

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

No.: **ICC-01/04-02/06**

Date: **20 July 2020**

**TRIAL CHAMBER VI**

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

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

**Public**

**Decision on Request for an Extension of Time for Filing of Experts' Report**

**To be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:**

**The Office of the Prosecutor**

Ms Fatou Bensouda  
Mr James Stewart  
Ms Nicole Samson

**Counsel for Bosco Ntaganda**

Mr Stéphane Bourgon  
Ms Kate Gibson

**Legal Representatives of Victims**

Ms Sarah Pellet  
Mr Dmytro Suprun

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**The Office of Public Counsel for Victims**

Ms Paolina Massidda

**The Office of Public Counsel for the  
Defence**

**States' Representatives**

*Amicus Curiae*

**REGISTRY**

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**Registrar**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Mr Philipp Ambach

**Trust Fund for Victims**

Mr Pieter de Baan

**Others**

Appointed Experts

**Trial Chamber VI** (‘Chamber’) of the International Criminal Court (‘Court’), in the case of *The Prosecutor v. Bosco Ntaganda* (‘Ntaganda case’), having regard to Regulation 35 of the Regulations of the Court (‘Regulations’), issues this ‘Decision on Request for an Extension of Time for Filing of Experts’ Report’.

## **I. PROCEDURAL HISTORY AND SUBMISSIONS**

1. On 5 December 2019, Judge Chang-ho Chung, acting as Single Judge, issued the ‘Order setting deadlines in relation to reparations’ (‘December 2019 Order’),<sup>1</sup> *inter alia*: (i) indicating that, should it decide to appoint any experts on reparations, the Chamber intends for their expert reports to be filed by 28 August 2020;<sup>2</sup> and (ii) setting 30 October 2020 as a deadline for the parties to make their final submissions on reparations.<sup>3</sup>
2. On 14 May 2020, the Chamber appointed four experts (‘Appointed Experts’) for the purposes of the reparations proceedings and instructed them to submit by 28 August 2020 a report on four issues identified by the Chamber (‘Decision Appointing Experts’).<sup>4</sup> Mindful of the circumstances surrounding the COVID-19 pandemic, the Chamber noted that any difficulties which may have a significant impact on the preparation of the report within the set deadline should be raised with the Chamber through the Registry as soon as they become apparent.<sup>5</sup> In the same decision, the Chamber granted the request of the Trust Fund for Victims (‘TFV’) to be allowed to make final submissions along with the parties by 30 October 2020.<sup>6</sup>
3. On 26 June 2020, the Chamber issued the ‘First Decision on Reparations Process’.<sup>7</sup> Among other things, the Chamber instructed the Registry to prepare, in consultation with the parties and the TFV, a sample constituted of a limited but representative pool of potential beneficiaries of reparations and to report to the Chamber thereon by 30 September 2019, and thereafter every three months.<sup>8</sup>

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<sup>1</sup> ICC-01/04-02/06-2447.

<sup>2</sup> December 2019 Order, para. 9(b).

<sup>3</sup> December 2019 Order, para. 9(f).

<sup>4</sup> Decision appointing experts on reparations, ICC-01/04-02/06-2528-Conf (a public redacted version was notified on the same day as ICC-01/04-02/06-2528-Red).

<sup>5</sup> Decision Appointing Experts, para. 16.

<sup>6</sup> Decision Appointing Experts, para. 19 and p. 10.

<sup>7</sup> ICC-01/04-02/06-2547 (‘First Decision’).

<sup>8</sup> First Decision, paras 37-38 and p. 19.

4. On 3 July 2020, the Appointed Experts, through the Registry,<sup>9</sup> requested an extension of time until 28 November 2020 to submit their report (‘Request’).<sup>10</sup> They submit that an extension of time is warranted considering: (i) the challenges of remote communication, compared to in-person meetings, among the Appointed Experts themselves, as well as with relevant sections of the Court;<sup>11</sup> (ii) the impossibility of organising a field mission in the current circumstances surrounding the COVID-19 pandemic;<sup>12</sup> and (iii) the complexities of producing a joint report in the absence of any in-person meetings, also considering the need for English to French interpretation and vice versa.<sup>13</sup> Specifically as to point (ii), they note that all meetings with victims have to be held remotely and, because of the restrictions currently in place, only one meeting with one victim per day can be facilitated through the Court’s Country Office in Bunia.<sup>14</sup> Furthermore, in light of the challenges to obtaining information directly from victims, and mindful of the fact that the Registry’s sampling exercise will continue beyond that date, the Appointed Experts submit that they would greatly benefit from information obtained from the sample of potential beneficiaries of reparations to be provided by the Registry by 30 September 2020.<sup>15</sup> Should the requested extension be granted, the Appointed Experts aver that they will still attempt to submit their report as early as possible prior to the new deadline.<sup>16</sup>

## II. ANALYSIS

5. Pursuant to Regulation 35(2) of the Regulations, the Chamber may extend or reduce a time limit if good cause is shown.
6. The Chamber notes the difficulties encountered by the Appointed Experts in having remote meetings with victims for the purpose of obtaining information as to their current views and concerns through the Court’s Country Office in Bunia, for reasons outside of their control, including the local security situation and COVID-19-related restrictions. While noting that some information as to the harm suffered by victims is

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<sup>9</sup> Registry Transmission of Appointed Experts’ Request for Extension of Time, ICC-01/04-02/06-2549 (with one confidential annex).

<sup>10</sup> ICC-01/04-02/06-2549-Conf-Anx.

<sup>11</sup> Request, p. 2.

<sup>12</sup> Request, pp. 1-3.

<sup>13</sup> Request, pp. 2-3.

<sup>14</sup> Request, p. 2.

<sup>15</sup> Request, pp. 2-3.

<sup>16</sup> Request, pp. 3-4.

already available in the case record,<sup>17</sup> the Chamber takes into account the Appointed Experts' submission that they would benefit from the information to be provided by the Registry by 30 September 2020 from the sample of potential reparations beneficiaries and notes that the collection of such information was ordered after the issuance of the Decision Appointing Experts. In addition, the Chamber notes that the Appointed Experts will endeavour to file a joint report, as instructed by the Chamber, and understands that this requires a greater level of coordination between them, with the additional challenges posed by remote communication, including the need for English to French interpretation and vice versa.

7. In these circumstances, and in order to ensure the submission of a complete report, the Chamber finds that good cause has been shown to extend the deadline for the submission of the Appointed Experts' report. However, the Chamber considers that an extension of time until 30 October 2020 is sufficient, in particular for the Appointed Experts to integrate into their report any conclusions based on the information obtained from the sample to be prepared by the Registry by 30 September 2020. Since the parties' and the TFV's final submissions on reparations may address, among other things, the Appointed Experts' report, the deadline for these submissions shall be similarly extended.
8. Therefore, the Chamber amends the upcoming deadlines related to reparations proceedings in the *Ntaganda* case as follows:
  - a. The Appointed Experts must submit their report to the Chamber by **30 October 2020**. As previously instructed, the report shall be notified to the parties, the TFV, the Victims Participation and Reparations Section, and the Office of the Prosecutor and, should the Appointed Experts consider that any part(s) of the report are to remain confidential, a public redacted version of the report is to be filed on the same day.<sup>18</sup> The deadline for the parties to disclose any additional information they wish for the Chamber to consider in its reparations order shall also be extended to **30 October 2020**.<sup>19</sup>

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<sup>17</sup> See also First Decision, para. 24.

<sup>18</sup> Decision Appointing Experts, para. 18.

<sup>19</sup> See December 2019 Order, para. 9(b); and Decision Appointing Experts, para. 20.

- b. The parties and the TFV shall make their final submissions on the report/information presented, the submissions of other participants, and any other last arguments they wish for the Chamber to consider before the rendering of its reparations order<sup>20</sup> by **18 December 2020**.

**FOR THE FOREGOING REASONS, THE CHAMBER HEREBY**

**PARTIALLY GRANTS** the Request;

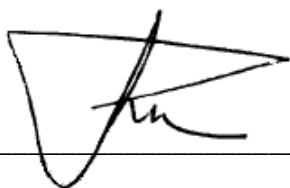
**AMENDS** the timetable set out in the December 2019 Order and the Decision Appointing Experts in accordance with paragraph 8 above; and

**INSTRUCTS** the Registry to file a public redacted version of the Request.

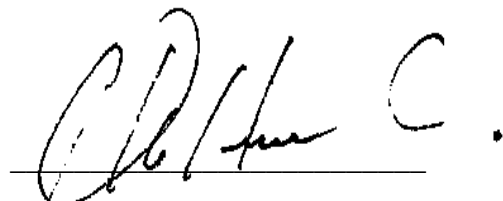
Done in both English and French, the English version being authoritative.



**Judge Chang-ho Chung, Presiding Judge**



**Judge Robert Fremr**



**Judge Olga Herrera Carbuca**

Dated 20 July 2020

At The Hague, The Netherlands

<sup>20</sup> December 2019 Order, para. 9(f); and Decision Appointing Experts, para. 19.