or their legal representatives can submit applications for reparations. It should be stressed that the possibility of making an application for reparations is not restricted to those victims who have already participated in the proceedings.

²⁸. Furthermore the Court has not yet established the principles relating to reparations as required under Article 75(1). Could these include principles relating to measures to be taken by States ? In support of this argument see Bitti, G., et Gonzalez Rivas, G., “Reparations Provisions under the Rome Statute of the International Criminal Court”, in Permanent Court of Arbitration (ed.), *Redressing Injustices Through Mass Claims Processes: Innovative Responses to Unique Challenges*, Oxford University Press, New York, XXXIII, 495 p., pp. 299 – 322, p.313 : “The Court could conceivably establish reparations principles that are applicable to States or other legal entities – especially those on behalf of which the convicted person was acting - such as the duty to enact applicable legislation or to provide access to appropriate public services”.

²⁹. Article 75(2) states: “The Court may make an order directly against a *convicted person* specifying the appropriate reparations to, or in respect of, victims” (emphasis added).

³⁰. Bitti, G., et Gonzalez Rivas, G., “Reparations Provisions under the Rome Statute of the International Criminal Court”, in Permanent Court of Arbitration (ed.), *Redressing Injustices Through Mass Claims Processes: Innovative Responses to Unique Challenges*, Oxford University Press, New York, XXXIII, 495 p., pp. 299 – 322, p.313.

Form of request

The general rule concerning the form of a request for reparation under Rule 94 is that it must be made **in writing**, using a **standard form**³¹, prepared by the Registry³². The form is to be made available by the Registrar to victims, groups of victims, inter-governmental and non-governmental organizations so that the widest possible dissemination can be assured. To the extent possible, the forms and any explanatory material are required to be made available in the language(s) spoken by the victims.

This form must be used by victims “to the extent possible”, which implies that it is possible for victims to make requests by other means, provided that the application contains all the necessary information. Furthermore, if victims are unable to make a written request, the general provision in Rule 102 applies: “when a person is unable, due to a disability or illiteracy, to make a written request, application, observation or other communication to the Court, the person may make such request, application, observation or communication in audio, video or other electronic form”.

Information required

Rule 94 (n) lists the items to be included in any claim for reparations. The application requires a significant amount of detail and victims are very likely to require assistance in completing the form.



The request for reparations must specify:

- The identity and address of the claimant;
- A description of the injury, loss or harm;
- The location and date of the incident, and, to the extent possible, the identity of those believed to be responsible for the injury;
- A description of assets, property or other items the restitution of which is sought;
- Claims for compensation;
- Claims for rehabilitation and other forms of remedy; and
- To the extent possible, any relevant supporting information.

It appears that victims are required to express a preference for a particular form of reparation. This will be difficult for many victims since it requires an understanding of the different legal categories of reparation with which most victims and many legal representatives will be unfamiliar. Victims can, however, seek assistance from the VPRS in completing the form.

Furthermore the form for requesting reparations is separate from the one to be completed for applications for participation, imposing an additional burden on victims. The Victims’ Rights Working Group recommended that there should be a single form for applications for participation and reparations in order to avoid repetition of information and retraumatization of victims completing the applications. However, this recommendation was rejected and there are now two distinct standard forms.

³¹. Note that two Standard Forms exist, one for individuals and their representatives, one for organisations. Copies of both forms are provided in the additional documents section of this chapter (1. *Form Reparations-1*: Standard Application Form For Reparations Before the International Criminal Court for Individual Victims and Persons Acting on their Behalf (also available from www.icc-cpi.int/library/victims/Form-Reparation-1_en.pdf); 2. *Form Reparations-2*: Standard Application Form For Reparations Before the International Criminal Court for Victims Which are Organizations or Institutions (also available from www.icc-cpi.int/library/victims/Form-Reparation-2_en.pdf).

³². Regulation 88 and Regulation (RR) 104.



Two of the items listed under Rule 94 (1) proved contentious during negotiations. As initially drafted, paragraph 1 (c) required victims to specify not only the location and date of the incident, but also the identity of the person or persons believed to be responsible for the harm suffered. This requirement was justified by the need for the Court to link the claim for reparations with the accused and the crimes for which he or she is being prosecuted. However, some delegations argued that many victims would find it difficult to identify the perpetrator of the crimes committed against them and that therefore victims who, for reasons linked to the circumstances surrounding the crime, were unable to identify those responsible, would be disadvantaged. As a result of these concerns, the qualification “to the extent possible” was added.

Paragraph 1 (g) of Rule 94 originally required victims to provide supporting documentation. However, it was argued during negotiations that such a requirement would unjustly prevent those without documentation from making claim for reparations, especially since many victims, for example refugees, may have lost all means of formal identification³³. This raised the issue of equality between victims. Again, the qualification “to the extent possible” was added³⁴.

Timing of request

Neither the Statute nor the Rules of Procedure and Evidence specify the stage at which a *request* for reparations should be submitted, but it is likely to be an advantage to submit claims at an early stage of proceedings.



There was some debate during negotiations as to when the Court should be able to receive claims for reparations: “Some argued that the Court should only encourage claims where there was a known defendant against whom reparations could (potentially) be claimed. Others argued that the Court should encourage victims to put forward their claims at the earliest opportunity. The onus would then be put upon the Court to determine if the claim could subsequently be linked to an identified person or persons prosecuted before the Court. This latter argument prevailed, and the Rule was drafted to encourage early claims”³⁵.

The early submission of claims will help to assist the Court in the collection and preservation of evidence and in ordering appropriate measures to prevent the dissipation of assets (See further below, section III (5.1)).

Where should the form be sent?

Under Regulation (RR) 106, applications for reparations can be submitted either to the Victims Participation and Reparation Section at the seat of the Court or to a field office of the Court.

33. Lewis, P. and Friman, H., “Reparations to victims,” in *The International Criminal Court: Elements of Crimes and Rules of Procedure and Evidence* (Lee, R.S. (ed.)), Transnational Publishers (2001), 480.

34. Ibid.

35. Ibid.



VICTIMS PARTICIPATION AND REPARATION SECTION

ICC - International Criminal Court
 Victims Participation and Reparation Section
 P.O. Box 19519, 2500 CM The Hague
 The Netherlands
 Tel: + 31 (0)70 515 85 15
 Fax: +31 (0)70 515 85 55
 Email: vprs@icc-cpi.int

The information received is registered and stored by the Registry³⁶.

Seeking additional information

The Registry is required to seek all necessary additional information from the applicant in order to complete the request³⁷. In seeking such information, the Registry must consider “the interests of the victim” and must take into account factors including whether the victim is represented and the security of the victim”³⁸. The Registry is also required to inform victims “that they may submit a new application later in the proceedings if their application is rejected by the Chamber”³⁹.

The Registry will have to develop procedures to deal with large numbers of applications to ensure that all applications are dealt with fairly and consistently.

Forwarding the application to the relevant Chamber

The Registry is responsible for forwarding all applications for reparations to the relevant Chamber, and, if requested by the Chamber, must provide a report analysing the application⁴⁰.

3.1.2. The exceptional procedure: on the Court’s own motion

Under Article 75 and Rule 95, the Court can make orders for reparations acting on its own motion. Article 75 (1) states that this should be done in “exceptional circumstances”. This provision is intended to enable the court “to address the absence of the victim, whose geographical or cultural remoteness from the Court, combined with his or her lack of information or funds and other pressures may prevent him or her from making an application”⁴¹.

Notification to victims

Before the Court makes an order on its own initiative, the Registry has a specific obligation to notify victims⁴². The term ‘victims’ is without qualification, indicating that notification should be as wide as possible. This is in accordance with the general aim of this provision. Assistance in ensuring widespread notification may be obtained through local NGOs working with victims on the ground. Those notified can make representations to the Court.

³⁶. Regulation 88 (2).

³⁷. Regulation 88 (2) and Regulation (RR) 107 (3).

³⁸. Ibid.

³⁹. Ibid.

⁴⁰. Regulation (RR) 110 (1).

⁴¹. ICTY Judges’ Report of 13 September 2000 on *Victims’ Compensation and Participation*.

⁴². Rule 95 (1).



Rule 95 met with some opposition during negotiations: “some delegates felt that some victims, as a matter of conscience, would not wish reparations to be made since they would not wish to be seen as benefiting from ‘blood money’. Conversely, other delegations thought that the Court should not be intervening in what was essentially a civil procedure: if victims chose not to exercise this right then the Court should not intervene to pursue a civil claim against a convicted defendant. Finally there was a third group who were concerned that the procedure for the Court to act on its own motion should not act to the prejudice of a victim making a late application for reparations”⁴³.

The objection that victims making late applications may be prejudiced is dealt with in paragraph 2 (a) of Rule 95, which provides that victims who have been notified of the Court’s intention to proceed on its own motion may submit claims for reparations and that such claims will then be treated in the same way as claims submitted under Rule 94 (see above (3.1.1)).

The argument that victims should have a choice over whether or not they wish to receive reparation is dealt with in paragraph 2 (b) of Rule 95. If, having been notified of the Court’s intention, “[a] victim requests that the Court does *not* make an order for reparation, the Court shall not proceed to make an individual order in respect of that victim”⁴⁴.

3.2. The decision to order reparations

3.2.1. *The general obligation to notify the accused and other interested persons or States*

After the request for reparation has been submitted, or when the Court considers making an order on its own initiative, the Registrar is required to provide notification to the accused and, to the extent possible, to any interested persons or any interested states⁴⁵. Those notified can make representations to the Chamber which must be filed with the Registrar.



During negotiation of the Rules, the issue arose as to when the accused should be notified of the existence of claims. Article 75 (3) uses the expression ‘convicted person’, which implies that the accused should only be notified once he or she has been found guilty. Some delegates argued that the accused should be told that there are claims for compensation as soon as he or she is arrested and brought before the Court; others argued that notification should be made only after the confirmation of charges when it was clear whether a person would face any claims⁴⁶. The latter argument prevailed and Rule 94 (2) thus provides for notification to be made ‘**at commencement of the trial**’ (subject to any protective measure), because by that stage charges have been confirmed, and claims can be clearly linked to those charges.

The early notification of all parties, including interested states, should help to facilitate co-operation in the implementation of any future orders. The notification of interested states is particularly important in this context because of the need for their assistance and their co-operation, in accordance with Chapter IX of the Rome Statute, which deals with co-operation mechanisms⁴⁷.

⁴³. Lewis, P. and Friman, H., “Reparations to victims,” op. cit, 481.

⁴⁴. Emphasis added.

⁴⁵. Rules 94 (2) and 95 (1).

⁴⁶. Lewis, P. and Friman, H., “Reparations to victims,” op. cit, 480.

⁴⁷. See I (5.2) below.

3.2.2. Publicity of reparation proceedings

When the Court decides to open reparation proceedings, the Registrar must “insofar as possible, **notify victims who have submitted requests or their legal representatives** and the person or persons concerned”, and must “**take all the necessary measures to give adequate publicity of the reparation proceedings, to the extent possible, to other victims, interested persons and interested States**”⁴⁸.

Rule 96 (2) acknowledges that the Court may require the cooperation of states parties and intergovernmental agencies “in order to give publicity, as widely as possible and by all possible means, to the reparation proceedings before the Court.”

3.2.3. Assessment of the scope and extent of damage, loss, or injury

Before making an order for reparations, in order to ensure that all those concerned have the opportunity to make their interests known, the Court can invite, and is required to take into consideration, representations from the convicted person, victims, and other interested persons or interested States⁴⁹. At this stage once again, representations must be filed with the Registry⁵⁰.



RULE 97 PROVIDES:

1. Taking into account the **scope and extent of any damage, loss or injury**, the Court may award reparations on an **individualized basis** or, where it deems it appropriate, on a **collective basis** or both.
2. At the request of victims or their legal representatives, or at the request of the convicted person, or on its own motion, the Court may appoint appropriate experts to assist it in determining the scope, extent of any damage, loss and injury to, or in respect of victims and to suggest various options concerning the appropriate types and modalities of reparations. The Court shall invite, as appropriate, victims or their legal representatives, the convicted person as well as interested persons and interested States to make observations on the reports of the experts.
3. **In all cases, the Court shall respect the rights of victims and the convicted person.**

Evidence

Evidence relating to reparations can be adduced at various points throughout the proceedings. Under Regulation 56, the Trial Chamber can hear witnesses and examine their evidence for the purpose of making a reparation order during the trial procedure. Although the Court cannot make an order until the accused has been convicted, this helps to avoid witnesses having to come to court twice, first to give evidence at trial and again to give evidence concerning reparation.

The Chamber can also, where necessary, order a separate hearing on the issue of reparation⁵¹. Under Rule 91(4), with the authorisation of the Chamber, the victim’s representative can question the accused, witnesses and experts. It should be noted that during such a hearing different rules apply to the questioning of witnesses by victims’ representatives. In particular, the Chamber cannot require a representative to submit his or her questions to the Court in written form, nor can it restrict the order and the form of the questions, nor ask the questions itself on behalf of the victim’s representative.

The standard of proof

In order for a victim to be able to receive an award for reparations, the nature and amount of the damage that has been suffered must be proved and a link must be established between the harm suffered by the victim and the crime(s) for which the accused has been convicted. The Rome Statute

48. Rule 96(1).

49. Article 75(3).

50. Rules 94(2) and 95(1).

51. Article 76(2), (3) and Rule 143.

only specifies the standard of proof for conviction and does not refer to the standard to be applied in assessing reparations. What standard of proof will be required?



The question of the standard of proof for reparations was extensively discussed during negotiations of the Rules. It was generally recognised that the standard of proof should be lower than that for conviction, which requires proof “beyond reasonable doubt”⁵², but that a causal link between the crimes prosecuted and the harm, loss or injury suffered by a victim was necessary. Some states were concerned that failing to specify a standard may lead to too high a threshold being imposed, whilst other delegates were concerned that a minimum standard should be specified to avoid too much discretion being left to the Court. Canada proposed to link the standard of proof to the findings of the criminal proceedings:

“After conviction, any damage, loss or injury resulting from the crime, including the nature or amount thereof, need only be proved on a balance of probabilities for the purpose of a reparation order. Where damage, loss or injury has been proven as part of the definition of the crime which the person was convicted the Court may rely on that finding in determining reparations”⁵³.

However, the wording ‘balance of probabilities’ was considered by many states to be difficult to understand as a concept, alien to their national systems, and insufficiently precise. The United States made an informal proposal, dealing only with individual reparations. According to this proposal, the Court should have been able to rely on certain findings made during the course of a trial. If the crime was proven during the trial, the US envisaged that the Court would “not require proof beyond reasonable doubt [that the victim’s harm was caused by the crimes committed by the convicted person] but may order reparations if the proof shows that it is more likely than not that the convicted person caused the victim’s damages, loss or injury”⁵⁴.

However, agreement on the appropriate standard could not be reached and it was instead decided that the standard of proof should be regulated by the Court when establishing principles for reparations, pursuant to Article 75 (1). These principles have not yet been established and it therefore remains unclear what standard of proof will be required.

Individual or collective awards?

The Court can decide whether to order reparations on an individualized or on a collective basis, or both. Rule 97 (1) implies that as a general rule awards should be made on an individual basis, but that collective awards may be ordered where the Court “deems it appropriate”.

In view of the seriousness of the crimes before the Court, the extent of damage, loss and injury caused, the potential number of victims, and the likelihood that convicted persons will have only limited financial resources, the possibility of making collective awards enables the Court to provide some redress to a greater number of victims: “In some situations, the sheer number of victims and perpetrators may overwhelm the best efforts to provide full redress to victims [...] collective awards may be the only method to bring a certain measure of justice”⁵⁵. An explanatory note produced by the Court on victims’ participation and reparations states that “an advantage of collective reparation is that it can provide

⁵². Article 66 (3) reads: “In order to convict the accused, the Court must be convinced of the guilt of the accused beyond reasonable doubt”.

⁵³. Canadian proposal, as cited in Lewis, P. and Friman, H., “Reparations to victims,” in *The International Criminal Court: Elements of Crimes and Rules of Procedure and Evidence* (Lee, R.S. (ed.)), Transnational Publishers (2001), 485.

⁵⁴. United States proposal, as cited in Lewis, P. and Friman, H., “Reparations to victims,” in *The International Criminal Court: Elements of Crimes and Rules of Procedure and Evidence* (Lee, R.S. (ed.)), Transnational Publishers (2001), 485.

⁵⁵. Shelton, D.L. and Ingadottir, T., *The International Criminal Court Reparations to Victims of Crimes (Article 75 of the Rome Statute) and the Trust Fund (Article 79)*, Center on International Cooperation (1999); and see Lewis, P. and Friman, H., “Reparations to victims,” op. cit., 483.

certain relief to a community as a whole, and help place its members in a position to reconstruct their lives”, and provides examples including money spent on centres that provide services to victims or on symbolic measures such as victim commemorations⁵⁶.

Expert assistance in the assessment of appropriate reparations

The Court can request the assistance of experts in assessing reparations under Rule 97 (2). Experts may be appointed on the Court’s own motion, or at the request of victims, their legal representatives, or of the convicted person.

Experts can advise the Court on a wide range of issues relating to reparations, to assist in “determining the scope, extent of any damage, loss and injury to, or in respect of victims and to suggest various options concerning the appropriate types and modalities of reparations”⁵⁷. Experts can thus provide advice and assistance on issues including how to assess harm, and the particular needs of victims, taking into account their individual circumstances; whether the Court should order individual or collective awards in particular cases; which form of reparation would be most suitable for an individual victim or group of victims etc.

In order to be able to carry out their functions and adequately assess the harm suffered by particular categories of victims, experts must have relevant knowledge and experience of injuries and harm resulting from the commission of crimes within the jurisdiction of the Court and of the national context. Particular expertise is required to assess the harm caused by sexual violence. To this end, under Rule 97 (2), when the Court makes such appointments, it shall ensure that they are “appropriate experts”. At the request of the Chamber, the Registry may provide information on appropriate experts to assist the Court⁵⁸.

The Court is required to invite, “as appropriate”, victims, their legal representatives, the convicted persons, as well as interested persons and interested States, to comment on the report produced by the appointed experts⁵⁹.

4. Appeals of Reparation orders

Significantly, victims have the right to appeal an order for reparations⁶⁰. Reparation orders may also be appealed by the convicted person him – or herself, as well as by a *bona fide* property owner whose rights are adversely affected by any such order. Article 109 (1) provides that effect shall be given to orders “without prejudice to the rights of bona fide third parties”. This refers to the possibility that there may be additional claims from others creditors or victims who have not applied to the ICC for reparations.

Appeals must be filed with the Registrar⁶¹ not later than **30 days** from the date on which they have been notified of the reparation order that they wish to appeal⁶². Extensions of this time limit are only possible where the victim can show good cause for the delay in filing the appeal⁶³.

The Appeals Chamber has the power to confirm, reverse, or amend an existing reparation order⁶⁴.

56. ICC Background Note no: ICC2005.028-EN, Victims’ Participation and Reparations.

57. Rule 97(2).

58. Regulation (RR) 110(2).

59. Rule 97(2).

60. Article 82 (4); Rule 150 provides more details on the procedure.

61. Rule 150(3).

62. Rule 150(1).

63. Rule 150(2).

64. Rule 153(1).

5. Effectiveness of reparations orders: Measures to prevent the dissipation of assets and enforcement

5.1. Measures to prevent the dissipation of assets

In order to ensure the effectiveness of orders for reparation, the Court can request protective measures, to preserve assets that may become the subject of a future reparation order. Protective measures can provide for “the identification, tracing and freezing or seizure of proceeds, property and assets and instrumentalities of crimes⁶⁵”.

Rule 99 provides that both the Pre-Trial Chamber and the Trial Chamber can determine whether protective measures should be requested. Under Article 57 (3) (e), the Pre-Trial Chamber can ask State Parties to take such measures once a warrant of arrest or summons has been issued, having due regard to the strength of the evidence and the rights of the parties concerned, “in particular for the ultimate benefit of victims”.

It appears that the Trial Chamber can only request protective measures once the accused has been convicted. Article 75 (4) provides:

“In exercising its power under this Article, the Court may, after a person is convicted of a crime within the jurisdiction of the Court, determine whether, in order to give effect to an order which it may make under this Article, it is necessary to seek [protective measures]”⁶⁶.

This procedure can be initiated by the Trial Chamber on its own motion, **or at the request of victims or their legal representatives**, who have made a request for reparations or who have given a written undertaking that they will do so⁶⁷.



JURISPRUDENCE OF THE ICC

The issue of protective measures and the interpretation of Article 57 (3) (e) was considered by the Pre-Trial Chamber I in its *Decision concerning Pre-Trial Chamber I's Decision of 10 February 2006 and the Incorporation of Documents into the Record of the Case against Mr Thomas Lubanga Dyilo*⁶⁸. The Chamber noted that Article 57 (3) (e) refers only to making protective orders for the purpose of forfeiture, but considered that in light of the reference to the ‘ultimate benefit of victims’ and in the context of the provisions of Rule 99, Article 57 (3) (e) must be interpreted to allow protective measures to be ordered for the purpose of future reparations orders⁶⁹.

The Chamber concluded that:

“As the power conferred on the Court to grant reparations to victims is one of the distinctive features of the Court, intended to alleviate, as much as possible, the negative consequences of their victimisation, it will be in the ‘ultimate interest of victims’ if, pursuant to Article 57 (3) (e), the cooperation of States Parties can be sought in order to take protective measures for the purpose of securing the enforcement of a future reparation award”⁷⁰.

⁶⁵. Article 93(k).

⁶⁶. Emphasis added.

⁶⁷. Rule 99(1).

⁶⁸. 24 February 2006, ICC-01/04-01/06-8-US-Corr.

⁶⁹. *Decision concerning Pre-Trial Chamber I's Decision of 10 February 2006 and the Incorporation of Documents into the Record of the Case against Mr Thomas Lubanga Dyilo*, 24 February 2006, ICC-01/04-01/06-8-US-Corr, paragraphs 130-134.

⁷⁰. *Decision concerning Pre-Trial Chamber I's Decision of 10 February 2006 and the Incorporation of Documents into the Record of the Case against Mr Thomas Lubanga Dyilo*, 24 February 2006, ICC-01/04-01/06-8-US-Corr, paragraph 135.

Notification

In accordance with the aim of such measures, the Court is not generally required to give notice of proceedings for protective measures, unless in the particular circumstances the Court considers that notification could not “jeopardize the effectiveness of the measures”⁷¹. Rule 99 (3) requires the Registrar to provide notification of the measures, “as soon as is consistent with the effectiveness of the measures requested” and to notify “those against whom a request is made and, to the extent possible, to (sic) any interested persons or any interested States”. The Registrar will at that stage invite them to make representations “as to whether the order should be revoked or otherwise modified”. Rule 99 (4) gives the Court discretion to determine the appropriate timing and conduct of such proceedings.

5.2. Enforcement of reparations orders

Effective co-operation from States Parties in the enforcement of the Court’s orders will determine the effectiveness of the reparation process⁷².

States Parties are responsible for the enforcement of reparation orders⁷³. In general, under Articles 86 and 88, States Parties are required to “cooperate fully with the Court” and to “ensure that there are procedures available under their national law for all of the forms of cooperation”.

Under Article 75 (5) together with Article 109, State Parties “shall give effect to decisions on reparations, in accordance with the procedure of their national law”. Rule 219 specifies that “**the national authorities should not modify the reparations specified by the Court, the scope or extent of any damage, loss or injury determined by the Court or the principles stated in the order, and shall facilitate the enforcement of such order**”. Article 109 (2)⁷⁴, provides that States shall “take measures to recover the value of the proceeds, property or assets ordered by the Court”. Any funds recovered by the State must be transferred to the ICC⁷⁵.

States Parties may confront **legal problems** in fulfilling their obligations to enforce orders at the national level. For States Parties to be able to provide effective assistance and collaborate with the Court they must have enacted **effective national legislation implementing the Rome Statute**. To date, few national laws provides adequately for enforcement proceedings. Effective implementation will also depend in a large part on the state of the national justice system and the independence of national judges⁷⁶.

The assistance of **non-States Parties** may also be necessary for the enforcement of reparation orders, in particular when the convicted person’s assets are in the territory of a non-State Party. Article 87 (5) (a) provides that cooperation and assistance... of non-State Parties can be achieved “on the basis of an ad hoc arrangement, an agreement with such a State or any other appropriate basis.” Article 87 (5) (b) provides that a non-State Party that agrees to an ad hoc arrangement is bound by it. If such an agreement is not respected, the Court is entitled to refer the situation to the Assembly of States Parties.

In other cases, there will be **practical problems**. In states recovering from conflict, or which do not support ICC proceedings, it is likely to be difficult to trace, freeze and seize assets. Furthermore, “mutual

⁷¹. Rule 99(2).

⁷². See further, REDRESS, *Enforcement of Awards for Victims of Torture and Other International Crimes*, May 2006.

⁷³. Article 93 (1) (k).

⁷⁴. According to Article 75 (5), this provision applies to reparation orders.

⁷⁵. Rule 109(3).

⁷⁶. Bitti, G., et Gonzalez Rivas, G., “Reparations Provisions under the Rome Statute of the International Criminal Court”, in Permanent Court of Arbitration (ed.), *Redressing Injustices Through Mass Claims Processes : Innovative Responses to Unique Challenges*, pp. 299 – 322, p.310.

assistance in criminal matters is traditionally slow and a major source of frustration for requesting authorities”⁷⁷. This problem is exacerbated by “the speed with which debtors can move their assets if they learn that a freezing or seizure order is imminent”⁷⁸.

Finally, if the perpetrator’s assets are not available or he or she is insolvent, states may be unable to implement reparations orders.

IV. THE TRUST FUND FOR VICTIMS

“What compensation could you ever give that would be adequate for the loss of a loved one? You couldn’t possibly ever replace the one who is no longer there. But, frequently, symbols can be powerful. [With the Trust Fund,] a country, a nation, the international community says, symbolically: ‘We cannot compensate you, but we want to show you that we care, we want to show that we hope that this small thing that we do for you will somehow pour balm on your wounds and help those wounds to heal. . .”

Archbishop Desmond Tutu, Board of Directors of the Trust Fund, April 2004⁷⁹.

The Trust Fund is one of the most important innovations introduced by the Rome Statute concerning victims. It was established pursuant to Article 79 (1), Rule 98 of the Rules of Procedure and Evidence, and Resolution 6 of the Assembly of States Parties of 9 September 2002⁸⁰.

The Trust Fund performs two principal functions: it implements reparations orders made by the Court and has a discretion to use ‘voluntary contributions’ received from various sources to provide assistance to victims in situations investigated by the Court, whether or not they have suffered directly or indirectly from the crimes prosecuted before the Court. As such, wide communities of victims of international crimes are eligible for potential assistance from the Trust Fund as reparation for the crimes suffered.

⁷⁷. Ferstman, C., ‘The right to reparation at the International Criminal Court’, in *Focus: Reparation for Victims of Human Rights Violations, Article 2, Vol. 1, No. 6, December 2002*.

⁷⁸. Ibid.

⁷⁹. His Eminence Archbishop Desmond Tutu, on behalf of the Board of Directors of the Trust Fund at the ceremony marking their first meeting, The Hague, 22 April 2004. Cited in Bonneau, K. and Ferstman, K., “The Regulations of the Trust Fund for Victims are Finally Adopted,” *Victims’ Rights Working Group Bulletin*, Issue No 5 / February 2006.

⁸⁰. Establishment of a fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims, Resolution ICC-ASP/1/Res.6, 9 September 2002. The full text of Resolution 6 is included in the additional documents section of this Chapter.



RELEVANT TRUST FUND PROVISIONS

Article 79

1. A Trust Fund shall be established by decision of the Assembly of States Parties for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims.
2. The Court may order money and other property collected through fines or forfeiture to be transferred, by order of the Court, to the Trust Fund.
3. The Trust Fund shall be managed according to criteria to be determined by the Assembly of States Parties.

Rule 98

1. Individual awards for reparations shall be made directly against a convicted person.
2. The Court may order that an award for reparations against a convicted person be deposited with the Trust Fund where at the time of making the order it is impossible or impracticable to make individual awards directly to each victim. The award for reparations thus deposited in the Trust Fund shall be separated from other resources of the Trust Fund and shall be forwarded to each victim as soon as possible.
3. The Court may order that an award for reparations against a convicted person be made through the Trust Fund where the number of the victims and the scope, forms and modalities of reparations makes a collective award more appropriate.
4. Following consultations with interested States and the Trust Fund, the Court may order that an award for reparations be made through the Trust Fund to an intergovernmental, international or national organization approved by the Trust Fund.

The Trust Fund will be able to complement the role played by the Court in relation to reparations. It will have a vital role in the design and implementation of reparations, and will be able to provide the means for victims to receive some measure of reparation in cases when the convicted person or persons do not have sufficient assets. The role of the Trust Fund is not restricted to those victims who have participated in proceedings, or who are victims of the crimes prosecuted in cases before the Court. It is mandated to assist “victims of crimes within the jurisdiction of the court” and their families, and should therefore be able to provide funding for projects to assist whole communities of victims of the situations which are before the Court. Importantly, it is empowered to intervene before the outcome of any trial proceedings, which will enable it, in particular, to provide emergency assistance.



The Trust Fund is **independent** from the Court. The funds collected by the Trust Fund for Victims will come from four main sources:

- Awards of reparations ordered by the Court against convicted persons; and
- Funds collected through fines, forfeitures;
- Voluntary contributions from States, individuals and organizations;
- Other resources allocated by the Assembly of States Parties.

The Trust Fund has three main roles:

- To help to implement reparations awards ordered against a convicted person under Rule 98 (2) –(4);
- To use the contributions it receives from voluntary contributions to finance projects for the benefit of victims and their families;
- To develop and implement policies to raise funds for the Trust Fund.

1. Structure of the Trust Fund

Board of Directors

A Board of Directors was established to supervise the activities of the Trust Fund. The Board of Directors is to “establish and direct the activities and projects of the Trust Fund and the allocation of the property and money available to it, bearing in mind available resources and subject to the decisions taken by the Court”⁸¹.

The Board of Directors is composed of five members, each serving for a three-year term, renewable once⁸². The members serve in an individual capacity and on a voluntary basis⁸³. The members of the Board are elected by the Assembly of States Parties according to the following criteria: an equitable geographical distribution; an equitable gender distribution; and an equitable representation of the principal legal systems of the world⁸⁴.

The Trust Fund Secretariat

The Trust Fund Secretariat was established by a resolution of the Assembly of States Parties in 2004⁸⁵ to assist and support the Board of Directors with the day-to-day operation and administration of the Trust Fund, including the conduct of fundraising activities.



THE REGULATIONS OF THE TRUST FUND FOR VICTIMS

The Regulations of the Trust Fund for Victims (Regulations (VTF)) were prepared by the Board of Directors⁸⁶ and adopted at the 4th Session of the Assembly of States Parties in 2005⁸⁷. They set out general provisions concerning the management and oversight of the Trust Fund, the receipt of funds, and the activities and projects of the Trust Fund. The Regulations (VTF) are provided in the additional documents section of this Chapter.

2. The Independence of the Trust Fund

The Trust Fund is an independent entity. The power to manage the Fund is expressly given to the Board of Directors⁸⁸ and the Court is not entitled to utilise the resources of the Fund. Moreover, the Trust Fund has its own funding which does not form part of the regular budgetary framework of the Court. However, although the Trust Fund is not under the control of any organ of the Court, it works in collaboration with them.

Relationship with the Registry

The Registry has a role in providing administrative assistance to the Board of Directors and the Trust Fund Secretariat and in providing general advice and information of a non-confidential nature relating to victims⁸⁹. The Registrar is required to provide “such assistance as is necessary for the proper function-

⁸¹. Annex to Resolution 6/2002, § 7.

⁸². For the current composition of the board see www.icc-cpi.int/vtf/vtfboard.html. Cf. also Chapter II, Introduction to the ICC

⁸³. Annex to Resolution 6/2002, § 2 and Regulation (VTF) 16.

⁸⁴. Annex to Resolution 6/2002, § 3.

⁸⁵. ICC-ASP/3/Res.7, Establishment of the Secretariat of the Trust Fund for Victims, adopted 10 September 2004.

⁸⁶. Pursuant to Resolution 6/2002.

⁸⁷. Resolution ICC-ASP/4/Res.3, adopted 3 December 2005.

⁸⁸. Annex to Resolution 6/2002, § 7.

⁸⁹. ICC-ASP/3/Res.7, § 3 and Regulation (RR) 118.

ing of the Board”, and to participate in meetings of the Board in an advisory capacity⁹⁰. The Registrar must also be consulted when the Assembly of States Parties considers the creation of an expanded capacity for the Trust Fund, following a recommendation of the Board of Directors⁹¹. The Registry can also be requested by the Chambers or the Presidency to provide information received from or in respect of victims to the Secretariat of the Trust Fund⁹². In such cases, the Registry is required to consult the victims concerned or their legal representatives.

Relationship with the Chambers

If the Chamber decides, in accordance with Article 75 (2) and Rule 98, to order awards for reparation to be made through the Trust Fund, the Fund is required to implement reparation orders made by Chambers.

In cases where the Trust Fund wishes to act on its own initiative to use the other resources it receives to fund particular projects, it is required to notify the appropriate Chamber of its intention which has the power to prevent it from proceeding with its intended plan (see Section IV (4.3) below)⁹³.

Relationship with the Assembly of States Parties

The Trust Fund is also linked to the Assembly of States Parties (ASP). The criteria for managing the trust fund require approval of the ASP⁹⁴. The ASP was required to approve the Regulations of the Trust Fund before they could come into force⁹⁵. The ASP elects members of the Board of Directors and retains a supervisory role in that the Board is required to report annually to the Assembly “on the activities and projects of the Trust Fund and on all offered voluntary contributions, regardless of whether they were accepted or refused”⁹⁶.

3. Resources of the Trust Fund

Resolution 6/2002 provides:

- “[The Assembly of States parties] decides ... that the Trust Fund shall be funded by:
- (a) **Voluntary contributions** from Governments, international organizations, individuals, corporations and other entities, in accordance with relevant criteria adopted by the Assembly of States Parties;
 - (b) Money and other property collected through **fines or forfeiture** transferred to the Trust Fund if ordered by the Court pursuant to Article 79, paragraph 2, of the Statute;
 - (c) Resources collected through **awards for reparations** if ordered by the Court pursuant to Rule 98 of the Rules of Procedure and Evidence;
 - (d) Such **resources, other than assessed contributions**, as the Assembly of States Parties may decide to allocate to the Trust Fund”⁹⁷.

3.1. Orders for reparations

Under Article 75 (2), when a Chamber decides to make an order for reparations, it may order that awards be made through the Trust Fund. The use of the Trust Fund is optional. Difficulties in enforcing reparation orders may mean that the amount of funds available as a result of such orders are small. The amount of such funds will depend on the discretion of the Court, the ability of the convicted person to pay, as well as successful collection⁹⁸.

⁹⁰. Annex to Resolution 6/2002, § 5.

⁹¹. Annex to Resolution 6/2002, § 6.

⁹². Regulation (RR) 118.

⁹³. Regulation (VTF) 50(a).

⁹⁴. Article 79(3).

⁹⁵. Resolution 6/2002, § 3. The Regulations of the Trust Fund were adopted by Resolution ICC-ASP/4/Res.3, on 3 December 2005.

⁹⁶. Annex to Resolution 6/2002, § 11.

⁹⁷. Resolution 6/2002, § 2, emphasis added. See also Regulation (VTF) 21.

⁹⁸. Ingadottir, T., *The International Criminal Court – the Trust Fund for Victims (Article 79 of the Rome Statute)*, Project for International Courts and Tribunals (PICT) (February 2001), 19.

3.2. Fines and forfeiture

Under Article 79 (2), the Chambers can order money and other property collected through fines and forfeiture to be transferred to the Trust Fund⁹⁹. Orders for fines and forfeiture are sentences that the Chambers can impose on a convicted person in addition to imprisonment¹⁰⁰.

Again the use of the Trust Fund is optional. However, there are strong arguments in favour of transferring these funds to the Trust Fund so that they are used solely for the benefit of victims, rather than to support the operational costs of the Court. The drafting history of the Article supports such an interpretation, and funds which are derived from fines and forfeiture are not included as sources of the Court's funding listed in Article 115¹⁰¹.

On the basis that most defendants before the *ad hoc* tribunals qualified for legal aid, the amounts of fines and forfeiture is likely to be small and of course the Trust Fund will have to wait until the conclusion of the first trials before such orders can be made and the funds received¹⁰². Moreover, as with awards for reparation the collection of such resources will depend on the co-operation of States in recovering and transferring the money.

3.3. Resources allocated by the Assembly of States Parties

Regulation (VTF) 35 provides: "In its annual report to the Assembly, the Board of Directors may make suggestions of financial or other contributions, other than assessed contributions, that the Assembly of States Parties may allocate to the Trust Fund". However, the resources allocated by the Assembly of States Parties are unlikely to be very significant, in view of limited resources and the competition for funds with other organs and projects.

3.4. Voluntary contributions

Voluntary contributions from governments, international organizations, individuals, corporations and other entities are likely to represent the most significant source of funding for the Trust Fund. However, "while potentially considerable in amount, voluntary contributions are by their very nature highly volatile and tend to be emergency driven"¹⁰³. The Board of Directors of the Trust Fund has a role in raising funds from voluntary contributions and will need to establish a clear and effective policy for doing so¹⁰⁴.

The Trust Fund is only allowed to accept voluntary contributions that meet certain conditions and the Board is required to ensure that these conditions are met. Voluntary contributions must be submitted to the Board for approval, which must establish mechanisms to enable the sources of the funds to be verified¹⁰⁵.

⁹⁹. Regulation (VTF) 33 provides: "The Trust Fund shall take receipt of all money and other property collected through fines or forfeiture that is transferred, by order of the Court, to the Trust Fund".

¹⁰⁰. Article 77 (2).

¹⁰¹. Ingadottir, T., *The International Criminal Court – the Trust Fund for Victims (Article 79 of the Rome Statute)*, op. cit.

¹⁰². *Ibid*, 19, note 78.

¹⁰³. *Ibid*, at 21.

¹⁰⁴. Under Regulation (VTF) 23, the Board, as part of its annual report to the Assembly of States Parties on the activities and projects of the Trust Fund, is required to present an annual appeal for voluntary contributions to the Trust Fund. Furthermore, the Board, with the support of the Secretariat, is required to "establish contact with governments, international organizations, individuals, corporations and other entities," in order to raise voluntary contributions.

¹⁰⁵. Annex to Resolution 6/2002, § 8 and Regulation (VTF) 26.



REFUSING VOLUNTARY CONTRIBUTIONS

Resolution 6/2002 specifies two situations in which the Board must refuse voluntary contributions:

- If the contributions are not consistent with the goals and activities of the Fund¹⁰⁶; and
- If the allocation of contributions such as requested by the donor would result in “a manifestly inequitable distribution of available funds and property among the different groups of victims”¹⁰⁷.

Regulation 30 (VTF) adds two further situations in which voluntary contributions must be refused:

- If they are “deemed to be earmarked in a manner inconsistent with Regulation 27”; or
- If they would “affect the independence of the Trust Fund”¹⁰⁸.



THE ISSUE OF EARMARKING

Many donors are likely to specify the category or categories of victims for which they wish their funds to be used (‘earmarking’), because they wish to support certain groups of victims, or because there are restrictions on how they can spend their funds, or on the grounds that it provides them with a more concrete insight into the use of the contributions.

During the negotiation of the Regulations on the Trust Fund for Victims at the 4th Assembly of States Parties in 2005, delegates were in disagreement over whether and to what extent earmarking should be permitted. It is clear that allowing earmarked contributions may have a negative impact on certain categories of victims. It may mean that there are more resources available to for example victims of sexual violence, but less to victims of torture or that there are funds allocated to victims of a particular situation, but none to victims of other situations before the Court. However, a prohibition of all earmarked contributions would be likely to seriously limit the amount of funds available to the Trust Fund and would thus risk severely undermining its effectiveness. It would also appear to be inconsistent with paragraph 10 of the Annex to the Resolution 6/2002, which would allow for the possibility of limited and regulated earmarking. Eventually delegates agreed that limited earmarking would be allowed.

Regulation 27 (VTF) provides that **governments cannot earmark their contributions. However, other donors can earmark their contributions for up to one third of the contribution**, provided that certain conditions are met. These conditions are that it:

- (a) Benefits victims [...] and, where natural persons are concerned, their families; and
- (b) Would not result in discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or other origin, property, birth or other status, provided that contributions aimed at assisting those enjoying specific protection under international law should not be considered to be discriminatory¹⁰⁹.

Before refusing the contribution the Board can “seek a decision by the donor to withdraw the earmarking or to change it in an acceptable manner”¹¹⁰.

The Board is required to regularly review the nature and level of voluntary contributions in order to ensure that these conditions are met¹¹¹. If a contribution is earmarked and is accepted but that purpose cannot be achieved, the Board is required to allocate the contribution to its General Account, “subject to the agreement of the donor”¹¹².

¹⁰⁶. Annex to Resolution 6/2002, § 9.

¹⁰⁷. Annex to Resolution 6/2002, § 10.

¹⁰⁸. Regulation (VTF) 30 (b) and (c).

¹⁰⁹. Regulation (VTF) 27.

¹¹⁰. Regulation (VTF) 30.

¹¹¹. Regulation (VTF) 29.

¹¹². Regulation (VTF) 28.



SUPPORT FOR THE TRUST FUND

The total sum of contributions and pledges to the Trust Fund at any given time can be obtained from the Court's website at www.icc-cpi.int/vtf.html. On 4 October 2006, the website showed contributions received by 29 August 2006, amounting to donations of € 1 630 237.20 and pledges amounting to € 275 000.00.

4. Distribution of funds

4.1. Reparations orders: The Trust Fund's Role in implementing Court orders

The Trust Fund does not have control over awards for reparations; its role is to implement the Chambers' orders, acting as an intermediary between the Court and victims. The Chambers retain a strong role in supervising implementation. In carrying out its other activities, the Board is required to ensure that the Fund always contains adequate resources to implement the Court's awards for reparations.

Who are the beneficiaries? Regulation (VTF) 46 provides that, "Resources collected through awards for reparations may only benefit victims...and...their families, affected directly or indirectly by the crimes committed by the convicted person".



In all such cases, the Board of Directors is required to "determine the use of such resources in accordance with any stipulations or instructions contained in such orders, in particular on the scope of the beneficiaries and the nature and amount of the award(s)"¹¹³. However, the Court is not obliged to specify such details. If the order does not contain such directions, the Board of Directors "may determine the uses of such resources...taking into account any relevant decisions issued by the Court on the case at issue"¹¹⁴. Where the size and nature of awards have not been specified by the Court in the order, the Trust Fund must take into account: "the nature of the crimes, the particular injuries to victims and the nature of the evidence to support such injuries, as well as the size and location of the beneficiary group"¹¹⁵ in order to devise an appropriate plan for implementation.

In all such cases, the Secretariat of the Trust Fund is required to draft an "**implementation plan**", which must be approved by the Board of Directors¹¹⁶. The Board also has to decide whether to use other resources of the Trust Fund to complement the award(s)¹¹⁷. The draft implementation plan must then be submitted by the Trust Fund to the relevant Chamber for its approval. The Board of Directors is authorized to seek further instructions from the relevant Chamber on the implementation of its orders¹¹⁸. At the end of the implementation period, the Trust Fund submits a report to the Chamber¹¹⁹.

¹¹³. Regulation (VTF) 43.

¹¹⁴. Regulation (VTF) 44; in particular, the Board is required to take account of the principles to be established by the Court on the forms of reparations under Article 75 (1) and decisions of the court on assessment of reparations under Rule 97.

¹¹⁵. Regulation (VTF) 55.

¹¹⁶. Regulation (VTF) 54.

¹¹⁷. Regulation (VTF) 56.

¹¹⁸. Regulation (VTF) 45.

¹¹⁹. Regulation (VTF) 58.

Under Rule 98, there are three different situations in which the Chamber can order reparations awards to be made through the Trust Fund:

- **Individual awards to victims;**
- **Collective awards to victims;**
- **Awards to intergovernmental, international or national organizations approved by the Trust Fund.**

4.1.1. Individual awards to victims

Under Rule 98 “The Court may order that an award for reparations against a convicted person be deposited with the Trust Fund where at the time of making the order it is impossible or impracticable to make individual awards directly to each victim”¹²⁰. This provision indicates that as a general Rule awards should be made directly transferred to victims. Circumstances in which it may be impracticable or impossible to do so, thus justifying transfer through the Trust Fund, may include, for example, when there is a large number of individual victims, when the victim to whom reparations have been ordered is a child, or is temporarily incapable. It is difficult to predict how often the Trust Fund will be used to assist in distributing individual awards.

When individual awards are deposited with the Trust Fund, they are required to be kept separately from the other resources of the Fund and must be “forwarded to each victim as soon as possible”¹²¹.

4.1.2. Collective awards to victims through the Trust Fund

Under Rule 98 (3), the Court may order that a collective award be made through the Trust Fund, “where the number of victims and the scope, forms and modalities of reparations makes a collective award more appropriate”.

This option can be used to make orders to fund projects that can benefit a whole community of victims of crimes for which person(s) have been convicted before the Court. The Court could, for example, order reparations to be used for the building of a school, a hospital, or a health centre. The role of the Trust Fund in the implementation of collective awards for reparations should enable the reparations regime to operate effectively where there are large numbers of victims.

4.1.3. Collective awards made to intergovernmental, international or national organisations

Rule 98 (4) provides: “Following consultations with interested States and the Trust Fund, the Court may order that an award for reparations be made through the Trust Fund to an intergovernmental, international or national organisation approved by the Trust Fund”.

The Chamber can order an award for reparations to be implemented by an organisation that has been approved by the Trust Fund. Organisations can be used to implement individual or collective awards. Before making such an order, the Court is required to consult with the Trust Fund, as well as with the states concerned.

The procedure and criteria for the selection and approval of intergovernmental, international or national organizations to which reparation awards can be made are not specified. There are several options for identifying appropriate organisations: the Trust Fund could put out a call for proposals; it could invite cold applications; it could identify additional criteria relating to the suitability of the implementing body (for instance, a certain size, knowledge of a particular situation, proven independence and impartiality; proven capacity to manage grants, etc.)¹²².

¹²⁰. Rule 98(2).

¹²¹. Rule 98 (2).

¹²². Redress/Forensic Risk Alliance, The International Criminal Court’s Trust Fund for Victims – Analysis and options for the development of further criteria for the operation of the Trust Fund for Victims, December 2003, 34.

4.2. Fines and forfeiture

As with awards for reparations, when the Chambers make orders for resources collected through fines and forfeiture to be transferred to the Trust Fund, the Board is required to determine the use of such resources in accordance with any instructions contained in the Court's order. However, if the orders do not contain further stipulations or instructions, the Board can determine the use of such resources in accordance with Rule 98 and any relevant decisions of the Court¹²³. The Board can also seek further guidance from the Chamber which made the order¹²⁴. It is unclear whether the standard practice will be for the Court to specify how fines and forfeiture are to be used, or whether it will leave this to the discretion of the Trust Fund.

4.3. Use of other resources: The Trust Fund's wider role in assisting victims and their families

The "other resources of the Trust Fund" are "resources other than those collected from awards for reparations, fines and forfeitures"¹²⁵. These include therefore voluntary contributions and resources allocated by the Assembly of States Parties¹²⁶.

Who can benefit from the other resources of the Trust Fund?

Article 79 (1) provides that the Trust Fund is established "for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims"¹²⁷. Rule 98 (5) states that, "other resources of the Trust Fund may be used for the benefit of victims subject to the provisions of Article 79." The Regulations of the Trust Fund state that the other resources of the Trust Fund are for the benefit of "victims of crimes within the jurisdiction of the Court... and their families, who have suffered physical, psychological and/ or material harm as a result of these crimes"¹²⁸.

None of these provisions limit the potential beneficiaries of the Trust Fund to victims of crimes prosecuted by the Court. Instead, they extend to victims of crimes "within the jurisdiction of the Court", meaning that the Trust Fund can assist victims regardless of whether their specific case has been prosecuted before the Court, provided that there is a clear link to the jurisdiction of the Court.

This provision aims to give the Trust Fund the necessary flexibility and independence from the organs of the Court to be able to provide effective assistance to victims. A narrower approach, limited to victims of crimes prosecuted by the Court would excessively limit the role of the Trust Fund and would mean that it was entirely dependent on the choices of the Prosecutor in terms of those victims it could act to benefit. The groups of victims to whom assistance could be provided would be extremely limited, particularly in view of the limited prosecution strategy adopted by the Prosecutor¹²⁹. Such an approach would mean that the needs of all other victims in a situation under investigation by the Court would be excluded. Other victims from the same communities as those who are victims of the particular crimes prosecuted before the Court, would not be eligible for assistance.

The role of the Trust Fund is to ensure that reparations can benefit entire communities and not only those who are victims of crimes that happen to be the subject of prosecutions before the ICC.

¹²³. Regulation (VTF) 44.

¹²⁴. Regulation (VTF) 45.

¹²⁵. Regulation (VTF) 47.

¹²⁶. Under Regulation (VTF) 36, if the Assembly of States Parties does not specify how such contributions are to be used, "the Trust Fund may allocate these contributions to its General Account".

¹²⁷. See also Regulation (VTF) 42.

¹²⁸. Regulation (VTF) 48.

¹²⁹. See Chapter II, *Introduction to the ICC*.

It is unclear how the Trust Fund will assess needs of victims and decide which groups of victims should benefit from its resources. The mechanisms for the assessment of payment require further definition. In making decisions on its activities and projects, the Trust Fund can consult victims, their families, their legal representatives and any “competent expert” or “expert organisation”¹³⁰.

When can the Trust Fund provide assistance?

In respect of voluntary contributions the Trust Fund is not required to wait for a final decision of the Court. The Trust Fund can provide assistance from the opening of an investigation, for example to victims who require urgent assistance.

Notifying the Chamber of planned activities

The Trust Fund is required to notify the Court of its plans to use other resources of the Fund.



During the negotiations of the Regulations of the Trust Fund at the Assembly of States Parties of 2005, several delegations, argued for increased control of the activities of the Trust Fund by the Court, considering that the activities of the Trust Fund could impede the activities of the Court. Other delegations expressed concern that such proposals would undermine both the independence and effectiveness of the Trust Fund. These disagreements threatened to force the postponement of the adoption of the Regulations. Eventually a compromise was reached under which, before it can act on its own initiative, the Board must “formally notify the Court of its conclusion to undertake specified activities”.

The Trust Fund is not required to wait for the Court’s positive approval. If within 45 days of receiving the notification the Board has not been informed, in writing, that “a specific activity or project...would pre-determine any issue to be determined by the Court” or “undermine the rights of the accused”, the Trust Fund can proceed with its initiative¹³¹. If the Court has not responded or requests further time, the period of consideration may be extended by a maximum of 30 days¹³².

How will these resources be used?

The Trust Fund has the possibility of implementing a wide range of reparations measures to provide such support to victims and their families, to cover both tangible and intangible losses. The forms of assistance referred to in the Regulations of the Trust Fund are “physical or psychological rehabilitation or material support”¹³³. The Trust Fund could have an important role in providing rehabilitation, for example, by setting up centres for medical assistance and counselling or satisfaction through symbolic measures, such as the construction of monuments in memory of victims.

How will the projects be implemented?

The final and most significant obstacle faced by the Trust Fund will be ensuring that the resources reach the victims they are intended to benefit. As with the Court’s awards for reparations, the cooperation of states will be required. The Trust Fund will be operating in regions that have been devastated by conflict and the structures which could be necessary to assist in distributing awards may no longer be in place. In many situations, there will be safety concerns and other difficulties caused by political and domestic instability. Often, the conflict may be ongoing.

¹³⁰. Regulation (VTF) 49.

¹³¹. Regulation (VTF) 50(a) (ii).

¹³². Regulation (VTF) (a) (iii).

¹³³. Regulation (VTF) 50(a) (i).

The Trust Fund faces many challenges in fulfilling its responsibilities and at this stage it is difficult to anticipate how satisfactorily it will do so. Certainly it has the potential to reach a wide range of victims and provide assistance in many forms. Of course, however well the operational procedures are designed and implemented, the Trust Fund is limited in how much assistance it can provide by the resources available to it, and it will, in particular, only be able to provide victims and their families with the reparations that they need and deserve to the extent that states are willing to make contributions.

 **CHAPTER VII**

RELEVANT PROVISIONS

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“Article”: refers to the Rome Statute

“Rule”: refers to the Rules of Procedure and Evidence

“Regulation”: refers to the Regulations of the Court

“Regulation (RR)”: refers to the Regulations of the Registry

“Regulation (VTF)”: refers to the Regulations of the Trust Fund for Victims

RELEVANT PROVISIONS

GENERAL

Article 75 Reparations to victims

1. The Court shall establish principles relating to reparations to, or in respect of, victims, including restitution, compensation and rehabilitation. On this basis, in its decision the Court may, either upon request or on its own motion in exceptional circumstances, determine the scope and extent of any damage, loss and injury to, or in respect of, victims and will state the principles on which it is acting.
2. The Court may make an order directly against a convicted person specifying appropriate reparations to, or in respect of, victims, including restitution, compensation and rehabilitation. Where appropriate, the Court may order that the award for reparations be made through the Trust Fund provided for in Article 79.
3. Before making an order under this Article, the Court may invite and shall take account of representations from or on behalf of the convicted person, victims, other interested persons or interested States.
4. In exercising its power under this Article, the Court may, after a person is convicted of a crime within the jurisdiction of the Court, determine whether, in order to give effect to an order which it may make under this Article, it is necessary to seek measures under Article 93, paragraph 1.
5. A State Party shall give effect to a decision under this Article as if the provisions of Article 109 were applicable to this Article.
6. Nothing in this Article shall be interpreted as prejudicing the rights of victims under national or international law.

Rule 94 Procedure upon request

1. A victim's request for reparations under Article 75 shall be made in writing and filed with the Registrar. It shall contain the following 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 and, to the extent possible, the identity of the person or persons the victim believes to be responsible for the injury, loss or harm;
 - (d) Where restitution of assets, property or other tangible items is sought, a description of them;
 - (e) Claims for compensation;
 - (f) Claims for rehabilitation and other forms of remedy;
 - (g) To the extent possible, any relevant supporting documentation, including names and addresses of witnesses.
2. At commencement of the trial and subject to any protective measures, the Court shall ask the Registrar to provide notification of the request to the person or persons named in the request or identified in the charges and, to the extent possible, to any interested persons or any interested States. Those notified shall file with the Registry any representation made under Article 75, paragraph 3.

Rule 95 Procedure on the motion of the Court

1. In cases where the Court intends to proceed on its own motion pursuant to Article 75, paragraph 1, it shall ask the Registrar to provide notification of its intention to the person or persons against whom the Court is considering making a determination, and, to the extent possible, to victims, interested persons and interested States. Those notified shall file with the Registry any representation made under Article 75, paragraph 3.

2. If, as a result of notification under sub-Rule 1:

- (a) A victim makes a request for reparations, that request will be determined as if it had been brought under Rule 94;
- (b) A victim requests that the Court does not make an order for reparations, the Court shall not proceed to make an individual order in respect of that victim.

Rule 96

Publication of reparation proceedings

1. Without prejudice to any other Rules on notification of proceedings, the Registrar shall, insofar as practicable, notify the victims or their legal representatives and the person or persons concerned. The Registrar shall also, having regard to any information provided by the Prosecutor, take all the necessary measures to give adequate publicity of the reparation proceedings before the Court, to the extent possible, to other victims, interested persons and interested States.
2. In taking the measures described in sub-Rule 1, the Court may seek, in accordance with Part 9, the cooperation of relevant States Parties, and seek the assistance of intergovernmental organizations in order to give publicity, as widely as possible and by all possible means, to the reparation proceedings before the Court.

Rule 97 Assessment of reparations

1. Taking into account the scope and extent of any damage, loss or injury, the Court may award reparations on an individualized basis or, where it deems it appropriate, on a collective basis or both.
2. At the request of victims or their legal representatives, or at the request of the convicted person, or on its own motion, the Court may appoint appropriate experts to assist it in determining the scope, extent of any damage, loss and injury to, or in respect of victims and to suggest various options concerning the appropriate types and modalities of reparations. The Court shall invite, as appropriate, victims or their legal representatives, the convicted person as well as interested persons and interested States to make observations on the reports of the experts.
3. In all cases, the Court shall respect the rights of victims and the convicted person.

Rule 99 Cooperation and protective measures for the purpose of forfeiture under Articles 57, paragraph 3 (e), and 75, paragraph 4

1. The Pre-Trial Chamber, pursuant to Article 57, paragraph 3 (e), or the Trial Chamber, pursuant to Article 75, paragraph 4, may, on its own motion or on the application of the Prosecutor or at the request of the victims or their legal representatives who have made a request for reparations or who have given a written undertaking to do so, determine whether measures should be requested.
2. Notice is not required unless the Court determines, in the particular circumstances of the case, that notification could not jeopardize the effectiveness of the measures requested. In the latter case, the Registrar shall provide notification of the proceedings to the person against whom a request is made and so far as is possible to any interested persons or interested States.
3. If an order is made without prior notification, the relevant Chamber shall request the Registrar, as soon as is consistent with the effectiveness of the measures requested, to notify those against whom a request is made and, to the extent possible, to any interested persons or any interested States and invite them to make observations as to whether the order should be revoked or otherwise modified.
4. The Court may make orders as to the timing and conduct of any proceedings necessary to determine these issues.

Rule 143

Additional hearings on matters related to sentence or reparations

Pursuant to Article 76, paragraphs 2 and 3, for the purpose of holding a further hearing on matters related to sentence and, if applicable, reparations, the Presiding Judge shall set the date of the further hearing. This hearing can be postponed, in exceptional circumstances, by the Trial Chamber, on its

own motion or at the request of the Prosecutor, the defence or the legal representatives of the victims participating in the proceedings pursuant to Rules 89 to 91 and, in respect of reparations hearings, those victims who have made a request under Rule 94.

Applications for reparations

Regulation 88 Requests for reparations in accordance with Rule 94

1. For the application of Rule 94, the Registrar shall develop a standard form for victims to present their requests for reparations and shall make it available to victims, groups of victims, or intergovernmental and non-governmental organizations which may assist in its dissemination, as widely as possible. This standard form shall be approved in accordance with Regulation 23, sub-Regulation 2, and shall, to the extent possible, be used by victims.
2. The Registrar shall seek all necessary additional information from a victim in order to complete his or her request in accordance with Rule 94, sub-Rule 1, and shall assist victims in completing such a request. The request shall then be registered and stored electronically in order to be notified by the unit described in Regulation 86, sub-Regulation 9, in accordance with Rule 94, sub-Rule 2.

Regulation 104

Standard application forms

1. The standard application forms provided for in regulations 86 and 88 of the Regulations of the Court, and the explanatory material shall, to the extent possible, be made available in the language(s) spoken by the victims. The Registry shall endeavour to prepare the standard application forms in a format that is accessible, that can be used by the Court, and that is compatible with the electronic database referred to in regulation 98, sub-regulation 2.
2. The Registry may propose amendments to the standard application forms on the basis of, inter alia, experience in using the forms and the context of specific situations. The proposed amendments shall be submitted to the Presidency for approval in accordance with regulation 23, sub-regulation 2, of the Regulations of the Court.

Regulation (RR) 105

Dissemination and completion of standard application forms

1. In order to ensure that standard application forms, as referred to in regulation 86, sub-regulation 1, of the Regulations of the Court, are completed as efficiently as possible, the Registry may establish contact and maintain regular relations with the groups mentioned in regulation 86, sub-regulation 1, of the Regulations of the Court, and may, inter alia, prepare guidance booklets and other materials, or provide education and training, in order to guide those assisting victims in completing the standard application forms.
2. The Registry shall, as far as possible, encourage the use of the standard application forms by victims in making applications.

Regulation (RR) 106

Receipt of applications

1. Applications for participation or reparations may be submitted either to the seat of the Court or to a field office of the Court.
2. The Registry shall take measures to encourage victims to complete their applications and to provide further information and communications in a working language of the Court. Such steps may include, inter alia, seeking the assistance of groups mentioned in regulation 86, sub-regulation 1, of the Regulations of the Court.
3. Documents and material relating to an application and submitted after the initial application shall be dealt with in accordance with regulation 107.

Regulation (RR) 107

Review of applications

1. Where an application is received in hard copy, the Registry shall convert it into image file format, ensuring that the application is not altered in any way.
2. The Registry shall take measures to encourage victims to complete their application using the standard form referred to in regulation 86, sub-regulation 1, of the Regulations of the Court.
3. In seeking further information in accordance with regulation 86, sub-regulation 4, or regulation 88, sub-regulation 2, of the Regulations of the Court, the Registry shall consider the interests of the victim and shall take into account, inter alia, whether the victim is represented, the security of the victim, and any time limits for the filing of documents with the Court. When contacting victims or their legal representatives to request further information, the Registry shall inform them that their request may be granted or rejected by the Chamber on the basis, inter alia, of information provided by them and that they may submit a new application later in the proceedings if their application is rejected by the Chamber.
4. The Registry shall endeavour wherever possible to obtain further information in writing, but where the victim has expressed a preference for contact by telephone, and taking security considerations into account, it may receive such information by telephone. In so doing, the Registry shall, to the extent possible, verify the identity of the person and record the conversation.

Regulation (RR) 108

Access to applications

1. Applications and related documents and material shall be available to the Chambers and the participants through electronic means, in accordance with their level of confidentiality.
2. Consultation of the original form of the applications and related documents and material shall be requested using the approved standard form.
3. Regulation 16 shall apply mutatis mutandis.

Regulation (RR) 110

Submission of applications for reparations

1. The Registry shall present all applications for reparations to the Chamber, together with a report thereon, where requested.
2. For the purpose of Rule 97, at the request of the Chamber, the Registry may present information or recommendations regarding matters such as the types and modalities of reparations, factors relating to the appropriateness of awarding reparations on an individual or a collective basis, the implementation of reparations awards, the use of the Trust Fund for Victims, enforcement measures, and appropriate experts to assist in accordance with Rule 97, sub-Rule 2.

Appeals of reparations orders

Article 82 (4) Appeal against other decisions

(4) A legal representative of the victims, the convicted person or a bona fide owner of property adversely affected by an order under Article 75 may appeal against the order for reparations, as provided in the Rules of Procedure and Evidence.

Rule 150

Appeal

1. Subject to sub-Rule 2, an appeal against a decision of conviction or acquittal under Article 74, a sentence under Article 76 or a reparation order under Article 75 may be filed not later than 30 days from the date on which the party filing the appeal is notified of the decision, the sentence or the reparation order.

2. The Appeals Chamber may extend the time limit set out in sub-Rule 1, for good cause, upon the application of the party seeking to file the appeal.
3. The appeal shall be filed with the Registrar.
4. If an appeal is not filed as set out in sub-Rules 1 to 3, the decision, the sentence or the reparation order of the Trial Chamber shall become final.

Rule 153

Judgement on appeals against reparation orders

1. The Appeals Chamber may confirm, reverse or amend a reparation order made under Article 75.
2. The judgement of the Appeals Chamber shall be delivered in accordance with Article 83, paragraphs 4 and 5.

Enforcement

Rule 217

Cooperation and measures for enforcement of fines, forfeiture or reparation orders

For the enforcement of fines, forfeiture or reparation orders, the Presidency shall, as appropriate, seek cooperation and measures for enforcement in accordance with Part 9, as well as transmit copies of relevant orders to any State with which the sentenced person appears to have direct connection by reason of either nationality, domicile or habitual residence or by virtue of the location of the sentenced person's assets and property or with which the victim has such connection. The Presidency shall, as appropriate, inform the State of any third-party claims or of the fact that no claim was presented by a person who received notification of any proceedings conducted pursuant to Article 75.

Rule 218

Orders for forfeiture and reparations

1. In order to enable States to give effect to an order for forfeiture, the order shall specify:
 - (a) The identity of the person against whom the order has been issued;
 - (b) The proceeds, property and assets that have been ordered by the Court to be forfeited; and
 - (c) That if the State Party is unable to give effect to the order for forfeiture in relation to the specified proceeds, property or assets, it shall take measures to recover the value of the same.
2. In the request for cooperation and measures for enforcement, the Court shall also provide available information as to the location of the proceeds, property and assets that are covered by the order for forfeiture.
3. In order to enable States to give effect to an order for reparations, the order shall specify:
 - (a) The identity of the person against whom the order has been issued;
 - (b) In respect of reparations of a financial nature, the identity of the victims to whom individual reparations have been granted, and, where the award for reparations shall be deposited with the Trust Fund, the particulars of the Trust Fund for the deposit of the award; and
 - (c) The scope and nature of the reparations ordered by the Court, including, where applicable, the property and assets for which restitution has been ordered.
4. Where the Court awards reparations on an individual basis, a copy of the reparation order shall be transmitted to the victim concerned.

Rule 219

Non-modification of orders for reparation

The Presidency shall, when transmitting copies of orders for reparations to States Parties under Rule 217, inform them that, in giving effect to an order for reparations, the national authorities shall not modify the reparations specified by the Court, the scope or the extent of any damage, loss or injury determined by the Court or the principles stated in the order, and shall facilitate the enforcement of such order.

Rule 220

Non-modification of judgements in which fines were imposed

When transmitting copies of judgements in which fines were imposed to States Parties for the purpose of enforcement in accordance with Article 109 and Rule 217, the Presidency shall inform them that in enforcing the fines imposed, national authorities shall not modify them.

Rule 221

Decision on disposition or allocation of property or assets

1. The Presidency shall, after having consulted, as appropriate, with the Prosecutor, the sentenced person, the victims or their legal representatives, the national authorities of the State of enforcement or any relevant third party, or representatives of the Trust Fund provided for in Article 79, decide on all matters related to the disposition or allocation of property or assets realized through enforcement of an order of the Court.

2. In all cases, when the Presidency decides on the disposition or allocation of property or assets belonging to the sentenced person, it shall give priority to the enforcement of measures concerning reparations to victims.

Rule 222

Assistance for service or any other measure

The Presidency shall assist the State in the enforcement of fines, forfeiture or reparation orders, as requested, with the service of any relevant notification on the sentenced person or any other relevant persons, or the carrying out of any other measures necessary for the enforcement of the order under the procedure of the national law of the enforcement State.

Regulation 116

Enforcement of fines, forfeiture orders and reparation orders

1. For the purposes of enforcement of fines, forfeiture orders and reparation orders, the Presidency, with the assistance of the Registry as appropriate, shall make the arrangements necessary in order to, inter alia:

(d) Ensure the transfer of money to the Trust Fund or to victims, as appropriate.

2. Following the transfer to or deposit in the Trust Fund of property or assets realized through enforcement of an order of the Court, the Presidency shall, subject to Article 75, paragraph 2, and Rule 98, decide on their disposition or allocation in accordance with Rule 221."

Regulation 117

Ongoing monitoring of financial situation of the sentenced person

The Presidency shall, if necessary, and with the assistance of the Registrar as appropriate, monitor the financial situation of the sentenced person on an ongoing basis, even following completion of a sentence of imprisonment, in order to enforce fines, forfeiture orders or reparation orders, and may, inter alia:

(a) Request relevant information, expert opinions or reports, where necessary by way of a request for cooperation, and, if appropriate, on a periodic basis;

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(b) Contact, where appropriate in the manner described in Rule 211, paragraph 1 (c), the sentenced person and his or her counsel in order to inquire into the financial situation of the sentenced person;

(c) Ask for observations from the Prosecutor, victims and legal representatives of victims.

Regulation (RR) 111***Assistance in the enforcement phase***

The Registry may, if so requested, provide the Presidency with relevant information, including information received in applications for participation or reparations, to assist it in its decision making on matters relating to the disposition or allocation of property or assets in accordance with Rule 221.

The Trust Fund for Victims**Article 79**

1. A Trust Fund shall be established by decision of the Assembly of States Parties for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims.
2. The Court may order money and other property collected through fines or forfeiture to be transferred, by order of the Court, to the Trust Fund.
3. The Trust Fund shall be managed according to criteria to be determined by the Assembly of States Parties.

Rule 98 Trust Fund

1. Individual awards for reparations shall be made directly against a convicted person.
2. The Court may order that an award for reparations against a convicted person be deposited with the Trust Fund where at the time of making the order it is impossible or impracticable to make individual awards directly to each victim. The award for reparations thus deposited in the Trust Fund shall be separated from other resources of the Trust Fund and shall be forwarded to each victim as soon as possible.
3. The Court may order that an award for reparations against a convicted person be made through the Trust Fund where the number of the victims and the scope, forms and modalities of reparations makes a collective award more appropriate.
4. Following consultations with interested States and the Trust Fund, the Court may order that an award for reparations be made through the Trust Fund to an intergovernmental, international or national organization approved by the Trust Fund.
5. Other resources of the Trust Fund may be used for the benefit of victims subject to the provisions of Article 79.

Rule 148***Orders to transfer fines or forfeitures to the Trust Fund***

Before making an order pursuant to Article 79, paragraph 2, a Chamber may request the representatives of the Fund to submit written or oral observations to it.

Regulation (RR) 118***Cooperation with the Trust Fund for Victims***

1. For the purpose of rule 98, sub-rule 4, rule 148 and rule 221, sub-rule 1, the Registry shall, where requested by the Chamber or by the Presidency, and after consultation with the victims or their legal representatives, provide information received from or in respect of victims to the Secretariat of the Trust Fund for Victims, and shall provide general advice and information of a non-confidential nature relating to victims.
2. Where an order is issued by the Chamber for an award of reparations through the Trust Fund for Victims, the Registrar shall, having regard to confidentiality, provide the Secretariat of the Trust Fund for Victims with such information received in the applications sent by victims and such further information and documents as are necessary for the implementation of the order.



CHAPTER VII

ADDITIONAL DOCUMENTS

Standard application form for reparations before the International Criminal Court for individual victims and persons acting on their behalf

Standard application form for reparations before the International Criminal Court for victims which are organisations or institutions

Resolution ICC-ASP/1/Res.6 establishing a fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims, adopted on 9 September 2002

Regulations of the Trust Fund for Victims, Resolution ICC-ASP/4/Res.3 adopted on 3 December 2005



**STANDARD APPLICATION FORM FOR REPARATIONS
BEFORE THE INTERNATIONAL CRIMINAL COURT
FOR INDIVIDUAL VICTIMS AND PERSONS ACTING ON THEIR BEHALF**

FORM REPARATIONS-1

Please complete this Application Form if you believe you have suffered harm as a result of a crime under the jurisdiction of the International Criminal Court (ICC) and wish to submit a request for reparations to the ICC, or if you are acting on behalf of such a person.

The purpose of this Application Form is to collect information to help a Chamber of Judges in the ICC decide on matters relating to reparation. Completion of this form will not automatically lead to reparation awards by the ICC.

The information provided in the Application Form will be presented to a Chamber of Judges in the ICC which will consider your request. Please be advised that criminal

proceedings take time and it may be some time before the Court makes decisions on reparations.


Please review the accompanying Booklet before completing the Application Form as it will help you fill it in correctly. The Booklet contains explanations regarding:

- What the International Criminal Court is
- The purpose of this Application Form and what will happen to it
- Instructions on how to complete each section of the Application Form. Please note that each Part of this Application Form corresponds to the same Part of the Booklet.

Who should use this Application Form?

A victim who is seeking to submit a request for reparations to the ICC

For the purposes of the ICC, a victim is a person who has suffered harm as a result of the commission of any crime within the jurisdiction of the Court.

 Victims that are organizations or institutions should use FORM REPARATIONS-2.

A person acting on behalf of a victim

Where a victim is a child, or has a disability that prevents the victim from acting on her or his own behalf, someone else may make an application on their

behalf. Where a victim is deceased, someone else may also make the application. In addition, a person may make the application with the consent of a victim. In any of above circumstances, the person making the application should complete Part B.

A person assisting a victim

Where a victim or a person acting on behalf of a victim is filling in this Application Form, they may be assisted in filling in the Application Form by another person. This would be the case, for example, if either the victim or the person acting on behalf of the victim is unable to read or to write. Where a person assists in filling in this Application Form, she or he should complete Part I.

NOTE

This Application Form and the process of applying are free of charge. The ICC, as a matter of practice, does not charge any fee at any stage of the application process.

Instructions:

Please take into account the following instructions when completing this Application Form:

- Please fill in this Application Form to the extent possible.
- Please type or write your answers clearly.
- Please attach answers to the questions on a separate sheet of paper if you need more space.
- You must sign your Application Form, or add your thumbprint or other mark where indicated at the end of Part J.
- Please also put initials of the applicant in the box located at the bottom of each page of this Application Form as well as of any other documents accompanying it. This will help prevent pages of the Application Form from being lost.
- Please provide photocopies of documents requested to the extent possible. If you do not have the documentation requested your application will still be considered. If possible, please staple all the pages of the Application Form and the accompanying documents. Do not send original documents at this time, but please take good care of original documents, which the Court may request at a later stage.

If you seek help in filling in this Application Form, you may contact the ICC or an ICC Field Office which will put you in touch with someone near you to help you fill in this Application Form.

Note regarding disclosure of information:

The information contained in your Application Form may be forwarded to the Defence and other interested persons, including States, at the relevant stage. In addition, part or all of the information may be made available to the general public in the course of proceedings. If you do not wish for part or all of the information in the form to be disclosed or made public for reasons related to your security or well-being, you should tick the relevant boxes in Part H of the Application Form and provide the information requested. The Chamber of Judges will decide on the request, and their decision will be communicated to you.

The Application Form should be sent directly to one of the following addresses:

ICC HEADQUARTERS**International Criminal Court**

Victims Participation and Reparations Section (VPRS)
P.O. Box 19519, 2500 CM The Hague
The Netherlands
Fax: + 31 70 515 9100
Email: vprsapplications@icc-cpi.int

ICC FIELD OFFICES**ICC Field Office in Kampala**

Victims Participation and Reparations Section (VPRS)
P.O. Box 72735 - Kampala
Telephone: + 256 77 2 706062

ICC Field Office in Kinshasa

Victims Participation and Reparations Section (VPRS)
Telephone: + 243 998011426, + 243 998011403

PERSONAL INFORMATION ABOUT THE VICTIM. See Part A of the Booklet.

Have you already submitted an application for participation or reparations to the ICC?

Yes No

If yes, when?

Day Month Year

If you have a registration number, please indicate it:

VPRS- / - /

1. **Surname(s):** _____

2. **Other name(s):** _____

3. **Please provide the following information as far as relevant:**

Father's name: _____

Mother's name: _____

Name of next of kin or, if you are under 18 years old, guardian: _____

4. **Sex:** Female Male

5. **Age** or, if not known, approximate age:

or **date of birth**, or if not known, approximate date of birth:

Day Month Year

6. **Place of birth:** _____

7. **Nationality (ies):** _____

8. **What is your tribe/ethnic group?**

Initials of applicant

NOTE: This Application Form and the process of applying are free of charge.

9. What is your occupation?

- Agriculture (crops, livestock)
- Seller (self-employed, trade)
- State employee
- Teacher
- Medical worker
- Artisan/skilled labor/ casual worker
- Work for NGO or UN
- Unemployed
- Other - Specify:

10. What is your marital status?

- Single
- Married
- Divorced
- Widow/widower
- Other (such as abandoned spouse, co-habitee)

11. How many dependants do you have? Please write number.

12. If you have a disability or disabilities, please specify.

Initials of applicant

13. Which of the following proof of identity do you have? Please indicate the number or other reference and attach a photocopy if possible. Please note that one of the following is sufficient. If you have no documentation your application will still be considered.

Type of proof of identity	Number or other reference
<input type="checkbox"/> Passport	_____
<input type="checkbox"/> Driver's licence	_____
<input type="checkbox"/> Identity card (such as students, employees)	_____
<input type="checkbox"/> Letter from Local Authority	_____
<input type="checkbox"/> Camp registration card	_____
<input type="checkbox"/> Card from humanitarian agency (such as UNHCR, WFP)	_____
<input type="checkbox"/> Tax document	_____
<input type="checkbox"/> Voting card	_____
<input type="checkbox"/> Other. Please specify and provide number or other reference:	_____
<input type="checkbox"/> None	_____

14. Where do you currently live? Please complete all that apply to you.

Street: _____ Number/Plot: _____

Camp/Zone/Sector/Cell: _____

Village/Parish/Subcounty/Town: _____

County/District: _____

P.O. Box: _____ Postal Code: _____

Country: _____

If you have been displaced from your home, please indicate your place of origin:

Village/Parish/Subcounty/Town: _____

County/District: _____

Country: _____

Initials of applicant

15. Where would you like to be contacted? *Please tick as appropriate.*

- Please use the address mentioned in question 14.
- Please contact me through a person acting on my behalf.
If you tick this box, please fill in Part B of this Application Form as appropriate.
- Please use the following address. *Please complete all that apply to you:*

C/O: _____

Street: _____

Number/Plot: _____

Camp/Zone/Sector/Cell: _____

Village/Parish/Subcounty/Town: _____

County/District: _____

P.O. Box: _____

Postal Code: _____

Country: _____

- Please use the following telephone number (*please give area code*):

- Please use the following mobile phone number:

- Please use the following fax number (*please give area code*):

- Please use the following e-mail address:

16. Which languages do you speak?

17. In which of the following languages are you able to understand written correspondence?

English

French

Other language. *Please specify:* _____

Cannot read

Initials of applicant

INFORMATION ABOUT A PERSON ACTING ON BEHALF OF THE VICTIM. See Part B of the Booklet.

If this Application Form is being completed by a person acting on behalf of the victim (as outlined on page 1 of the Application Form), that person should provide her or his details below.

1. **Surname(s):** _____

2. **Other name(s):** _____

3. **Sex:** Female Male

4. **Age** or, if not known, approximate age: _____

or **date of birth**, or if not known, approximate date of birth:

Day Month Year

5. **Which of the following proof of identity do you have?** Please indicate the number or other reference and attach a photocopy if possible. Please note that one of the following is sufficient. If you have no documentation your application will still be considered.

Type of proof of identity	Number or other reference
<input type="checkbox"/> Passport	_____
<input type="checkbox"/> Driver's licence	_____
<input type="checkbox"/> Identity card (such as students, employees)	_____
<input type="checkbox"/> Letter from Local Authority	_____
<input type="checkbox"/> Camp registration card	_____
<input type="checkbox"/> Card from humanitarian agency (such as UNHCR, WFP)	_____
<input type="checkbox"/> Tax document	_____
<input type="checkbox"/> Voting card	_____
<input type="checkbox"/> Other. Please specify and provide number or other reference:	_____
<input type="checkbox"/> None	_____

Initials of applicant

6. Contact details. Please complete all that apply to you.

Street: _____ Number/Plot: _____

Camp/Zone/Sector/Cell: _____

Village/Parish/Subcounty/Town: _____

County/District: _____

P.O. Box: _____ Postal Code: _____

Country: _____

Telephone number. Please give area code: _____

Mobile phone number: _____

Fax number. Please give area code: _____

E-mail address: _____

7. Which languages do you speak?

8. In which of the following languages are you able to understand written correspondence?

English

French

Other language. Please specify: _____

Cannot read

9. In what capacity are you making this application? Please tick as appropriate.

I am making this application because:

Ⓐ <input type="checkbox"/>	The victim is a child	
Ⓑ <input type="checkbox"/>	The victim is a person with a disability	Nature of disability: _____
Ⓒ <input type="checkbox"/>	The victim is deceased	Date of death: Day <input type="text"/> Month <input type="text"/> Year <input type="text"/> Is there a death certificate, court document granting entitlement or the equivalent? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>If yes, please provide a photocopy.</i>
Ⓓ <input type="checkbox"/>	The victim gave her/his consent	<i>The victim must indicate her or his consent by signing in Part J of this Application Form.</i>

Initials of applicant

10. What is your relationship to the victim? _____

Do you have proof of the relationship (such as marriage certificate, birth certificate, family registration booklet, will or testament or court document)?

Yes No

If yes, please provide a photocopy.

PART C

NOT APPLICABLE. See Part C of the Booklet.

PART D

INFORMATION ABOUT THE ALLEGED CRIME(S). See Part D of the Booklet.

Please attach answers to this section on a separate sheet of paper if necessary.

1. Please give a detailed description of the alleged crime(s) which form the basis of this application (please explain in detail what happened to you).

When did the event or events occur? If possible, please specify day(s), month(s) and year(s).

Initials of applicant

Where did the event or events take place? If necessary you may attach a drawing or a map of the location.

Five horizontal lines for writing the location of the event.

2. Who do you believe is responsible for the event or events and why do you believe this?

Please answer to the extent possible.

Five horizontal lines for writing the responsible party and reasons.

3. Were there any other victims of the event or events?

Yes No

If yes (and if you can), please give their names and addresses, unless you know that they wish to remain anonymous, or it would put the applicant or anyone else at risk.

Three horizontal lines for listing other victims.

4. Were there any witnesses?

Yes No

If yes (and if you can), please give their names and addresses, unless you know that they wish to remain anonymous or it would put the applicant or anyone else at risk.

Three horizontal lines for listing witnesses.

5. Do you have any relationship with these witnesses (are they family members, neighbours, friends, etc.)?

Yes No

If yes, please indicate:

Two horizontal lines for describing relationships.

Empty rectangular box for initials.

Initials of applicant

INFORMATION ABOUT THE INJURY, LOSS OR HARM SUFFERED. *See Part E of the Booklet.*

1. Please describe the injury, loss or harm you have suffered, and give brief descriptions (such as physical injuries, mental pain and anguish, loss of or damage to property).

2. Were you examined by a doctor after the event or events occurred?

Yes No

3. Did you receive any medical or psychological treatment?

Yes No

4. If yes, do you have (or have access to) any records regarding any medical or psychological treatment? *If yes, please tick as appropriate and provide a photocopy, if available.*

- Medical report from doctor, hospital or health center
- X-rays
- Prescriptions/Invoices for medicines
- Other. *Please specify:*

None

5. Does your condition persist today?

Yes No

If yes, please give details:

Initials of applicant

Reparations. See Part F of the Booklet.

1. Which of the following forms of reparations would you like to claim? Please see the accompanying Booklet for descriptions of the terms listed below. You may tick more than one box.

- Compensation
- Restitution
- Rehabilitation
- Other form of reparations - Specify:

2. Physical injuries

What physical injuries have you suffered as a result of the alleged crime(s) (such as dismemberment, disfigurement, loss or limitation of use of a body organ, member, function or system, including sexual/reproductive health problems)?

3. Mental pain and anguish

Do you experience any of the following reactions as a result of the alleged crime(s)?
You may tick more than one box.

Type of harm	Description
<input type="checkbox"/> Emotional problems (such as anxiety, anguish and guilt, shame, sadness, nightmares, irritability and anger, defeat and apathy, feeling overwhelmed)	<hr/>
<input type="checkbox"/> Mental problems (such as intrusive images and thoughts, slowing of thought process, concentration problems, memory dysfunction, confusion)	<hr/>
<input type="checkbox"/> Physical reactions and behavioural changes (such as aches and pains, sleep disturbances, excessive sweating, breathing problem, increased heart rate)	<hr/>
<input type="checkbox"/> Pain, complaints and/or concerns related to experiences of sexual violence	<hr/>

Initials of applicant

4. Loss of or damage to property

Have you lost or suffered damage to any of the following as a result of the alleged crime(s)? *You may tick more than one box.*

Type of loss	Description
<input type="checkbox"/> Home(s)	
<input type="checkbox"/> Land	
<input type="checkbox"/> Personal property, including household goods	
<input type="checkbox"/> Animal(s)	
<input type="checkbox"/> Other	

5. Other damage

Have you lost any of the following as a result of the alleged crime(s)? *You may tick more than one box.*

Type of loss	Description
<input type="checkbox"/> Loss of income, unpaid salaries, loss of support and any other losses connected to employment. <i>Please explain impact of the loss on how you sustain your life.</i>	
<input type="checkbox"/> Loss of savings at banks, stocks and other securities	
<input type="checkbox"/> Social status	
<input type="checkbox"/> Legal rights	
<input type="checkbox"/> Other	

Initials of applicant

6. If resources are available (from a person convicted by the ICC or from the ICC’s Trust Fund for Victims), what would help you and your community the most?

PART G

LEGAL REPRESENTATION. See Part G of the Booklet.

A victim may be represented before the ICC by a legal representative. A victim is free to choose her or his legal representative before the ICC, who must be a person with 10 years’ relevant experience as a criminal lawyer, judge or prosecutor, and be fluent in one of the Court’s working languages (English or French).

1. Do you have a legal representative?

[] Yes [] No

If yes, please provide her/his name, and contact details:

Name: _____

Address:

Street: _____ Number/Plot: _____

Camp/Zone/Sector/Cell: _____

Village/Parish/Subcounty/Town: _____

County/District: _____

P.O. Box: _____

Country: _____

Telephone number. Please give area code: _____

Mobile phone number: _____

Fax number. Please give area code: _____

Email address: _____

[Empty box for initials]

Initials of applicant

2. If no, would you like assistance from the Court to obtain legal representation?

Yes No

Note regarding victims' legal representation:

The ICC can help victims find a legal representative by providing a list of qualified counsel.

Although the Court's resources for legal aid are limited, the Court may be able to provide some financial assistance. If you believe you will not be able to afford legal representation, a separate form for requesting legal assistance paid by the Court is available at the ICC Field Offices and the website at www.icc-cpi.int

Where there are many victims, a Chamber of Judges may ask victims to choose a common legal representative, in order to make the proceedings more efficient. If for any reason the victims are unable to choose one, the Chamber of Judges may ask the Registrar to do so. If the victims are not happy with the Registrar's choice, they may ask a Chamber of Judges to review it.

Please note that the Office of Public Counsel for Victims within the Court may also be appointed to represent victim(s) or a group of victims free of charge. Such Office provides support and assistance to victims and legal representatives of victims, including legal advice and representation before a Chamber.

PART H

REQUEST FOR NON-DISCLOSURE OF INFORMATION. See Part H of the Booklet.

Completing this section does not automatically mean that your request for non-disclosure will be accepted. Please note that a Chamber of Judges will decide on this request.

1. Please tick one or more boxes if you wish to request that your identity be kept from:

The Prosecutor The Defence The general public State or other participant

2. Please tick one or more boxes if you wish to request that any information provided in this Application Form other than your identity be kept from:

The Prosecutor The Defence The general public State or other participant

If yes, which information?

If you have ticked either box, please give reasons:

3. Have you or your family been in contact with any person or organization to discuss your concerns regarding security as a result of filling in this Application Form?

Yes No

If yes, please give details:

Initials of applicant

INFORMATION ABOUT A PERSON ASSISTING IN FILLING IN THIS APPLICATION FORM.*See Part I of the Booklet.**If you are assisting the victim or assisting a person acting on behalf of the victim, please fill in this part.***1. Surname(s):** _____**2. Other name(s):** _____**3. Address.** *Please complete all that apply to you.*

Street: _____ Number/Plot: _____

Camp/Zone/Sector/Cell: _____

Village/Parish/Subcounty/Town: _____

County/District: _____

P.O. Box: _____ Postal Code: _____

Country: _____

Telephone number. *Please give area code:* _____

Mobile phone number: _____

Fax number. *Please give area code:* _____

E-mail address: _____

4. Occupation, place of employment and job title: _____
_____**5. Which languages do you speak?** _____
_____**6. Which language did you use in communicating with the victim?** _____
_____**7. Was an interpreter present?** Yes NoIf yes, please provide his/her name:

Initials of applicant

SIGNATURES. See Part J of the Booklet.

SIGNATURE OF THE VICTIM

You should sign or add your thumbprint or other mark and date this Application Form, whether or not someone is acting on your behalf or assisting you in filling in this Application Form.

I hereby declare that, to the best of my knowledge and belief, the information I have given in the present Application Form is correct.

Signature, thumbprint or other mark of the victim

Day Month Year

Location: _____

Witnessed by:


Name: _____

Signature: _____


Initials of applicant

SIGNATURE OF THE PERSON ACTING ON BEHALF OF THE VICTIM AND CONSENT OF THE VICTIM

If you ticked box (d) on page 8 (Question 9, Part B — if the victim has consented to you making this application on her or his behalf):

 The victim must sign the consent below, or add her or his thumbprint or other mark, and the person acting on the victim's behalf should also sign where indicated.

If you ticked box (a), (b) or (c) on page 8 (Question 9, Part B — if the victim is a child, disabled or deceased):

 The person acting on behalf of the victim must sign below.

Consent of the victim:

I, _____
Print name of the victim

consent to

Print name of the person acting on behalf of the victim

to act on my behalf in making this application.

Signature, thumbprint or other mark of the victim

Signature, thumbprint or other mark of a person acting on behalf of the victim

Day Month Year

Location: _____

Witnessed by:

Name: _____

Signature: _____

Initials of applicant

NOTE: This Application Form and the process of applying are free of charge.

REMINDER

Before submitting this Application Form, please review it and tick the following as appropriate:

I have attached the following documents in support of this Application Form:

- 1. _____
- 2. _____
- 3. _____

I have initialed every page of this Application Form as well as any other documents accompanying it.

Please indicate total number of pages of this Application Form including additional pages and photocopies of documentation: _____

If you are the victim:	If you are a person acting on behalf of the victim:
<p><input type="checkbox"/> I have provided a photocopy of proof of identity in response to Question 13 of Part A.</p> <p><input type="checkbox"/> I have provided contact information in response to Question 15 of Part A.</p> <p><input type="checkbox"/> I have signed or made my mark in the first box in Part J.</p>	<p><input type="checkbox"/> I have provided a photocopy of proof of identity in response to Question 5 of Part B.</p> <p><input type="checkbox"/> I have provided contact information in response to Question 6 of Part B.</p> <p><input type="checkbox"/> I have provided a death certificate, court document granting entitlement or the equivalent if the victim is deceased.</p> <p><input type="checkbox"/> I have provided a photocopy of proof of relationship to the victim as requested in Question 10 of Part B.</p> <p><input type="checkbox"/> I have signed or made my mark in the second box in Part J.</p>

What will happen to your application?

Once the ICC receives your Application Form, you will receive an acknowledgement. This acknowledgement will provide you with a registration number that you should use when communicating with the Court. If you send additional information to the Court, please use this registration number to ensure your application is properly updated. Please note that criminal proceedings take time and it may be a while before a Chamber of Judges make a decision on your application.

Initials of applicant



**STANDARD APPLICATION FORM FOR REPARATIONS
BEFORE THE INTERNATIONAL CRIMINAL COURT
FOR VICTIMS WHICH ARE ORGANIZATIONS OR INSTITUTIONS**

FORM REPARATIONS-2

Please complete this Application Form if you are the duly authorized representative of an organization or institution which believes itself to have sustained direct harm to any of its property which is dedicated to religion, education, art or science or charitable purposes, or to its historic monuments, hospitals and other places and objects for humanitarian purposes, and you wish to submit a request for reparations to the ICC.

The purpose of this Application Form is to collect information to help a Chamber of Judges in the ICC decide on matters relating to reparation. Completion of this Application Form will not automatically lead to reparation awards by the ICC.


The Information provided in the Application Form will be forwarded to a Chamber of Judges in the ICC which will

consider your request. Please be advised that criminal proceedings take time and it may be some time before the Court makes decisions on reparations.

Please review the accompanying Booklet before completing the Application Form as it will help you fill it in correctly. The Booklet contains explanations regarding:

- What the International Criminal Court is
- The purpose of this Application Form and what will happen to it
- Instructions on how to complete each section of the Application Form. Please note that each Part of this Application Form corresponds to the same Part of the Booklet.

Please note that one Application Form should be filled in per organization/institution.

 Victims that are individuals (natural persons) should use FORM REPARATIONS-1.

NOTE

This Application Form and the process of applying are free of charge. The ICC, as a matter of practice, does not charge any fee at any stage of the application process.

Instructions:

Please take into account the following instructions when completing this Application Form:

- Please fill in this Application Form to the extent possible.
- Please type or write your answers clearly.
- Please attach answers to the questions on a separate sheet of paper if you need more space.
- You must sign your Application Form, or add your thumbprint or other mark where indicated at the end of Part J.
- Please also put initials of the applicant in the box located at the bottom of each page of this Application Form as well as of any other documents accompanying it. This will help prevent pages of the Application Form from being lost.
- Please provide photocopies of documents requested to the extent possible. If you do not have the documentation requested your application will still be considered. If possible, please staple all the pages of the Application Form and the accompanying documents. Do not send original documents at this time, but please take good care of original documents, which the Court may request at a later stage.

If you seek help in filling in this Application Form, you may contact the ICC or an ICC Field Office which will put you in touch with someone near you to help you fill in this Application Form.

Note regarding disclosure of information:

The information contained in your Application Form may be forwarded to the Defence and other interested persons, including States, at the relevant stage. In addition, part or all of the information may be made available to the general public in the course of proceedings. If you do not wish for part or all of the information in the form to be disclosed or made public for reasons related to your security or well-being, you should tick the relevant boxes in Part H of the Application Form and provide the information requested. The Chamber of Judges will decide on the request, and their decision will be communicated to you.

The Application Form should be sent directly to one of the following addresses:

ICC HEADQUARTERS**International Criminal Court**

Victims Participation and Reparations Section (VPRS)
P.O. Box 19519, 2500 CM The Hague
The Netherlands
Fax: + 31 70 515 9100
Email: vprsapplications@icc-cpi.int

ICC FIELD OFFICES**ICC Field Office in Kampala**

Victims Participation and Reparations Section (VPRS)
P.O. Box 72735 - Kampala
Telephone: + 256 77 2 706062

ICC Field Office in Kinshasa

Victims Participation and Reparations Section (VPRS)
Telephone: + 243 998011426, + 243 998011403

INFORMATION ABOUT THE ORGANIZATION OR INSTITUTION. See Part A of the Booklet.

Have you already submitted an application for participation or reparations to the ICC?

Yes No

If yes, when?

Day Month Year

If you have a registration number, please indicate it:

VPRS- / - /

1. Name of the organization/institution: _____

2. Address:

Street: _____ Number/Plot: _____

Village/Parish/Subcounty/Town: _____

County/District: _____

P.O. Box: _____ Postal Code: _____

Country: _____

3. Contact details of the organization/institution. Please tick as appropriate.

Please use the address mentioned in Question 2.

Please use the following address. Please complete as far as relevant:

C/O: _____

Street: _____ Number/Plot _____

Camp/Zone/Sector/Cell: _____

Village/Parish/Subcounty/Town: _____

County/District: _____

P.O. Box: _____ Postal Code: _____

Country: _____

(Continues on the next page)

Initials of applicant

NOTE: This Application Form and the process of applying are free of charge.

Please use the following telephone number (*please give area code*):

Please use the following mobile phone number:

Please use the following fax number (*please give area code*):

Please use the following e-mail address:

4. The property that was harmed is dedicated to (*Please tick one or more boxes as appropriate*):

Religion

Education

Art

Science

Charitable purposes

Historic monument

Hospital

Humanitarian purposes

Other - Specify: _____

5. What was the legal status of the organization/institution on the date that the alleged harm occurred?

Please provide evidence of the incorporation, establishment or registration of the organization or institution, if appropriate, at the date the alleged harm occurred (such as certificate of incorporation or registration), if possible, certified or authenticated copies.

Non-governmental organization (organization established to provide voluntary services, including religious, educational, artistic, scientific, social or charitable services to the community or any part of it)

Charitable or non-profit organization

Statutory body (such as governmental organization, public school, hospital)

Education (private) body (such as primary school, secondary school, training college)

Company (limited, unlimited or limited by guarantee)

Communication body (such as electronic media, the press)

Institution for the benefit of members of a community (such as cooperative society, building society or micro-finance institution)

Partnership

Other - Specify: _____

Initials of applicant

6. Date and place of incorporation, establishment or registration, if appropriate, of the organization/institution. *Please complete all that apply.*

Village/Parish/Subcounty/Town: _____

Country/District: _____

P.O. Box: _____ Postal Code: _____

Country: _____

PART B

INFORMATION ABOUT THE PERSON SUBMITTING THIS APPLICATION FORM. *See Part B of the Booklet.*

1. Surname(s): _____

2. Other name(s): _____

3. Nationality(ies): _____

4. Contact details. *Please complete all that apply to you.*

If you expect to move elsewhere please provide name and address of a person who knows how to get in touch with you.

Address:

C/O: _____

Street: _____ Number/Plot: _____

Camp/Zone/Sector/Cell: _____

Village/Parish/Subcounty/Town: _____

County/District: _____

P.O. Box: _____ Postal Code: _____

Country: _____

Telephone number *(please give area code)*:

Mobile phone number :

Fax number *(please give area code)*:

E-mail address:

Initials of applicant

5. Occupation and job title:

6. In what capacity are you acting for the organization or institution? Please provide a photocopy of proof of your capacity.

Authorized representative of the organization or institution (such as company director, president)
 Legal representative
 Other. Please specify: _____

7. In which of the following languages are you able to understand written correspondence?

English
 French
 Other language. Please specify: _____
 Cannot read

PART C

NOT APPLICABLE. See Part C of the Booklet.

PART D

INFORMATION ABOUT THE ALLEGED CRIME(S). See part D of the Booklet.

Please attach answers to this section on a separate sheet of paper if necessary.

1. Please give a detailed description of the alleged crime(s) which form the basis of this application (please explain in detail what happened to the property of the organization/institution).

Initials of applicant

When did the event or events occur? If possible, please specify day(s), month(s) and year(s).

Where did the event or events take place? If necessary you may attach a drawing or a map of the location.

2. Who do you believe is responsible for the event or events and why do you believe this? Please answer to the extent possible.

3. Were there any other victims of the event or events?

Yes No

If yes (and if you can), please give their names and addresses, unless you know that they wish to remain anonymous, or it would put the applicant or anyone else at risk.

4. Were there any witnesses?

Yes No

If yes (and if you can), please give their names and addresses, unless you know that they wish to remain anonymous, or it would put the applicant or anyone else at risk.

5. Do these witnesses have any relationship to the organization/institution?

Yes No

If yes, please indicate:

Initials of applicant

2. Have you lost or suffered damage to any of the following as a result of the alleged crime(s)?
You may tick more than one box.

Type of loss	Description
<input type="checkbox"/> Land (such as agricultural land, farming land)	
<input type="checkbox"/> Buildings (such as schools, hospitals or clinics, offices or homes)	
<input type="checkbox"/> Movable property (such as education/research materials/facilities, office equipment/facilities, medical equipment/facilities, recreational equipment/facilities)	
<input type="checkbox"/> Religious properties (such as church/mosque/temple, symbols, books)	
<input type="checkbox"/> Monuments/community/cultural property (such as cemeteries, museums, works of art)	
<input type="checkbox"/> Environmental damage (such as water sources)	
<input type="checkbox"/> Human Resources (such as teachers, students, leaders, doctors, nurses, patients, social workers)	
<input type="checkbox"/> Other	

3. If resources are available (from a person convicted by the ICC or from the ICC’s Trust Fund for Victims), what would help the organization/institution and the community the most?

Initials of applicant

LEGAL REPRESENTATION. See Part G of the Booklet.

A victim may be represented before the ICC by a legal representative. A victim is free to choose her or his legal representative before the ICC, who must be a person with 10 years' relevant experience as a criminal lawyer, judge or prosecutor, and be fluent in one of the Court's working languages (English or French).

1. Are you serving as the legal representative for the organization/institution which is the subject of this application?

Yes No

2. If no, does the organization/institution have a legal representative?

Yes No

If yes, please provide her/his name, and contact details:

Name: _____

Address:

Street: _____ Number/Plot: _____

Camp/Zone/Sector/Cell: _____

Village/Parish/Subcounty/Town: _____

County/District: _____

P.O. Box: _____ Postal code: _____

Country: _____

Telephone number. *Please give area code:* _____

Mobile phone number: _____

Fax number. *Please give area code:* _____

E-mail address: _____

3. Would the organization/institution like assistance from the Court to obtain legal representation?

Yes No

Note regarding victims' legal representation:

The ICC can help victims find a legal representative by providing a list of qualified counsel.

Although the Court's resources for legal aid are limited, the Court may be able to provide some financial assistance. If you believe you will not be able to afford legal representation, a separate form for requesting legal assistance paid by the Court is available at the ICC Field Offices and the website at www.icc-cpi.int

Where there are many victims, a Chamber of Judges may ask victims to choose a common legal representative, in order to make the proceedings more efficient. If for any reason the victims are unable to choose one, the Chamber of Judges may ask the Registrar to do so. If the victims are not happy with the Registrar's choice, they may ask a Chamber of Judges to review it.

Please note that the Office of Public Counsel for Victims within the Court may also be appointed to represent victim(s) or a group of victims free of charge. Such Office provides support and assistance to victims and legal representatives of victims, including legal advice and representation before a Chamber.

Initials of applicant

REQUEST FOR NON-DISCLOSURE OF INFORMATION. See Part H of the Booklet.

Completing this section does not automatically mean that your request for non-disclosure will be accepted. Please note that a Chamber of Judges will decide on this request.

1. Please tick one or more boxes if you wish to request that any information provided in this Application Form be kept from:

- The Prosecutor The Defence The general public State or other participant

If yes, which information?

Please give reasons:

2. Have you been in contact with any person or organization to discuss your concerns regarding security as a result of filling in this Application Form?

- Yes No

If yes, please give details:

PART I

INFORMATION ABOUT A PERSON ASSISTING IN FILLING IN THIS APPLICATION FORM.

See Part I of the Booklet.

If you are assisting the person submitting this Application Form please fill in this part.

1. Surname(s): _____

2. Other name(s): _____

Initials of applicant

3. Address. *Please complete all that apply to you.*

Street: _____ Number/Plot: _____

Camp/Zone/Sector/Cell: _____

Village/Parish/Subcounty/Town: _____

County/District: _____

P.O. Box: _____ Postal Code: _____

Country: _____

Telephone number. *Please give area code:* _____

Mobile phone number: _____

Fax number. *Please give area code:* _____

E-mail address: _____

4. Occupation, place of employment and job title: _____

5. Which languages do you speak? _____

6. Which language did you use in communicating with the person submitting this Application Form?

7. Was an interpreter present?

Yes No

If yes, please provide her/his name:

Initials of applicant

SIGNATURE OF THE PERSON SUBMITTING THIS APPLICATION FORM. See Part J of the Booklet.

You (the duly authorized representative of the organization or institution) should sign or add your thumbprint or other mark and date this Application Form.

I hereby declare that, to the best of my knowledge and belief, the information I have given in the present Application Form is correct.

Signature, thumbprint or other mark of the applicant

Day Month Year

Location: _____

Witnessed by:

Name: _____

Signature: _____

Initials of applicant

NOTE: This Application Form and the process of applying are free of charge.

REMINDER

Before submitting this Application Form, please review it and tick the following as appropriate:

I have attached the following documents in support of this Application Form:

1. _____

2. _____

3. _____

I have initialed every page of this Application Form as well as any other documents accompanying it.

I have provided a photocopy of proof of my capacity in response to Question 6 of Part B.

I have signed or made my mark in the box in Part J.

Please indicate total number of pages of this Application Form including additional pages and photocopies of documentation: _____

What will happen to your application?

Once the ICC receives your Application Form, you will receive an acknowledgement. This acknowledgement will provide you with a registration number that you should use when communicating with the Court. If you send additional information to the Court, please use this registration number to ensure your application is properly updated. Please note that criminal proceedings take time and it may be a while before a Chamber of Judges make a decision on your application.

Initials of applicant

Resolution ICC-ASP/1/Res.6

Adopted at the 3rd plenary meeting, on 9 September 2002, by consensus

ICC-ASP/1/Res.6

Establishment of a fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims

The Assembly of States Parties,

Bearing in mind the provisions of article 79, paragraph 1, of the Rome Statute,

1. *Decides* to establish a trust fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims;
2. *Decides also* that the Trust Fund shall be funded by:
 - (a) Voluntary contributions from Governments, international organizations, individuals, corporations and other entities, in accordance with relevant criteria adopted by the Assembly of States Parties;
 - (b) Money and other property collected through fines or forfeiture transferred to the Trust Fund if ordered by the Court pursuant to article 79, paragraph 2, of the Statute;
 - (c) Resources collected through awards for reparations if ordered by the Court pursuant to rule 98 of the Rules of Procedure and Evidence;
 - (d) Such resources, other than assessed contributions, as the Assembly of States Parties may decide to allocate to the Trust Fund;
3. *Decides further* to request the Board of Directors established pursuant to the annex to the present resolution to develop suggestions for further criteria for the management of the Trust Fund for consideration and adoption by the Assembly of States Parties as soon as possible;
4. *Adopts* the annex to the present resolution relating to the management of the Trust Fund.

Annex to the resolution

1. The Assembly of States Parties hereby establishes a Board of Directors of the Trust Fund for the benefit of victims provided for in article 79 of the Rome Statute.
2. The Board shall have five members who shall be elected for a term of three years and may be re-elected once. They shall serve in an individual capacity on a pro bono basis.
3. The Assembly shall elect the members of the Board, all of whom shall be of a different nationality, on the basis of equitable geographical distribution and taking into account the need to ensure equitable gender distribution and equitable representation of the principal legal systems of the world. The members of the Board shall be of high moral character, impartiality and integrity and shall have competence in the assistance to victims of serious crimes.
4. The Board shall meet at the seat of the Court at least once a year.

5. The Registrar of the Court shall be responsible for providing such assistance as is necessary for the proper functioning of the Board in carrying out its tasks and shall also participate in meetings of the Board in an advisory capacity.
6. The Assembly of States Parties may, as and when the workload of the Trust Fund increases, consider, on the recommendation of the Board and after consulting with the Registrar as required, the creation of an expanded capacity, including the appointment of an Executive Director, either within or outside the Registry as appropriate, to provide further assistance with the proper and effective functioning of the Trust Fund. The Assembly of States Parties shall, as part of such consideration, after consulting with the Board and the Registrar, consider the payment of expenses of the Trust Fund from the voluntary contributions accruing to it.
7. The Board shall, in accordance with the provisions of the Rome Statute, the Rules of Procedure and Evidence, and the criteria to be determined by the Assembly of States Parties, establish and direct the activities and projects of the Trust Fund and the allocation of the property and money available to it, bearing in mind available resources and subject to the decisions taken by the Court. Before establishing and directing the activities and projects of the Trust Fund, the Board shall consult, as far as possible, victims and their families or their legal representatives and may consult any competent expert or organization.
8. Voluntary contributions from Governments, international organizations, individuals, corporations and other entities shall be submitted to the Board for approval, in accordance with the criteria laid down in paragraphs 9 and 10.
9. The Board shall refuse such voluntary contributions envisaged in paragraph 8 that are not consistent with the goals and activities of the Trust Fund.
10. The Board shall also refuse voluntary contributions whose allocation, as requested by the donor, would result in a manifestly inequitable distribution of available funds and property among the different groups of victims.
11. The Board shall report annually to the Assembly of States Parties on the activities and projects of the Trust Fund and on all offered voluntary contributions, regardless of whether they were accepted or refused.
12. The Committee on Budget and Finance shall examine the budget of the Trust Fund annually and submit to the Assembly of States Parties a report and recommendations for the best possible financial management of the Trust Fund.
13. The Financial Regulations and Rules shall apply *mutatis mutandis* to the administration of the Trust Fund, except as otherwise provided in the present resolution.

Resolution ICC-ASP/4/Res.3

Adopted at the 4th plenary meeting on 3 December 2005, by consensus

ICC-ASP/4/Res.3 Regulations of the Trust Fund for Victims

The Assembly of States Parties,

Recalling its resolution ICC-ASP/1/Res.6 on the establishment of a fund for the benefit of victims of crimes within the jurisdiction of the Court and of the families of such victims,

Bearing in mind the provisions of articles 75 and 79, of the Rome Statute and rule 98 of the Rules of Procedure and Evidence,

Taking note with appreciation of the report to the Assembly of States Parties on the activities and projects of the Board of Directors of the Trust Fund for Victims for the period 16 July 2004 to 15 August 2005 contained in doc ICC-ASP/4/12 and corr.1, and of the statement made by the Chair of the Board of Directors of the Fund,

Wishing to ensure the proper and effective functioning of the Trust Fund,

1. *Adopts* the Regulations of the Trust Fund for the benefit of victims of crimes within the jurisdiction of the Court annexed to the present resolution,
2. *Decides* to assess the implementation of the Regulations not later than at its seventh regular session,
3. *Decides* that, without prejudice to further evaluation by the Assembly of States Parties, expenses of the Board of Directors and its Secretariat shall be funded by the regular budget,
4. *Requests* the Board of Directors to continue to pursue its invaluable efforts in fundraising in accordance with paragraphs 8, 9, 10 and 11 of the annex to resolution ICC-ASP/1/Res.6 and the Regulations of the Trust Fund,
5. *Calls upon* governments, international organizations, individuals, corporations and other entities to contribute voluntarily to the Fund and expresses its appreciation to those that have done so this year.

Annex

Regulations of the Trust Fund for Victims

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Annex

Regulations of the Trust Fund for Victims

PART I MANAGEMENT AND OVERSIGHT OF THE TRUST FUND

CHAPTER I THE BOARD OF DIRECTORS

Section I Election of a Chair of the Board of Directors

1. A Chair shall be elected by an absolute majority of the members of the Board of Directors. The Chair shall serve until the end of his/her respective term as Board member. He/she shall be eligible for re-election as Chair once. If the Chair finds it necessary to be absent during a meeting or any part thereof, he/she may designate another Board member to take his/her place. If the Chair is unable to perform his/her functions, a new Chair shall be elected for the unexpired term.
2. The Chair shall be responsible for coordinating the work of the Board of Directors.

Section II Meetings

3. The Board of Directors shall meet in regular session at least once a year at the seat of the Court.
4. The Board may hold special sessions when circumstances so require, and the Chair shall fix the date of commencement, the duration and the location of each such special session. Special sessions may be held in person, or by telephone, web or video conferencing.
5. The Chair shall determine the provisional agenda for the regular and special sessions of the Board. The Chair may receive suggestions for agenda items from other members of the Board, the Bureau of the Assembly of States Parties, the President of the Court, the Prosecutor and the Registrar. Any item proposed for inclusion in the agenda shall be accompanied by an explanatory memorandum and, if possible, by basic documents or by a draft decision. All materials shall be distributed to members of the Board sufficiently in advance and, where possible, at least one month in advance of the session. The provisional agenda for any session shall be submitted for consideration and adoption to the Board of Directors at the commencement of that session.
6. The Chair shall preside over each session.
7. The Registrar shall participate in sessions of the Board in an advisory capacity. Members of the Trust Fund Secretariat may attend sessions of the Board.
8. The Board of Directors may invite others with relevant expertise to participate, as appropriate, in specified sessions of the Board and to make oral or written statements and provide information on any question under consideration.

9. The Board of Directors shall meet in closed session unless it decides otherwise. Decisions and minutes of the Board of Directors shall be made public, and shall be communicated, as appropriate, to the Court and to interested States, to implementing partners and, to the extent possible, to beneficiaries, subject to confidentiality. At the close of a meeting of the Board of Directors, the Chair may issue a communiqué through its Secretariat or the Registry, as appropriate.

10. For the purposes of these Regulations, all participating Board members shall be considered present during telephone, web or video conferences. Moreover, an electronic signature may be used to sign a document or agreement.

11. The working languages of the Board of Directors shall be English and French. The Board may decide that one of the other working languages of the Assembly of States Parties may be used where that language is understood and spoken by the majority of persons concerned and where its use would facilitate the proceedings of the Board.

Section III
Decisions of the Board of Directors

12. Decisions of the Board of Directors shall be taken in regular or special sessions, in person as well as by telephone, web or video conferencing.

13. Every effort shall be made to reach decisions by consensus. If consensus cannot be reached, all decisions must be approved by an absolute majority of the voting members of the Board.

14. If necessary, the Chair shall take provisional decisions of an administrative nature between sessions in consultation with the Secretariat. Subsequently, the Chair shall submit the decision(s) to the Board for their approval in accordance with the procedures stipulated in paragraph 13 above.

15. The Board of Directors may adopt such additional administrative procedures as are necessary to implement these Regulations.

Section IV
Costs of the Board of Directors

16. Members of the Board of Directors shall act in their personal capacity on a pro bono basis.

CHAPTER II
THE SECRETARIAT

Section I
Seat and establishment

17. The Secretariat, established in accordance with Resolution of the Assembly of States Parties ICC-ASP/3/Res.7 shall provide such assistance as necessary for the proper functioning of the Board of Directors in carrying out its tasks.

Section II
Reporting of the Secretariat

18. The Secretariat shall provide periodic reports to the Board on its activities.

19. Bearing in mind the independence of the Secretariat, it shall consult the Registrar on all administrative and legal matters for which it receives the assistance of the Registry.

**PART II
RECEIPT OF FUNDS**

**CHAPTER I
PRIMARY CONSIDERATIONS**

20. The Board of Directors shall ensure, through a variety of means, publicity regarding the Trust Fund and the plight of victims of crimes within the jurisdiction of the Court, as defined in rule 85 of the Rules of Procedure and Evidence, and, where natural persons are concerned, their families.
21. The Trust Fund shall be funded by:
- (a) Voluntary contributions from governments, international organizations, individuals, corporations and other entities, in accordance with relevant criteria adopted by the Assembly of States Parties;
 - (b) Money and other property collected through fines or forfeiture transferred to the Trust Fund if ordered by the Court pursuant to article 79, paragraph 2, of the Rome Statute (“the Statute”);
 - (c) Resources collected through awards for reparations if ordered by the Court pursuant to rule 98 of the Rules of Procedure and Evidence;
 - (d) Such resources, other than assessed contributions, as the Assembly of States Parties may decide to allocate to the Trust Fund.

**CHAPTER II
VOLUNTARY CONTRIBUTIONS**

22. The Board, as part of its annual report to the Assembly of States Parties on the activities and projects of the Trust Fund, shall present an annual appeal for voluntary contributions to the Trust Fund.
23. The Board, with the support of the Secretariat, shall establish contact with governments, international organizations, individuals, corporations and other entities to solicit voluntary contributions to the Trust Fund.
24. The Board shall adopt guidelines on how to solicit financial contributions from private institutions.
25. The Trust Fund shall take receipt of all voluntary contributions from sources stipulated in Resolution of the Assembly of States Parties ICC-ASP/1/Res.6, paragraph 2(a), and shall note the sources and amounts received.
26. The Board shall establish mechanisms that will facilitate the verification of the sources of funds received by the Trust Fund.
27. Voluntary contributions from governments shall not be earmarked. Voluntary contributions from other sources may be earmarked by the donor for up to one third of the contribution for a Trust Fund activity or project, so long as the allocation, as requested by the donor,
- (a) benefits victims as defined in rule 85 of the Rules of Procedure and Evidence, and, where natural persons are concerned, their families;

- (b) would not result in discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or other origin, property, birth or other status, provided that contributions aimed at assisting those enjoying specific protection under international law should not be considered to be discriminatory.

28. In the event that a voluntary contribution is earmarked and the related purpose cannot be achieved, the Board shall allocate the contribution to its General Account subject to the agreement of the donor.

29. The Board shall regularly review the nature and level of voluntary contributions in order to ensure that the conditions in paragraph 27 are constantly met

30. The Board shall refuse voluntary contributions

- (a) which are deemed not to be consistent with the goals and activities of the Trust Fund;
- (b) which are deemed to be earmarked in a manner inconsistent with paragraph 27. Before refusing such a contribution, the Board may seek a decision by the donor to withdraw the earmarking or to change it in an acceptable manner.
- (c) which would affect the independence of the Trust Fund.
- (d) the allocation of which would result in a manifestly inequitable distribution of available funds and property among the different groups of victims.

**CHAPTER III
MONEY AND OTHER PROPERTY COLLECTED
THROUGH FINES OR FORFEITURE**

31. The Board of Directors shall, at the request of the Chamber pursuant to rule 148 of the Rules of Procedure and Evidence, make written or oral observations on the transfer of fines or forfeitures to the Trust Fund.

32. The Board shall, at the request of the Presidency, submit written or oral observations on the disposition or allocation of property or assets in accordance with rule 221 of the Rules of Procedure and Evidence.

33. The Trust Fund shall take receipt of all money and other property collected through fines or forfeiture that is transferred, by order of the Court, to the Trust Fund.

**CHAPTER IV
RESOURCES COLLECTED THROUGH AWARDS
FOR REPARATIONS**

34. The Trust Fund shall take receipt of resources collected through awards for reparations and shall separate such resources from the remaining resources of the Trust Fund in accordance with rule 98 of the Rules of Procedure and Evidence. It shall note the sources and amounts received, together with any stipulations contained in the order of the Court as to the use of the funds.

**CHAPTER V
RESOURCES ALLOCATED BY THE ASSEMBLY
OF STATES PARTIES**

35. In its annual report to the Assembly, the Board of Directors may make suggestions of financial or other contributions, other than assessed contributions, that the Assembly of States Parties may allocate to the Trust Fund.

36. Where no such stipulation has been made by the Assembly of States Parties as to the uses of the financial or other contributions other than assessed contributions, the Trust Fund may allocate these contributions to its General Account for the benefit of victims, as defined in rule 85 of the Rules of Procedure and Evidence, and, where natural persons are concerned, their families.

**CHAPTER VI
OPERATIONAL ISSUES REGARDING THE
RECEIPT OF FUNDS**

37. Bank account(s) of the Trust Fund shall be opened in conformity with rule 108(1) of the Financial Regulations and Rules.

38. The accounting system of the Trust Fund shall allow for the separation of funds to facilitate the receipt of earmarked contributions, money and other property collected through fines or forfeiture transferred by the Court where the Court has stipulated particular usages, or resources collected through awards for reparations.

39. A computer tracking system shall be established to enable tracking of, inter alia:

- (a) The sources of funds received as stipulated in resolution 6, paragraph 2, including the name of the donor, the location, the region, the date and the amount of the contribution;
- (b) All requests for earmarked contributions, including the nature of the request, and what was ultimately agreed upon and received;
- (c) All pledges received, the date and nature of the pledge, any follow-up by the Court, and the date on which funds were actually received;
- (d) Separation of funds within the Trust Fund on the basis of categories of restrictions on use and on the basis of actual restrictions;
- (e) All resources that have been attributed by the Trust Fund, sorted by sources of funds, by the nature of the attribution, and by beneficiary(ies);
- (f) Receipt by beneficiaries of all attributed resources, by the date of the award, by the date of receipt by the beneficiary, where possible, or by the date of payment by the donor;
- (g) All resources that have been attributed by way of grants to organizations. A programme that is separate but linked to the main system will monitor by grantee: the beneficiary group, the object of the grant, the amount of the grant, obligations under the grant contract, reporting deadlines, verification of completion and the accomplishment of results.

40. The Secretariat shall take receipt of resources that the Assembly of States Parties may decide to allocate to the Trust Fund. It shall note the sources and amounts received, together with any stipulations contained as to the use of the funds.

41. The Board of Directors shall advise the Court of any difficulties or delays in the receipt of funds.

PART III THE ACTIVITIES AND PROJECTS OF THE TRUST FUND

CHAPTER I USE OF FUNDS

Section I Beneficiaries

42. The resources of the Trust Fund shall be for the benefit of victims of crimes within the jurisdiction of the Court, as defined in rule 85 of the Rules of Procedure and Evidence, and, where natural persons are concerned, their families.

Section II Resources collected through fines or forfeiture and awards for reparations

43. When resources collected through fines or forfeiture or awards for reparations are transferred to the Trust Fund pursuant to article 75, paragraph 2, or article 79, paragraph 2, of the Statute or rule 98, sub-rules 2-4, of the Rules of Procedure and Evidence, the Board of Directors shall determine the uses of such resources in accordance with any stipulations or instructions contained in such orders, in particular on the scope of beneficiaries and the nature and amount of the award(s).

44. Where no further stipulations or instructions accompany the orders, the Board of Directors may determine the uses of such resources in accordance with rule 98 of the Rules of Procedure and Evidence, taking into account any relevant decisions issued by the Court on the case at issue and, in particular, decisions issued pursuant to article 75, paragraph 1, of the Statute and rule 97 of the Rules of Procedure and Evidence.

45. The Board of Directors may seek further instructions from the relevant Chamber on the implementation of its orders.

46. Resources collected through awards for reparations may only benefit victims as defined in rule 85 of the Rules of Procedure and Evidence, and, where natural persons are concerned, their families, affected directly or indirectly by the crimes committed by the convicted person.

Section III Other resources of the Trust Fund

47. For the purpose of these regulations, “other resources of the Trust Fund” set out in of rule 98, paragraph 5, of the Rules of Procedure and Evidence refers to resources other than those collected from awards for reparations, fines and forfeitures.

48. Other resources of the Trust Fund shall be used to benefit victims of crimes as defined in rule 85 of the Rules of Procedure and Evidence, and, where natural persons are concerned, their families, who have suffered physical, psychological and/or material harm as a result of these crimes.

CHAPTER II IMPLEMENTATION OF THE ACTIVITIES AND PROJECTS OF THE TRUST FUND

Section I General principles

49. The Board of Directors may consult victims as defined in rule 85 of the Rules of Procedure and Evidence and, where natural persons are concerned, their families as well as their legal representatives and may consult any competent expert or any expert organisation in conducting its activities and projects.

50. For the purposes of these regulations, the Trust Fund shall be considered to be seized when:

- (a) (i) the Board of Directors considers it necessary to provide physical or psychological rehabilitation or material support for the benefit of victims and their families;

and

- (ii) the Board has formally notified the Court of its conclusion to undertake specified activities under (i) and the relevant Chamber of the Court has responded and has not, within a period of 45 days of receiving such notification, informed the Board in writing that a specific activity or project, pursuant to rule 98, sub-rule 5 of the Rules of Procedure and Evidence, would pre-determine any issue to be determined by the Court, including the determination of jurisdiction pursuant to article 19, admissibility pursuant to articles 17 and 18, or violate the presumption of innocence pursuant to article 66, or be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.

- (iii) Should there be no response from the Chamber or should additional time be needed by the Chamber, consultations may be held with the Board to agree on an extension. In the absence of such an agreement, the extension shall be 30 days from the expiry of the period specified in sub-paragraph (a) (ii). After the expiry of the relevant time period, and unless the Chamber has given an indication to the contrary based on the criteria in sub-paragraph (a)(ii), the Board may proceed with the specified activities.

- (b) When the Court makes an order for reparations against a convicted person and orders that the award be deposited with or made through the Trust Fund in accordance with rule 98, sub-rules 2 to 4 of the Rules of Procedure and Evidence.

Section II Outreach

51. Once the Trust Fund has been seized in accordance with paragraph 50, the Chair of the Board of Directors may issue a communiqué through its Secretariat or the Registry, as appropriate.

52. The communiqué may indicate the basis for its activities and projects in accordance with paragraph 50 and may provide any additional information, as appropriate. A call for voluntary contributions may accompany the communiqué.

53. The Board of Directors may engage in any outreach and information campaigns it deems appropriate for the purpose of raising voluntary contributions. The Board of Directors may ask for the assistance of the Registrar in this matter.

Section III

*If the activities and projects of the Trust Fund are triggered by
a decision of the Court*

54. When the Court orders that an award for reparations against a convicted person be deposited with the Trust Fund or made through the Trust Fund in accordance with rule 98, sub-rules 2 to 4, of the Rules of Procedure and Evidence, the Secretariat shall prepare a draft plan to implement the order of the Court, to be approved by the Board of Directors.

55. Subject to the order of the Court, the Trust Fund shall take into account the following factors in determining the nature and/or size of awards, inter alia: the nature of the crimes, the particular injuries to the victims and the nature of the evidence to support such injuries, as well as the size and location of the beneficiary group.

56. The Board of Directors shall determine whether to complement the resources collected through awards for reparations with “other resources of the Trust Fund” and shall advise the Court accordingly. Without prejudice to its activities under paragraph 50, sub-paragraph (a), the Board of Directors shall make all reasonable endeavours to manage the Fund taking into consideration the need to provide adequate resources to complement payments for awards under rule 98, sub-rules 3 and 4 of the Rules of Procedure and Evidence and taking particular account of ongoing legal proceedings that may give rise to such awards.

57. The Trust Fund shall submit to the relevant Chamber, via the Registrar, the draft implementation plan for approval and shall consult the relevant Chamber, as appropriate, on any questions that arise in connection with the implementation of the award.

58. The Trust Fund shall provide updates to the relevant Chamber on progress in the implementation of the award, in accordance with the Chamber’s order. At the end of the implementation period, the Trust Fund shall submit a final narrative and financial report to the relevant Chamber.

CHAPTER III

INDIVIDUAL AWARDS TO VICTIMS PURSUANT TO RULE 98(2)

Section I

Cases where the Court identifies each beneficiary

59. Where the Court orders that an award for reparations against a convicted person be deposited with the Trust Fund in accordance with rule 98, sub-rule 2, of the Rules of Procedure and Evidence, the draft implementation plan shall set out the names and locations of victims to whom the award applies, where known (and subject to confidentiality), any procedures that the Trust Fund intends to employ to collect missing details, and methods of disbursement.

Section II
Cases where the Court does not identify the beneficiaries

60. Where the names and/or locations of the victims are not known, or where the number of victims is such that it is impossible or impracticable for the Secretariat to determine these with precision, the Secretariat shall set out all relevant demographic/statistical data about the group of victims, as defined in the order of the Court, and shall list options for determining any missing details for approval by the Board of Directors.
61. Such options may include:
- (a) The use of demographic data to determine the members of the beneficiary group; and/or:
 - (b) Targeted outreach to the beneficiary group to invite any potential members of the group who have not already been identified through the reparations process to identify themselves to the Trust Fund, and, where appropriate, these actions may be undertaken in collaboration with interested States, intergovernmental organizations, as well as national or international non-governmental organizations. The Board of Directors may put in place reasonable deadlines for the receipt of communications, taking into account the situation and location of victims.
 - (c) The Secretariat may consult victims or their legal representatives and the families of individual victims, as well as interested persons, interested States and any competent expert or expert organization, in developing these options.

Section III
Verification

62. The Secretariat shall verify that any persons who identify themselves to the Trust Fund are in fact members of the beneficiary group, in accordance with any principles set out in the order of the Court.
63. Subject to any stipulations set out in the order of the Court, the Board of Directors shall determine the standard of proof for the verification exercise, having regard to the prevailing circumstances of the beneficiary group and the available evidence.
64. A final list of beneficiaries shall be approved by the Board of Directors.
65. Taking into account the urgent situation of the beneficiaries, the Board of Directors may decide to institute phased or priority verification and disbursement procedures. In such cases, the Board of Directors may prioritize a certain sub-group of victims for verification and disbursement.

Section IV
Disbursement of reparations awards

66. The Trust Fund shall determine the modalities for the disbursement of reparations awards to beneficiaries taking into account their present circumstances and locations.
67. The Trust Fund may decide to use intermediaries to facilitate the disbursement of reparations awards, as necessary, where to do so would provide greater access to the beneficiary group and would not create any conflict of interest. Intermediaries may include interested States, intergovernmental organizations, as well as national or international non-governmental organizations working in close proximity with the beneficiary groups.

68. The Secretariat shall put in place procedures to verify that awards were received by beneficiaries, following the implementation of a disbursement programme. Beneficiaries shall be required to acknowledge receipt of the award in writing or by other means of identification, and these acknowledgments shall be stored by the Secretariat. Additional spot checks and monitoring of the receipt of awards should be implemented to avoid unforeseen difficulties or the potential for fraud or corruption.

**CHAPTER IV
COLLECTIVE AWARDS TO VICTIMS PURSUANT TO RULE 98(3)**

69. Where the Court orders that an award for reparations against a convicted person be made through the Trust Fund where the number of the victims and the scope, forms and modalities of reparations makes a collective award more appropriate, in accordance with rule 98, sub-rule 3, of the Rules of Procedure and Evidence, the draft implementation plan shall set out the precise nature of the collective award(s), where not already specified by the Court, as well as the methods for its/their implementation. Determinations made in this regard should be approved by the Court.

70. The Board of Directors may consult victims as defined in rule 85 of the Rules of Procedure and Evidence and, where natural persons are concerned, their families, as well as their legal representatives, and may consult any competent expert or expert organization on the nature of the collective award(s) and the methods for its/their implementation.

71. The Trust Fund may identify intermediaries or partners, or invite proposals for the implementation of the award.

72. The Secretariat shall put in place procedures to monitor the implementation of a collective award.

**CHAPTER V
AWARDS TO AN INTERGOVERNMENTAL, INTERNATIONAL OR
NATIONAL ORGANIZATION, PURSUANT TO RULE 98(4)**

73. Where the Court orders that an award for reparations against a convicted person be made through the Trust Fund to an intergovernmental, international or national organization, in accordance with rule 98, sub-rule 4, of the Rules of Procedure and Evidence, the draft implementation plan shall set out, where not already specified by the Court:

- (a) The concerned organization(s) and a summary of their relevant expertise;
- (b) A list of the specific functions that the concerned organization(s) is/are to undertake in fulfilment of the Court's order;
- (c) A memorandum of understanding and/or other contractual terms between the Board of Directors and the concerned organization(s) setting out roles and responsibilities, monitoring and oversight.

74. The Secretariat shall oversee the work of the concerned organization(s) in fulfilling the Court's orders, subject to the overall oversight of the Court.

75. The regulations that relate to individual awards to victims pursuant to rule 98, sub-rule 2, and collective awards to victims in accordance with rule 98, sub-rule 3, shall apply mutatis mutandis to the procedures of the Board in implementing rule 98, and sub-rule 4, as appropriate, depending on whether the Court has indicated that the award shall be individual or collective.

**PART IV
REPORTING REQUIREMENTS**

76. The Board of Directors shall submit a written annual report on the activities of the Trust Fund to the Committee on Budget and Finance and the External Auditor and the Assembly of States Parties, through its President.

77. The Board of Directors shall also submit:

- (a) Any proposed budget for the Secretariat for review by the Committee on Budget and Finance; and
- (b) The accounts and financial statements of the Trust Fund for review by the External Auditor.

**PART V
FINAL PROVISIONS**

**CHAPTER I
AMENDMENTS**

78. Amendments to these Regulations may be proposed by a State Party, by the Court or by the Board of Directors. All proposals to amend these Regulations shall require the approval of the Assembly of States Parties in accordance with article 112(7) of the Statute.

**CHAPTER II
ENTRY INTO FORCE**

79. These Regulations, and any amendments to them, shall enter into force immediately after their adoption by the Assembly of States Parties.