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Before: Judge Beti Hohler , Presiding Judge
Judge Joanna Korner
Judge Keebong Paek

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

***IN THE CASE OF THE PROSECUTOR v. ALFRED YEKATOM AND PATRICE-
EDOUARD NGAÏSSONA***

Public Document

Public Redacted Version of the 'Corrected Version of the "Ngaïssona Defence Consolidated Response to the Submissions on Reparations", ICC-01/14-01/18-2922-Conf, 12 June 2026', 16 June 2026

Source: Defence of Patrice Edouard Ngaïssona

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I. INTRODUCTION

1. The Defence for Patrice-Edouard Ngaïssona ('Defence') hereby submits its consolidated response to the observations submitted on reparations to Trial Chamber V ('Chamber').¹ The response is organised by topic and addresses the most salient matters on which the Defence disagrees. The Defence's silence on any issue should not be construed as an agreement. The present response is filed confidentially pursuant to Regulation 23bis(2) of the Regulations of the Court ('RoC'), since it responds to a filing of the same classification. The Defence does not oppose a reclassification to public once a decision is issued.

II. SUBMISSIONS

A. The submissions include victims whose harm is not within the scope of the conviction

2. Several submissions include individuals whose harm, even if established, goes beyond the crimes for which Mr Ngaïssona was convicted. This dramatically overstates his liability by inflating the number of potential victims and distorting cost estimates.
3. Under Article 75(2), reparations orders are made "directly against a convicted person" which means that they "must not go beyond the crimes for which [the accused] was convicted".² This approach aims at protecting the rights of both the convicted person and the victims.³
4. As confirmed in *Ntaganda*, eligibility is strictly tied to the Chamber's positive findings concerning the crimes of conviction, including the description of events, locations, timeframes, and the perpetrators' underlying conduct retained in the Judgment. Accordingly, rejected or unresolved allegations cannot be reintroduced at the reparations stage through broader contextual or evidentiary submissions.⁴

¹ [ICC-01/14-01/18-2907-Conf](#) ("TFV Observations"); [ICC-01/14-01/18-2899-Red-Corr](#) ("CLRV Observations"); [ICC-01/14-01/18-2905-Red](#) ("Registry Observations"); [ICC-01/14-01/18-2900](#) ("OTP Observations"); [ICC-01/14-01/18-2904-Conf](#) ("Yekatom Defence Observations"); [ICC-01/14-01/18-2895](#) ("QUB Observations"). The Defence has no observations regarding the ARC-EN-CIEL submissions contained in [ICC-01/14-01/18-2906](#).

² *Prosecutor v. Lubanga*, Judgment on the appeals against Trial Chamber II's 'Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable', [ICC-01/04-01/06 A7 A8](#), 18 July 2019 ("Lubanga Decision on Reparations"), para. 3. See also *Prosecutor v. Ntaganda*, Decision on issues raised in the Registry's First Report on Reparations, [ICC-01/04-02/06-2630](#), 15 December 2020 ("Ntaganda 2020 Decision"), para. 60, referring to *Prosecutor v. Thomas Lubanga Dyilo*, Annex A to Judgment on the appeals against the "Decision establishing the principles and procedures to be applied to reparations" of 7 August 2012 order for reparations (amended), [ICC-01/04-01/06-3129-AnxA](#), 3 March 2015 ("Lubanga Amended Reparations Order"), para. 20.

³ *Prosecutor v. Ntaganda*, Reparations Order, [ICC-01/04-02/06-2659, 8 March 2021](#) ("Ntaganda Reparations Order"), para. 130.

⁴ *Prosecutor v. Ntaganda*, Addendum to the Reparations Order of 8 March 2021, ICC-01/04-02/06-2659, [ICC-01/04-02/06-2858-Red](#), 14 July 2023 ("Ntaganda Addendum to Reparations Order"), paras 91-92, 96, 99.

5. Here, the parties and participants have in many instances failed to respect these restrictions across the four crime locations. The Defence responds below to submissions that go outside the confines of the Judgment, and generally concurs with the observations of the Yekatom Defence.⁵

i. Potential victims of the Bangui Attack, specifically Boeing and Cattin

6. The positive findings underlying the conviction for the war crime of attacking civilians during the 5 December Bangui events were confined to the attack against the Muslim civilian population in Boeing and Cattin.⁶ While the Chamber occasionally referred to evidence relating to broader events in Bangui, it consistently clarified that such evidence was considered solely for contextual purposes and did not fall within the facts and circumstances of the case.⁷ Likewise, Mr Ngaïssona cannot be held liable for crimes committed during the Boeing and Cattin events by armed groups or individuals other than Mr Yekatom's elements. Moreover, the Trial Chamber ultimately adopted a narrow temporal scope of the attack in the Judgment, limiting its findings to events occurring "on 5 December 2013".⁸ Reparations under Count 1 must therefore remain strictly confined to the harms directly linked to the attack against the Muslim civilian population of Boeing and Cattin carried out by Mr Yekatom's elements on 5 December 2013, as established by the Judgment.

7. The murders under Counts 2 and 3 were expressly and narrowly circumscribed by the Chamber's findings.⁹ The VPRS', and even more so, the CLRV's and QUB's suggestions that eligibility should extend beyond the victims specifically identified or factually established in the Judgment disregard the parameters of the conviction and risk reintroducing allegations for which no conviction was ultimately secured.¹⁰ After a full evidentiary assessment, the Chamber retained only a limited number of killings.¹¹ For instance, the Chamber ultimately made no findings on the death of Nina Pascal at the Boeing market,¹² and in Cattin confined its findings to the murder of one unnamed Muslim man by the Yekatom group,¹³ expressly declining to reach any conclusions on other alleged killings.¹⁴

⁵ [Yekatom Defence Observations](#), paras 28-63.

⁶ [ICC-01/14-01/18-2784-Red](#) ("Judgment"), paras 3959-3960 and, more generally, section IV.B.3 "Attack on Boeing" and section IV.B.4 "Attack on Cattin". See [Yekatom Defence Observations](#), paras 29-30.

⁷ [Judgment](#), paras 2607, 2611.

⁸ Compare [ICC-01/14-01/18-403-Conf-Corr](#) ("Confirmation Decision"), p. 107 with [Judgment](#), p. 1644.

⁹ [Yekatom Defence Observations](#), paras 34-38.

¹⁰ [Registry Observations](#), para. 133 (v), fn. 79; [CLRV Observations](#), para. 27, relying on NGO estimates referring to approximately 1,000 deaths in the broader context of the events in Bangui; [QUB Observations](#), para. 21.

¹¹ [Judgment](#), paras 3965, 2673.

¹² [Judgment](#), para. 2574.

¹³ [Judgment](#), paras 2673, 4508.

¹⁴ [Judgment](#), paras 2676-2677.

8. In relation to Counts 4 and 5, the Chamber confined the relevant conduct to the displacement of Muslim civilians fleeing Boeing and Cattin in the context of the 5 December attack. In this regard, the VPRS' reliance on prior participation decisions concerning applicants residing in neighbouring areas is misplaced,¹⁵ and results in inflated estimates.¹⁶ Eligibility at the reparations stage is based exclusively on the conviction, "not on [...] prior decisions regarding the scope of the case brought to trial or the requirements for victims' participation during the trial proceedings".¹⁷ The standards applicable at those earlier stages rest on *prima facie* demonstrations of linkage and are necessarily broader than the individual liability inquiry at the reparations stage. Significantly, where harm is alleged in locations surrounding an eligible area, for victims in that surrounding area to be eligible for reparations requires explicit findings in relation to these surrounding locations, which served as a basis for the conviction.¹⁸ The Chamber in the present case made none.
9. In relation to Count 6, the Chamber expressly distinguished between the attack on the Boeing Mosque forming the basis of the conviction and its subsequent destruction by civilians. It held that the accused was charged with "directing an attack against a building dedicated to religion" and that "whether and by whom the Boeing Mosque was later destroyed, dismantled, or otherwise taken apart, is not material to the charges".¹⁹ The Chamber also declined to attribute the full extent of the harm to either convicted person for sentencing purposes.²⁰ The conviction therefore concerns the attack and damage attributed to Mr Yekatom's elements, not the subsequent destruction by third parties. This distinction is dispositive.
10. Reparations may not extend to harms flowing from subsequent intervening acts and consequences the Chamber itself expressly excluded from the conviction. Certain submissions nonetheless refer to the long-term consequences of the destruction of the Boeing Mosque without engaging with the Chamber's express limitation on Mr Ngaïssona's responsibility.²¹ The Defence does not dispute that the attack and resulting damage may have caused psychological or moral harm to certain members of the Muslim communities of Boeing and Cattin.²² However, claims alleging generalised emotional, cultural or communal harm associated with the long-term destruction of the Mosque or the broader disruption of the

¹⁵ [Registry Observations](#), paras 132, 133 (ii). See also fn. 74.

¹⁶ The VPRS estimates that between 4,000 to 5,000 Muslims were displaced from the ten neighborhoods adjacent to Cattin and Boeing, see [Registry Observations](#), para. 58.

¹⁷ [Ntaganda 2020 Decision](#), para. 11.

¹⁸ [Ntaganda 2020 Decision](#), para. 18. See also *ibid.*, paras 24-25.

¹⁹ [Judgment](#), para. 2624.

²⁰ [Judgment](#), para. 4539, paras 4542-4543, paras 4725-4726.

²¹ [CLRV Observations](#), paras 25, 62-64; [TFV Observations](#), para. 25; [QUB Observations](#), para. 5.

²² [Judgment](#), para. 4542.

community's religious and social fabric fall outside the scope of the convicted conduct.²³ Accordingly, the TFV's cost estimates of CFA 66 million (EUR 100,000) needed to achieve an adequate rehabilitation of the Mosque should be rejected.²⁴

ii. Potential victims of the Bossangoa Attack

11. Similarly, many submissions disregard the scope of the Chamber's findings regarding certain counts charged in Bossangoa. In particular, for Count 30, Mr Ngaïssona can be held liable for harm arising out of two contexts: (1) conduct pertaining to the other counts of conviction as specified in the Confirmation Decision²⁵ and Judgment,²⁶ and (2) injuries specified in Mr Ngaïssona's individual sentence.²⁷
12. Claims of harm arising outside of these two contexts must be approached with caution as such harm is either not a consequence of the crime or it may qualify as a potential consequence of the crime, but the Chamber's findings make no mention of it.²⁸ Further, potential victims whose harm stems from crimes for which Mr Ngaïssona was acquitted or for which his responsibility was found to be limited are not eligible for reparations.
13. Such caution is completely absent from certain submissions. For example, the VPRS defines eligible victims as "the individuals present in Bossangoa at the time of the Bossangoa 5 December 2013 attack who sustained personal harm as a result of the attack by Anti-Balaka [...]".²⁹ This broad formulation would include Seleka fighters,³⁰ victims of crimes for which Mr Ngaïssona was acquitted,³¹ and victims for whom the Chamber could not determine whether the authors were civilians or Anti-Balaka.³²

²³ [CLR V Observations](#), paras 58-59.

²⁴ [TFV Observations](#), para. 82 (submitting that following its destruction, the partially reconstructed Mosque's infrastructure remains insufficient to meet the needs of the congregation).

²⁵ [Confirmation Decision](#), p. 107 (finding Mr Ngaïssona responsible for directing attacks against the civilian population in Bossangoa "on the basis of the conduct pertaining to Counts 31-33, 35, 37 and 39-42").

²⁶ [Judgment](#), para 4741 (finding that the consequences of Count 30 constitute the relevant facts underlying the other crimes Mr Ngaïssona was convicted of in the context of the Bossangoa attack).

²⁷ [Judgment](#), para. 4742.

²⁸ *Prosecutor v. Ongwen*, Reparations Order, [ICC-02/04-01/15-2074](#), 28 February 2024 ("Ongwen Reparations Order"), para. 501 (applying in a strict manner the criterion that harm directly caused by the conduct crime of attacks against the civilian population could be recognised if there is no break in the chain of causation and if the harm was a necessary and natural consequence of the attack).

²⁹ [Registry Observations](#), para. 135.

³⁰ [Judgment](#), paras 2935-2937 (noting evidence suggesting that Seleka members were involved in the destruction of Bossangoa).

³¹ Mr Ngaïssona was acquitted of pillage in Bossangoa. The Chamber found that looting in Bossangoa took place at some point after the time relevant to the charges or by individuals other than the Anti-Balaka members, see [Judgment](#), para. 2938. The Chamber was also unable to determine when the inscription of "Anti-Balaka" on destroyed houses in the Boro neighbourhood were made, see [Judgment](#), para. 2927. Mr Ngaïssona was also acquitted for the destruction of the Bossangoa mosque. The Chamber was unable to conclude who was responsible for the destruction of the central mosque of Bossangoa, see [Judgment](#), para 2955.

³² *Ibid.*

14. In the absence of findings on a particular consequence of Count 30, eligible victims must be able to show that: (1) their harm arose from the attack on 5 December 2013, (2) the perpetrators were Anti-Balaka members, and (3) the harm that resulted was a reasonably foreseeable consequence of the Anti-Balaka's attack on the Muslim civilian population in Bossangoa.³³
15. For the counts of murder, contrary to the CLRV's, the VPRS' and the QUB's submissions,³⁴ the only direct victims of murder are the 18 individuals identified in the Judgment. While the Confirmation Decision committed Mr Ngaïssona for trial for the murder of 28 individuals,³⁵ the Chamber ultimately made evidentiary assessments with respect to 18.³⁶ In determining Mr Ngaïssona's individual sentence, the Chamber referred to these assessments and recalled the circumstances of the murder of the 18 individuals.³⁷ The Chamber further found that an individual who was included in the Confirmation Decision, Koursi Mahamat, was not a victim of the 5 December attack as he was killed prior to it.³⁸ Allowing reparations for the murder of individuals outside of the 18 listed in the Judgment would be holding Mr Ngaïssona liable for murders whose authorship and causation was not determined beyond a reasonable doubt.
16. For Count 33, the OTP, the CLRV, the VPRS and the TFV disregard the Chamber's express limitations on Mr Ngaïssona's criminal responsibility for destructing the adversary's property. The Chamber found that the Seleka, and other non-Anti-Balaka actors also participated in property destruction in Bossangoa,³⁹ and that some destruction took place outside the relevant time frame.⁴⁰ The only location for which the Chamber made definitive findings was the destruction of residential structures within the immediate vicinity of the Imam's residence,⁴¹ a delimitation it applied when determining Mr Ngaïssona's individual sentence.⁴²

³³ [Ongwen Reparations Order](#), para. 501 ("excluded harms inflicted against civilians in the context of the attacks that were not a necessary and natural consequence of the attacks against civilians, such as rape"); *Prosecutor v. Katanga*, Decision on the Matter of the Transgenerational Harm Alleged by Some Applicants for Reparations Remanded by the Appeals Chamber in its Judgment of 8 March 2018, [ICC-01/04-01/07-3804-Red-tENG](#), 19 July 2018 ("Katanga Decision on Transgenerational Harm"), para. 17 ("if the person who committed the initial act could not have reasonably foreseen the event in question, the initial act cannot be considered to be the proximate cause of the harm suffered by the victim").

³⁴ [CLRV Observations](#), para. 27 (claiming that 1,000 people were killed in the days following the Bossangoa attack by citing a report, which was not relied on by the Chamber in its conclusions on murder in the context of the Bossangoa attack); [Registry Observations](#), para. 135; [QUB Observations](#), para. 27.

³⁵ [Confirmation Decision](#), p. 107 (confirming the charges for the murder of 28 persons in Bossangoa).

³⁶ [Judgment](#), paras 2865, 2877-2895.

³⁷ [Judgment](#), para. 4747.

³⁸ [Judgment](#), para. 2871.

³⁹ [Judgment](#), paras 2935, 2938.

⁴⁰ [Judgment](#), para. 2938.

⁴¹ [Judgment](#), paras 85, 2918, 2938, 4065-4066. The Defence notes that the Chamber did not consistently qualify the vicinity as "immediate".

⁴² In sentencing Mr Ngaïssona for this crime, the Chamber referred to para. 85 of the [Judgment](#) which uses the term "immediate vicinity". *Ibid.*, para. 4755, citing para. 85 of the Judgment.

17. Therefore, the OTP's, the VPRS', the CLRV's and the TFV's general references to victims of the destruction of property in Bossangoa in the context of the 5 December Anti-Balaka attack are overly broad.⁴³ The CLRV goes so far as to suggest potential liability for the destruction of 1400 buildings,⁴⁴ completely ignoring the limited geographic scope.
18. Given the multiplicity of alternative factors contributing to potential victims' harm under this count, eligibility must be strictly confined to the following four criteria found in the Judgment: (1) the destruction of residential structures, therefore excluding shops and other businesses, (2) within the immediate vicinity of the Imam's house, (3) by members of the Anti-Balaka, and (4) between 5 and 8 December 2013.⁴⁵
19. For Counts 37–38, the Chamber found that Muslim residents of Bossangoa were forcibly displaced by the Anti-Balaka attack of 5 December to the *École de la Liberté* and subsequently to Chad.⁴⁶ These findings reflect the geographic scope of the confirmed charges.⁴⁷ Accordingly, potential eligible victims must demonstrate: (1) Muslim civilian identity at the time of the events, (2) residency in Bossangoa at the time of the attack, (3) their displacement to the *École de la Liberté*, and (4) subsequent displacement to Chad.
20. Individuals who were present at the *École de la Liberté* prior to the 5 December attack are not eligible victims contrary to the VPRS' submissions.⁴⁸ Their displacement is outside the scope of the charges as defined by the Confirmation Decision⁴⁹ and the Chamber found it resulted from the September 2013 attack in Bossangoa and attacks near surrounding villages.⁵⁰ Their harm is therefore related to crimes for which Mr Ngaïssona was not convicted.
21. The Chamber's sentencing findings refer only to the Muslim inhabitants of Bossangoa displaced to the *École de la Liberté* and subsequently to Chad following the 5 December attack.⁵¹ Therefore, individuals claiming internal displacement to Bangui rather than Chad must show that their displacement resulted from the Anti-Balaka 5 December attack rather than other

⁴³ [CLRV Observations](#), para. 24; [TFV Observations](#), para. 144; [Registry Observations](#), paras 121, 154; [OTP Observations](#), para.21.

⁴⁴ [CLRV Observations](#), para. 24.

⁴⁵ [Judgment](#), para. 2938 (finding that “the Anti-Balaka burned and destroyed residential structures in the vicinity of the Imam's residence at some point between 5 and 8 December 2013”).

⁴⁶ [Judgment](#), paras 2970, 3023, 4763.

⁴⁷ [Confirmation Decision](#), pp. 108,109.

⁴⁸ [Registry Observations](#), para. 61.

⁴⁹ [Confirmation Decision](#), pp. 108-109 (“dislocation of Bossangoa's Muslim population to the *École de la Liberté*, before being evacuated to other locations, in the context of the attack on Bossangoa on 5 December 2013 and in the days following the attack”).

⁵⁰ [Judgment](#), para. 2957.

⁵¹ [Judgment](#), para. 4760.

causal factors such as the other two waves of destruction that followed the 5 December attack,⁵² or more generally, other actors on the ground.⁵³

iii. The victims of the Yamwara attack

22. The Defence agrees with the Yekatom Defence's and the CLR V's submissions that the direct victims of Counts 11-17 concern seven identified individuals.⁵⁴ Further, the Chamber expressly stated that the conviction for torture related to only one individual, and that it entered no findings on whether the mistreatment of the other six detained persons amounted to torture given the constraints placed on it by the Confirmation Decision.⁵⁵ Thus, the VPRS' submissions relating to individuals detained and tortured people at Yamwara school⁵⁶ and the QUB's submissions alluding to an unidentified number of potential torture victims should be disregarded.⁵⁷

23. Further, contrary to the VPRS' submissions,⁵⁸ the Chamber made no findings regarding the victims' economic harm. Given such harm is not an inherent consequence of the crimes of torture, murder, imprisonment or mistreatment, any such claims of harm must be scrutinised for their nexus to the crimes.⁵⁹ Lastly, while the Chamber recognised the mental and physical suffering of all the detainees,⁶⁰ it limited the extent of physical suffering when it concluded that "none of the captives were severely injured".⁶¹

iv. The potential victims of the PK9-Mbaïki axis

24. The VPRS' reference to all individuals present in localities along the PK9-Mbaïki axis who suffered "personal harm as a result of the PK9-Mbaïki events, *including from their forced displacement*" impermissibly conflates the specific crimes of conviction with the broader factual context in which those crimes occurred.⁶² Eligibility under Counts 24 and 25 is confined to harm resulting from the specific conduct underlying the convictions of forcible transfer and deportation; it does not extend to all persons allegedly affected by the PK9-Mbaïki events. In particular, direct victim eligibility under those counts cannot extend to all Muslim residents present in Mbaïki at the relevant time,⁶³ nor to all individuals from the Lobaye prefecture who

⁵² [Judgment](#), para. 2919.

⁵³ [Judgment](#), paras 2935-2938, 2955.

⁵⁴ [Yekatom Defence Observations](#), para. 52; [CLR V Observations](#), paras 23, 26.

⁵⁵ [Judgment](#), para. 4156.

⁵⁶ [Registry Observations](#), para. 133.

⁵⁷ [QUB Observations](#), para. 10 (submitting that a presumption of torture should be applied for victims held in detention facilities).

⁵⁸ [Registry Observations](#), para. 125.

⁵⁹ [Ongwen Reparations Order](#), para. 501.

⁶⁰ [Judgment](#), para. 4148.

⁶¹ [Judgment](#), para. 4584.

⁶² [Registry Observations](#), para. 134 i) and ii) (emphasis added).

⁶³ [Registry Observations](#), paras 78-81, 134 ii).

fled to Mbaïki as a result of the advance,⁶⁴ but only to those displaced as a result of Mr Yekatom's group's conduct and residing on the PK9-Mbaïki axis. The Judgment expressly recognised that the Lobaye prefecture, beyond the relevant axis, fell outside the scope of the charges.⁶⁵ Therefore, the figures advanced by the CLRV and the VPRS regarding the potential eligible victims of the "PK9-Mbaïki events" are likely overstated.⁶⁶

25. Further, the list of potential additional localities identified by the VPRS should be approached with caution, particularly with respect to villages whose geographical and factual connection to the PK9-Mbaïki events remains unclear on the present record.⁶⁷ The Defence will therefore make more specific submissions, where necessary, on the basis of the individual victims' applications and the evidence at hand.

v. The potential victims of persecution and community harm

26. First, the Judgment expressly grounds the crime of persecution in the same acts and consequences underlying the other crimes of conviction in Bangui, Yamwara, PK9-Mbaïki Axis, and Bossangoa.⁶⁸ Given the persecution counts do not give rise to an autonomous category of harm, only victims of the underlying crimes may be considered to have suffered personal harm resulting from persecution and to qualify as direct victims in this case.⁶⁹

27. Second, the Defence concurs with the TFV that the Muslim communities, as a whole, "were not directly targeted as direct victims".⁷⁰ In the absence of a judicial finding on the causal link between the harm suffered by the Muslim community and the crimes, there is no basis for concluding that Mr Ngaïssona's liability for reparations extends to that community as a whole.⁷¹

⁶⁴ [CLRV Observations](#), para. 22 (referring to "at least 1,000 Muslims ha[ving] to flee from locations along the axis and in the Lobaye prefecture to Mbaïki" (emphasis added)).

⁶⁵ [Judgment](#), para. 3417.

⁶⁶ [CLRV Observations](#), para. 22; [Registry Observations](#), paras 32-33, 82-83.

⁶⁷ [Registry Observations](#), para. 87 and fn. 60. The VPRS appears to rely, at least in part, on the fact that certain individuals originating from these villages were previously admitted to participate in the proceedings. However, as mentioned above, prior participating decisions, rendered on the basis of *prima facie* assessments, cannot predetermine eligibility for reparations, which must remain strictly confined to the harm linked to the crimes and scope of the conviction.

⁶⁸ [Judgment](#), para. 23 (Counts 1-6, 11-16, 24-27, 30-33, 37-39, "persecution (...) by virtue of the conduct pertaining to Counts 1-7, 11-16, 24-27, 30-41" (emphasis added)). See paras 4731 ("facts underlying Mr Ngaïssona's conviction under Count 8 are the same as those forming the basis of his convictions under Counts 1 to 6"), 4786 ("facts underlying his conviction under Count 42 are the same as those forming the basis of his convictions under Counts 30 to 33, and 37 to 39"), 4804 ("facts underlying Mr Ngaïssona's conviction under Count 17 are the same as those forming the basis of his convictions under Counts 11 to 16"), 4821 ("facts underlying Mr Ngaïssona's conviction under Count 28 are the same as those forming the basis of his convictions under Counts 24 to 27"), 4108. See also paras 4299, 4806, 4832, 4549, 4654-4656.

⁶⁹ See [Yekatom Defence Observations](#), paras 50-51, 62-63.

⁷⁰ [TFV Observations](#), para. 28, relying on Rule 85(b) of the Rules of Procedure and Evidence.

⁷¹ *Prosecutor v. Lubanga*, Judgment on the appeals against the "Decision establishing the principles and procedures to be applied to reparations" of 7 August 2012 with AMENDED order for reparations (Annex A) and public annexes 1 and 2, [ICC-01/04-01/06-3129](#), 3 March 2015 ("Lubanga Reparations AJ"), para. 212 ("if there is a sufficient causal link between the harm suffered by members of that community and the crimes of which Mr Lubanga was found guilty, it is appropriate to award collective reparations to that community, understood as a

Whereas Trial Chamber X in *Al Hassan* explicitly recognised the “entire population of Timbuktu” as a standalone direct victim of persecution, no comparable finding was made in the present case.⁷²

28. Third, the OTP, the CLRV, the TFV and the QUB advocate for an overly broad scope of (indirect) victims, extending the harm to the Muslim community as a whole, exceeding the scope of the Judgment.⁷³ The OTP argues for a broad interpretation of indirect victims, yet fails to identify the personal harm suffered by members of the community arising from their relationship with direct victims, or to establish the required causal nexus.⁷⁴ Similarly, the TFV, the CLRV and the QUB fail to specify the causal link between the broadly-defined ‘Muslim community(ies)’ and the direct victims of the specific crimes, including persecution.⁷⁵
29. Chambers have exercised caution in this respect. In *Ongwen*, while the Trial Chamber acknowledged the damage to community property resulting from the conflict, it limited the recoverable harm to the charged destruction of houses, household goods, and livestock in certain IDP camps.⁷⁶ Here, any potential community harm arising from “attacks on Muslim religious property”⁷⁷ must be strictly circumscribed to the specific crimes as charged. Any recognition of the more collective dimensions of harm, such as that arising from persecution,⁷⁸ must be confined to the strict temporal and geographical parameters of the Judgment; it may

group of victims. (...) However, the Appeals Chamber considers that the scope of the convicted person’s liability for reparations in respect of a community *must be specified*. (...) *such broad formulations may lead to the inclusion of persons who do not meet the above-mentioned criteria and would be inconsistent with rule 85(a) (...) and regulation 46 of the Regulations of the Trust Fund.*” (emphasis added); see also *Prosecutor v. Al Hassan*, Reparations Order, [ICC-01/12-01/18-2782](#), 28 April 2026 (“Al Hassan Reparations Order”), para. 62.

⁷² *Prosecutor v. Al Hassan*, Trial Judgment, [ICC-01/12-01/18-2594-Red](#), 27 June 2024, paras 1560, 1565; *Prosecutor v. Al Hassan*, Sentencing Decision, [ICC-01/12-01/18-2662](#), paras 69, 71; see also [Al Hassan Reparations Order](#), paras 59-62, 223. See also *Prosecutor v. Al Hassan*, Defence Notice of Appeal Against the Reparations Order (ICC-01/12-01/18-2782), [ICC-01/12-01/18-2784](#), 28 April 2024 (“Al Hassan Defence Notice of Appeal”), para. 15.

⁷³ [TFV Observations](#), paras 26-28, 33, 39-40, 44; [CLRV Observations](#), paras 44, 67, 72; [OTP Observations](#), paras 12, 36; [QUB Observations](#), para. 3; see also [Ngaïssona Defence Observations](#), paras 18-19; *Prosecutor v. Katanga*, Order for Reparations pursuant to Article 75 of the Statute, [ICC-01/04-01/07-3728-tENG](#), 24 March 2017 (“Katanga Reparations Order”), para. 146-154; [Ntaganda Reparations Order](#), para. 106; [Ongwen Reparations Order](#), para. 96; [Lubanga Reparations AJ](#), para. 182; [Al Mahdi Reparations Order](#), para. 110.

⁷⁴ [OTP Observations](#), paras 8, 36; see also para. 12; [Ongwen, Reparations Order](#), para. 128; [Al Hassan Reparations Order](#), paras 67-69.

⁷⁵ [TFV Observations](#), paras 24-28, 39-40, 55-56; [CLRV Observations](#), paras 14, 44, 67; [QUB Observations](#), paras 4, 5, 32; [Al Hassan Reparations Order](#), para. 67; [Ongwen Reparations Order](#), para. 128; [Ntaganda Reparations AJ](#), paras 625-628; see also [Yekatom Defence Observations](#), para. 23.

⁷⁶ [Ongwen Reparations Order](#), para. 388, 391 (“the Chamber considers that he cannot be held accountable to repair the damage that might have been caused to those structures within the general context of the conflict in Northern Uganda”).

⁷⁷ [QUB Observations](#) para. 5; [Registry Observations](#), para. 168 (“Because the destruction of certain mosques is not always within the material scope of the case, victims did not always present mosque reconstruction as a formal “reparations claim”, but rather as a condition for return, safety, and dignity”).

⁷⁸ [QUB Observations](#), para. 3.

not extend to the ‘Muslim community’ as a whole.⁷⁹ Community-wide harm may be more appropriately addressed through collective or rehabilitative reparations, without including the entire Muslim population.⁸⁰

B. The submissions do not justify applying liability *in solidum* to Mr Ngaïssona’s case

30. The OTP, the TFV, and the QUB fail to justify the application of liability *in solidum* to Mr Ngaïssona’s case.⁸¹
31. First, the OTP patently misstates the Chamber’s findings by overstating Mr Ngaïssona’s role in the crimes.⁸² As detailed in the Defence’s submissions, the Chamber could not find any circumstances qualifying Mr Ngaïssona’s intent as high or low,⁸³ which stands in direct contradiction with placing Mr Ngaïssona at the heart of the Anti-Balaka’s victimisation or recognising that he had a “direct bearing on the scale and persistence of the harm inflicted on victims”.⁸⁴
32. Second, the TFV submits that Trial Chambers have moved away from *Katanga*, becoming less strict in linking the form of responsibility to the convicted person’s individual liability and instead adopting liability *in solidum*.⁸⁵ This claim is imprecise. No subsequent case has addressed liability *in solidum* in the context of convictions based solely on accessorial responsibility, as was the case in *Katanga*. Moreover, while the Appeals Chamber in *Katanga* did not find it *per se* inappropriate to hold an accessory liable for the full extent of the harm, Mr Katanga was found to have made a *significant* contribution to the crimes,⁸⁶ a considerably greater contribution than that attributed to Mr Ngaïssona by the Chamber.⁸⁷
33. Most recently, in *Al Hassan*, Trial Chamber X did not consider Mr Al Hassan’s accessorial responsibility for certain crimes or, more generally, his participation.⁸⁸ This issue is currently

⁷⁹ See [Ongwen Reparations Order](#), para. 398 (where the community wide harms were limited to the four locations of the attacks).

⁸⁰ See [Ongwen Reparations Order](#), paras 571-575.

⁸¹ [OTP Observations](#), paras 28-29; [TFV Observations](#), paras 204-210; [QUB Observations](#), para. 29.

⁸² [OTP Observations](#), para. 28.

⁸³ [ICC-01/14-01/18-2903](#) (“Ngaïssona Defence Observations”), paras 60-67.

⁸⁴ [OTP Observations](#), para. 28.

⁸⁵ [TFV Observations](#), para 206.

⁸⁶ See *Prosecutor v. Katanga*, Decision on Sentence pursuant to article 76 of the Statute, [ICC-01/04-01/07-3484-ENG-Corr](#), 23 May 2014, para. 64 (finding that Mr Katanga made a significant contribution to the commission of crimes since it had a considerable influence on their perpetration and manner of perpetration). The Appeals Chamber did not address the issue of whether the Trial Chamber should have held Mr Katanga fully liable because it was Mr Katanga who filed an appeal requesting a further reduction in liability and it would be inappropriate to amend it to his detriment. See *Prosecutor v. Katanga*, Judgment on the appeals against the order of Trial Chamber II of 24 March 2017 entitled “Order for Reparations pursuant to Article 75 of the Statute”, [ICC-01/04-01/07-3778-Red](#), 8 Mars 2018, para. 186.

⁸⁷ [Ngaïssona Defence Observations](#), para. 61. See also, paras 60-68. See [Judgment](#), paras. 4711, 4736, 4791, 4810.

⁸⁸ [Al Hassan Reparations Order](#), para. 221.

on appeal, *sub judice*.⁸⁹ Therefore, any asserted “trend” towards liability *in solidum* for convicted persons, regardless of degree of participation and intent, remains unsettled.

34. Third, the first approach proposed by the TFV for assessing liability⁹⁰ – imposing liability *in solidum* for the common crimes while retaining Mr Ngaïssona’s full responsibility for the Bossangoa crimes – cannot be adopted. The Defence maintains its position that liability must be assessed separately for each convicted person, by reference to their respective individual liability.⁹¹ To that extent, the Defence agrees in principle with the second approach suggested by the TFV, provided that the respective liability findings ultimately reached remain the binding cap on each convicted person’s reimbursement obligation. The TFV may elect to use the higher figure as the implementation envelope and distribute it equitably across all victim groups but this does not absolve the TFV from maintaining internal distinctions as Mr Ngaïssona can never be required to reimburse more than the amount reflecting his own criminal liability.

35. The operational constraints identified by the TFV in separating the liability amounts⁹² are matters to be addressed at the implementation phase and are irrelevant to the determination of liability. The complexity arising from the joint nature of the case cannot be a basis for imposing liability *in solidum*, which would unduly prejudice Mr Ngaïssona.⁹³ In this respect, the TFV’s submission that the first approach would better serve the interests of victims cannot be accepted:⁹⁴ the reparations framework must preserve the rights of both victims and convicted persons, and the interests of victims cannot override the requirement that each convicted person’s liability be determined by reference to their own criminal responsibility. To the extent that operational difficulties persist, the engagement of experts to provide workable approaches, as suggested by the Yekatom Defence, remains available to the TFV.⁹⁵

36. The QUB and the TFV invoke considerations that are not relevant to the assessment of liability. Both argue, in essence, that victims across different locations should not receive different levels of reparations, and that distinguishing liability by mode and degree of participation would be arbitrary and redundant.⁹⁶ However, as set out above, the adoption of an implementation envelope means that Bossangoa victims would not necessarily receive less in practice. More fundamentally, the principle of equality warrants equal treatment of individuals in comparable situations; it does not preclude differentiated treatment of victims of distinct crimes committed

⁸⁹ [Al Hassan Defence Notice of Appeal](#), paras 18-19.

⁹⁰ [TFV Observations](#), para. 208.

⁹¹ [Ngaïssona Defence Observations](#), paras 45-69.

⁹² [TFV Observations](#), paras 208-209.

⁹³ [Ngaïssona Defence Observations](#), paras 45-69.

⁹⁴ [TFV Observations](#), para. 210.

⁹⁵ [Yekatom Defence Observations](#), para. 114.

⁹⁶ [QUB Observations](#), para 29; [TFV Observations](#), paras 208-209.

by different convicted persons in different locations. The Chamber should also dismiss the submission that “a distinction based on the degree of criminal responsibility appears redundant, since [the convicted person] will not, in practice, bear the cost of reparations”.⁹⁷ Under Article 75(2), a reparations order is made against the convicted person, who bears the full financial liability for the award regardless of indigence.⁹⁸ Mr Ngaïssona’s assets will continually be monitored, and he remains under an obligation to reimburse the TFV should his conviction become final and a reparations order be issued.⁹⁹

37. More generally, tensions may arise among communities from the inherently limited scope of reparations proceedings before the Court.¹⁰⁰ In many cases, including this one, crimes take place in a wider conflict affecting victims whose harm falls outside the scope of the conviction. Here, this includes victims who would have been eligible but for an acquittal on certain counts. The Trial Chamber in *Al Hassan* found it “paramount that clear communication and outreach is undertaken [...], in order to ensure that the communities and other victims understand the limited scope of reparations”.¹⁰¹ A similar approach should be adopted here, with outreach dedicated in part to explaining the liability findings and their consequences for the distribution of the award.

C. The submissions take into account harm whose proximate cause is not the crimes for which Mr Ngaïssona was convicted

38. Several parties and participants expand the extent of harm suffered by victims by including harm for which the crimes of conviction are not the proximate cause. To be held liable, the crimes of conviction must not only be the but/for cause of the victims’ harm, but must also be its proximate cause.¹⁰²

39. The issues of proximate cause arises in relation to four categories of victims of forced displacement identified by the Defence, as set out below.

i. Victims who remain unable to return to CAR or to reintegrate themselves after their return

40. The submissions regarding victims not being able to return to the CAR or to reintegrate themselves after their return demonstrate that the crime of displacement is not the proximate

⁹⁷ [QUB Observations](#), para. 29.

⁹⁸ *Prosecutor v. Lubanga*, Judgment on the appeals against the “Decision establishing the principles and procedures to be applied to reparations “of 7 August 2012, [ICC-01/04-01/06-3129](#), 3 March 2015 (“Lubanga Reparations AJ”), paras 102-105.

⁹⁹ [Regulations of the Court](#), Regulation 117.

¹⁰⁰ Reparations proceedings are limited to the crimes of conviction. See [Lubanga Reparations AJ](#), para. 65; [Katanga Reparations Order](#), paras 146, 251; [Ntaganda Reparations Order](#), para. 106; [Ongwen Reparations Order](#), para. 96. See also [Lubanga Reparations AJ](#), para. 182.

¹⁰¹ [Al Hassan Reparations Order](#), para. 51.

¹⁰² [Ongwen Reparations Order](#), para. 419.

cause of their harm. First, both the VPRS and the TFV refer to causes of harm that are outside the material scope of this case. This is illustrated by victims whose return is conditional upon the reconstruction of mosques or who claim that their properties have been destroyed.¹⁰³

41. With respect to mosques, the TFV and the VPRS admit that the claims related to the destruction of mosques in certain localities are not always within the scope of this case.¹⁰⁴ Therefore, references to mosques such as in [REDACTED],¹⁰⁵ [REDACTED],¹⁰⁶ and particularly [REDACTED],¹⁰⁷ in light of Mr Ngaïssona's acquittal on Count [REDACTED], should be disregarded.
42. Similarly, the VPRS refers to the destruction of houses or other properties in [REDACTED],¹⁰⁸ along the PK9-Mbaïki axis,¹⁰⁹ and Bossangoa¹¹⁰ whereas, as explained above, Mr Ngaïssona can only be held liable for the destruction of the houses within the immediate vicinity of the Imam's residence in Bossangoa.
43. Second, it appears that return and reintegration of the Muslim civilian population is not similar across [REDACTED]. Both the [REDACTED] and the VPRS state that the conditions are more favourable in Mbaïki¹¹¹ where the local community supports and facilitates the return of former inhabitants in their homes, and according to VPRS even offers a small allowance.¹¹² In contrast, [REDACTED], [REDACTED]¹¹³ The disparities in successful [REDACTED] indicate that it has not been sufficiently established that forced displacement is the proximate cause for the continued hardship victims face [REDACTED] for two reasons.
44. First, the reasons for these hardships are not closely connected to the crime of displacement.¹¹⁴ Indeed, the TFV notes that the situation appeared to be difficult in [REDACTED], thereby

¹⁰³ [Registry Observations](#), paras 97-98, 167; [TFV Observations](#), para. 36, fn. 47 (including harm such as the destruction of tangible property such as houses and the destruction of religious sites without any reference to the scope of the conviction), para. 144 (detailing both the costs of constructing houses generally in Bossangoa without reference to the vicinity of the Imam's house and the destruction of houses in the PK9-Mbaïki axis).

¹⁰⁴ [Registry Observations](#), para. 168; [TFV Observations](#), para. 26.

¹⁰⁵ [Registry Observations](#), para. 98.

¹⁰⁶ [Registry Observations](#), para. 114.

¹⁰⁷ [Registry Observations](#), para. 72.

¹⁰⁸ [Registry Observations](#), para. 49.

¹⁰⁹ [Registry Observations](#), paras 97, 158.

¹¹⁰ [Registry Observations](#), paras 122, 154. *See also* [TFV Observations](#), para. 144.

¹¹¹ [Registry Observations](#), paras 80, 113; [TFV Observations](#), para. 101.

¹¹² [Registry Observations](#), para. 113.

¹¹³ [TFV Observations](#), para. 38 (submitting the difficult conditions for [REDACTED] as compared to [REDACTED]). [Registry Observations](#), paras 71, 73. The Defence notes the potentially contradictory findings of the TFV compared with the VPRS regarding [REDACTED] made on the basis of their joint [REDACTED]. While the VPRS states that [REDACTED], the TFV found [REDACTED]. *Compare* [TFV Observations](#), para 38 with [Registry Observations](#), paras 49, 96-98, 114.

¹¹⁴ [Katanga Decision on Transgenerational Harm](#), para. 16 ("the liability of the person who committed an act is limited to the causes that are *closely connected* to the result of that act and that are significant enough to justify a finding of liability" (emphasis added)).

weakening the causal link with the displacement that occurred between 5 December and February 2014.¹¹⁵ For [REDACTED], the obstacles to victims' [REDACTED] appear attributable to [REDACTED]. In the villages near Mbaïki, their make-up has entirely changed and [REDACTED], which according to the VPRS is [REDACTED].¹¹⁶ That reintegration conditions remain uneven [REDACTED], as the TFV notes, suggests that reintegration depends on outside factors that are not inherent to the crime of displacement.¹¹⁷

45. Second, it is not objectively foreseeable that Mr Ngaïssona would have been aware of the different [REDACTED].¹¹⁸ Indeed, Mr Ngaïssona's contributions to the counts of displacement were the same for [REDACTED].¹¹⁹ Yet, the parties and participants fail to tailor their submissions to demonstrate that Mr Ngaïssona was aware, or should have been aware, that his general contributions to all the crimes would result in more protracted issues in [REDACTED]. Therefore, the Chamber should limit Mr Ngaïssona's liability with respect to the continuing hardships victims continue to face in returning to the CAR.

ii. Victims whose living conditions have deteriorated in refugee camps or who have been labelled as returnees

46. The VPRS and the CLRV submit that living conditions in refugee camps have deteriorated¹²⁰ and according to the VPRS, victims classified as returnees by the Chadian authorities have suffered additional harm, including psychological harm and reduced access to assistance and protection, as a result of that designation.¹²¹ While the crime of displacement may be the but/for cause of these forms of harm, it cannot be considered the proximate cause. First, with respect to the deteriorating conditions in the camps, the VPRS' and the CLRV's submissions refer to funding cuts and the withdrawal of humanitarian actors, thereby identifying intervening factors that would have led to worsening conditions.¹²² These decisions were made by independent third parties, such as international organisations or NGOs, and are unrelated to the acts that led to the displacement of the victims in this case. Given this lack of causal connection, they were also completely unforeseeable to Mr Ngaïssona. For these reasons, the Chamber must determine whether victims in camps are suffering harm as a result of the initial displacement or the decision of third-party actors to withdraw or limit aid to the area.

¹¹⁵ [TFV Observations](#), para. 117, fn. 90.

¹¹⁶ [Registry Observations](#), para. 158.

¹¹⁷ [TFV Observations](#), para. 38.

¹¹⁸ [Katanga Decision on Transgenerational Harm](#), para. 17 ("if the person who committed the initial act could not have reasonably foreseen the event in question, the initial act cannot be considered to be the proximate cause of the harm suffered by the victim").

¹¹⁹ [Judgment](#), para. 4827.

¹²⁰ [CLRV Observations](#), paras 58-59; [Registry Observations](#), paras 65, 112.

¹²¹ [Registry Observations](#), paras 17, 65-66, 106, 111, 128.

¹²² [CLRV Observations](#), paras 58-59; [Registry Observations](#), paras 65, 112.

47. Similarly, Mr Ngaïssona should not be held liable for the additional harm suffered by displaced victims in Chad who have been classified as “returnees” rather than refugees. The crime of displacement is not the proximate cause for the additional harm these displaced victims may have suffered in the form of economic and psychological hardship.¹²³ Their classification as “returnees” was made by the Chadian authorities despite these individuals never having resided in Chad, and having either long standing residency in the CAR or valid CAR documentation.¹²⁴ The Chadian authorities’ administrative decisions regarding nationality are not closely connected to the crimes at issue in this case. They concern matters unrelated to the Anti-Balaka’s conduct resulting in the displacement of the Muslim civilian population perceived to support the Seleka.¹²⁵ Given this lack of causal connection, Mr Ngaïssona could not reasonably foresee this harm occurring. Therefore, he cannot be held liable for the negative consequences of the Chadian authorities’ nationality determinations regarding persons displaced on their territory.

iii. Transgenerational harm

48. The Defence does not dispute that transgenerational harm is a recognised form of harm before the Court.¹²⁶ However, the CLRV, the TFV and the VPRS submissions fail to establish its existence in this case. Transgenerational harm is by nature multi-causal and the Chamber declined to engage with any transgenerational harm submissions in the Judgment.¹²⁷ For these reasons, any claim of transgenerational harm requires particular caution in assessing causation¹²⁸ and must be sufficiently substantiated before it can be accepted.

49. The CLRV submissions collapse the distinction between mass victimisation and transgenerational harm.¹²⁹ While in *Ntaganda*, Trial Chamber VI acknowledged mass victimisation resulting from crimes tried before the Court,¹³⁰ it immediately emphasised that, for reparations purposes, harm manifested as transgenerational trauma must still be personally suffered by the victim, and the causal nexus with the crimes of conviction must be established.¹³¹ Therefore, mass victimisation does not, without more, establish

¹²³ [Registry Observations](#), paras 17, 65-66, 111, 128.

¹²⁴ [Registry Observations](#), paras 17, 65.

¹²⁵ [Judgment](#), para. 45 (finding that in pursuit of its objective to remove Djotodia from power, the Anti-Balaka perceived the Muslims in the CAR as supportive of the Seleka and thus targeted the Muslim civilian population).

¹²⁶ [Ongwen Reparations Order](#), para.178. See [Registry Observations](#), paras 126, 147; [TFV Observations](#), para. 20; [CLRV Observations](#), para. 70

¹²⁷ [Judgment](#), para. 4727.

¹²⁸ [Katanga Decision on Transgenerational Harm](#), paras 16-17, 30-32, 141-142; [Ongwen Reparations Order](#), para. 205.

¹²⁹ [CLRV Observations](#), paras 68, 71.

¹³⁰ [Ntaganda Reparations Order](#), para 74.

¹³¹ *Ibid*, para. 75.

transgenerational harm. Here, the CLRV's blanket assertion of mass victimisation in this case¹³² does not establish that: (1) children of direct victims suffered harm arising out of the direct victims' harm and (2) such harm was proximately caused by the crimes of conviction.¹³³ At most, it is probative of the scale of the crimes and their consequences.

50. [REDACTED] report¹³⁴ and the general research on intergenerational trauma¹³⁵ may support the proposition that the effects of displacement including parental trauma and socio-economic deprivation can be passed onto the children of displaced persons.¹³⁶ However, those materials do not answer the case-specific causation questions required by the Court's jurisprudence. They do not establish that any child in the present case suffered harm arising out of the harm sustained by a direct victim, nor that such harm was proximately caused by the crimes for which Mr Ngaïssona was convicted. At most, they may inform a case-by-case assessment.

51. Similarly, the TFV submissions fail to establish transgenerational harm for three reasons. First, the TFV overstates the Court's jurisprudence by submitting that *Ntaganda* and *Ongwen* included "victims of transgenerational harm as a fifth category of indirect victims".¹³⁷ These cases did not create an automatic, free-standing category of transgenerational harm victims, but rather accepted that children of direct victims may suffer transgenerational harm, if established.¹³⁸ Second, the TFV's references to harm suffered by children¹³⁹ do not show that such harm arose out of the harm suffered by the direct victims – the parents –¹⁴⁰ nor that the direct victims' harm was proximately caused by the crimes of conviction.¹⁴¹ Third, the TFV's reliance on the Chamber's decisions on victim participation does not establish transgenerational harm.¹⁴² Those decisions concerned whether a child born shortly after their mother's displacement had a sufficient *prima facie* link to the alleged harm and the charges of deportation and forcible transfer. They did not determine that the child suffered transgenerational harm, and made no mention of it.¹⁴³

¹³² [CLR V Observations](#), para. 66.

¹³³ [Ongwen Reparations Order](#), para. 194.

¹³⁴ [CAR-OTP-2127-6805](#).

¹³⁵ [CLR V Observations](#), para. 68, fn. 126, para. 69, fn. 127.

¹³⁶ [CAR-OTP-2127-6805](#), pp. 6838, 6840.

¹³⁷ [TFV Observations](#), para. 16.

¹³⁸ [Ongwen Reparations Order](#), paras 169 *et seq.*, paras 408 *et seq.*; [Ntaganda Reparations Order](#), paras 73, 182.

¹³⁹ [TFV Observations](#), paras 64, 72, 127 (describing distress, trauma-related symptoms, anxiety, depression, family separation, and difficulties among children in learning and socialisation).

¹⁴⁰ [Ongwen Reparations Order](#), paras 194, 197.

¹⁴¹ [Katanga Decision on Transgenerational Harm](#), paras 15-17, 141-142, (where the Chamber recognised the phenomenon of transgenerational harm in principle, but rejected the claims because the causal nexus between the applicants' psychological harm and the crimes of conviction had not been established).

¹⁴² [TFV Observations](#), para. 20, fn. 26.

¹⁴³ [ICC-01/14-01/18-1672-Red](#) ("Seventeenth Decision on Victims' Participation"), paras 20-22; [ICC-01/14-01/18-1795](#) ("Nineteenth Decision on Victims' Participation"), para.12.

52. The VPRS accepts that transgenerational harm may be recognised “where established”.¹⁴⁴ However, its references to children born during or immediately after displacement, conditions of birth, prolonged instability¹⁴⁵ and “inter-generational trauma”¹⁴⁶ do not establish that the child’s harm arose out of the harm suffered by the direct victim, as required by *Ongwen*,¹⁴⁷ or that it was proximately caused by the crimes of conviction. Accordingly, the Chamber should decline to recognise transgenerational harm as established in this case.

iv. The situation of children born in displacement camps

53. Mr Ngaïssona’s liability for reparations arising from harm to children born in displacement camps does not extend indefinitely. The proximate cause standard requires the imposition of “just and fair limits on the consequences of the crimes”.¹⁴⁸

54. First, the Chamber should impose a temporal limit for reparations to include only those children born in camps in the immediate aftermath of displacement.¹⁴⁹ The Judgment determined a temporal limit to the harm of displacement, noting that victims of “remained unable to return *at least for some time* following the events”.¹⁵⁰ In the same vein, the VPRS argued that a presumption of harm may only apply to children “born *during or immediately after* displacement”¹⁵¹ and “in conditions *directly resulting from the crimes*”.¹⁵² Although the consequences of displacement may in some instances persist, the causal nexus between displacement and the harm progressively weakens over time, through intervening factors, unforeseeable developments, and pre-existing conditions.¹⁵³ A blanket inclusion of all children

¹⁴⁴ [Registry Observations](#), para. 147.

¹⁴⁵ *Ibid.*

¹⁴⁶ [Registry Observations](#), para. 118, (claiming that victims suffered from unresolved mourning, children growing up without fathers or older male relatives, and the collapse of traditional family structures).

¹⁴⁷ [Ongwen Reparations Order](#), para. 194.

¹⁴⁸ [Katanga Decision on Transgenerational Harm](#), para. 17, *quoting* A. Honoré, “Causation in the Law”, in Stanford Encyclopedia of Philosophy, 2010: “These limiting theories are invoked because if every causally relevant condition (cause-in-fact) is treated as grounding responsibility for the outcomes to which it is causally relevant the extent of legal responsibility will extend almost indefinitely”; [Ntaganda Addendum to Reparations Order](#), para. 238 (“The Chamber *has not considered the current situation* of the health centre in order to determine the extent of the harm. (...) in order to determine the harm and identify the victims that may qualify to receive reparations, the Chamber assessed the evidence to determine the extent of the harm *at the time of the attack and the immediate aftermath*. (...) The Chamber underlines that Mr Ntaganda’s liability is limited to the harm caused *as a direct consequence of the crimes* for which he was convicted” (emphasis added)).

¹⁴⁹ *See contra*, e.g. [CLRV Observations](#), paras 53, 56-57, 59, 62-66.

¹⁵⁰ Emphasis added. [Judgment](#), para. 4527 (Boeing and Cattin), para. 4623 (Mbaiki and PK-9 axis villages), para. 4767 (Bossangoa).

¹⁵¹ [Registry Observations](#), para. 147 (emphasis added).

¹⁵² [Registry Observations](#), para. 136 (emphasis added).

¹⁵³ *See above* Section II. C. “[The submissions take into account harm whose proximate cause is not the crimes for which Mr Ngaïssona was convicted](#)”.

born in displacement camps – which could inflate the pool of victims by approximately 40 percent¹⁵⁴ – would breach the principles of causation, foreseeability and proportionality.¹⁵⁵

55. Second, children born in camps in the immediate aftermath of the displacement may qualify as indirect victims only where they satisfy the requirements for indirect victimhood. The Chamber should exercise caution in relying on the *Ongwen* ‘Child Victims’ principle, tailored to crimes involving the widespread direct victimisation of children, including children born of rape and child soldiers, neither of which is at issue in the present case.¹⁵⁶ Here, children born in camps are neither direct victims, nor are they “children at the time the crimes were committed or who were born as a result of such crimes”.¹⁵⁷ Moreover, there is no need to develop a distinct principle or presumption of harm for children born in displacement.¹⁵⁸ The Chamber is guided by established principles, including those deriving from the Convention on the Rights of the Child.¹⁵⁹
56. Third, the TFV’s reliance on a/1539/20’s participation at trial to support a presumption of harm for all children born in displacement camps is unpersuasive.¹⁶⁰ Victim a/1539/20’s circumstances are distinguishable from other children born in camps: a/1539/20’s mother was already pregnant with her at the time of displacement, and the Chamber found a sufficient link between the harm and the charges, noting she was born “*immediately following* the forced displacement of her pregnant mother”.¹⁶¹ Victim a/1539/20’s unique proximity to the crime including the parental link, narrows, rather than expands, the pool of children born in camps which may be eligible for reparations.

D. Legal and Factual Issues related to the identification of victims

57. Contrary to the CLRV’s submissions, already participating victims should not be automatically eligible for reparations.¹⁶² Their eligibility is at issue given their participatory status was determined prior to the Judgment. Therefore, the Defence requests that the Chamber adopt Trial

¹⁵⁴ [TFV Observations](#), para. 21.

¹⁵⁵ [Katanga Decision on Transgenerational Harm](#), paras 16-17; [Ntaganda Reparations Order](#), paras 131-133; [Al Hassan Reparations Order](#), para. 62.

¹⁵⁶ See e.g. [Ongwen TJ](#), paras 222-225, 893-990, 1368-1369, 1405, 1433, 1557; [Ongwen Reparations Order](#), para. 69. See contra [CLRV Observations](#), para. 47, fn. 69, referring to [Ongwen Reparations Order](#), paras 79-86.

¹⁵⁷ [Ongwen Reparations Order](#), para. 79. See also paras. 79-86.

¹⁵⁸ [TFV Observations](#), para. 216, fn 128. While the TFV evokes [Ntaganda Reparations Order](#) to support its request, the referenced para. 54 merely recalls the Convention and the ‘best interests of the child’ principle; see also [CLRV Observations](#), para. 47.

¹⁵⁹ [Ntaganda Reparations Order](#), para. 54.

¹⁶⁰ [TFV Observations](#), paras 19-20, relying on [Seventeenth Decision on Victims’ Participation](#) and [Nineteenth Decision on Victims’ Participation](#), and paras 57-58, see also para. 182; [Registry Observations](#), para. 147

¹⁶¹ [Seventeenth Decision on Victims’ Participation](#), para. 20 (emphasis added). The Chamber initially allowed a/1539/20 as a participating victim on a *prima facie* basis but requested that additional evidence be submitted by the registry to demonstrate a sufficient link., See *ibid.*, para. 22.

¹⁶² [CLRV Observations](#), para. 33.

Chamber IX's approach in *Ongwen* where eligibility assessments were required for all victims, regardless of their previous participant status.¹⁶³

58. Similarly, the Defence disagrees with the TFV's proposal that children need not be subject to individualised eligibility assessments.¹⁶⁴ Children's harm is not necessarily the same as that of their parents or caregivers. This is especially true for two partially overlapping categories of child victims: (1) children born in displacement camps after the crimes and (2) children, including those born in displacement camps, who are victims of transgenerational harm. If the Chamber determines that these children qualify as victims, their harm must be assessed separately since they qualify as indirect victims, and thus their harm is not subsumed within, and cannot be presumed from, the parent(s)' direct victimisation alone.
59. Regarding the absence of documentation, the Defence agrees with the Yekatom Defence proposal that, given the antecedents of fraud in this case,¹⁶⁵ it is necessary to certify the identity of individuals claiming reparations.¹⁶⁶ Further, victims who may have changed their names upon converting to Islam and who do not possess official documentation¹⁶⁷ must provide sufficient information demonstrating their Muslim identity at the time of the crimes.
60. With respect to the absence of documentation demonstrating harm, the VPRS mischaracterises the *Ongwen* findings regarding the criteria needed to prove harm in the absence of direct documentation.¹⁶⁸ These criteria applied specifically to victims of sexual crimes, for whom the Trial Chamber recognised the additional difficulties involved in obtaining documentary evidence of harm.¹⁶⁹ While the Trial Chamber did acknowledge its flexibility in assessing potential beneficiaries and their dossiers, it also emphasised that this flexibility "should not be understood as providing a *carte blanche* to victims to come forward without supporting documentation".¹⁷⁰ Additionally, the mere mention of Mr Ngaïssona's name in a victim dossier does not satisfy the requirement of showing a causal link between the crimes and the harm suffered.¹⁷¹

¹⁶³ [Ongwen Reparations Order](#), para. 810.

¹⁶⁴ [TFV Observations](#), para. 182.

¹⁶⁵ [Yekatom Defence Observations](#), para. 80.

¹⁶⁶ *Ibid.*, para. 81.

¹⁶⁷ [CLR V Observations](#), para. 36.

¹⁶⁸ [Registry Observations](#), para. 143, citing [Ongwen Reparations Order](#), para. 425, 462.

¹⁶⁹ [Ongwen Reparations Order](#), para. 425. Para. 462, which is also cited by the VPRS does not refer to documentation at all, but rather criteria for assessing credibility. *Ibid.*, para. 462.

¹⁷⁰ [Ongwen Reparations Order](#), para. 138, citing *inter alia* [Ntaganda Addendum to Reparations Order](#), para. 54.

¹⁷¹ [Ongwen Reparations Order](#), para. 504.

61. In terms of access to victim dossiers, the Defence agrees with the Yekatom Defence submissions on the information needed to contest applications.¹⁷² Moreover, reparations jurisprudence bars redacting information about harm suffered, the events that caused it, and their connection to the crimes of conviction.¹⁷³ While redactions may be permitted on a case-by-case basis, the Chamber must evaluate each request individually.¹⁷⁴
62. Lastly, the Defence must be able to meaningfully contest victim applications even where the Chamber orders collective reparations.¹⁷⁵ Further, should the Chamber adopt a sample-based procedure following the practice in *Ongwen*,¹⁷⁶ that process must be objective and statistically representative so as to reach valid statistical conclusions about which victim categories are eligible for reparations.¹⁷⁷ Sample selection affects Mr Ngaïssona's liability; the Defence must therefore have an opportunity to make submissions on the sample selection method adopted.

E. Whether recourse to factual presumptions should be considered

i. Presumptions of victimhood

63. The TFV proposed a presumption of victimhood linked to the counts of directing an attack, for persons residing at, or present in, the relevant locations at the relevant time,¹⁷⁸ relying on the approach adopted in *Ongwen*.¹⁷⁹ However, the factual configuration underlying the presumptions applied in that case was materially different. There, the attacks were directed against specifically identified IDP camps whose residents and non-residents largely overlapped with the civilian population targeted by the conduct underlying the conviction.¹⁸⁰
64. By contrast, the Judgment in the present case repeatedly identified the Muslim civilian population of the relevant areas as the object of the attacks,¹⁸¹ notwithstanding the presence of other civilians in the affected locations. Moreover, the events unfolded in a more complex factual context involving armed confrontations with Seleka forces, population movements prior to the attacks, and violent acts committed by various actors during or following these attacks.¹⁸²

¹⁷² [Yekatom Defence Observations](#), paras. 13-15, and 23.

¹⁷³ *Prosecutor v. Lubanga*, Judgment on the appeals against Trial Chamber II's 'Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable', [ICC-01/04-01/06-3466-Red](#), 18 July 2019, AJ (2015), para. 253; citing *Prosecutor v. Al Mahdi*, Public redacted Judgment on the appeal of the victims against the "Reparations Order", [ICC-01/12-01/15-259-Red2](#), 8 March 2018, para. 90.

¹⁷⁴ *Ibid.*

¹⁷⁵ [Ntaganda Reparations AJ](#), para. 363.

¹⁷⁶ *Prosecutor v. Ongwen*, Decision on the Registry Transmission of List of Individuals and Relevant Information for Reparations Sample, [ICC-02/04-01/15-2027](#), 16 January 2023, para. 8.

¹⁷⁷ *Ibid.*

¹⁷⁸ [TFV Observations](#), paras 44-46.

¹⁷⁹ [TFV Observations](#), paras 43-44.

¹⁸⁰ *Prosecutor v. Ongwen*, Trial Judgment, [ICC-02/04-01/15-1762-Red](#), 04 February 2021 ("Ongwen TJ"), paras 2824, 2876, 2929, 2975. See also [Ongwen Reparations Order](#), paras 98-103.

¹⁸¹ See e.g. [Judgment](#), paras 68, 3959, 4035-4036, 4044, 4055, 4106, 4116-4117, 4301-4306, 4374-4375, 4423.

¹⁸² See e.g. [Judgment](#), paras 78, 2641-2648, 2919, 2935, 2938, 2919, 2955, 3578, 3992.

In these circumstances, neither residence nor presence alone can suffice to presume victimhood in relation to the attacks.

65. Moreover, any presumption of victimhood must remain closely anchored to the Chamber's factual findings and must not dispense with the separate requirement to establish harm, as emphasised by the Appeals Chamber in *Ongwen*.¹⁸³ In this regard, the TFCV appears, at least in part, to conflate these distinct requirements by suggesting that persons not benefiting from the presumption of victimhood should instead demonstrate that they were "directly affected by the crimes".¹⁸⁴

66. Likewise, the OTP's proposed presumption of victimhood for the crimes of displacement, forcible transfer and deportation should be rejected.¹⁸⁵ The presumption proposed for the Muslim population of Bangui plainly exceeds the scope of the conviction, which was confined to Boeing and Cattin. The proposal relating to the PK9-Mbaïki axis is equally untenable. The OTP does not explain how the scope of the proposed presumption would be determined along the axis, nor what would need to be demonstrated for the Muslim population of those locations to benefit from that presumption.

ii. Presumptions of harm¹⁸⁶

a) *Presumptions resulting from the crimes of attack against civilian population (Counts 1 and 30)*

Presumption of physical harm

67. The Defence opposes the presumption of physical harm for victims of the attacks proposed by the CLRV and the VPRS,¹⁸⁷ which finds no support in the evidentiary record. While the Judgment refers to certain injured individuals in both Bossangoa and Boeing, these references remain scarce and fact-specific and do not reveal a sufficiently consistent pattern capable of supporting such a broad presumption.¹⁸⁸ Witness accounts instead reflected varied experiences, including individuals dispersing, unharmed.¹⁸⁹ The Chamber's post-remand analysis in

¹⁸³ *Prosecutor v. Ongwen*, Judgment on the appeal of Mr Dominic Ongwen against the decision of Trial Chamber IX of 28 February 2024 entitled "Reparations Order", [ICC-02/04-01/15-2108](#), 7 April 2025, paras 89-92, in particular para. 91 ("individuals who are presumed to be victims of the crimes in question are not automatically considered to be eligible for reparations. Rather, they still need to prove that they suffered harm caused by those crimes.")

¹⁸⁴ [TFV Observations](#), para. 46.

¹⁸⁵ [OTP Observations](#), para. 21.

¹⁸⁶ While certain parties differentiate between "moral" and "psychological" harm, chambers have used these concepts interchangeably. See [Ntaganda Reparations Order](#), para. 70; see *Prosecutor v. Katanga*, Order for Reparations pursuant to Article 75 of the Statute, [ICC-01/04-01/07-3728-tENG](#), 24 March 2017, para. 57; see also [Ongwen Reparations Order](#), para. 168. The Defence will therefore do the same.

¹⁸⁷ [CLRV Observations](#), para. 77; [Registry Observations](#), para. 145.

¹⁸⁸ [Judgment](#), paras 83, 2579.

¹⁸⁹ [Judgment](#), para. 2549, referring to P-2682: T-017, p. 27, lines 10-22. For example, in Bossangoa, the Muslim population fled "in great numbers" to the *École de la liberté*, numbering in the several thousand whereas it found

Ntaganda confirms that the existence of instances of physical injury, pain, or suffering is not sufficient to justify a presumption of physical harm. Although the Chamber found evidence that civilians had been shot, beaten, injured and killed during the attacks, it nevertheless declined to adopt such a presumption because those findings were limited to certain instances and did not reveal a sufficiently consistent pattern across the relevant victim group.¹⁹⁰

68. More fundamentally, the Chamber’s reasoning confirms that the relevant harms arising from Counts 1 and 30 were those underpinning the other crimes of conviction committed during the Bangui and Bossangoa attacks.¹⁹¹ In sentencing, the Chamber expressly recognised the factual overlap between Counts 1 and 30 and the underlying crimes, and avoided double counting in determining the joint sentence.¹⁹² The Judgment did not treat physical harm as a generalised consequence of that attack in either location. For Bangui, no findings were made at all. For Bossangoa, the Judgment referred to several individuals who were injured as a result of the attack and detailed these incidents in the Judgment.¹⁹³ Accordingly, claims by non-victims of the underlying crimes in Bangui and Bossangoa, including claims based on alleged physical harm, cannot be presumed and require a particularly strict demonstration of a direct nexus to the attack, consistent with injuries detailed in the Judgment.

Presumption of psychological harm

69. ICC jurisprudence has consistently approached presumptions of psychological harm cautiously and within carefully defined parameters. In *Ongwen*, the Trial Chamber rejected a presumption of psychological trauma and mental disease for victims of the attack on IDP camps for being “excessively general and vague”.¹⁹⁴ It further warned that blanket presumptions could potentially result in the designation of an overly large category of victims without sufficient demonstration of eligibility.¹⁹⁵ The presumption as formulated by the CLRV suffers from the same defect and should therefore be rejected.¹⁹⁶

that several individuals were injured, thereby showing that such injuries happened on a much smaller scale when compared to the Muslim civilian population. Compare [Judgment](#), paras 2814, 4760 with [Judgment](#), para. 4741. While physical harm is not limited to injury, the CLRV and the VPRS have not demonstrated other instances of suffering or pain occurring as a result of the 5 December attack in Bossangoa justifying a presumption.

¹⁹⁰ [Ntaganda Addendum to Reparations Order](#), para. 258.

¹⁹¹ [Judgment](#), para 4714.

¹⁹² [Judgment](#), paras 4830-4831. See also [CLR V Observations](#), para. 49, referring to [ICC-01/14-01/18-2734-Red](#), paras 204-211, where the CLRV does not point to any evidence of physical harm in relation to Counts 1 and 30.

¹⁹³ [Judgment](#), para. 4742.

¹⁹⁴ [Ongwen Reparations Order](#), para 146 (The Chamber rejected a presumption of psychological trauma and mental disease for victims of the attack on IDP camps for being “excessively general and vague” and that “a blank adoption of presumptions as it seems to be advocated by the LRVs could potentially result in the designation of an overly large number of individuals as victims in this reparations proceeding without so much as requiring them to establish their eligibility as victims on a balance of probabilities”).

¹⁹⁵ [Ongwen Reparations Order](#), para 146.

¹⁹⁶ [CLR V Observations](#), para. 77.

70. Chambers have, in certain cases, presumed psychological harm for victims who personally experienced attacks.¹⁹⁷ Any such presumption in the present case should likewise remain limited to that category.¹⁹⁸

b) Presumptions resulting from the crimes of murder (Counts 2 and 3; 15 and 16; 26 and 27; 31 and 32)

Presumption of psychological harm

71. The Defence opposes the CLRV's suggestion to extend a presumption of psychological harm to indirect victims of murder victims, without specifying their relationship to the direct victim.¹⁹⁹ The Defence opposes such an extension. In *Ntaganda*, the Trial Chamber limited the presumption to close family members.²⁰⁰ Any presumption of psychological harm adopted in the present case should therefore remain confined to that category.

Presumption of material harm

72. Among the parties and participants' submissions, only the VPRS' formulation reflects the approach adopted in *Ntaganda*, where the presumption of material harm for indirect victims of murder was limited to applicants who could demonstrate being a close family member who assumed responsibility for the care of surviving dependents as a result of their relative's death.²⁰¹

73. The evidentiary record in this case likewise does not support extending such a presumption beyond the parameters recognised in the jurisprudence. In relation to Bossangoa, while the Judgment emphasised the emotional pain of family members of murdered victims,²⁰² it made no mention of the impact the murders had on the finances or more generally the material wealth of their households.²⁰³ Therefore, the Defence opposes a blanket presumption of material harm for indirect victims of murder and submits that any presumption adopted should remain confined to the circumstances identified in *Ntaganda*.

c) Presumptions resulting from forcible transfer, deportation and displacement (Counts 4 and 5; 24 and 25; 37 and 38)

74. The Defence agrees with the TFV, which found no basis for a presumption of physical harm for victims of forcible transfer, deportation and displacement, notwithstanding the joint "VPRS-

¹⁹⁷ [Ongwen Reparations Order](#), paras 523-524; [Ntaganda Reparations Order](#), para. 146.

¹⁹⁸ [Registry Observations](#), para. 145.

¹⁹⁹ [CLRV Observations](#), para. 77; The VPRS, the TFV and the OTP proposed a presumption of psychological harm for family members of murder victims, [Registry Observations](#), para. 146; [TFV Observations](#), para. 52; [OTP Observations](#), para. 21.

²⁰⁰ [Ntaganda Addendum to Reparations Order](#), para. 125.

²⁰¹ [Ntaganda Addendum to Reparations Order](#), para. 127.

²⁰² [Judgment](#), para. 4750.

²⁰³ See [Judgment](#), paras 2868-2895.

TFV consultations”.²⁰⁴ As it observed, the identified instances of physical harm appear limited compared to other categories of harm.²⁰⁵

d) Presumptions resulting from attack against a building dedicated to religion (Count 6)

75. To the extent that the CLRV’s and the OTP’s proposed presumptions of moral harm to the Muslim communities of Boeing and Cattin in connection with the Boeing Mosque²⁰⁶ are based on the destruction or subsequent loss of the Mosque, it cannot be retained. As explained above, individuals claiming harm arising from the destruction of the Mosque fall outside the scope of the convicted conduct and the destruction of the Mosque cannot serve as the basis for a presumption of harm in reparations proceedings.

76. The CLRV’s proposed presumption of material harm for the “direct victim”,²⁰⁷ namely the Mosque itself²⁰⁸ is not required, as the damage to the Mosque was specifically established in the Judgment.²⁰⁹

e) Presumptions resulting from the crime of torture, cruel treatment, other inhumane acts and imprisonment (Counts 11-14, 39)

Presumptions related to the Yamwara incident (Counts 11-14)

77. For Counts 11-14, presumptions should not be applied to the direct victims given that evidence of the specific harm of each of these victims is part of the record and the Chamber made specific findings thereon. In *Al Hassan*, Trial Chamber X did not presume harm suffered by victims of the crimes of torture, other inhumane acts, cruel treatment, outrages upon personal dignity and mutilation. It found that their harm was specific to each particular victim, and could not be extrapolated.²¹⁰ After recalling the specific harms found in the Trial Judgment and Sentencing Decision, as well as other evidence on record for each of the concerned 14 victims, it determined

²⁰⁴ [TFV Observations](#), para. 54 (“By contrast, based on the VPRS-TFV consultations, the TFV considers that there is no basis to presume physical harm due to forcible transfer, deportation, and displacement in this case. Rather, such presumptions should, in line with previous cases, be limited to victims who suffered crimes such as torture or imprisonment. Given the living conditions of displaced persons, in particular their limited access to healthcare, especially in refugees’ camps, it may be possible to infer that many, particularly the elderly, suffered adverse effects on their physical health as a result of such conditions. The TFV, however, considers that this may not be sufficient to justify a presumption of physical harm for all displaced victims.”). *Contra* [CLRV Observations](#), para. 77; [Registry Observations](#), para. 145. *See also* [Ntaganda Addendum to Reparations Order](#), paras 260-264, finding that in the circumstances of displaced victims forced to flee in the bush, a presumption of physical harm could be maintained.

²⁰⁵ [TFV Observations](#), para. 73.

²⁰⁶ [CLRV Observations](#), paras 77, 62-63; [OTP Observations](#), para. 21.

²⁰⁷ [CLRV Observations](#), para. 77.

²⁰⁸ [CLRV Observations](#), para. 25.

²⁰⁹ *See* [Judgment](#), paras 2617-2651.

²¹⁰ [Al Hassan Reparations Order](#), para. 140.

that any additional harm claimed by those victims could be raised in the reparations application forms to be assessed during the implementation stage.²¹¹

78. Here, the same approach should be applied with respect to direct victims of the Yamwara incident, which concerns many of the same crimes (i.e. torture, cruel treatment and other inhumane acts) as in *Al Hassan*. First, the identity and number of victims in the present case are known. Second, all the direct victims, aside from Saint-Cyr who was murdered during the incident and one of the female victims, testified in the present case and gave evidence on the harm they suffered, and the torture and murder of Saint Cyr.²¹² Third, the Chamber made extensive findings with respect to the specific harms suffered by each of the direct victims.²¹³ Having in mind that the standard of proof at trial is higher than at the reparations stage, the Chamber's findings regarding the harm suffered by each of these victims establishes the harm suffered on a balance of probabilities. Lastly, like in *Al Hassan*, if the direct victims for the Yamwara incident wish to claim any additional harm, such as material harm,²¹⁴ resulting from these crimes, they can include it in their application forms.

Presumption of physical harm

79. The proposed presumptions of physical harm for victims of torture, cruel treatment, other inhumane acts and imprisonment proposed by the CLRV, the OTP, and the VPRS are too broad.²¹⁵ They make no distinction between the crimes of imprisonment occurring in the *École de la Liberté* in Bossangoa and during the Yamwara incident. Such a distinction must be made since the two incidents have no relationship to one another in terms of location, timing, and perpetrators. As stated above, for the Yamwara incident, the direct victims' forms of harm should be addressed individually.

80. The QUB's suggested application of a presumption that "those held at certain detention facilities were more likely than not subjected to torture, inhumane treatment and arbitrary detention"²¹⁶ should be rejected. For the Yamwara incident, the Chamber expressly refused to make any determination on whether the treatment of the six individuals detained with Saint-Cyr amounted to torture because of the constraints placed on it by the Confirmation Decision.²¹⁷ With respect to *École de la Liberté*, even if it were to be characterised as a detention facility,

²¹¹ *Ibid.*, para. 140.

²¹² [Judgment](#), para. 3102.

²¹³ [Judgment](#), Section V.B.3.b "Crimes committed within the context of the events at Yamwara on and around 24 December 2013 (Counts 11 to 17)", paras 4551-4604.

²¹⁴ [OTP Observations](#), para 21 (including material harm for victims of imprisonment and other inhumane acts, even though para. 4566 of the [Judgment](#), which is cited for this presumption, makes no mention of such harm).

²¹⁵ [CLRV Observations](#), para. 77; [OTP Observations](#), para. 21; [Registry Observations](#), para. 145.

²¹⁶ [QUB Observations](#), para. 10.

²¹⁷ [Judgment](#), para. 4156.

the presumption should similarly be rejected since “torture” and “inhumane treatment” are legal qualifications of facts, rather than factual presumptions. The crimes of torture, inhumane treatment and imprisonment were specifically circumscribed in the Judgment and the presumption as framed would impermissibly expand the scope of the conviction and should thus be rejected.

iii. Other presumptions of harm and victimhood

Specific harm suffered by children

81. The Defence acknowledges that given their dependency and vulnerable age, children should benefit from a tailored approach in the reparations process. However, the presumptions as framed by the TFV and the VPRS are imprecise.

82. The TFV’s proposed presumption that “[c]hildren who were alive at the time of the commission of the crimes may be presumed to have suffered harm similar to that of other displaced victims”²¹⁸ should be rejected since it contravenes Article 75(2) and Rule 85(a)’s requirement that harm must be personal to the victim.²¹⁹ While the TFV refers to the administrative burden of including children in an individualised eligibility process,²²⁰ the TFV insufficiently articulates the reasons such a presumption is necessary. It also runs contrary to their argument that children suffer a unique harm that is different than that of their parents, namely negative effects on their development, including education.²²¹

83. The TFV’s presumption regarding children born in situations of displacement²²² should be rejected given as demonstrated above, the crimes of conviction are not the proximate cause of their harm.

Presumption of psychological harm for victims of discriminatory targeting

84. The VPRS’ suggested presumption of psychological harm for victims of discriminatory targeting²²³ should be rejected because it is vague. The VPRS did not specify which crime “discriminatory targeting” refers to. Therefore, it could include victims who are not victims whose harm is linked to the crimes of conviction and yet suffered from discriminatory targeting during the 2013-2014 conflict.

²¹⁸ [TFV Observations](#), para. 58.

²¹⁹ [Ongwen Reparations Order](#), para 71. See [Lubanga Amended Reparations Order](#), para. 10.

²²⁰ [TFV Observations](#), para. 182.

²²¹ [TFV Observations](#), para. 57.

²²² [TFV Observations](#), para. 58.

²²³ [Registry Observations](#), para. 145.

Presumption of community harm/psychological harm for the Muslim community

85. Any potential presumption of community harm or psychological harm for the members of the relevant Muslim communities should be strictly circumscribed to the geographic and temporal parameters of the crimes, such that it does not exceed the scope of the conviction.²²⁴

Presumption of transgenerational harm

86. The Defence requests that the Chamber reject the proposed presumptions on transgenerational harm for two reasons. First, the CLRV's proposed presumption of transgenerational harm for the Muslim community as a whole²²⁵ would detach transgenerational harm from at least two of its basic requirements: (1) the existence of a parent-child relationship; and (2) proof that the child's harm arose out of harm suffered by a direct victim as a result of a crime of conviction.²²⁶

87. Second, the TFCV's proposal,²²⁷ despite being more narrowly framed, must also be rejected. The TFCV has failed to indicate any information establishing that the harm of children born in displacement has a direct causal nexus to the harm caused to the parents as a result of such displacement. As the Defence developed above, there are intervening causes which could not have been reasonably foreseen by Mr Ngaïssona that have caused protracted long term economic and social consequences for displaced victims.

88. Nor is the TFCV's argument that the present case justifies a "different approach" than in *Ongwen* and *Ntaganda* because of prolonged displacement and structural impact on family units persuasive.²²⁸ Contrary to the TFCV's assertion, similar long-term consequences were recognised in *Ntaganda*²²⁹ and *Ongwen*.²³⁰ Nevertheless, neither Chamber treated those consequences as sufficient to presume transgenerational harm. Accordingly, here like in *Ongwen* and *Ntaganda*, any alleged transgenerational harm should be assessed individually and must be supported by specific evidence.²³¹

²²⁴ [TFV Observations](#), paras 55-56; [CLRV Observations](#), para. 77.

²²⁵ [CLRV Observations](#), para. 77.

²²⁶ [Ongwen Reparations Order](#), para. 194. See also [Ntaganda Addendum to Reparations Order](#), para. 197.

²²⁷ [TFV Observations](#), para. 59.

²²⁸ [TFV Observations](#), para. 59.

²²⁹ [Ntaganda Reparations Order](#), para. 154, 156-157 (noting victims' prolonged displacement, deprivation of basic needs, permanent family separation, interrupted education and work prospects, and material and psychosocial harm affecting victims' sense of belonging, identity, means of life and safety).

²³⁰ [Ongwen Reparations Order](#), paras 242, 254-256, 402-404, 533-534, 554-555 (recognising long-lasting psychosocial, economic, educational, familial and community harm while declining to presume transgenerational harm absent sufficient information).

²³¹ [Ongwen Reparations Order](#), paras 195, 197; see also [Al Hassan Reparations Order](#), paras 177-179.

III. CONCLUSION

89. Pursuant to Article 75(3) of the Statute, the Defence submits this consolidated response for the Chamber's consideration prior to issuing its Reparations Order.

Respectfully submitted,



G.J. Alexander Knoops
on behalf of
Patrice-Edouard Ngaïssona

Dated this 23 September 2026

At The Hague, the Netherlands