



Original: English

No. ICC-01/04-02/06 A6 A7

Date: 17 April 2024

THE APPEALS CHAMBER

Before:

**Judge Gocha Lordkipanidze, Presiding
Judge Tomoko Akane
Judge Luz del Carmen Ibáñez Carranza
Judge Solomy Balungi Bossa
Judge Erdenebalsuren Damdin**

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

IN THE CASE OF THE PROSECUTOR v. BOSCO NTAGANDA

Public

Decision on whether to hold a hearing

Decision to be notified in accordance with regulation 31 of the Regulations of the Court to:

Legal Representatives of Victims

Ms Sarah Pellet
Ms Caroline Walter

Mr Dmytro Suprun
Ms Fiona Lau

Counsel for the Defence

Mr Stéphane Bourgon
Ms Kate Gibson

Trust Fund for Victims

Ms Deborah Ruiz Verduzco

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

The Appeals Chamber of the International Criminal Court,

In the appeals of the common legal representative of the victims of the attacks and of Mr Bosco Ntaganda against the decision of Trial Chamber II entitled “Addendum to the Reparations Order of 8 March 2021, ICC-01/04-02/06-2659” of 14 July 2023 (ICC-01/04-02/06-2858-Red),

Renders the following

DECISION

The Appeals Chamber does not deem it necessary to hold a hearing in these appeals at the current stage of the proceedings.

REASONS

I. PROCEDURAL HISTORY

1. On 8 March 2021, Trial Chamber VI issued its decision entitled “Reparations Order” (hereinafter: “Reparations Order”).¹
2. On 16 March 2021, the Presidency assigned the present case to a newly constituted Trial Chamber II (hereinafter: “Trial Chamber”).²
3. On 12 September 2022, the Appeals Chamber issued the “Judgment on the appeals against the decision of Trial Chamber VI of 8 March 2021 entitled ‘Reparations Order’”, which partially reversed the Reparations Order and remanded the matter to the Trial Chamber.³

¹ [ICC-01/04-02/06-2659](#).

² [Decision assigning judges to divisions and recomposing Chambers](#), ICC-01/04-02/06-2663, p. 7.

³ [ICC-01/04-02/06-2782](#).

4. On 14 July 2023, the Trial Chamber issued the “Addendum to the Reparations Order of 8 March 2021, ICC-01/04-02/06-2659” (hereinafter: “Impugned Decision”).⁴
5. On 16 August 2023, the common legal representative of the victims of the attacks (hereinafter: “Victims Group 2”) and the Defence filed their notices of appeal against the Impugned Decision.⁵
6. On 30 October 2023, Victims Group 2 and the Defence each filed their appeal briefs against the Impugned Decision (hereinafter: “Victims Group 2’s Appeal Brief”⁶ and “Defence Appeal Brief”,⁷ respectively).
7. On 2 January 2024, the common legal representative of former child soldiers (hereinafter: “Victims Group 1”) and Victims Group 2 each filed their responses to the Defence Appeal Brief;⁸ and the Defence filed its response to Victims Group 2’s Appeal Brief (hereinafter: “Defence Response to Victims Group 2’s Appeal Brief”).⁹
8. On 5 February 2024, the Appeals Chamber rendered its “Decision on the requests for suspensive effect and other procedural issues” (hereinafter: “Decision on Procedural

⁴ ICC-01/04-02/06-2858-Conf (public redacted version ([ICC-01/04-02/06-2858-Red](#)) filed on the same day).

⁵ [Notice of Appeal of the Common Legal Representative of the Victims of the Attacks against the “Addendum to the Reparations Order of 8 March 2021, ICC-01/04-02/06-2659”, and Request for Suspensive Effect in relation to Trial Chamber II’s Decision on the eligibility of Victims a/01636/13, a/00212/13, a/00199/13 and a/00215/13](#), ICC-01/04-02/06-2862; Defence Notice of Appeal against the 14 July Addendum to the Reparations Order of 8 March 2021, ICC-01/04-02/06-2863-Conf (public redacted version ([ICC-01/04-02/06-2863-Red](#)), dated 21 August 2023 and notified 22 August 2023).

⁶ Appeal Brief of the Common Legal Representative of the Victims of the Attacks against the “Addendum to the Reparations Order of 8 March 2021, ICC-01/04-02/06-2659”, ICC-01/04-02/06-2875-Conf (public redacted version ([ICC-01/04-02/06-2875-Red](#)) filed on 31 October 2023).

⁷ Defence Appellant Brief against the 14 July Addendum to the Reparations Order of 8 March 2021, ICC-01/04-02/06-2876-Conf (public redacted version ([ICC-01/04-02/06-2876-Red](#)) filed on 5 December 2023).

⁸ Response of the Common Legal Representative of the Former Child Soldiers to the Defence Appeal Brief against the Addendum to the Reparations Order, ICC-01/04-02/06-2888-Conf (public redacted version ([ICC-01/04-02/06-2888-Red](#)) filed on 10 January 2024); Response of the Common Legal Representative of the Victims of the Attacks to the “Defence Appellant Brief against the 14 July Addendum to the Reparations Order of 8 March 2021” (No. ICC-01/04-02/06-2876-Conf), ICC-01/04-02/06-2887-Conf (public redacted version ([ICC-01/04-02/06-2887-Red](#)) filed on 25 January 2024).

⁹ Response on behalf of Mr Ntaganda to the Appeal Brief of the Common Legal Representative of the Victims of the Attacks against the “Addendum to the Reparations Order of 8 March 2021, ICC-01/04-02/06-2659”, ICC-01/04-02/06-2889-Conf (public redacted version ([ICC-01/04-02/06-2889-Red](#)) filed on 23 January 2024).

Issues”), in which it, *inter alia*, held that it would, in due course, in its new composition, rule upon whether or not to hold a hearing in these appeals.¹⁰

9. On 12 March 2024, the Presidency assigned Judge Tomoko Akane and Judge Erdenebalsuren Damdin to the Appeals Division.¹¹

II. DETERMINATION BY THE APPEALS CHAMBER

10. As set out above, the Appeals Chamber recalls that, in its Decision on Procedural Issues, it held that it would rule upon whether or not to hold a hearing in these appeals in its new composition.¹² The new composition of the Appeals Chamber is now in place.¹³ This decision therefore addresses the question of whether or not a hearing in these appeals should be held.

11. The Appeals Chamber recalls that, in its response to Victims Group 2’s Appeal Brief, the Defence underscores that the appeals “raise complex legal and procedural issues, the adjudication of which could be facilitated by the scheduling of oral arguments before the Appeals Chamber”.¹⁴ The Defence requests the Appeals Chamber to consider scheduling a hearing.¹⁵ Neither Victims Group 1 nor Victims Group 2 responded to those observations of the Defence.

12. The Appeals Chamber recalls that the decision to hold an oral hearing in appeal proceedings against final judgments is made on a case-by-case basis.¹⁶ This enables the Appeals Chamber to ensure that the proceedings are conducted in the fairest and most expeditious manner, tailored to the context of the specific proceedings at this Court and to the circumstances of the individual appeal(s) before it.

¹⁰ [ICC-01/04-02/06-2892](#), p. 4, para. 64.

¹¹ [Decision assigning judges to divisions and recomposing Chambers](#), ICC-01/04-02/06-2897, p. 4.

¹² [Decision on Procedural Issues](#), p. 4, para. 64.

¹³ See paragraph 9 above.

¹⁴ [Defence Response to Victims Group 2’s Appeal Brief](#), para. 7.

¹⁵ [Defence Response to Victims Group 2’s Appeal Brief](#), para. 136.

¹⁶ *The Prosecutor v. Mathieu Ngudjolo Chui*, [Scheduling order for a hearing before the Appeals Chamber](#), 18 September 2014, ICC-01/04-02/12-199 (A), para. 13. See also *The Prosecutor v. Jean-Pierre Bemba Gombo et al.*, [Judgment on the appeals of Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba, Mr Jean-Jacques Mangenda Kabongo, Mr Fidèle Babala Wandu and Mr Narcisse Arido against the decision of Trial Chamber VII entitled “Judgment pursuant to Article 74 of the Statute”](#), 8 March 2018, ICC-01/05-01/13-2275-Red (A-A5), para. 47.

13. In considering whether to hold a hearing in the present appeals, the Appeals Chamber has had regard to the following. First, it has received extensive submissions of the parties both in the appeal briefs and in the responses thereto. The issues are clearly delineated and elaborated in detail by the parties. Second, this is the second set of appeals in relation to the Reparations Order in this case. They arise out of matters that were remanded to the Trial Chamber by the Appeals Chamber as a result of the previous appeals in this case. The Appeals Chamber therefore does not deem it necessary to hold a hearing at the current stage of the proceedings. Should it later appear, during the course of its further deliberations, that the holding of a hearing is necessary, the Appeals Chamber will issue further directions at that time.

Done in both English and French, the English version being authoritative.



Judge Gocha Lordkipanidze
Presiding

Dated this 17th day of April 2024

At The Hague, The Netherlands