

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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Date: 26 August 2024

TRIAL CHAMBER II

Before: Judge María del Socorro Flores Liera, Presiding Judge
Judge Kimberly Prost
Judge Nicolas Guillou

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
THE PROSECUTOR *v.* BOSCO NTAGANDA**

**Urgent
Public, with
Public Redated Annex I,**

Public Redacted Version of "First Registry Periodic Report on Eligibility Determinations for Reparations" (ICC-01/04-02/06-2901-Conf, dated 28 June 2024)

Source: Registry

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

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I. Introduction

1. On 27 February 2024, Trial Chamber II (“Chamber”) issued its “Second Decision on the Trust Fund for Victims’ Draft Implementation Plan for Reparations” (“Second Decision on DIP”), in which it instructed the Registry to file, every four months, update reports (“Periodic Reports”) on the results of the Victims Participation and Reparations Section (“VPRS”)’s eligibility determinations on victims’ dossiers for reparations in the case *The Prosecutor v. Bosco Ntaganda* (“Case”), with the first Periodic Report to be filed four months from the date of the Second Decision on DIP.¹
2. The VPRS hereby provides the results of its administrative eligibility determinations during the reporting period² (part V.A.) as well as information on the conduct of its activities related to the identification and collection of information from beneficiaries (part V.B.).
3. The VPRS will simultaneously transmit to the Chamber and the TFV, outside the record of the case, the dossiers of the victims found eligible for reparations, including those found also eligible for priority treatment under the Trust Fund for Victims’ (“TFV”) Interim Draft Implementation Plan for Reparations (“IDIP”), for the Chamber’s judicial approval.³

¹ Trial Chamber II, “Second Decision on the Trust Fund for Victims’ Draft Implementation Plan for Reparations”, 27 February 2024, ICC-01/04-02/06-2894-Conf, para. 145.

² In the current report, the reporting period shall refer to the period between 1 January and 27 June 2024. Henceforward, the reporting period will consist in the four-months period in-between the Periodic Reports.

³ Trial Chamber II, “First Decision on the Trust Fund for Victims’ Draft Implementation Plan for Reparations”, 11 August 2023, ICC-01-04-02/06-2860-Conf, para. 185(e) and (f). A public redacted version was notified on 30 August 2023, ICC-01/04-02/06-2860-Red (“First Decision on DIP”).

II. Procedural History

4. On 14 July 2023, the Chamber issued the “Addendum to the Reparations Order of 8 March 2021” in which it, *inter alia*, detailed the procedure for carrying out the eligibility assessment of victims’ dossiers at the implementation stage.⁴
5. On 11 August 2023, the Chamber issued the First Decision on DIP, in which it assigned to the VPRS the mandate of carrying out the identification of potential beneficiaries for reparations, the collection of information, and the administrative eligibility process.⁵
6. On 3 November 2023, the Registry filed its “Registry Submission pursuant to ICC-01/04-02/06-2860-Red” (“Registry Submission”), in which it *inter alia* provided information on how the VPRS planned to carry out the victim identification, collection of information and eligibility assessment process.⁶
7. On 23 January 2024⁷ and 2 February 2024,⁸ the Registry transmitted to the Chamber a first batch of 32 positive eligibility determinations for reparations and for priority treatment under the TFV’s IDIP, for the Chamber’s endorsement.⁹
8. On 27 February 2024, the Chamber issued the Second Decision on DIP.

III. Classification

9. Pursuant to regulation 23bis (1) of the Regulations of the Court, the present Report and Annex I¹⁰ are classified confidential since they contain reference to confidential

⁴ Trial Chamber II, “Addendum to the Reparations Order of 8 March 2021, ICC-01/04-02/06-2659”, 14 July 2023, ICC-01/04-02/06-2858-Conf. A Public Redacted version was issued on the same day, ICC-01/04-02/06-2858-Red (“Addendum”).

⁵ First Decision on DIP, paras. 181, 184 and 185.

⁶ Registry, “Registry submission pursuant to ICC-01/04-02/06-2860-Red”, 3 November 2023, ICC-01/04-02/06-2878-Conf-AnxI. A public redacted version was notified on 22 November 2023.

⁷ Registry, “First Registry Notification of VPRS Determinations of Victims’ Eligibility for Reparations and/or Priority Status”, 23 January 2024, ICC-01/04-02/06-2890 (“First Notification”).

⁸ Registry, “First Registry Report on VPRS Determinations of Victims’ Most Urgent Needs”, 2 February 2024, ICC-01/04-02/06-2891.

⁹ The determinations for inclusion on the IDIP are based on the assessments of (1) the victims’ eligibility for reparations, (2) their priority status, and (3) their urgent needs.

¹⁰ See *infra*, para. 13

documents, and Annexes II,¹¹ III¹² and IV¹³ are classified confidential *ex parte*, only available to the TFV and the relevant Common Legal Representative (“CLR”),¹⁴ since they contain sensitive information on the victims concerned.

IV. Applicable Law

10. The present Periodic Report and its annexes are submitted by the Registry in accordance with the First and Second Decisions on DIP.

V. Submissions

A. Results of VPRS administrative eligibility assessments

1. Eligibility criteria implemented

11. In accordance with the First Decision on DIP¹⁵ and the Second Decision on DIP,¹⁶ the VPRS assesses each victim’s dossier to determine their eligibility for reparations in line with the criteria set out by the Chamber in the Addendum.¹⁷

12. Furthermore, when applicable,¹⁸ the VPRS also assesses victims’ priority status and urgent needs for their inclusion in the TFV’s IDIP.¹⁹

13. The detailed explanation of the criteria applied by the VPRS when conducting these assessments, submitted together with the First Notification,²⁰ has been supplemented and is included in Annex I to the present report. Any update to the description of the assessment criteria applied by the VPRS since the First Notification is indicated in bold text.²¹

¹¹ See *infra*, para. 17.

¹² See *infra*, para 21.

¹³ See *infra*, para.24.

¹⁴ Ms Sarah Pellet (“CLR1”) represents the group of Victims of Crimes Against Child Soldiers in the proceedings, and Mr Dmytro Suprun (“CLR2”) represents the group of Victims of the Attacks.

¹⁵ First Decision on DIP, para 185(a).

¹⁶ Second Decision on DIP, paras 114 and 117.

¹⁷ See for example Addendum, paras 37- 40, 53-59, 64. See also Second Decision on DIP, paras 92 to 98.

¹⁸ The VPRS carries out the priority and urgent needs assessments for inclusion in the IDIP for potential beneficiaries who have been pre-identified by the VPRS or, if they are participating victims, by the CLRs.

¹⁹ Second Decision on DIP, para. 138.

²⁰ Annex I to the First Notification, ICC-01/04-02/06-2890-AnxI.

²¹ One modification implemented since the First Notification is that the VPRS now combines its assessment on eligibility for reparations with its assessment on the eligibility for priority treatment (with

2. Eligibility assessment for reparations

a) Total number of applications assessed

14. During the reporting period, the Registry completed the determinations on eligibility for reparations of 929 victims' dossiers. In addition, the VPRS completed the assessment for priority status and urgent needs only of four victims' dossiers.²²

15. An additional 109 dossiers of participating victims, preliminary assessed during the reporting period, are still under review. The VPRS may liaise with the CLRAs concerning certain victims' dossiers to obtain further clarification ahead of any formal determination on their eligibility.²³

b) Priority victims

16. During the report period, in addition to the 32 victims' dossiers found eligible for the IDIP by the VPRS and transmitted to the Chamber with its First Notification,²⁴ the VPRS completed its determination on the priority status and urgent needs of 16 further non-participating victims. Amongst these, the VPRS issued:

- 15 positive determinations on the eligibility for reparations and for priority treatment under the IDIP of the victim; and
- one positive determination on the eligibility for priority treatment under the IDIP of a victim previously found eligible for reparations by the Chamber.²⁵

includes an assessment of the priority status and urgent needs of the victim) for the purpose of the IDIP, where applicable, in one single report/assessment table.

²² A total of four non-participating victims have been assessed by the VPRS only for priority status and urgent needs since the Chamber had already found them eligible for reparations. See Addendum, para. 144, and *infra* para. 16.

²³ This is in line with the practice of the VPRS, and was put in place, with the agreement of the CLRAs, in order to ensure that the VPRS considers all relevant elements or arguments ahead of issuing a formal determination on eligibility. See Registry Submission, fn. 76.

²⁴ Three of these victims had already been assessed as eligible for reparations by the Chamber. See Addendum, para. 144 and First Notification, para. 2.

²⁵ The eligibility for reparations of this non-participating victim was decided upon by the Chamber in the Addendum, para. 144.

17. The VPRS's individual assessment reports related to victims found eligible for reparations and for priority treatment under the IDIP are submitted in confidential *ex parte* Annex II, available only to the TFV and CLR2.

c) Participating victims

18. During the reporting period, the VPRS issued 885 positive eligibility determinations for reparations for victims who participated in the proceedings in the Case.²⁶

Victims of crimes against child soldiers

19. A total of 246 victims of the crime of enlistment of children under the age of 15 years and their use to participate actively in hostilities have been assessed by the VPRS as eligible for reparations. Amongst these, [REDACTED] victims indicate having suffered from sexual and gender based crime ("SGBC") (i.e., rape and/or sexual slavery), between approximately 6 August 2002 and 31 December 2003.²⁷

²⁶ As proposed by the Registry, and approved by the Chamber, the VPRS conducts a *de novo* assessment on eligibility for reparations for all the participating victims' dossiers. See Registry Submission, para.62 and Second Decision on DIP, para. 114. Based on its resources available in the first months of 2024, the VPRS was able to conduct the eligibility determination process at a pace of around 200 victims' dossiers monthly. This is in line with the estimates provided to the Chamber in the Registry Submission (para. 56).

²⁷ The Registry notes that sexual violence may not be systematically revealed by an applicant at the time of filling-in a form, and therefore these crimes may be under-reported.

20. The charts below provide statistics on the status of the eligible victims (direct or indirect) (Chart 1), their gender and current approximate age (Chart 2), and the sexual and gender based crimes reported (Chart 3).

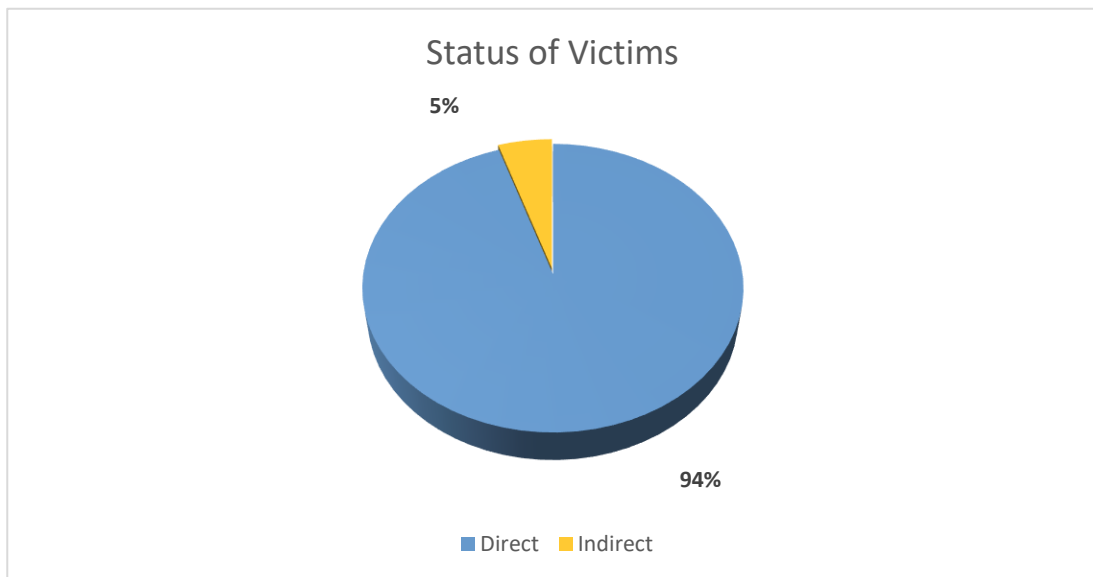


Chart 1

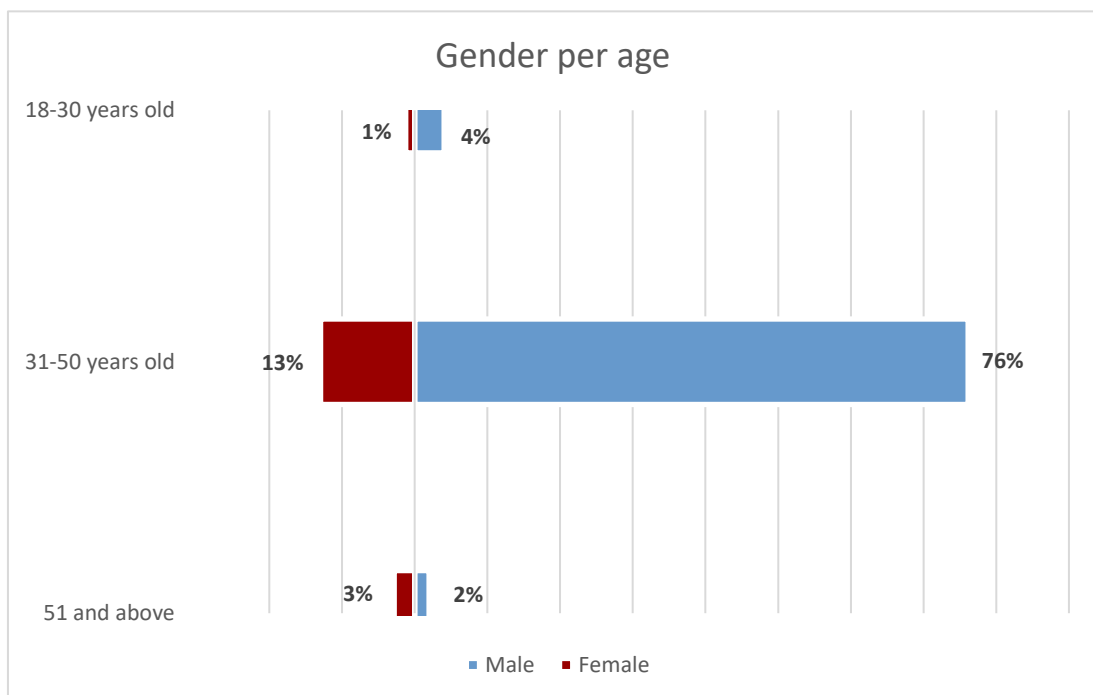


Chart 2

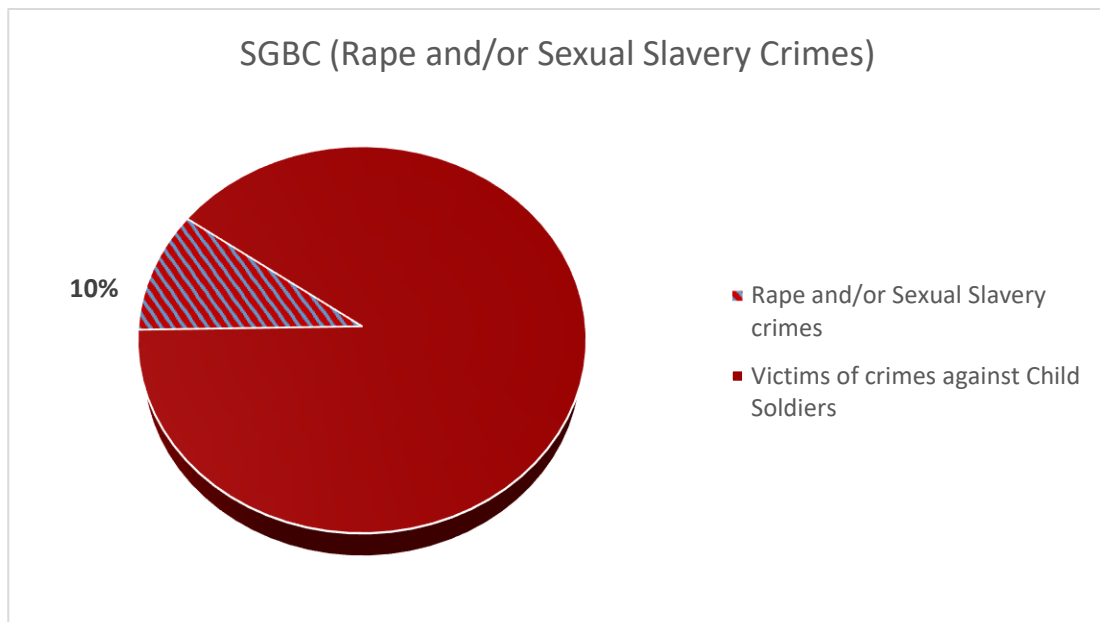


Chart 3

21. Confidential *ex parte* Annex III, available only to the TFV and CLR1, contains the VPRS individual assessment report related to the 246 victims of crimes against child soldiers found eligible for reparations.
22. Lastly, among the victims found eligible, the VPRS has identified and reported in its assessment report, victims who have also submitted dossiers for reparations in the *Lubanga* case.²⁸

Victims of the Attacks

23. A total of 639 victims of the attacks who participated in the proceedings in the Case have been assessed as eligible for reparations.
24. Confidential *ex parte* IV, available only to the TFV and CLR2, contains VPRS individual assessment reports related to the 639 victims of the attacks the VPRS found eligible for reparations.

²⁸ The VPRS is grateful for the assistance of CLR1 who brought to the VPRS' attention potential overlaps between victims who have submitted dossiers in both the Lubanga and Ntaganda reparations proceedings. Emails from CLR1 to VPRS, dated 24 January 2024 at 11:57, and 17 May 2024 at 13:00.

25. The charts below provide details on the status of the eligible victims (direct or indirect) (Chart 4), their gender and current approximate age (Chart 5), and the type of crime(s) within the scope of the Conviction they suffered from (Chart 6).

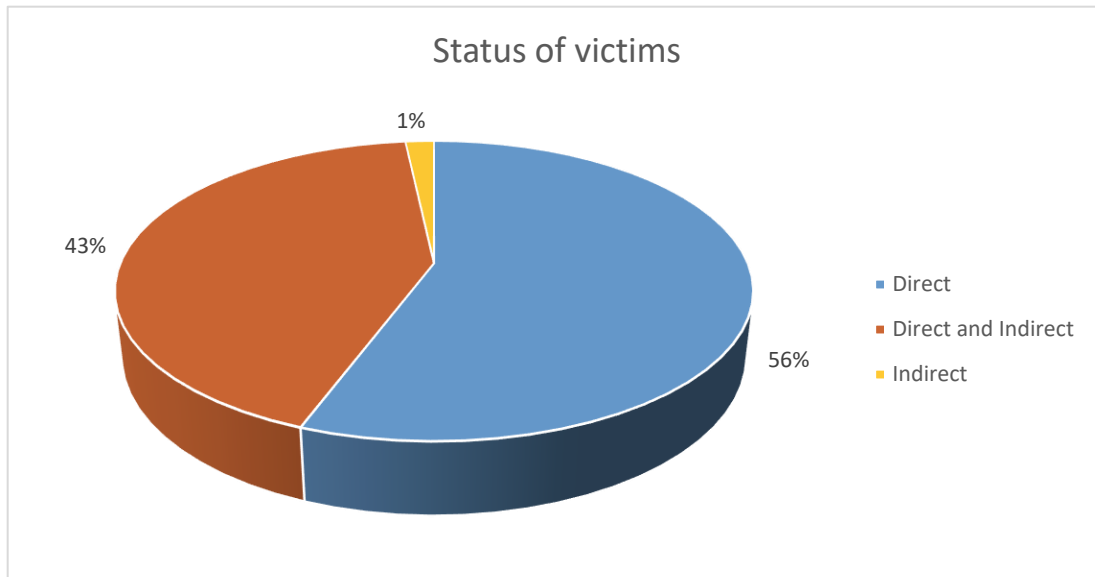


Chart 4

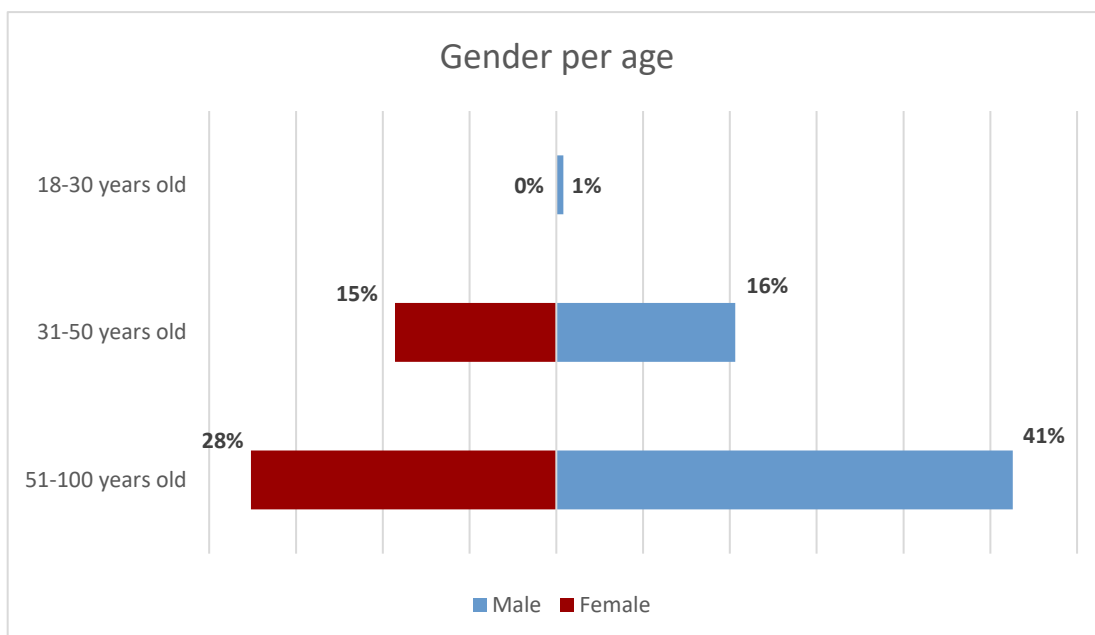
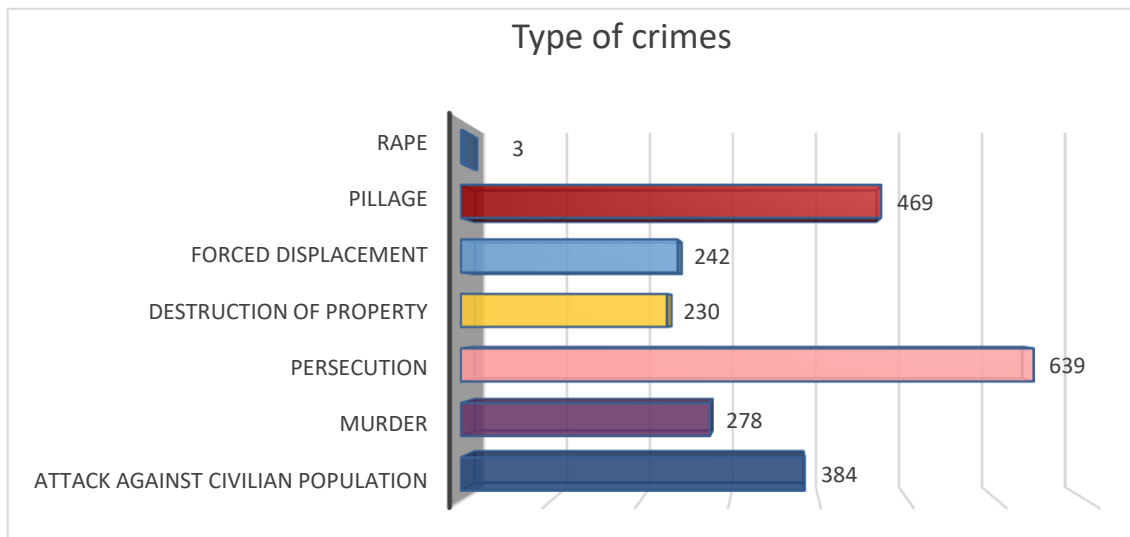


Chart 5

**Chart 6**

3. Future assessments

26. The VPRS will continue to carry out its assessment of victims' dossiers on a rolling basis, at a pace and in the order previously described in the Registry's Submission.²⁹

27. Unless otherwise instructed by the Chamber, the Registry proposes to issue regular eligibility determinations, in batches of 50 victims' dossiers, for those victims assessed by the VPRS as eligible for priority treatment under the IDIP.³⁰ Issuing these eligibility determinations on a regular basis, in-between the VPRS Periodic Reports, will have the benefit of allowing the TFV to act upon them immediately and facilitate the integration of victims in the IDIP programs while the latter are still running.³¹

B. Update on VPRS activities for the identification of future new potential beneficiaries and collection of information

1. Identified Challenges

²⁹ Paras. 23, 56, and 58 to 66.

³⁰ The regularity of these interim transmissions will be dependent on the number of dossiers that can be completed in the field and processed at HQ.

³¹ This proposal was discussed and agreed upon by the TFV and VPRS during their monthly coordination meeting held on 18 June 2024. The VPRS notes that the number of dossiers processed in each batch for the purpose of the inclusion in the TFV's IDIP may be reviewed in coordination with the TFV.

28. The security situation in Ituri continues to be volatile, with a significant escalation of violence in Djugu territory in Ituri that continue to cause massive population displacement.³² The security situation has a significant impact on the Registry activities, including on the movement of Court staff in the field, [REDACTED]. Moreover, as previously reported,³³ the massive displacements of populations pose a challenge to locate and reach out to potential beneficiaries of reparations in the Case.
29. This extremely dynamic security situation in Ituri takes place [REDACTED],³⁴ [REDACTED].³⁵ [REDACTED].

2. Activities undertaken during the reporting period

30. During the reporting period, the VPRS continued to put in place the different activities to implement the Section's mandate entrusted to it by the First and Second Decisions on DIP.³⁶ The Registry recalls that the processes of identifying victims and collecting information relevant to their eligibility for reparations, and their eligibility for priority treatment under the IDIP in a more limited extent, are intertwined and will continue to be put in place prudently, gradually, and concurrently throughout the cycle.

Update on the development of data collection tools

31. During the reporting period, the VPRS developed a simplified individual reparations form tailored to this Case to collect information from potential beneficiaries. When designing the form, the VPRS took note of the Chamber's

³² See for example "DR Congo: Fighting threatens stability of entire region, envoy warns", 20 February 2024. Available [DR Congo: Fighting threatens stability of entire region, envoy warns | UN News](#) (last accessed on 27 June 2024).

³³ Registry Submission, para. 34.

³⁴ [REDACTED].

³⁵ [REDACTED].

³⁶ See Registry Submission, paras. 12, 34 and 51.

instruction that “victims should only be asked to provide information necessary for the VPRS to reach eligibility, vulnerability, and urgency determinations”.³⁷ The VPRS developed the form in consultation with the TFV, and it tested the form in the field with individuals who will be involved in the exercise of collecting information from beneficiaries. The individual form is available on the Court’s website, in printable version, and will be available shortly in electronically fillable and online version, along with guidelines to assist any potential beneficiary, or any person who wishes to assist a potential beneficiary.

32. The VPRS continues to engage internally and externally to finalize the format/interface, content and use of the other data-collection tools that were also endorsed by the Chamber.³⁸ Further testing is fundamental in order to ensure that these innovative alternatives, which will be available alongside the “traditional” individual form, not only provide the VPRS “with sufficient information regarding each individual to make an individual assessment”³⁹ but also allow for a victim-centred approach in the collection of data, and that they can be used safely and securely in the field.⁴⁰

Update on activities conducted in the field

33. During the reporting period, the VPRS conducted four missions [REDACTED]. These missions included interviewing victims to assess their priority status and urgent needs.⁴¹ Additionally, the Registry engaged with community-based Civil Society Organisations to explore ways to enhance its presence and infrastructure in the field⁴² amidst the aforementioned challenges.⁴³ The goal was to ensure that victims and their communities receive accurate information about the reparations

³⁷ Second Decision on DIP, para. 88.

³⁸ Registry Submission, paras. 45 to 48; Second Decision on DIP, para. 87

³⁹ Second Decision on DIP, para. 87.

⁴⁰ Consultations between the Court’s Information Security Section and the data collection tool vendor are ongoing to ensure the security of the data collected and its compliance with the Court’s IT environment.

⁴¹ See *supra*, para. 16.

⁴² [REDACTED].

⁴³ See *supra*, paras 28-29.

process in this Case, and have easy access to the Registry. This activity was notably carried out in collaboration with a staff of the Public Information and Outreach Section (“PIOS”), who joined the VPRS mission in April 2024.⁴⁴ Further joint missions and activities are planned.

34. During these missions, the VPRS also continued to further engage with and train those individuals previously identified as sufficiently skilled, equipped and willing to assist the VPRS in its mandate. [REDACTED].⁴⁵ The training of individuals who assist the VPRS tackled *inter alia* the reparations Order in the Case,⁴⁶ the role of different Court actors in the reparations process, the scope of Mr. Ntaganda’s conviction, the individual reparations form, and good practices when assisting victims to complete forms.⁴⁷ Regular refresher trainings will be carried out, and the VPRS will closely monitor the performance of its partners on an ongoing basis.
35. Lastly, the VPRS field staff, assisted by its partners and interlocutors, continued to follow up on leads and gather information on potential beneficiaries of reparations in the Case and their whereabouts. In view of the volatile security situation, the VPRS is planning its activities of reaching out to potential beneficiaries in a careful manner, [REDACTED].⁴⁸

C. Coordination with the TFV

36. During the Reporting Period, the VPRS and TFV held regular coordination meetings, at high and working levels, both in HQ and in the field.⁴⁹ These meetings help both entities stay informed about each other’s mandates and activities under

⁴⁴ This is in line with the Chamber’s delineation of responsibilities between PIOS and VPRS, but also recognition that outreach and the identification of victims may take place in tandem. Second Decision on DIP, para. 103.

⁴⁵ [REDACTED].

⁴⁶ Trial Chamber VI, “Reparations Order”, 8 March 2021, ICC-01/04-02/06-2659, and Addendum.

⁴⁷ Tools were developed to explain the scope of Mr Ntaganda’s conviction - taking into account the current appeals on the Addendum-, as well as guidelines to assist victims to complete the individual form.

⁴⁸ Since the current conflict erupted (December 2017) some areas have remained more or less stable, with no attacks registered. [REDACTED].


⁴⁹ When relevant, some of these meetings also included the PIOS.

the reparations scheme. They address challenges and coordinate efforts, where possible to ensure a smooth process.

37. Moreover, the VPRS provided the TFV with information concerning five victims who had been found provisionally eligible by the Chamber in the Addendum, pending confirmation by the Registry of the relevant distance between these victims' village and the location for which the Chamber made a positive finding in the Conviction Judgment.⁵⁰

D. Conclusion

38. The Registry hereby informs the Chamber that during the reporting period it has issued 929 positive eligibility determinations for reparations,⁵¹ and 48 positive eligibility determinations for priority treatment under the IDIP.⁵²



Marc Dubuisson
Director Division of Judicial Services
on behalf of Osvaldo Zavala Giler, Registrar

Dated this 26 August 2024

At The Hague, the Netherlands

⁵⁰ See Addendum, para. 113; Trial Chamber VI, "Judgement", 8 July 2019, ICC-01/04-02/06-2359. Email from VPRS to TFV, dated 31 January 2024 at 12:49.

⁵¹ This figure does not include four victims who had already been found eligible by the Chamber in the Addendum (para. 144). See First Notification, para. 2 and *supra*, paras. 14 and 16.

⁵² See *supra*, para. 16.