

**Cour
Pénale
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**International
Criminal
Court**

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Date: 15 January 2021

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
With Confidential Annexes I, II and III
Registry's Second Report on Reparations**

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 submits this report and its related annexes pursuant to the “First Decision on Reparations Process” (“Decision on Reparations Process”) in the case of *The Prosecutor v. Bosco Ntaganda* (“Ntaganda case”). Trial Chamber VI (“Chamber”) ordered the Registry to submit by 30 September 2020, “and thereafter every three months” a report on the following: “(i) its assessment as to which participating victims fall within the scope of the case following the judgment, including the crime(s) reported by them, (ii) a preliminary update on the *Lubanga* victims [...]; (iii) a report on the mapping and any identification of potential new beneficiaries, including the crime(s) reported by them; and (iv) a preliminary report on the sample.”¹
2. On 15 December 2020, the Chamber issued its “Decision on issues raised in the Registry’s First Report on Reparations” (“Decision on Guidance”), instructing the Registry *inter alia* to i) “conclude by 15 January 2021, at the latest, the assessment of how many victims authorised to participate in the proceedings may potentially be eligible for reparations [...]”; and ii) “conclude, by 15 January 2021, at the latest, the assessment of how many victims potentially eligible for reparations in the *Lubanga* case may also potentially be eligible for reparations in the *Ntaganda* case [...]”²
3. In accordance with the Decision on Reparations Process and the Decision on Guidance, the Registry has structured its second report, presented as Annex I, in the following manner:

¹ Trial Chamber VI, “First Decision on Reparations Process”, 26 June 2020, ICC-01/04-02/06-2547, paras 43-44. The Registry notes that the Chamber also specified that the reports “shall be notified to the LRVs, Defence and TFV”, *id.*, para. 44.

² Trial Chamber VI, “Decision on issues raised in the Registry’s First Report on Reparations”, 15 December 2020, ICC-01/04-02/06-2630, p. 27, referring to the case of *The Prosecutor v. Thomas Lubanga Dyilo*, ICC-01/04-01/06 (hereinafter: “*Lubanga* case”).

- (i) finalised assessment on the number of participating victims that may potentially be eligible for reparations given the scope of the Judgment;
 - (ii) updated report on the sample of potential beneficiaries of reparations as per paragraph 38 of the Decision on Reparations Process, containing also its finalised assessment of the number of victims potentially eligible for reparations in the *Lubanga* case that may also potentially be eligible in the *Ntaganda* case as of 15 January 2021; and
 - (iii) updated report on the mapping of potential new beneficiaries of reparations.
4. In Annex II, the Registry submits a table with the results of its eligibility assessment exercise regarding participating victims' potential eligibility for reparations in light of the scope of the Judgment.³ The Registry also attaches an updated security and health assessment from the Registry's Country Analysis Unit as Annex III to the present filing.

II. Procedural History

- 5. On 8 July 2019, the Chamber issued its Judgment in the *Ntaganda* case, convicting Mr Ntaganda of war crimes and crimes against humanity.⁴
- 6. On 25 July 2019, the Single Judge issued an Order for preliminary information on reparations, requesting the Registry to provide, *inter alia*, information on, and any proposed methodology for, the identification of victims not yet participating ("25 July 2019 Order").⁵
- 7. On 5 September 2019, the Registry submitted its preliminary observations on reparations pursuant to the 25 July 2019 Order, setting out *inter alia* the

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

⁴ *Id.*, para. 1199.

⁵ Trial Chamber VI, "Order for preliminary information on reparations", 25 July 2019, ICC-01/04-02/06-2366, para. 4.

Registry's proposal for the identification and registration of potential beneficiaries in the *Ntaganda* case ("Registry's Preliminary Observations").⁶

8. On 3 October 2019, the Prosecution,⁷ Defence,⁸ Legal Representatives of Victims⁹ ("LRVs") and Trust Fund for Victims¹⁰ ("TFV") each filed their responses to the Registry's Preliminary Observations.
9. On 5 December 2019, the Single Judge issued the Order setting deadlines in relation to reparations ("5 December 2019 Order").¹¹
10. On 28 February 2020, the Registry,¹² Defence,¹³ Prosecution,¹⁴ LRVs¹⁵ and TFV¹⁶ each filed their observations on reparations in the *Ntaganda* case.
11. On 14 May 2020, the Chamber, in its Decision appointing experts on reparations ("Appointment Decision"),¹⁷ appointed four experts ("Appointed Experts") and ordered them to submit their report to the Chamber, notifying "the parties, the TFV, the VPRS [Victims Participation and Reparations Section], and the Prosecution" by 28 August 2020.¹⁸

⁶ 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.

⁷ 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 Defence, "Response on behalf of Mr. Ntaganda to Registry's preliminary observations on reparations", 3 October 2019, ICC-01/04-02/06-2431 ("Defence Request").

⁹ 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.

¹⁰ 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.

¹¹ Trial Chamber VI, "Order setting deadlines in relation to reparations", 5 December 2019, ICC-01/04-02/06-2447, para. 9(a).

¹² Registry, "Registry Observations on Reparations", 28 February 2020, ICC-01/04-02/06-2475.

¹³ Defence, "Defence Submissions on Reparations", 28 February 2020 (a public redacted version was filed on 6 March 2020), ICC-01/04-02/06-2479-Red.

¹⁴ Office of the Prosecutor, "Prosecution's Observations on Reparations", 28 February 2020, ICC-01/04-02/06-2478.

¹⁵ LRV 1, "Submissions on Reparations on behalf of the Former Child Soldiers", 28 February 2020, ICC-01/04-02/06-2474; LRV2, "Submissions by the Common Legal Representative of the Victims of the Attacks on Reparations", 28 February 2020, ICC-01/04-02/06-2477-Red.

¹⁶ TFV, "Trust Fund for Victims' observations relevant to reparations", 28 February 2020, ICC-01/04-02/06-2476.

¹⁷ Trial Chamber VI, "Decision appointing experts on reparations", 14 May 2020 (a public redacted version was filed on the same day), ICC-01/04-02/06-2528-Red.

¹⁸ Appointment Decision, para. 18 and page 10.

12. On 26 June 2020, the Chamber issued the Decision on Reparations Process.¹⁹
13. On 20 July 2020, the Chamber issued the Decision on request for an extension of time for filing of experts' report, extending the Appointed Experts' deadline to 30 October 2020.²⁰
14. On 11 September 2020, the Defence filed its request seeking clarification and/or further guidance from the Chamber on aspects of the Decision on Reparations Process ("Defence Request").²¹ The Defence also requested a delay to respond to the Registry's forthcoming First Report on Reparations.
15. On 24 September 2020, the LRVs jointly responded to the Defence Request.²²
16. On 29 September 2020, the Chamber issued its Decision rejecting the Defence Request but granting the Defence and the LRVs until 30 October 2020 to respond to the Registry's First Report on Reparations.²³
17. On 30 September 2020, the Registry submitted its First Report on Reparations, submitting a number of legal and factual issues relevant to the VPRS's eligibility assessment for the Chamber's guidance, alongside the VPRS methodology for the sampling exercise of potential beneficiaries of reparations.²⁴

¹⁹ See *supra*, footnote 1.

²⁰ Trial Chamber VI, "Decision on Request for an Extension of Time for Filing of Experts' Report", 20 July 2020, ICC-01/-4-02/06-2553.

²¹ Defence, "Defence request seeking clarifications and/or further guidance following the "First Decision on Reparations Process" and Request seeking an extension of time to submit observations on the Registry 30 September Report", 11 September 2020, ICC-01/04-02/06-2578.

²² Legal Representatives of Victims, Joint Response of the Common Legal Representatives of Victims to the "Defence request seeking clarifications and/or further guidance following the 'First Decision on Reparations Process' and Request seeking an extension of time to submit observations on the Registry 30 September Report", 24 September 2020, ICC-01/04-02/06-2600.

²³ Trial Chamber VI, "Decision on the Defence request seeking clarifications and/or further guidance following the 'First Decision on Reparations Process' and Request seeking an extension of time to submit observations on the Registry 30 September Report", 29 September 2020, ICC-01/04-02/06-2601.

²⁴ Registry, "First Report on Reparations", dated 30 September 2020 and notified on 1st October 2020 (a public redacted version was notified on 18 November 2020), ICC-01/04-02/06-2602.

18. On 30 October 2020, the LRVs²⁵ and the Defence²⁶ submitted their observations to the First Report on Reparations.
19. On 30 October 2020, the Registry transmitted the reports²⁷ of the Appointed Experts.²⁸
20. On 9 November 2020, the Common Legal Representative of the Victims of the Attacks (“CLR2”) submitted a request (“Request”) asking the Single Judge to order the Registry to *inter alia* obtain the official census of the persons residing in the affected areas at the time of the events.²⁹
21. On 18 November 2020, as instructed by the Chamber,³⁰ the Registry submitted its observations on the Request.³¹
22. On 20 November 2020, the Defence submitted its response to the Request, asking that it be denied.³²
23. On 15 December 2020, the Chamber issued its Decision on Guidance.³³
24. On 18 December, the Chamber issued its decision denying the Request.³⁴

²⁵ CLR 1, “Observations of the Common Legal Representative of the Former Child Soldiers on the ‘Registry’s First Report on Reparations’”, 30 October 2020, ICC-01/04-02/06-2620-Red; CLR 2, “Observations of the Common Legal Representative of the Victims of the Attacks on the ‘Registry’s First Report on Reparations’”, 30 October 2020, ICC-01/04-02/06-2621.

²⁶ Defence, “Defence Observations on the Registry First Report on Reparations”, 30 October 2020, ICC-01/04-02/06-2622.

²⁷ Registry, “Registry Transmission of Appointed Experts’ Reports”, ICC-01/04-02/06-2623 (with two Annexes, Confidential *Ex Parte*, available only to the Registry, public redacted versions notified on 3 November 2020, ICC-01/04-02/06-2623-Anx1-Red2, submitted by Dr Karine Bonneau, Mr Eric Mongo Malolo, and Dr Norbert Wühler and ICC-01/04-02/06-2623-Anx2-Red2, submitted by Dr Sunneva Gilmore).

²⁸ Registry, “Registry Transmission of Appointed Experts’ Reports”, submitted on 30 October 2020 and notified on 2 November 2020, ICC-01/04-02/06-2623. The two Expert Reports were filed in confidential *ex parte*, confidential redacted and public redacted versions.

²⁹ CLR2, “Request of the Common Legal Representative of the Victims of the Attacks for an Order to the Registry to collect information pertaining to reparations”, 9 November 2020, ICC-01/04-02/06-2624.

³⁰ Email from Trial Chamber VI to the Registry on 10 November 2020, at 09:29 hrs.

³¹ Registry’s Observations on the “Request of the Common Legal Representatives of the Victims of the Attacks for an Order to the Registry to collect information pertaining to reparations” of 9 November 2020, ICC-01/04-02/06-2624, 18 November 2020, ICC-01/04-02/06-2627.

³² Defence, “Defence Response to “Request of the Common Legal Representatives of the Victims of the Attacks for an Order to the Registry to collect information pertaining to reparations”, 9 November 2020, ICC-01/04-02/06-2624, 20 November 2020, ICC-01/04-02/06-2628.

³³ See *supra*, footnote 2..

³⁴ Trial Chamber VI, “Decision on the Request of the Common Legal Representative of the Victims of the Attacks for an Order to the Registry to collect information pertaining to reparations”, 18 December 2019, ICC-01/-04-02/06-2631.

III. Classification

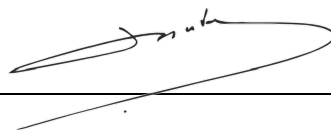
25. Pursuant to Regulation 23 *bis*(1) of the Regulations of the Court, the annexes to the present submission are classified confidential as they contain confidential information relating to victims in the *Lubanga* and *Ntaganda* cases, as well as details on the Registry's *modus operandi*. The Registry will file a public redacted version of its report (Annex I) shortly.

IV. Applicable Law

26. The present transmission is submitted in accordance with paragraph 44 of the Decision on Reparations Process.

V. Submission

27. The Registry hereby submits its Second Report on Reparations as Annex I, together with (i) a table with the results of its eligibility assessment exercise regarding participating victims' potential eligibility for reparations as Annex II; and (ii) an updated security and health assessment filed as Annex III to the present document, for the Chamber's consideration.



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

Dated this 15 January 2021

At The Hague, the Netherlands.