



Fonds au Profit des Victimes
The Trust Fund for Victims



Ms Elisabeth Rehn, Chair of the Board of Directors of the Trust Fund for Victims
Speech given on Wednesday 21 March 2012 on
the occasion of the 9th Annual Board Meeting

Dear friends,

Four years ago, the Trust Fund for Victims embarked on its quest for reparative justice, for victims of crimes within the jurisdiction of the International Criminal Court.

That is, justice for the victims of atrocity crimes, committed on a large scale, sometimes by the very same persons who are looked upon for protection.

We have seen children made into combatants - and so, into targets of violence. Rape is used as a weapon to systematically destroy people's lives and identities as worthy members of society – and so, to destroy communities.

The Trust Fund for Victims may be mandated to assist these victims – but it does not have unlimited resources. Our programmes depend on voluntary contributions, which are outside of the Court's budget. In 2011, the total revenue of the Fund from voluntary contributions was 3.2 million euros - the highest annual revenue ever. That is an excellent result and we are extremely grateful – but we also realize that it is, still, quite modest.

Yet, as the representative of the Trust Fund's Board of Directors, I am proud to say that we are delivering value for money. With an annual turnover of less than 3 million euros, including operational costs, we provide medical and psycho-social services, as well as material support, to over 80,000 victims and their families. This is of course important information for our donors.

But for us, the word "value" carries a deeper meaning. The Trust Fund for Victims aims to create value, through the rehabilitation and reparation of victims. Because at the end of the day, international justice is as much about the hope, dignity and restoration of victims, as it is about the accountability of perpetrators.

Dear friends,

On Wednesday last week, Mr Thomas Lubanga was found guilty by a Trial Chamber of the ICC, for conscripting and enlisting child soldiers, under the age of 15, into situations of active hostilities.

The Board salutes the Court with this important result. It is the first time that the Court has transformed the Rome Statute's mission of "leadership accountability", into the reality of a verdict. As a result – and also for the first time – the ICC will be considering the possibility of reparations for the victims of Mr Lubanga. The Trust Fund for Victims may be called upon to activate its mandate to implement Court-ordered reparations.

What does this mean? How does the ICC repair harm to victims? That is a deceptively simple question, which hides many other questions that remain to be answered. What kind of approach will be used to consider the victims of Mr Lubanga: individually, collectively – or both? We know about the crimes, but what kind of harm are we actually talking about? Then, what kind of reparations should we be thinking about? And finally, how long will it take, to meet the rightful expectations of victims?

Today, the Board has talked at length about its role in meeting these challenges. You will appreciate that right now, I am not able to comment on the details of the Lubanga case, with so many issues still to be determined by the Trial Chamber. Please note that the Trust Fund filing on reparations to the Trial Chamber will soon be made available in a public version. We will also gladly provide further observations to the issues raised by the Trial Chamber in its scheduling order of 14 March.

What I can do this evening, is share with you some of the outcomes of our discussions this week. The Board reconfirms its intent to develop a fruitful partnership with the Court in regard of its mandate to implement Court ordered reparations.

"The perpetrator pays": this is the financial construction for reparations at the heart of the Rome Statute. And we believe it should stay there. The potential of the Court – and of the States Parties – to obtain assets of the accused for the purpose of reparations to victims, must be fully used. As the Trust Fund for Victims may find itself at the receiving end of this process, we do have an interest in the Court's success in this regard. We urge the States Parties to assist the Court in further developing its capacity to trace, freeze and seize the assets that eventually benefit victims in a reparations phase.

The second-best option to finance Court-ordered reparations is, to consider using the - limited - resources of the Trust Fund for Victims, to complement a reparations award. I reiterate the Board's position that the Trust Fund for Victims is not legally liable to pay for such reparations, in the same way as would be a convicted person.

However, the Board fully recognises that it does have the responsibility to manage the Fund's resources in such a way, as to be able to complement Court-ordered reparations, without prejudice against resources committed to funding the Trust Fund's victims assistance mandate.

To this end, the Trust Fund has maintained a "reparations reserve", of 1 million euros. Today, we have considered our financial situation and decided to increase the reparations reserve with an additional 200,000 euros, up to a total of 1.2 million euros. I would like to remind you that this amount is intended for *all* eventual reparations awards in cases currently before the Court – not just the Lubanga case. In the coming period, the Board looks forward to consult with the Trial Chamber in the Lubanga case, so as to advise on the resources that we could make available.

Today, the Board members have also reviewed the relevant regulatory framework on the question, *how* Trust Fund resources may be used for reparation awards. Our conclusion is that, in principle, the Trust Fund's resources are intended to be used for collective awards to victims, or awards to an organization.

Tonight, with so many representatives of States Parties present in the audience, I would like to remind you that the Trust Fund may consider to call for funds that are specifically earmarked for reparations. We realise that already many of the voluntary contributions that we received, were indeed meant to also nurture the reparations reserve. For this, we are grateful. We also think that more may be needed.

Once the Trust Fund and the Trial Chamber have agreed on the outline of a reparations programme, we believe that that we can present – to States Parties as well as to interested private parties – a much more specific and attractive opportunity to support the Fund in carrying out its reparations mandate.

Finally, on the issue of reparations, I wish to share with you a concern that in today's discussions came forward as being widely shared by the Board of the Trust Fund for Victims. Reparation awards ordered by the ICC are of a judicial nature. They speak to the individual criminal responsibility of a person convicted by the Court. We all know that beyond the limitations of ICC reparations - and even beyond the Trust Fund's assistance mandate - there will always be many victims in situation countries, who may not be considered by the Rome Statute institutions.

We can not – and should not – expect that the ICC and the Trust Fund take over the responsibility of States to properly look after their own victimized populations. Governments in situation countries maintain the responsibility to ensure reparative, restorative and transformational justice on their own territories. If so desired, the international community can play a supporting role. The Trust Fund for Victims may then serve as a source of experience and expertise.

Dear friends,

The Board of Directors meets once every year in a formal session. I can assure you that this is not the only time of year that we are “switched on”. In spite of the honorary and voluntary nature of being a Trust Fund Board member, throughout our mandate we have been very active in our support and guidance to the Trust Fund. We are aware that the Fund is continuously navigating uncharted terrain. I would like to acknowledge our gratitude to the leadership of our Secretariat. We have been kept informed continuously, allowing us to deliberate and take informed decisions – as well as to advocate on many different occasions for the Fund and its mandates to engage with victims of the atrocious crimes that are within the jurisdiction of the Court.

Over the past four years, Trust Fund for Victims has made a tangible difference to over 80,000 victims in DRC and northern Uganda. We have developed programmes that assist victims to rebuild their lives, and to regain their human dignity. Later this year, The Trust Fund is looking forward to launch its programme in the situation of the Central African Republic, initially focusing on victims of sexual violence. In the second quarter of 2012, the Secretariat will carry out its fact finding mission to the situation in Kenya.

On a daily basis, our partners – grass-roots initiatives as well as international organizations - combine their collective knowledge and experience, often in very difficult circumstances, in support of the medical, psychological and material needs of victims and their families. We take care to work with the most vulnerable groups: children, and victims of sexual violence.

By way of the Rome Statute, the Trust Fund for Victims is locked into the International Criminal Court’s quest to establish leadership accountability for the most serious international crimes. The Trust Fund is therefore essentially a “niche” undertaking – not intended, nor equipped to be a fund for all victims of all crimes in all places.

This limitation is a strength. We, the Trust Fund’s Board, have the immensely important task to highlight the plight of victims of mass atrocity crimes, and to demonstrate that according to the Rome Statute, victims are not passive bystanders. Victims of mass crimes before the ICC not only have a stake in the quest for leadership accountability. They also have a right to be heard, to be recognized, to receive redress – and to rebuild their lives and regain their hope and dignity as human beings – not just “victims”.

This is how we want the Trust Fund for Victims to make difference. We are inspired by the endeavours of the individual persons and communities – victims, partners and the communities - that we are engaging with.

I do not wish to end without a word of caution. The Trust Fund is fully aware of the current difficult financial climate that many States Parties are facing. We are feeling it

in our efforts to raise voluntary contribution. Yet the Board has to acknowledge that the Fund's operational capacity is already being stretched – even before engaging in its reparations mandate or further expanding its assistance mandate into – mind you – existing situation countries. If the current budgetary conditions around the Rome Statute institutions persist, we foresee that the Trust Fund, in 2013, may have to make dramatic choices that may affect its capacity to deliver - in *both* the reparations and assistance mandates.

Dear friends,

The Trust Fund for Victims hopes to inspire the Court, governments, NGOs, the international community at large - to join us on our journey of justice for victims. And we are in need of the help and inspiration of every single person and institution.

Together, we can turn the Rome Statute's promise of reparative justice into a tangible reality, for victims, their families and their communities.

Thank you.

-Check against delivery –