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**International
Criminal
Court**

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Date: **3 October 2019**

TRIAL CHAMBER VI

Before: Judge Chang-ho Chung, Presiding Judge
Judge Kuniko Ozaki
Judge Robert Fremr

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
*THE PROSECUTOR v. BOSCO NTAGANDA***

Public

**Trust Fund for Victims' response to the Registry's Preliminary Observations
pursuant to the Order for Preliminary Information on Reparations**

Source: The Trust Fund for Victims

To be notified in accordance with regulation 31 of the *Regulations of the Court* to:**Office of the Prosecutor**

Ms Fatou Bensouda
 Mr James Stewart
 Ms Nicole Samson

Counsel for the Defence

Mr Stéphane Bourgon
 Mr Christopher Gosnell

Legal Representatives of Victims

Ms Sarah Pellet
 Mr Dmytro Suprun

Legal Representatives of Applicants**Unrepresented Victims****Unrepresented Applicants for
Participation/Reparation****Office of Public Counsel for
Victims**

Ms Paolina Massidda

Office of Public Counsel for the Defence**States' Representatives****Amicus Curiae****REGISTRY****Registrar**

Mr Peter Lewis

Counsel Support Section**Victims and Witnesses Unit**

Mr Nigel Verrill

Detention Section**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Other

Mr Jean-Claude Aubert
 Ms Fabienne Chassagneux

I. PROCEDURAL HISTORY

1. On 25 July 2019, following the conviction of Mr Bosco Ntaganda (“Mr Ntaganda”),¹ the Single Judge acting on behalf of Trial Chamber VI (“Trial Chamber”) issued an “Order for preliminary information on reparations” (“25 July 2019 Order”),² wherein it requested the Registry to submit preliminary observations on three discrete issues: (1) information on, and any proposed methodology for, the identification of victims not yet participating in the case (“Issue 1”); (2) observations on whether experts may be usefully appointed to assist the Trial Chamber pursuant to rule 97 of the Rules of Procedure and Evidence (“RPE”) and, if so, for the Registry to submit a list of relevant experts available (“Issue 2”); and (3) an update on the security situation in the Democratic Republic of the Congo (“DRC”) based on information currently available (“Issue 3”).

2. The legal representatives of victims (“LRVs”), the Defence of Mr Ntaganda, the Office of the Prosecutor and the Trust Fund for Victims (“Trust Fund”) were invited to submit a response, if any, to the Registry’s submission by 19 September 2019, a deadline which was subsequently postponed to 3 October 2019.³

3. On 5 September 2019, the Registry filed its submissions, attaching its preliminary observations as an annex (“Registry’s Preliminary Observations”).⁴

4. As requested, the Trust Fund hereby submits its response to the Registry’s Preliminary Observations.

II. INTRODUCTION

5. In its response below, the Trust Fund will first address the Registry’s observations concerning the three issues posed by the Single Judge in the 25 July 2019 Order. Second, the Trust Fund will briefly address the other matters already touched

¹ “Judgment”, with public Annexes A, B, and C, 8 July 2019, [ICC-01/04-02/06-2359](#).

² “Order for preliminary information on reparations”, 25 July 2019, [ICC-01/04-02/06-2366](#).

³ Email from Trial Chamber VI on 18 September 2019 at 18:50, based on the Defence’s “Request for a variation of time limit to submit the Defence response to “Registry’s observations, pursuant to the Single Judge’s “Order for preliminary information on reparations” of 25 July 2019, ICC-01/04-02/06-2366”, 18 September 2019, [ICC-01/04-02/06-2411](#).

⁴ “Registry’s observations, pursuant to the Single Judge’s “Order for preliminary information on reparations” of 25 July 2019, ICC-01/04-02/06-2366”, with Public Annex I and Confidential Annex II, 5 September 2019, [ICC-01/04-02/06-2391](#).

upon in the Registry’s Preliminary Observations, explaining why, in its view, it would be premature and potentially not in the best interest of the eventual reparations beneficiaries in the present case if the Trial Chamber already rendered a decision approving the proposed pre-order individual application-based screening process, to be conducted uniquely by the Victims Participation and Reparations section (“VPRS”).

III. RESPONSE TO REGISTRY’S OBSERVATIONS IN RELATION TO THE 25 JULY 2019 ORDER

a. Issue 1: information on, and proposed methodology for, the identification of new non-participating victims

6. As a preliminary matter, the Trust Fund understands the Trial Chamber’s question to relate solely to the *identification* of new non-participating victims, a matter which is distinct from any potential *eligibility screening* process⁵ since, for example, screening processes may not be required for some reparations awards in favour of identified victims.⁶ The Trust Fund therefore responds herein to the issue of the *identification* proper of new non-participating victims.

7. The Trust Fund observes that, in addressing the Single Judge’s request to provide “information on, and any proposed methodology for, the identification of victims (not yet participating),”⁷ the Registry proposes to provide this information in a later filing:

“...VPRS conducted a number of activities in the field to prepare for the various potential outcomes. Following the issuance of the [*Ntaganda*] Judgment, the relevant victim groups were well recognizable. In consulting with the community leaders in all relevant Case locations, the VPRS took the opportunity to gather information per village [...] on the available forms of documentation that could be used [...] to estimate the number of potential additional reparations

⁵ Trial Chamber II, *Prosecutor v. Thomas Lubanga Dyilo*, “Order instructing the Trust Fund for Victims to supplement the draft implementation plan”, 9 February 2016, [ICC-01/04-01/06-3198-tENG](#), paras 12-18; Trial Chamber II, *Prosecutor v. Thomas Lubanga Dyilo*, “Decision Approving the Proposals of the Trust Fund for Victims on the Process for Locating New Applicants and Determining their Eligibility for Reparations”, 7 February 2019, ICC-01/04-01/06-3440-Conf-tENG; a public redacted version was registered on 4 March 2019, [ICC-01/04-01/06-3440-Red-tENG](#) (“Decision Approving the Proposals of the Trust Fund for Victims on the Process for Locating New Applicants and Determining their Eligibility for Reparations”), paras 15-16, 19-22.

⁶ See, for example, the collective award of return activities to Timbuktu for displaced persons in the *Al Mahdi* reparations proceedings and the consultation process relevant to the most appropriate locations of the symbolic collective awards, in the form of community centres, in the *Lubanga* reparations.

⁷ [25 July 2019 Order](#), para. 4(a)(i).

beneficiaries who have not yet been identified. *This information can be made available in the next Registry report should the Chamber consider it relevant to the proceedings.*⁸

8. The Trust Fund stands ready to respond to observations on the information available on new (non-participating) victims and any proposed methodology for their identification once the Registry communicates any such information to the Trial Chamber.

9. Finally, the Trust Fund considers that the methodology and experience developed in the *Lubanga* case concerning identification may be of interest to the Trial Chamber.⁹ In the *Lubanga* reparations proceedings, the Trust Fund has been leading an identification process approved by Trial Chamber II,¹⁰ which is implemented through a close collaboration with the DRC field office staff working on Victims Participation and Reparation (“VPR-DRC”) and the LRVs. This in turn builds on the methods already developed at the participation stage to locate and identify potential new victims. In this identification process, VPR-DRC conducts a mapping of potential new victims and communicates the result to the Trust Fund for the establishment of the potential new victims’ dossiers¹¹. In parallel, as noted by Trial Chamber II, contacts with potential new victims may be made through the LRVs in the case.¹² In both circumstances, contacts are made through intermediaries that have been proven to be ethical, effective, and reliable.¹³

⁸ Annex 1 to the [Registry’s Preliminary Observations](#), para. 8 (emphasis added and footnotes omitted).

⁹ The Trust Fund wishes to call to the Trial Chamber’s attention that this process is being conducted post-order for reparations during the implementation phase. However, the Trust Fund considers that it may still be of relevance and interest to the Trial Chamber for purposes of illustrating the process and methodology used for the identification of new potential victims in more general terms.

¹⁰ [Decision Approving the Proposals of the Trust Fund for Victims on the Process for Locating New Applicants and Determining their Eligibility for Reparations](#), paras 19-22; *See also Prosecutor v. Thomas Lubanga Dyilo*, “Annex A to the Sixième rapport sur le progrès de la mise en œuvre des réparations collectives conformément aux ordonnances de la Chambre de première instance II des 21 octobre 2016 (ICC-01/04-01/06-3251) et 6 avril 2017 (ICC-01/04-01/06-3289) et la Décision du 7 février 2019 (ICC-01/04-01/06-3440-Red)”, 19 July 2019, ICC-01/04-01/06-3467-Conf-Exp-AnxA; a public redacted version was registered on 14 August 2019, [ICC-01/04-01/06-3467-AnxA-Red](#) (“Annex A to the Sixième rapport sur le progrès de la mise en œuvre des réparations collectives”).

¹¹ [Annex A to the Sixième rapport sur le progrès de la mise en œuvre des réparations collectives](#), paras 16-19, 32.

¹² [Decision Approving the Proposals of the Trust Fund for Victims on the Process for Locating New Applicants and Determining their Eligibility for Reparations](#), para. 22.

¹³ Trust Fund for Victims, *Prosecutor v. Thomas Lubanga Dyilo*, “Observations in relation to the victim identification and screening process pursuant to the Trial Chamber’s order of 25 January 2018”, 21 March 2018, [ICC-01/04-01/06-3398](#), par. 15.

10. This method of identification has proven to be highly successful. In the experience of the Trust Fund, the collaboration and the involvement of all aforementioned actors on the basis of a common understanding has been of exemplary value and created an efficient and productive system, which the Trial Chamber may wish to consider as a potential model for the present case, in particular, given the partial geographical overlap between *Lubanga* and *Ntaganda*.

b. Issue 2: the potential appointment of experts to assist the Trial Chamber pursuant to rule 97 of the RPE

11. The Trust Fund notes that the Registry considers that there is merit in obtaining “special advice on the scope of victimisation and long-term consequences affecting the victim communities”¹⁴ affected by Mr Ntaganda’s crimes. It also directs the Trial Chamber to consider the Trust Fund’s opinion on this issue in light of its unique implementation expertise and experience.¹⁵

12. The Trust Fund recalls the Court’s diverse practice of using experts in reparations proceedings and notes that, while experts were appointed in the *Bemba* and *Al Mahdi*¹⁶ cases pursuant to rule 97 RPE, the Trial Chambers of *Lubanga* and *Katanga* did not resort to this option. As a general matter, the Trust Fund defers to the Trial Chamber to decide on the appropriateness of appointing experts.

13. At the same time, the Trust Fund wishes to point out that, should the Trial Chamber decide to make such use of experts in the *Ntaganda* case, it would respectfully suggest that the Trial Chamber proceed in such a way as to ensure that the experts’ findings and recommendations are not only of the greatest possible relevance for the Trial Chamber’s deliberations on the reparations order, but also constitute a suitable fit to the eventual implementation responsibilities of the Trust Fund. To this end, the Trust Fund respectfully submits that the Trial Chamber task the potential experts with focused and clearly circumscribed research queries within the parameters of the case, allow for open access of the experts to all parties and participants in the proceedings, and that

¹⁴ Annex 1 to the [Registry’s Preliminary Observations](#), para. 33.

¹⁵ Annex 1 to the [Registry’s Preliminary Observations](#), para. 34.

¹⁶ Trial Chamber VIII, *Prosecutor v. Ahmad Al Faqi Al Mahdi*, “Public Redacted Version of “Decision appointing Reparations Experts and Partly Amending Reparations Calendar””, 19 January 2017, [ICC-01/12-01/15-203-Red](#) (“*Al Mahdi* Decision Appointing Experts”); Trial Chamber III, *Prosecutor v. Jean-Pierre Bemba Gombo*, “Public redacted version of “Decision appointing experts on reparations””, with public redacted Annex I, 2 June 2017, [ICC-01/05-01/08-3532-Red](#).

setting the tasks take into account the ability of experts to conduct field missions and meet with (potential) victims and other stakeholders in as far as permissible given the security context.

14. The Trust Fund also recommends that, in order to enhance the dependability of their eventual reports,¹⁷ experts undergo training at the beginning of their appointment focused on understanding the purpose of reparations proceedings, the necessary elements of a reparations order, and other essential parameters as the required nexus with the crime(s) of the convicted and, if the Trial Chamber deems appropriate, the *Lubanga* principles governing this phase.¹⁸

c. Issue 3: update on the security situation of the DRC

15. The Trust Fund takes note of the security update and observes that this information corresponds with its own assessment, based on its permanent presence of three staff members based in Bunia, DRC, and the regular field missions it conducts in the Ituri province in the context of the ongoing *Lubanga* reparations proceedings. The Trust Fund further observes that, despite these very difficult challenges, it has been able to successfully carry out a new potential victim identification and field interview process throughout the course of 2019.¹⁹

¹⁷ While parties, participants and the Trial Chamber may consider that they are in possession of little information to make useful submissions and take an informed decision, they are in fact probably best placed as they have access to a large amount of relevant information on the case record (a large part of it being confidential) and have therefore a fine understanding of the factual situation of the case. On the contrary, appointed experts do not have access to this information and may not have access to the field. For example, in the *Al Mahdi* case, Trial Chamber VIII appointed four experts to assist it to understand: (i) the importance of cultural heritage; (ii) the scope of the damage caused, including monetary value; and (iii) the scope of the economical and moral harm caused (see [Al Mahdi Decision Appointing Experts](#)). Two experts associated with each other which resulted in the production of three expert reports. A close read of the reparations order issued in this case shows that the Trial Chamber appears to have been assisted substantially by mostly one report repeatedly quoted in support of the reparations order.

¹⁸ The *Lubanga* reparations principles have been endorsed in all reparations proceedings up to date. See Trial Chamber II, *Prosecutor v. Germain Katanga*, “Order for Reparations pursuant to Article 75 of the Statute”, with one public annex (Annex I) and one confidential annex *ex parte*, Common Legal Representative of the Victims, Office of Public Counsel for Victims and Defence team for Germain Katanga (Annex II), 24 March 2017, [ICC-01/04-01/07-3728-t-ENG](#) (*Katanga* Reparations Order) para. 30; Trial Chamber VIII, *Prosecutor v. Ahmad Al Faqi Al Mahdi*, “Reparations Order”, 17 August 2017, [ICC-01/12-01/15-236](#) (*Al Mahdi* Reparations Order) para. 26.

¹⁹ [Annex A to the Sixième rapport sur le progrès de la mise en œuvre des réparations collectives](#).

IV. RESPONSE TO REGISTRY'S FURTHER SUBMISSIONS

16. The Trust Fund notes that the Registry's Preliminary Observations address broader issues than those identified in the 25 July 2019 Order. The Trust Fund will develop full submissions on these issues in the submissions due "six weeks after the issuance of the Chamber's decision on sentenc[ing]",²⁰ and will limit itself in the present submissions to make a few important observations on the proposed system.

17. The Registry's Preliminary Observations contain a request for the Trial Chamber to approve a system resolving definitively the following different currently open issues concerning the screening of victims: 1) that the totality of the 2,129 participating victims would submit a reparations application with the requisite supporting documentation ("Dossier") and have an individual decision on their eligibility decided *before* the Trial Chamber would issue its order for reparations; 2) that all new currently unidentified potential victims would be identified and go through the same eligibility process as that applicable to the participating victims prior to the Trial Chamber issuing its order for reparations; and 3) that a disclosure regime of the victims' Dossiers to the Defence would be applied to all victims, participating and currently unidentified, pursuant to an assessment by VPRS, which would be 'validated' by the Trial Chamber unless there is a 'clear and manifest' error in VPRS' assessment.²¹

18. With respect to each of these separate issues, the Trust Fund notes that the reparations jurisprudence and practice of the Court, which are distinct from those of participation at trial, demonstrate that there are a number of different potential avenues available to the Trial Chamber under the Statute, and that it is the specific circumstances of each case that guides the determination of the most appropriate screening in any given case.

19. The Trust Fund wishes to note that the pre-order for reparations screening envisaged by the Registry is an option available to the Trial Chamber pursuant to rule

²⁰ [25 July 2019 Order](#), para. 5.

²¹ The Trust Fund observes that the Registry submissions appear to reprise the system proposed for purposes of participation in the *Al Hassan* case, currently at the pre-trial stage (*see The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, "Registry Observations on Aspects Related to the Admission of Victims for Participation in the Proceedings", with Confidential *EX PARTE* Annex I, only available to the Registry, and Confidential Annex II, 9 May 2018, [ICC-01/12-01/18-28](#), para. 13).

94 RPE, but submits that deciding on the appropriate screening process at this preliminary stage would be premature and potentially harmful to victims.

a. **Models of screening process used in reparations proceedings at the Court**

20. The Trust Fund understands the design of a screening process to be a delicate matter, since each alternative carries its discrete impact on victims, requires diverse uses of the time and resources of the Court, and entails different rights for the Defence. For this reason, the Trust Fund would like to recall *grosso modo* the main features of the three screening models used at the Court in its reparations proceedings as each one of them corresponds to a different approach available to the Trial Chamber: the “pre-reparations order model” used in *Katanga*; the “post-reparations order model” used in *Al Mahdi*; and the model used in *Lubanga*, which is characterised by a judicial procedure led by the Trial Chamber rendering decisions on a sample of victim applications and by an administrative procedure led by the Trust Fund on other applications *after* the reparations order was issued in full. Each of these approaches has been validated separately by the Appeals Chamber.²²

21. The “pre-reparations order model” used in *Katanga* is based on rule 94 RPE according to which potential beneficiaries of reparations submit individualised applications which, in turn, granted the Defence the right to challenge each individual application. Trial Chamber II based its choice for the “pre-reparations order model” on the specific circumstances of the case, that is, that the crimes of which Mr Katanga was convicted consisted in an “attack on a definite place throughout the course of one day.”²³ Consequently, the *Katanga* Trial Chamber noted that “[t]he modus operandi adopted in the case at bar will not necessarily apply to other cases, in particular where

²² Appeals Chamber, *Prosecutor v. Ahmad Al Faqi Al Mahdi*, Public redacted version of the “Judgment on the appeal of the victims against the “Reparations Order””, [ICC-01/12-01/15-259-Red2](#) (“*Al Mahdi* Appeals Reparations Judgment”), paras 54-72; Appeals Chamber, *Prosecutor v. Germain Katanga*, Public redacted version of the “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””, 8 March 2018, [ICC-01/04-01/07-3778-Red](#), paras. 64-65; Appeals Chamber, *Prosecutor v. Thomas Lubanga Dyilo*, Public redacted version of the “Judgment on the appeals against Trial Chamber II’s ‘Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable’”, 18 July 2019, [ICC-01/04-01/06-3466-Red](#) (“Judgment on the appeals against Trial Chamber II’s ‘Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable’”), paras. 162-171 (the Appeals Chambers implicitly confirms this method as far as victims of the sample are not disadvantaged *vis à vis* future victims).

²³ [Katanga Reparations Order](#), para. 32.

the number of potential victims is very high and/or where the acts of which the person was convicted encompass a considerable stretch of time and/or their geographical reach is much greater than it is here.”²⁴ This insight corresponds with regulation 59 of the Regulations of the Trust Fund, applicable in “[c]ases where the Court identifies each beneficiary”.

22. The *Al Mahdi* case represents a “post-reparations order model” in which the procedure varies depending on whether the type of reparation at stake is individual or collective. As far as individual awards are concerned, an administrative screening process is conducted by the Trust Fund – with the assistance of VPRS for data input and preliminary analysis. This procedure, which resonates with regulations 60 ff. of the Regulations of the Trust Fund, applicable in “[c]ases where the Court does not identify the beneficiaries”, is ultimately subject to judicial review. The Trust Fund informs Trial Chamber VIII of the successful applications through periodic reports. In the event of a negative finding, the applicant has a right of review by the Trial Chamber.²⁵ The Defence and the LRV are engaged during the individual screening process, entitled to make representations.²⁶ The eligibility of victim beneficiaries for the collective awards is determined by the Trust Fund in collaboration with the implementing partners, where there is no role assigned to the Defence nor to the LRV.²⁷

23. In *Lubanga*, Trial Chamber II analysed a sample of dossiers of potentially eligible beneficiaries, with the purpose of setting the size of the reparations award and of “devis[ing] a method for the screening of the victims for eligibility to be undertaken by the Trust Fund during the victim selection process”.²⁸ At the administrative stage,

²⁴ [Katanga Reparations Order](#), fn. 71.

²⁵ Trial Chamber VIII, *Prosecutor v. Ahmad Al Faqi Al Mahdi*, “Decision on Trust Fund for Victims’ Draft Implementation Plan for Reparations”, 12 July 2018, ICC-01/12-01/15-273-Conf, a public redacted version was registered on the same date, [ICC-01/12-01/15-273-Red](#) (“*Al Mahdi* Decision on the Updated Implementation Plan”), paras 35-49.

²⁶ [Al Mahdi Decision on the Updated Implementation Plan](#), paras 40-41; see also [Al Mahdi Appeals Reparations Judgment](#), para. 87, stating that applicants have no obligation to disclose their identity to the Defence.

²⁷ [Al Mahdi Decision on the Updated Implementation Plan](#), para. 88.

²⁸ Trial Chamber II, *Prosecutor v. Thomas Lubanga Dyilo*, Corrected version of the “Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable”, with Corrected Version of One Public Annex (Annex I); of One Public Annex (Annex III) and One Confidential Annex, EX PARTE, Registry, Trust Fund for Victims, Legal Representatives of the V01 and V02 Groups of Victims, and Office of Public Counsel for Victims (Annex II); and Confidential Redacted Version of Annex II, 21 December 2017, ICC-01/04-01/06-3379-Conf-Corr-tENG; a public redacted version was registered on the same date, [ICC-01/04-01/06-3379-Red-Corr-tENG](#) (“Corrected version of the “Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable”), para. 38.

Trial Chamber II needs to provide its approval of administrative decisions issued by the Trust Fund's Board of Directors, being informed of successful applications through periodic reports, whereas, in the event of a negative finding, the applicant has a right of review by the Trial Chamber.²⁹ The Defence is entitled to review the screening process, subject to any protective measures.³⁰ At the judicially-driven sample stage, the Defence was able to challenge the victims' Dossiers as they were part of the elements taken into account by Trial Chamber II in its determination of the size of the reparations award for which Mr Lubanga was held liable.³¹ By contrast, the Defence has no right to challenge applications submitted to the Trust Fund.

24. The Trust Fund notes that, of all three separate scenarios above, *Ntaganda* shares most characteristics with the *Lubanga* case due their partial geographical, temporal and conviction overlap.

b. Learned lessons from past reparations processes at the Court

25. The Trust Fund submits that, based on the Court's experience, there are several parameters which need clarification in order to be able to make an informed decision on what screening model is the most appropriate in keeping with the interests of victims, time-efficiency considerations and a reasonable use of the resources of the Court. These parameters are the nature of the harm caused by the crime(s), and the possible types and modalities of reparations appropriate for the case at hand.

26. Defining the nature of the harm linked to Mr Ntaganda's crimes would permit both preventing persons who are clearly outside the scope of reparations of this case from filling out application forms, and saving potentially eligible beneficiaries from being asked questions that may ultimately prove to be superfluous or insufficient. For example, in the *Al Mahdi* case there were 139 applications for reparations submitted by

²⁹ [Decision Approving the Proposals of the Trust Fund for Victims on the Process for Locating New Applicants and Determining their Eligibility for Reparations](#), paras. 30, 47; [Judgment on the appeals against Trial Chamber II's 'Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable'](#), para. 170.

³⁰ Appeals Chamber, *The 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 with Amended order for reparations (Annex A) and public annexes 1 and 2", 3 March 2015, [ICC-01/04-01/06-3129-AnxA](#), para. 66; Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, "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", 3 March 2015, [ICC-01/04-01/06-3129](#), para. 167.

³¹ [Corrected version of the "Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable"](#), para. 59.

participating victims which have later proved to be incomplete because, absent any information about the types of harm that would be recognised by Trial Chamber VIII in its reparations order at the time they were collected, the forms did not include questions central to the eligibility screening. This has involved a repetitive use of the Court's resources in order to revert back to each individual and gather the necessary missing information, and re-interrogating them about matters directly related to the harm suffered, which carries the avoidable risk of re-traumatisation.

27. In the present case, the Trial Chamber may consider to award collective reparations to certain groups of victims not involving an individualised application process.³² In such case, the collection of applications from some individuals would serve no purpose, and reiterate the re-traumatisation risk and ill-use of the Court's resources. In addition, in the Trust Fund's experience, when victims fill out individual application forms, they tend to develop expectations that they will receive individual awards for the harm suffered.³³

28. In sum, the Trust Fund respectfully submits that there remain outstanding issues that need to be clarified by the Trial Chamber before making an informed decision on the model of the screening process that would be most effective and fair to the victims in the current case. The Trust Fund believes that it would be beneficial for the Trial Chamber to receive more information on the scope of victimisation in the present case before deciding on a screening model, and notes that the LRVs' first-hand knowledge of the victims' experience and needs, and the specialised knowledge of the eventually appointed experts are unique sources of information at the disposal of the Trial Chamber.

29. Drawing from its advisory function, its institutional experience in managing comprehensive victim identification and screening processes in the *Lubanga* and *Al Mahdi* reparations proceedings, as well as from its consultations with the LRVs and the Trust Fund's field based staff in the Bunia (DRC) Field Office, the Trust Fund stands ready to make further observations to the Trial Chamber on the victim screening process

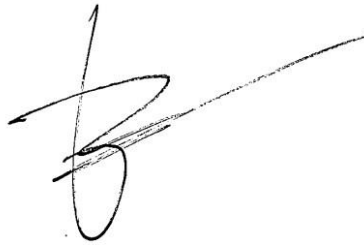
³² [Al Mahdi Reparations Order](#), para. 145.

³³ The Trust Fund's extensive experience in the Ituri region has shown that, despite the greatest caution being exercised in the way messages are conveyed to individuals submitting an application form, potential beneficiaries form expectations.

in its submission to be filed six weeks after the issuance of the sentencing decision in accordance with the Single Judge's instructions.

V. CONCLUSION

30. The Trust Fund respectfully requests the Single Judge to take note of the response and observations contained in this submission.



Pieter W.I. de Baan
Executive Director of the Trust Fund for Victims,
on behalf of the Board of Directors of the Trust Fund for Victims

Dated this 3 October 2019
At The Hague, The Netherlands