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No.: ICC-01/04-02/06
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TRIAL CHAMBER VI

Before: Judge Chang-ho Chung, Presiding Judge
Judge Robert Fremr
Judge Olga Herrera Carbuca

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

Public

Registry's Observations on Reparations

**With Public Annex I, Confidential *EX PARTE* Annex II only available to the
LRVs, TFV and Registry and, Confidential *EX PARTE* Annex III only available to
the Registry**

Source: Registry

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

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I. Introduction

1. The Registry hereby presents its observations, pursuant to the Single Judge's "Order setting deadlines in relation to reparations" ("5 December 2019 Order") in the *Prosecutor v. Bosco Ntaganda* Case ("instant case" or "*Ntaganda* Case").¹ In the 5 December 2019 Order, the Single Judge requested the Registry *inter alia* to submit, by 28 February 2020, submissions on the following:
 - A. Whether the principles on reparations established by the Appeals Chamber in the *Prosecutor v. Thomas Dyilo Lubanga* ("*Lubanga* case") need to be amended or supplemented in light of the circumstances of the instant case;
 - B. The criteria and methodology to be applied in the determination and the assessment of: (i) the eligibility of victims; (ii) the relevant types and scope of harm; and (iii) the scope of liability of Mr Ntaganda, including the determination of the precise extent of the (monetary) obligations to be imposed on him;
 - C. The types and modalities of reparations appropriate to address the types of harm relevant in the circumstances of the instant case, including factors relating to the appropriateness of awarding reparations on an individual basis, a collective basis, or both;
 - D. Any other issue the Registry wishes to bring to the attention of the Chamber.
2. The Registry's observations on the abovementioned points are presented in annex I to the present submission. The results of the Registry's preliminary mapping exercise are presented in annex II. Annex III includes basic information relating to the Chamber's request in paragraph 9(a) of the 5 December 2019 Order.

¹ Trial Chamber VI, "Order setting deadlines in relation to reparations", 5 December 2019, ICC-01/04-02/06-2447 ("5 December 2019 Order").

II. Procedural History

3. On 6 February 2015, Trial Chamber VI (“Chamber”) issued its Decision on victims’ participation in trial proceedings.²
4. On 8 July 2019, the Chamber issued its Judgment in the Case convicting Mr Ntaganda of both war crimes and crimes against humanity.³
5. On 25 July 2019, the Single Judge issued the Order for preliminary information on reparations (“25 July 2019 Order”) requesting the Registry to provide: 1) information on, and any proposed methodology for, the identification of victims (not yet participating); 2) observations on whether experts may be usefully appointed to assist the Chamber pursuant to rule 97 of the Rules of Procedure and Evidence (“Rules”) and, if so, submit a list of relevant experts available to assist the Chamber; and 3) an update on the security situation in the Democratic Republic of the Congo (“DRC”) based on information currently available.⁴
6. On 5 September 2019, the Registry submitted its observations pursuant to the 25 July 2019 Order setting out, *inter alia* the Registry’s proposal for the identification and registration of potential beneficiaries in the instant case (“Registry’s Preliminary Observations” or “Preliminary Observations”).⁵
7. On 3 October 2019, the Prosecution,⁶ Defence,⁷ Legal Representatives of Victims⁸ (“LRVs”) and Trust Fund for Victims⁹, (“TFV”) each filed their responses to the Registry’s Preliminary Observations.

² Trial Chamber VI, “Decision on victims’ participation in trial proceedings”, 6 February 2015, ICC-01/04-02/06-449 (“Ntaganda Participation Decision”).

³ Trial Chamber VI, “Judgment”, 8 July 2019, ICC-01/04-02/06-2359.

⁴ Trial Chamber VI, “Order for preliminary information on reparations”, 25 July 2019, ICC-01/04-02/06-2366 (“25 July 2019 Order”), para. 4.

⁵ Registry, “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”, 6 September 2019, ICC-01/04-02/06-2391 (“Registry’s Preliminary Observations” or “Preliminary Observations”).

⁶ Office of the Prosecutor, “Prosecution’s response to the Registry’s observations, pursuant to the Single Judge’s ‘Order for preliminary information on reparations’ (ICC-01/04-02/06-2391-Anx1)”, 3 October 2019, ICC-01/04-02/06-2429.

8. On 5 December 2019, the Single Judge issued the 5 December 2019 Order.¹⁰

III. Classification

9. In accordance with regulation 23*bis*(1) of the Regulations of the Court (“RoC”), annex II to this filing is submitted as confidential, only available to the LRVs, the TFV and the Registry, because it contains sensitive information that may impact the safety and physical well-being of victims, intermediaries and other third parties. Annex III is filed confidential *ex parte*, only available to the Registry pursuant to Trial Chamber II’s decision of 4 February 2020.¹¹

IV. Applicable Law

10. The Registry submits the present observations relevant to reparations in light of article 75 of the Rome Statute, rules 16, 94 and 97 of the Rules of Procedure and Evidence and (“Rules”), regulations 86(9) and 88 of the Regulations of the Court (“RoC”), regulations 56 and 110(2) of the Regulations of the Registry (“RoR”), and pursuant to the 5 December 2019 Order.

⁷ Defence, “Response on behalf of Mr. Ntaganda to Registry’s preliminary observations on reparations”, 3 October 2019, ICC-01/04-02/06-2431.

⁸ Legal Representatives of Victims, “Joint Response of the Legal Representatives of Victims to the Registry’s Observations on Reparations”, 3 October 2019, ICC-01/04-02/06-2430.

⁹ Trust Fund for Victims, “Trust Fund for Victims’ response to the Registry’s Preliminary Observations pursuant to the Order for Preliminary Information on Reparations”, 3 October 2019, ICC-01/04-02/06-2428.

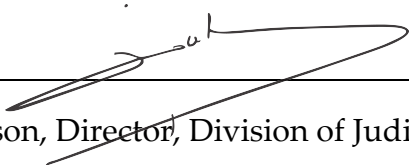
¹⁰ See *supra*, footnote 1.

¹¹ Trial Chamber II, *The Prosecutor v. Thomas Lubanga Dyilo*, “Ordonnance relative à la requête de la Section de la participation des victimes et des réparations du 21 janvier 2020”, 4 February 2020, ICC-01/04-01/06-3472-Conf (“Trial Chamber II’s Decision of 4 February 2020”).

V. Submissions

11. The Registry hereby transmits the information requested in the 5 December 2019 Order in the following manner:

- Registry's Observations (Annex 1, public);
- Preliminary Mapping Results (Annex 2, confidential, available only to the LRVs, the TFV and the Registry); and
- Basic Information Concerning the *Lubanga* Case (Annex 3, confidential *ex parte*, available only to the Registry).



Marc Dubuisson, Director, Division of Judicial Services
on behalf of Peter Lewis, Registrar

Dated this 28 February 2020

At The Hague, The Netherlands