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**International  
Criminal  
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Date: 30 October 2020

**TRIAL CHAMBER VI**

**Before: Judge Chang-ho Chung, Single Judge**

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO**

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

**Public**

**Observations of the Common Legal Representative of the Victims of the Attacks  
on the Registry's First Report on Reparations**

**Source: Office of Public Counsel for Victims (CLR2)**

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## **I. INTRODUCTION**

1. The Common Legal Representative of the Victims of the Attacks (the “Legal Representative”) hereby submits his observations on the Registry’s First Report on Reparations (the “Registry’s Report” or “Report”)<sup>1</sup> in accordance with the Single Judge’s instructions.<sup>2</sup>

## **II. PROCEDURAL BACKGROUND**

2. On 8 July 2019, Trial Chamber VI (the “Chamber”) found Mr Bosco Ntaganda guilty of 18 counts of war crimes and crimes against humanity.<sup>3</sup>

3. On 25 July 2019, the Chamber designated Judge Chang-ho Chung as the Single Judge for reparations issues.<sup>4</sup> On the same day, the Single Judge issued an “Order for preliminary information on reparations”, whereby he requested certain information and observations from the Registry to be submitted by 5 September 2019.<sup>5</sup>

4. On 5 September 2019, the Registry filed its observations pursuant to the Single Judge’s order of 25 July 2019.<sup>6</sup>

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<sup>1</sup> See the “Registry’s First Report on Reparations”, [No. ICC-01/04-02/06-2602](#), 1 October 2020 (the “Registry’s Report”).

<sup>2</sup> See the “Decision on the Defence request seeking clarification and/or further guidance following the ‘First Decision on Reparations Process’ and Request seeking extension of time to submit observations on the Registry 30 September Report (Trial Chamber VI, Single Judge), [No. ICC-01/04-02/06-2601](#), 29 September 2020 (the “29 September 2020 Decision”).

<sup>3</sup> See the “Judgment” (Trial Chamber VI), [No. ICC-01/04-02/06-2359](#), 8 July 2019 (the “Trial Judgment”).

<sup>4</sup> See the “Decision notifying the designation of a Single Judge” (Trial Chamber VI), [No. ICC-01/04-02/06-2365](#), 25 July 2019, para. 3.

<sup>5</sup> See the “Order for preliminary information on reparations” (Trial Chamber VI, Single Judge), [No. ICC-01/04-02/06-2366](#), 25 July 2019, para. 4(a).

<sup>6</sup> See the “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”, [No. ICC-01/04-02/06-2391](#), 6 September 2019.

5. On 3 October 2019, the Trust Fund for Victims (the “TFV”),<sup>7</sup> both teams of Common Legal Representatives of Victims,<sup>8</sup> and the Defence,<sup>9</sup> respectively, filed observations in response to the Registry’s observations of 5 September 2019.<sup>10</sup>

6. On 7 November 2019, Mr Ntaganda was sentenced to 30 years of imprisonment.<sup>11</sup>

7. The Chamber was recomposed on 20 November 2019.<sup>12</sup> Judge Chang-ho Chung remained the Single Judge for the purposes of the reparations phase of the proceedings.<sup>13</sup>

8. On 5 December 2019, the Single Judge issued an “Order setting deadlines in relation to reparations” (the “5 December 2019 Order”),<sup>14</sup> whereby he set a number of deadlines, including the relevant deadlines for the Registry’s, the parties’, and the TFV’s written submissions on reparations.<sup>15</sup>

9. In accordance with the 5 December 2019 Order, the Common Legal Representatives,<sup>16</sup> the Defence,<sup>17</sup> the TFV,<sup>18</sup> the Prosecution<sup>19</sup> and the Registry<sup>20</sup> filed their submissions on reparations on 28 February 2020, respectively.

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<sup>7</sup> See the “Trust Fund for Victims’ response to the Registry’s Preliminary Observations pursuant to the Order for Preliminary Information on Reparations”, [No. ICC-01/04-02/06-2428](#), 3 October 2019.

<sup>8</sup> See the “Joint Response of the Legal Representatives of Victims to the Registry’s Observations on Reparations”, [No. ICC-01/04-02/06-2430](#), 3 October 2019.

<sup>9</sup> See the “Response on behalf of Mr. Ntaganda to Registry’s preliminary observations on reparations”, [No. ICC-01/04-02/06-2431](#), 3 October 2019.

<sup>10</sup> See Email communication from the Chamber to the parties and Registry of 18 September 2019 at 18:05. See also the “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, No. ICC-01/04-02/06-2366”, [No. ICC-01/04-02/06-2411](#), 18 September 2019.

<sup>11</sup> See the “Sentencing Judgment” (Trial Chamber VI), No. [ICC-01/04-02/06-2442](#), 7 November 2019.

<sup>12</sup> See the “Decision re-composing Trial Chamber VI” (Presidency), [No. ICC-01/04-02/06-2444](#), 20 November 2019, p. 3.

<sup>13</sup> See the “Decision notifying the election of the Presiding Judge and the designation of a Single Judge” (Trial Chamber VI), [No. ICC-01/04-02/06-2445](#), 22 November 2019, para. 5.

<sup>14</sup> See the “Order setting deadlines in relation to reparations” (Trial Chamber VI, Single Judge), [No. ICC-01/04-02/06-2447](#), 5 December 2019 (the “5 December 2019 Order”).

<sup>15</sup> *Idem*, para. 9.

<sup>16</sup> See the “Submissions by the Common Legal Representative of the Victims of the Attacks on Reparations”, [No. ICC-01/04-02/06-2477-Conf](#), 28 February 2020. A public redacted version was filed

10. On 26 July 2020, the Chamber issued the “First Decision on Reparations Process”.<sup>21</sup>

11. On 11 September 2020, the Defence filed a request for clarification and extension of time to submit observations on the forthcoming Registry report.<sup>22</sup>

12. On 24 September 2020, the Common Legal Representatives filed a joint response to the Defence’s 11 September 2020 Request, opposing the request for clarification and supporting the request for an extension of time.<sup>23</sup>

13. On 29 September 2020, the Single Judge rejected the Defence’s request for clarification and granted the request for extension of time, ordering the Defence and LRV’s to file their observations in relation to any key legal and factual issues identified in the Registry’s report on reparations by 30 October 2020.<sup>24</sup>

14. On 1 October 2020, the Registry filed its Report.<sup>25</sup> A public redacted version of Annex 1 to the Report, which contains the substantive submissions of the Report, was filed on 26 October 2020 (the “Annex 1 to the Registry’s Report”).<sup>26</sup>

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on the same day as [No. ICC-01/04-02/06-2477-Red](#). See also the “Submissions on Reparations on behalf of the Former Child Soldiers”, [No. ICC-01/04-02/06-2474](#), 28 February 2020.

<sup>17</sup> See the “Defence Submissions on Reparations”, [No. ICC-01/04-02/06-2479-Conf](#), 28 February 2020. A public redacted version was filed on 6 March 2020 as [No. ICC-01/04-02/06-2479-Red](#).

<sup>18</sup> See the “Trust Fund for Victims’ observations relevant to reparations”, [No. ICC-01/04-02/06-2476](#), 28 February 2020.

<sup>19</sup> See the “Prosecution’s Observations on Reparations”, [No. ICC-01/04-02/06-2478](#), 28 February 2020.

<sup>20</sup> See the “Registry’s Observations on Reparations”, [No. ICC-01/04-02/06-2475](#), with Public Annex 1, [No. ICC-01/04-02/06-2475-Anx1](#), and Confidential *Ex Parte* Annex II, [No. ICC-01/04-02/06-2475-Conf-Exp-AnxII](#), 28 February 2020.

<sup>21</sup> See the “First Decision on Reparations Process” (Trial Chamber VI), [No. ICC-01/04-02/06-2547](#), 26 June 2020.

<sup>22</sup> See the “Defence request seeking clarification and/or further guidance following the ‘First Decision on Reparations Process’ and Request seeking extension of time to submit observations on the Registry 30 September Report”, [No. ICC-01/04-02/06-2578](#), 11 September 2020.

<sup>23</sup> See the “Joint Response of the Common Legal Representatives of Victims on the ‘Defence request seeking clarification and/or further guidance following the ‘First Decision on Reparations Process’ and Request seeking extension of time to submit observations on the Registry 30 September Report’”, [No. ICC-01/04-02/06-2600](#), 24 September 2020.

<sup>24</sup> See the 29 September 2020 Decision, *supra* note 2, para. 8.

<sup>25</sup> See the Registry’s Report, *supra* note 1.

### III. SUBMISSIONS

15. The Registry's Report covers (i) the reassessment exercise for participating victims, (ii) key legal and factual issues relevant to the eligibility assessment, (iii) an update regarding the *Lubanga* victims, and (iv) a report on the methodology applied in the preparation of the sample and for the completion of the mapping of potential new beneficiaries.<sup>27</sup> The Legal Representative will make observations on Part II of Annex 1 to the Registry's Report,<sup>28</sup> in particular as regards legal and factual issues related to the territorial scope, legal and factual issues related to the temporal scope, legal and factual issues related to the subject matter jurisdiction and other matters relevant to the assessment of the eligibility of the participating victims.

16. In the Legal Representative's view, the resolution of the legal and factual matters brought to the Chamber's attention in respect of the territorial and temporal scope, as well as the subject matter, is necessary to advance the reparations proceedings. In making the relevant determinations, the Chamber will set the framework for eligibility and thereby authoritatively rule on the relevant boundaries for eligibility applicable to both the participating victims and new potential beneficiaries for reparations.

#### *1) On legal and factual issues related to the territorial scope*

17. As regards the territorial scope, the Legal Representative submits that not only the thirteen villages specifically referred to in the 'positive findings' of the Trial Judgment (hereafter the "Main Villages") should be included in the territorial scope, but also all sub-villages, *quartiers*, as well as all villages and settlements surrounding or closely neighbouring the Main Villages, even in the absence of being specifically listed or mentioned in the Trial Judgment.

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<sup>26</sup> See the "Public redacted version of 'Annex I to the Registry First Report on Reparations', 1 October 2020, ICC-01/04-02/06-2602-Cond-AnxI", [No. ICC-01/04-02/06-2602-AnxI-Red](#), 26 October 2020 (the "Annex 1 to the Registry's Report").

<sup>27</sup> See the Registry's Report, *supra* note 1, para. 3.

<sup>28</sup> See Annex 1 to the Registry's Report, *supra* note 26, paras. 3-15.

18. It is submitted that such an inclusive approach to the territorial scope is supported by both the scope of the charges brought by the Prosecution and subsequently confirmed by the Pre-Trial Chamber, and the Trial Chamber's findings regarding the widespread and systematic nature of military operations carried out by the UPC/FPLC.

19. *First*, the Pre-Trial Chamber delineated the charges brought against Mr Ntaganda by using the descriptions "in or around" and "including" regarding the villages it specifically referred to.<sup>29</sup> Moreover, the Pre-Trial Chamber's decision made further general reference to "surrounding" or "nearby" villages,<sup>30</sup> including "*over 40 villages in the Walendu Djatsi collectivité including but not limited to Lipri, Kobu and Bambu*"<sup>31</sup> and located within a "*15 km radius around Lipri, Kobu and Bambu*".<sup>32</sup>

20. *Second*, and as correctly pointed out by the Registry in its Report,<sup>33</sup> the Trial Judgment seems to be premised on the same approach, namely it refers to crimes committed both in the Main Villages and in "surrounding villages" or "surrounding area(s)"<sup>34</sup> or areas "in or around" the Main Villages.<sup>35</sup>

21. This is further supported by the Chamber's findings on the widespread and systematic nature of the UPC/FPLC's operations that were carried out in targeting entire locations in a prolonged and continuous manner, from different directions simultaneously. Particular regard should be had to the following findings.

22. The attack on Mongbwalu was carried out from two sides, and lasted approximately three to four days.<sup>36</sup> Attacks on the villages were immediately

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<sup>29</sup> See the "Updated Document Containing the Charges", [No. ICC-01/04-02/06-458-AnxA](#), 16 February 2015 (the "Updated DCC"), paras. 63, 76 and 84-85.

<sup>30</sup> *Idem*, paras. 77-79 and 87.

<sup>31</sup> *Idem*, para. 77.

<sup>32</sup> *Idem*, footnote 45.

<sup>33</sup> See Annex 1 to the Registry's Report, *supra* note 2628, para. 7.

<sup>34</sup> See the Trial Judgment, *supra* note 3, paras. 526, 566, 569 and 1054.

<sup>35</sup> *Idem*, paras. 578.

<sup>36</sup> *Idem*, para. 486.

followed by *ratissage* operations<sup>37</sup> exposing the same *modus operandi* and the objective to destroy the Lendu and to clean the area from Lendu.<sup>38</sup> This widespread commission of crimes against the targeted group of civilians, as planned by co-perpetrators,<sup>39</sup> extended up to several days after the initial assault. It was aimed at eliminating any survivors, including civilians, and at looting their property.<sup>40</sup>

23. Furthermore, the very objective of the operation in Lipri, Kobu and Bambu was to destroy the Lendu in that geographic triangle.<sup>41</sup> Kobu, Lipri and Bambu were attacked from different sides<sup>42</sup> in a coordinated and simultaneous manner on or about 18 February 2003.<sup>43</sup> The Chamber found that the UPC/FPLC set up a base in Lipri from where it carried out operations against surrounding villages and controlled the Main Road,<sup>44</sup> only leaving Lipri in early March 2003.<sup>45</sup> Upon arrival in Kobu, the UPC/FPLC set up camp at the market<sup>46</sup> and subsequently carried out a *ratissage* operation for two or three days.<sup>47</sup>

24. *Third*, the Main Villages encompass many small sub-villages and/or *quartiers* that surround them. *De facto*, the Main Villages are traditionally viewed as the ‘centre’, and smaller and adjacent settlements in close proximity are deemed to be part of these Main Villages.<sup>48</sup> Most of these sub-villages, *quartiers*, small villages or settlements are not specifically mentioned in the Trial Judgment; indeed, they are not

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<sup>37</sup> *Idem*, paras. 512, 526 and 577.

<sup>38</sup> *Idem*, paras. 512-517 and 526.

<sup>39</sup> *Idem*, para. 854.

<sup>40</sup> *Idem*, para. 695.

<sup>41</sup> *Idem*, para. 558.

<sup>42</sup> *Idem*, para. 562.

<sup>43</sup> *Idem*, footnote 1736.

<sup>44</sup> *Idem*, para. 567.

<sup>45</sup> *Idem*, para. 570.

<sup>46</sup> *Idem*, para. 574.

<sup>47</sup> *Idem*, para. 577.

<sup>48</sup> The Legal Representative anticipates that this matter will be addressed by the appointed Experts in their upcoming report.



even to be found on the most detailed available maps of Ituri.<sup>49</sup> This reality should adequately be recognised by applying inclusive territorial parameters.

25. It is submitted that excluding small locations from the territorial scope of the case, simply because they are not specifically referred to in the Trial Judgment, would lead to artificially drawing boundaries where there are none and would ultimately result in causing feelings of injustice among the population. This should strictly be avoided in keeping with the '*do no harm*' principle applicable to reparations proceedings.

26. To illustrate the necessity for an inclusive approach, amongst the Main Villages where different crimes were found to be committed, the Trial Judgment refers to Kilo and Bambu. According to the Registry, however, Kilo is composed of Kilo Mission and Kilo Etat,<sup>50</sup> while Bambu is also known as Kilo Moto and is actually a set of at least four sub-villages including Mafuta Mingi, Kamba, Ngoba and Dzerba.<sup>51</sup> If the territorial scope of this case were to be understood as only covering the locations specifically referred to in the Trial Judgment, the victims who suffered from crimes committed for instance in Kilo Etat, Kamba or Kilo Moto would not be eligible for reparations in the present case.

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<sup>49</sup> Based on the information provided by the participating victims: **Kilo** either encompasses, or is surrounded by and not limited to Filo, Emanemata, Kangama, Sau, Mongbedu, Tsubilinda, Shakoko, Agola, Matongo, Penge, Auwopay, Kama, Filoa. **Lipri** either encompasses or is surrounded by, and not limited to, Ngongo, Wikpa, Bukpa, Tsili, Ngototsu, Mopila, Kpaki, Mbidjo, Ngau, Ndre Chkpa, Kpaki/Pkaki, Mpila, Ngoto, Dhekpa, Avetso, Dyalo, Ndjazo, Nyarada. **Nyanganay** either encompasses or is surrounded by, and not limited to, Buengwe, Sindani, Shalo, Dhembu, Lambi, Lambi Kitambala, Lombu, Tonabo. **Kobu** either encompasses or is surrounded by, and not limited to, Buli, Bode, Atute, Camp PM, Gutsi, Tchokali, Wari, Tchudja, Thali, Wadza/Wadda. **Mongbwalu** either encompasses or is surrounded by, and not limited to, Sayo, Nzebi, Cité Gangala, Pluto, Goli, Dala, Bemu, Goli. **Bambu** either encompasses or is surrounded by, and not limited to, Nizi, Petsi, Jitchu, Bhau, Bunguchu, Camp Yalala, Camp Manjanja. **Tsili** either encompasses or is surrounded by, and not limited to, Mali ya Bwana, Ngaru, Djaza.

<sup>50</sup> See Annex II to the "Registry's Observations on Reparations", [No. ICC-01/04-02/06-2475-Conf-AnxII-Red](#), 28 February 2020, p. 8.

<sup>51</sup> *Idem*, p. 13.

27. *Fourth*, while the Chamber referred to a number of locations other than the Main Villages<sup>52</sup> under the ‘negative findings’ in relation to *some crimes*,<sup>53</sup> it is submitted that these locations should not automatically be excluded from the territorial scope of the case given that they are located in or around the Main Villages where the *other crimes* were found to be committed. To illustrate the necessity for an inclusive approach, the Legal Representative points the Chamber to the example of Wadda/Wadza. The Chamber placed this location under the ‘negative findings’ in relation to the crime of attack against civilians<sup>54</sup>, persecution<sup>55</sup> and destruction of property.<sup>56</sup> However, the Chamber found that Wadda/Wadza is in or near the centre of Kobu,<sup>57</sup> and further referred to Kobu-Wadza in relation to the massacre in the banana field.<sup>58</sup> The Chamber further found that in addition to an attack against civilians, persecution and destruction of property,<sup>59</sup> the following crimes were also committed in Kobu: murder and attempted murder, rape, sexual slavery, pillage, forcible transfer, and forced displacement.<sup>60</sup> It would then be unsound to deem victims who suffered from the same crimes in Wadda/Wadza ineligible for reparations in the present case insofar as Wadda/Wadza is a part of Kobu. The same holds true for other locations concerned.

28. In light of all of the above, the Legal Representative supports the Registry’s suggested inclusive approach, namely to apply a certain margin of appreciation, such as the 5 km radius when it comes to the clarification of which settlements are included in the ‘in or around’ and ‘surrounding area’ findings of the Chamber.

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<sup>52</sup> The locations concerned are: Camp P.M., Djuba, Katho, Mpetsi/Petsi, Avetso, Pili, Mindjo, Langa, Dyalo, Wadda/Wadza, Goy, Dhepka, Mbidjo, Thali, Ngabuli, Pluto, Ngongo, Gutsi.

<sup>53</sup> The Chamber noted that: “[N]o findings of conduct which could be considered under Count 3 were made”; “on the basis of the evidence on the record, it did not find any of the charged crimes [under Count 10]”; and “no findings of conduct which could be considered under Count 18 were made” (paras. 905, 989 and 1155).

<sup>54</sup> See the Trial Judgment, *supra* note 3, para. 905.

<sup>55</sup> *Idem*, para. 989.

<sup>56</sup> *Idem*, para. 1155.

<sup>57</sup> *Idem*, footnote 1935.

<sup>58</sup> *Idem*, para. 633.

<sup>59</sup> *Idem*, paras. 910, 990 and 1157.

<sup>60</sup> *Idem*, paras. 873, 940, 954, 1032, 1063 and 1100-1101.

2) *On legal and factual issues related to the temporal scope*

29. The Legal Representative agrees with the Registry's approach that those applications that either refer to well-known events, such as *shika na mukono* or 'pacification meeting', or otherwise satisfy the applicable time frame of February-March 2003 should be deemed as falling within the temporal scope of the conviction. However, as regards the applications referring to either January or April 2003, or dates outside of the suggested 3-day window, the Legal Representative submits that such applications should be assessed while taking into account that, because of the period of time elapsed after the events, the victims concerned may not have been able to precisely recall the dates of the events and/or the information contained in the respective application forms may have been inaccurately recorded. The latter issue will be addressed *infra*. In any event, the assessment of these applications should be deferred until the victim concerned has been able to provide clarifications.

30. Given that a further assessment as to the eligibility of the participating victims is not required at this stage,<sup>61</sup> it is submitted that victims deemed ineligible based on the information contained in their application form at this stage, should nevertheless be afforded the opportunity to clarify relevant facts. Such clarification could be submitted at a later stage, either during a more detailed individual assessment or screening.

3) *On legal and factual issues related to the subject matter jurisdiction*

31. The Registry's preliminary assessment of the eligibility of the participating victims is meant to be based exclusively on the information contained in the application forms. It is submitted that the assessment should be based on a holistic approach requiring a *substantive assessment* of the entire content of the application forms and should thus be focused on the description of the relevant underlying events as well as of the harm suffered, rather than simply referring to the crimes

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<sup>61</sup> See the First Decision on Reparations Process, *supra* note 21, para. 29.

listed in the relevant section of the form. By solely adhering to the section wherein the list of crimes is provided, without having due regard to the information contained in other sections of the application form, the assessment is likely to be incomplete or inaccurate.

32. For instance, although the crimes targeting locations such as entire villages, including persecution, attacking civilians, forcible transfer and forced displacement contain different legal elements, these crimes *de facto* had the same consequences for the victims: victims were forced to leave their homes and villages; they had to flee to the bush and ultimately find a safer place to stay; some were unable to do so and simply had to hide out in the bush in dire circumstances. Thus, given that the victims could hardly understand the distinction between said crimes from a legal perspective, the reference to forced displacement rather than persecution or attacking civilians or forcible transfer should not lead to the victims concerned now finding themselves outside the scope of the case, as long as the narrated events imply that the victim left their location in order to escape violence, and therefore may fall within the scope of other crimes of a similar nature and with similar entailing effects. In this regard, the crime of persecution was found to be committed in all thirteen Main Villages, in contrast to crimes of attacking civilians, forcible transfer and forced displacement, with the same entailing effects for the victims, namely the civilian population was forced to flee.<sup>62</sup>

33. As regards the Registry's enquiry in relation to the crime of persecution,<sup>63</sup> it is submitted that the Chamber held that the commission of any act considered to be a crime against humanity will, in principle, result in a deprivation of fundamental rights of one or more individuals, as envisaged in article 7(2)(h) of the Statute, and meet, in and of itself, the minimum level of severity required. Acts of murder and the

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<sup>62</sup> See the Trial Judgment, *supra* note 3, paras. 999 and 1008.

<sup>63</sup> See Annex 1 to the Registry's Report, *supra* note 26, para. 15.

causing of serious injury as well as rape and sexual slavery, may, for example, constitute underlying acts of persecution.<sup>64</sup>

34. The Registry specifically refers to Nyangaray<sup>65</sup> in relation to which the Chamber found that at the beginning of the Second Operation, the UPC/FPLC took control over Nyangaray and the population fled and hid in the bush, where they stayed in difficult conditions.<sup>66</sup> The Chamber then moved on to establish how other nearby villages were attacked, and subsequently how civilians continued to be chased and captured while hiding in the bush, murdered, raped and sexually enslaved.<sup>67</sup> The Chamber then concluded that through the commission of the these acts, the inhabitants of the affected villages, including Nyangaray, were severely deprived of their fundamental rights, including their right to life, and bodily integrity and that destruction of property, in the situation where the civilian population had to flee, compounded the aforementioned deprivation of fundamental rights.<sup>68</sup>

35. Accordingly, it is submitted that the inhabitants of Nyangaray who at the relevant time suffered from crimes which either led them to flee from the violence or from crimes that were committed while victims were fleeing, including murder, attempted murder, rape, sexual slavery and pillage, should be deemed eligible for reparations.

4) *On other matters relevant to the assessment of the eligibility of the participating victims*

36. As already mentioned *supra*, the Registry's preliminary assessment of the eligibility of the participating victims should be carried out while taking into

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<sup>64</sup> See the Trial Judgment, *supra*, note 3, para. 994.

<sup>65</sup> See Annex 1 to the Registry's Report, *supra* note 26, para. 15.

<sup>66</sup> See the Trial Judgment, *supra* note 3, para. 1000.

<sup>67</sup> *Idem*, paras. 1000-1007.

<sup>68</sup> *Idem*, para. 1008.

account, amongst other things, that the information contained in some application forms may have been inaccurately recorded.

37. The Legal Representative recalls in this regard that there were recurrent issues relating to the recording of information in victim application forms that came to light and were litigated during trial. In particular, several dual status victims explained the circumstances in which their forms were filled in and testified to the fact that they were misunderstood and/or the information they provided was not read back to them for verification by the person filling in the form in the field.<sup>69</sup>

38. Accordingly, it is submitted that those participating victims who may be assessed by the Registry as no longer fitting within the boundaries of the eligibility criteria, should not be found to be ineligible as such, but rather be placed in a separate category, namely one that allows for a further assessment following an opportunity for clarification at another stage of the reparations process, either individual assessment or screening.

**RESPECTFULLY SUBMITTED**



Dmytro Suprun  
Common Legal Representative of the Victims of the Attacks

Dated this 30<sup>th</sup> Day of October 2020

At The Hague, The Netherlands

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<sup>69</sup> See the “Decision on Second Prosecution request for presentation of evidence in rebuttal and related requests” (Trial Chamber VI), [No. ICC-01/04-02/06-2258](#), 16 March 2018, paras. 18 *et seq.*