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No. ICC-01/04-02/06 A4 A5

Date: 2 July 2021

THE APPEALS CHAMBER

Before: Judge Marc Perrin de Brichambaut, Presiding Judge
Judge Piotr Hofmański
Judge Luz del Carmen Ibáñez Carranza
Judge Solomy Balungi Bossa
Judge Gocha Lordkipanidze

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

IN THE CASE OF THE PROSECUTOR v. BOSCO NTAGANDA

Public

Decision on the Defence request for suspensive effect

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

Legal Representatives of Victims

Ms Sarah Pellet
Ms Anna Bonini

Mr Dmytro Suprun
Ms Anne Grabowski

Counsel for the Defence

Mr Stéphane Bourgon
Ms Kate Gibson

Trust Fund for Victims

Mr Pieter de Baan

REGISTRY

Registrar

Mr Peter Lewis

Victims Participation and Reparations

Section

Mr Philipp Ambach

The Appeals Chamber of the International Criminal Court,

In the appeals of the common legal representative of the victims of the attacks and of Mr Bosco Ntaganda against the decision of Trial Chamber VI entitled “Reparations Order” of 8 March 2021 (ICC-01/04-02/06-2659),

Issues the following

DECISION

The Defence’s request for suspensive effect of the “Reparations Order” is rejected.

REASONS

I. PROCEDURAL HISTORY

1. On 8 March 2021, Trial Chamber VI issued its decision entitled “Reparations Order”¹ (the “Impugned Decision”).
2. On 8 April 2021, the common legal representative of the victims of the attacks and the Defence filed their respective notices of appeal against the Impugned Decision.²
3. On 7 June 2021, the common legal representative of the victims of the attacks and the Defence respectively filed their appeal briefs against the Impugned Decision.³ In his appeal brief, Mr Ntaganda has requested the Appeals Chamber, *inter alia*, to order ‘the immediate suspension of the Impugned Decision’⁴ (the “Defence Request for Suspensive Effect”).
4. On 11 June 2021, the Appeals Chamber issued an order inviting the Trust Fund for Victims (the “TFV”), pursuant to rule 103(1) of the Rules of Procedure and

¹ [Reparations Order](#), ICC-01/04-02/06-2659.

² [Notice of Appeal of the Common Legal Representative of the Victims of the Attacks against the Reparations Order](#), ICC-01/04-02/06-2668; [Defence Notice of Appeal against the Reparations Order](#), ICC-01/04-02/06-2659, ICC-01/04-02/06-2669.

³ [Appeal Brief of the Common Legal Representative of the Victims of the Attacks against the Reparations Order](#), ICC-01/04-02/06-2674; [Defence Appellant Brief against the 8 March Reparations Order](#), ICC-01/04-02/06-2675 (“Mr Ntaganda’s Appeal Brief”).

⁴ [Mr Ntaganda’s Appeal Brief](#), para. 273. *See also* paras 260-272.

Evidence (the “Rules”), to submit observations on the Defence Request for Suspensive Effect; and set a time limit for the Defence and the legal representatives of victims, pursuant to rule 103(2), to respond to those observations and for the latter also to respond to the Defence Request for Suspensive Effect.⁵

5. On 22 June 2021, the TFV submitted its “Observations on the Defence Request for Suspensive Effect and Request under rule 103 of the Rules of Procedure and Evidence”⁶ (“TFV Observations”).

6. On 25 June 2021, the Defence submitted its “Response on behalf of Mr Ntaganda to the Trust Fund for Victims’ Observations and Request”⁷ (the “Defence Response”). On the same day, the common legal representative of former child soldiers (“Victims Group 1”) submitted its “Response of the Common Legal Representative of the Former Child Soldiers to Mr Ntaganda Request for suspensive effect of the Reparations Order”⁸ (“Victims Group 1 Response”), and the common legal representative of the victims of the attacks (“Victims Group 2”) submitted its “Response of the Common Legal Representative of the Victims of the Attacks to the Defence Request for Suspensive Effect of the Reparations Order, to the TFV’s Observations on the Defence Request for Suspensive Effect, and to the TFV’s Request under rule 103 of the Rules”⁹ (“Victims Group 2 Response”).

II. PRELIMINARY MATTERS

7. The Appeals Chamber notes at the outset that the TFV, Victims Group 1 and Victims Group 2, between them, raise two preliminary issues: the applicability of suspensive effect to reparation orders and the timeliness of the Request for Suspensive Effect.

8. First, the TFV poses the question of whether article 82(3) of the Statute is applicable to appeals under article 82(4) of the Statute.¹⁰ The Appeals Chamber recalls

⁵ [Order setting a time limit for responses to the request for suspensive effect and invitation to the Trust Fund for Victims to submit observations on that request](#), ICC-01/04-02/06-2678.

⁶ [ICC-01/04-02/06-2679](#).

⁷ [ICC-01/04-02/06-2686](#).

⁸ [ICC-01/04-02/06-2685](#).

⁹ [ICC-01/04-02/06-2684-Red](#).

¹⁰ [TFV Observations](#), para. 12.

that it has previously found that article 82(3) of the Statute and rule 156(5) of the Rules govern requests for suspensive effect of reparation orders that are impugned on appeal.¹¹ The Appeals Chamber sees no reason to depart from this jurisprudence.

9. Second, the TFV, Victims Group 1 and Victims Group 2 note that the Defence did not make a request for suspensive effect when filing its notice of appeal, but only made this request in its appeal brief.¹² They refer to rule 156(5) of the Rules, which reads:

When filing the appeal, the party appealing may request that the appeal have suspensive effect in accordance with article 82, paragraph 3.

10. Although this rule does not expressly apply to appeals against reparation orders, the Appeals Chamber has previously found, as indicated above, that it has the power to grant a request for suspensive effect in such appeals under article 82(3) of the Statute and rule 156(5) of the Rules.¹³ This rule's requirement of making a request for suspensive effect "[w]hen filing the appeal" is thus applicable to appeals against reparation orders.

11. The TFV, Victims Group 1 and Victims Group 2 argue that where the notice of appeal is filed separately from the appeal brief, "the appeal" for the purposes of this rule is the notice, rather than the appeal brief.¹⁴

12. Regarding the requirement of inclusion of requests for suspensive effect in notices of appeal, rather than appeal briefs, the Appeals Chamber has previously held:

The Appeals Chamber notes that rule 156 (5) of the Rules of Procedure and Evidence provides that "*[w]hen filing the appeal*, the party appealing may request that the appeal have suspensive effect in accordance with article 82, paragraph 3" (emphasis added). The present appeal is brought under article 82 (1) (a) of the Statute against a decision on admissibility. For such appeals, rule 154 (1) of the Rules of Procedure and Evidence provides that the appellant must file an appeal

¹¹ *The Prosecutor v. Thomas Lubanga Dyilo*, [Decision on the admissibility of the appeals against Trial Chamber I's "Decision establishing the principles and procedures to be applied to reparations" and directions on the further conduct of proceedings](#), 14 December 2012, ICC-01/04-01/06-2953 (A1-A3) (hereinafter: "*Lubanga A1-A3 Judgment*"), para. 80.

¹² [TFV Observations](#), para. 13; [Victims Group 1 Response](#), para. 14; [Victims Group 2 Response](#), paras 20-22.

¹³ [Lubanga A1-A3 Judgment](#), para. 80.

¹⁴ [TFV Observations](#), para. 13; [Victims Group 1 Response](#), para. 14; [Victims Group 2 Response](#), paras 20-22.

within five days of notification of the decision appealed. Thus, for appeals against a decision on admissibility, the “appeal” in terms of rule 156 (5) is the document filed pursuant to rule 154 of the Rules of Procedure and Evidence. Any request for suspensive effect must be made in the appeal, which will generally be the first filing of the appellant before the Appeals Chamber. This requirement is logical because of the urgent nature of requests for suspensive effect, and because of the need for clarity as early as possible as to whether a request for suspensive effect is made.¹⁵

13. Although it was made in another context, the Appeals Chamber finds this ruling to be of guidance. In the present context, appeals against reparation orders are regulated by rule 150 of the Rules, which is entitled “Appeal”. Rule 150(1) provides, in relevant part, that “an appeal against [...] a reparation order under article 75 may be filed not later than 30 days from the date on which the party filing the appeal is notified of [...] the reparation order”. Therefore, for appeals against a reparation order, the “appeal” in terms of rule 156(5) is the document filed pursuant to rule 150(1) of the Rules. The Appeals Chamber further notes that regulation 57 of the Regulations of the Court (the “Regulations”), concerning the filing of a notice of appeal in appeals against, *inter alia*, reparation orders, is entitled “Appeal” and expressly regulates notices of appeal “[f]or the purposes of rule 150”. A separate regulation sets out requirements for the filing of an appeal brief and it is entitled “Appeal brief” (regulation 58 of the Regulations). In light of these provisions it is the notice of appeal, rather than the appeal brief, that constitutes “the appeal” for the purposes of rule 156(5) of the Rules.

14. The Appeals Chamber accordingly finds that a request for suspensive effect of a reparation order must be made in the notice of appeal. However, given that this issue has not previously arisen in the context of appeals against reparation orders, the Appeals Chamber will exceptionally consider the merits of the Defence Request for Suspensive Effect.

¹⁵ Appeals Chamber, *The Prosecutor v. Jean-Pierre Bemba Gombo*, [Decision on the Request of Mr Bemba to Give Suspensive Effect to the Appeal Against the “Decision on the Admissibility and Abuse of Process Challenges”](#), 9 July 2010, ICC-01/05-01/08-817 (OA3), para. 8 (footnote omitted).

III. MERITS

A. Submissions of the parties and the TFV

15. The Defence submits that considering “the nature of the errors alleged to have been committed by Trial Chamber VI when issuing the 8 March Reparations Order, which impact all facets of the Impugned Decision, the possibility that the Impugned Decision will be reversed or amended is real”.¹⁶ The Defence adds that “[t]he likelihood of the Impugned Decision being reversed or amended is strengthened by the Grounds of appeal included in the LRV2 Notice of Appeal, which raise similar arguments and concerns regarding the manner in which the Impugned Decision was adopted and the outcome of the 8 March Reparations Order”.¹⁷ The Defence sets out a variety of possible outcomes in this appeal, including a finding that the Defence should become involved in determining the eligibility of potential beneficiaries of reparations; a lesser number of potential beneficiaries being identified; a lesser amount being awarded in reparations; and the implementation of the reparations process having to be revisited.¹⁸ The Defence thus alleges that “implementation of the Impugned Decision at this stage could result in considerable time being spent and resources being allocated by the TFV, as well as raised expectations of victims”.¹⁹ In its view, although “implementation of the reparations process could be delayed as a result of the Appeals Chamber granting suspensive effect pursuant to article 82(3)”, implementation of an amended reparations order, once it is final and the errors have been rectified, will be “swifter and more expeditious”.²⁰

16. The TFV submits that a request for suspensive effect “may not be the correct means of bringing this matter forward” and the Defence “may need to address the Trial Chamber with [its] concerns”.²¹ The TFV argues that, given Mr Ntaganda’s indigence and the length of his sentence, it is “highly unlikely” that the Impugned Decision will be enforced in the near future.²² The TFV avers that “none of the actions it is currently taking or which it is taking pending a final judgment on this appeal creates either an

¹⁶ [Mr Ntaganda’s Appeal Brief](#), para. 261.

¹⁷ [Mr Ntaganda’s Appeal Brief](#), para. 263.

¹⁸ [Mr Ntaganda’s Appeal Brief](#), para. 267.

¹⁹ [Mr Ntaganda’s Appeal Brief](#), para. 268.

²⁰ [Mr Ntaganda’s Appeal Brief](#), para. 270.

²¹ [TFV Observations](#), para. 19.

²² [TFV Observations](#), para. 19.

irreversible situation or could defeat the purpose of the appeal”.²³ The TFV submits that (i) if the amount of the reparations awards changes, the TFV’s Board of Directors could make a determination to complement the award with its own funds under regulation 56 of the Regulations of the Trust Fund for Victims (the “TFV Regulations”);²⁴ (ii) if any category of harm is excluded from the scope of the reparations order, the TFV will be able to adapt its implementation plan in a timely fashion;²⁵ and (iii) if the Defence were to obtain an active role in the verification process of victims’ eligibility for reparations, or “should the standard of proof be somehow adapted”, “the relevant processes can be retroactively amended”.²⁶ The TFV avers that if any individual receives reparations for the harm he or she suffered but it turns out that such harm or the crime that caused it does not fall within the scope of Mr Ntaganda’s liability, the TFV is prepared to “step in with its assistance programme”.²⁷ The TFV submits that it “plans to use two of its assistance projects to bring reparations to the most vulnerable victims without delay, including victims of rape or sexual slavery and children born out of rape or sexual slavery” and that the projects it needs newly to devise or procure would not commence before the judgment in this appeal is issued.²⁸

17. In its response to the TFV Observations, the Defence clarifies that the purpose of the Defence Request for Suspensive Effect is “to ensure that the reparations process is implemented on a sound legal basis” and “to avoid having to annul measures taken for the purpose of awarding reparations, which no longer match the new or amended reparations order resulting from the judgment on the appeals lodged by the LRV2 and the Defence”.²⁹ The Defence contends that the TFV errs by asserting that if the Appeals Chamber were to lower the sum of liability imposed on Mr Ntaganda, the TFV’s Board of Directors could simply take this into account in its fund management and investment decisions.³⁰ According to the Defence, “[i]n taking such a short-sighted approach, the TFV ignores the importance of the judicial decision regarding the liability of the

²³ [TFV Observations](#), para. 25.

²⁴ [TFV Observations](#), para. 26.

²⁵ [TFV Observations](#), para. 27.

²⁶ [TFV Observations](#), para. 28.

²⁷ [TFV Observations](#), para. 29.

²⁸ [TFV Observations](#), para. 30.

²⁹ [Defence Response](#), para. 26.

³⁰ [Defence Response](#), para. 31.

convicted person” for reparations.³¹ The Defence argues that, if Mr Ntaganda’s liability were lowered as a result of the present appeals, “the TFV’s actions [...] would likely have to be addressed *de novo*, thereby wasting substantial amounts of money”.³² The Defence submits that the TFV cannot simply retroactively amend the relevant processes if the Defence obtains an active role in the verification process or if the standard of proof is adapted, as this would violate the “do no harm” principle and waste time, money, and resources.³³ The Defence argues that the TFV’s proposed solution to rely on assistance projects in certain cases “is likely to create confusion amongst the victims as regard to the difference between a judicial reparation program and an assistance project”.³⁴

18. Victims Group 1 submit that none of the grounds raised by the Defence and concerning the former child soldiers are such as to lead to an irreversible situation that could not be corrected or consequences that would be very difficult to correct, or that the purpose of the appeal would be defeated if suspensive effect is not granted.³⁵ They also submit that granting such a request would be prejudicial to the victims’ fair trial rights, especially their right to the expeditiousness of the reparation proceedings,³⁶ and that they “have never received any type of assistance, hence the urgency to finally address their situation”.³⁷ Victims Group 1 also argue that since the parties will have to submit their observations after the TFV has formulated its proposals regarding reparations measures, there will be “ample time for the Defence Appeal to be adjudicated”.³⁸

19. Victims Group 2 submit that “no irreversible situation would be created by the implementation of the preliminary steps of the Reparation Order”,³⁹ since “[t]hese preliminary steps are of a general nature and are not prejudicial to the pending appeals”⁴⁰ and that “it is unlikely that the preliminary phase of the implementation of

³¹ [Defence Response](#), para. 32.

³² [Defence Response](#), para. 33.

³³ [Defence Response](#), paras 36-37.

³⁴ [Defence Response](#), paras 43-44.

³⁵ [Victims Group 1 Response](#), para. 15.

³⁶ [Victims Group 1 Response](#), paras 15-18.

³⁷ [Victims Group 1 Response](#), para. 20.

³⁸ [Victims Group 1 Response](#), para. 19.

³⁹ [Victims Group 2 Response](#), para. 24.

⁴⁰ [Victims Group 2 Response](#), para. 30.

the Reparations Order will be finalised before the Appeals Chamber’s determination on the appeals”.⁴¹ Furthermore, Victims Group 2 submit that the Defence fails to demonstrate that the criteria for granting suspensive effect are met,⁴² “in particular that the implementation of the Reparations Order would create an irreversible situation that could not be corrected, or could potentially defeat the purpose of the appeal”.⁴³ Regarding the TFV’s arguments about the indigence of Mr Ntaganda and the term of his imprisonment, Victims Group 2 contend “the indigence of a convicted person and the length of the term of imprisonment have never been [...] factors of such relevance as to undermine the implementation of a reparations order through the TFV”.⁴⁴

B. Determination of the Appeals Chamber

20. The Appeals Chamber recalls that the determination of whether suspensive effect should be ordered is left to its discretion.⁴⁵ Indeed, the Appeals Chamber has previously held that

The decision on such a request is within the discretion of the Appeals Chamber. Therefore, when faced with a request for suspensive effect, the Appeals Chamber will consider the specific circumstances of the case and the factors it considers relevant for the exercise of its discretion under the circumstances.⁴⁶

21. The Appeals Chamber has summarised the circumstances in which it has exercised its discretion to grant suspensive effect as follows:

In past decisions, the Appeals Chamber, when deciding on requests for suspensive effect, has considered whether the implementation of the decision under appeal (i) ‘would create an irreversible situation that could not be corrected, even if the Appeals Chamber eventually were to find in favour of the appellant’, (ii) would lead to consequences that ‘would be very difficult to correct and may be irreversible’, or (iii) ‘could potentially defeat the purpose of the appeal’.⁴⁷

⁴¹ [Victims Group 2 Response](#), para. 30.

⁴² [Victims Group 2 Response](#), paras 33-37.

⁴³ [Victims Group 2 Response](#), para. 36.

⁴⁴ [Victims Group 2 Response](#), para. 40, referring to TFV’s Observations, para. 19.

⁴⁵ See *The Prosecutor v. Thomas Lubanga Dyilo*, [Decision on the request of Mr. Thomas Lubanga Dyilo for suspensive effect of his appeal against the oral decision of Trial Chamber I of 18 January 2008](#), 22 April 2008, ICC-01/04-01/06-1290 (OA 11), para. 7.

⁴⁶ See *The Prosecutor v. Jean-Pierre Bemba Gombo*, [Decision on the Request of the Prosecutor for Suspensive Effect](#), 3 September 2009, ICC-01/05-01/08-499 (OA 2), para. 11.

⁴⁷ See *The Prosecutor v. Jean-Pierre Bemba Gombo*, [Decision on the Request of Mr Bemba to Give Suspensive Effect to the Appeal Against the “Decision on the Admissibility and Abuse of Process Challenges”](#), 9 July 2010, ICC-01/05-01/08-817 (OA 3), para. 11 (footnotes omitted). See also *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, [Decision on Mr William Samoei Ruto’s](#)

In the context of the present appeals, the Appeals Chamber adopts these criteria and considers that they are of a demanding nature and should be rigorously applied in view of the overriding importance of delivering reparations to victims following the Trial Chamber’s decision on conviction and in circumstances in which that decision is final.⁴⁸

22. For the reasons that follow, the Appeals Chamber is not persuaded that “the immediate suspension of the Impugned Decision”, sought by the Defence,⁴⁹ is warranted.

23. Having considered the TFV’s Observations and the parties’ responses thereto, the Appeals Chamber finds that it has not been demonstrated that unless the Impugned Decision is suspended, its implementation would create an irreversible situation, lead to consequences that would be very difficult to correct, or potentially defeat the purpose of the appeal of either the Defence or Victims Group 2. In particular, the Appeals Chamber notes Victims Group 2’s submission that, although the TFV has recently started a consultation process with stakeholders, many preliminary steps are yet to be taken.⁵⁰ Victims Group 1 also refers to “the extremely lengthy preparation stage” of the reparations process rendering it “extremely unlikely” that the appeals will not have been determined prior to the TFV proceeding to the implementation stage of these proceedings.⁵¹ The Appeals Chamber further notes the TFV’s submissions that none of its actions pending judgment in the present appeals would lead to an irreversible

[request for suspensive effect](#), 17 June 2014, ICC-01/09-01/11-1370 (OA7 OA8), para. 6; *Situation on registered vessels of the Union of the Comoros, The Hellenic Republic and the Kingdom of Cambodia*, [Decision on suspensive effect](#), 6 August 2015, ICC-01/13-43 (OA), para. 7; *The Prosecutor v. Omar Hassan Al-Bashir*, [Decision on Jordan’s request for suspensive effect of its appeal against the decision on the non-compliance by Jordan with the request for the arrest and surrender of Mr Omar Al-Bashir](#), 6 April 2018, ICC-02/05-01/09-333 (OA2), para. 8; *Situation on registered vessels of the Union of the Comoros, The Hellenic Republic and the Kingdom of Cambodia*, [Decision on the Prosecutor’s request for suspensive effect](#), 31 January 2019, ICC-01/13-81 (OA2), para. 10; *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman*, [Decision on request for suspensive effect](#), 25 August 2020, ICC-02/05-01/20-134 (OA), para. 6.

⁴⁸ The Appeals Chamber notes that one of the reasons that suspensive effect was granted in *Lubanga* was that Mr Lubanga had also appealed the conviction decision and, therefore, “an order for reparations could not, in any event, have been executed, unless and until Mr Lubanga’s conviction had been confirmed by the Appeals Chamber”. The Appeals Chamber noted that “[g]iven that an order for reparations depends upon there having been a conviction, if the decision on conviction cannot be executed unless and until it is confirmed on appeal, it follows that an order for reparations also cannot be executed until that time”. See [Lubanga A1-A3 Judgment](#), paras 84-86 (footnotes omitted).

⁴⁹ [Mr Ntaganda’s Appeal Brief](#), para. 273. See also paras 260-272.

⁵⁰ [Victims Group 2 Response](#), para. 2. See also paras 27-30.

⁵¹ [Victims Group 1 Response](#), para. 18.

situation,⁵² and that the projects that it needs newly to devise or procure would not commence before the Appeals Chamber issues its judgment.⁵³

24. The Appeals Chamber further observes that the TFV expresses readiness to take additional steps should the implementation of any of its projects lead to a situation that would require correction as a result of the judgment on the present appeals.⁵⁴ In that context, the Appeals Chamber notes that, regarding the Defence’s argument that possible outcomes from its appeal include requirements to, *inter alia*, have application forms transmitted to the Defence, and for the Defence to become involved in determining the eligibility of potential beneficiaries,⁵⁵ the TFV submits that even if the Defence were to obtain an active role in the verification process, “the relevant processes can be retroactively amended”.⁵⁶ Furthermore, the TFV submits that, following the “do no harm” principle, it is prepared to “step in with its assistance programme that addresses harm suffered based on crimes falling within the jurisdiction of the Court”, and that, “even if not attributable to Mr Ntaganda, the victim’s harm based on the same incident, which amounts to a crime falling under the jurisdiction of the Court, would be recognised and the harm would be repaired nonetheless”.⁵⁷ The Appeals Chamber also notes that the TFV will communicate that appeals in this case are pending, and that changes to its plan may therefore be required, as a part of its outreach strategy, thereby assisting in managing the expectations of victims in the period prior to the determination of these appeals.⁵⁸ The Appeals Chamber observes that the TFV’s readiness to adopt such measures lends support to the view that the situation which

⁵² [TFV Observations](#), para. 25.

⁵³ [TFV Observations](#), para. 30.

⁵⁴ In particular, the TFV submits that (i) if the amount of the reparations award changes, the TFV’s Board of Directors could make a determination to complement the award under regulation 56 of the TFV Regulations; (ii) if certain categories of harm are excluded from the reparations order, the TFV will be able to adapt its implementation plan in a timely fashion; and (iii) if the Defence were to “obtain an active role in the verification process of whether victims of the crimes committed by Mr Ntaganda are beneficiaries of reparation measures, or should the standard of proof be somehow adapted, in particular for certain categories of victims, the relevant processes can be retroactively amended”. [TFV Observations](#), paras 26-28.

⁵⁵ [Mr Ntaganda’s Appeal Brief](#), para. 267.

⁵⁶ [TFV Observations](#), para. 28.

⁵⁷ [TFV Observations](#), para. 29.

⁵⁸ [TFV Observations](#), para. 30.

these measures seek to address cannot be characterised as irreversible, hard to correct or defeating the purpose of the Defence's appeal.⁵⁹

25. The Appeals Chamber is also mindful of the context of these reparations proceedings, which are taking place nearly two decades after the commission of the crimes of which Mr Ntaganda has been convicted. It is of the view that the need to repair the harm suffered by the victims of these crimes as expeditiously as possible is a relevant consideration in determining whether the Impugned Decision must be suspended. In this regard, the Appeals Chamber notes Victims Group 1's submission that they have never received any type of assistance⁶⁰ and Victims Group 2's argument that suspending the Impugned Decision would delay the reparations proceedings and ultimately adversely affect the victims.⁶¹ In this context, the Appeals Chamber stresses that, in the interest of the victims, efforts to advance the reparations process should continue throughout the period in which it is examining the appeal briefs, taking into account the possibility that elements of this process may have to be revisited by the Trial Chamber or the TFV once the Appeals Chamber has made its determination.

26. In light of the foregoing, the Appeals Chamber is not persuaded that there is a need to halt the entire reparations process at this moment in time on the basis that failing to suspend the Impugned Decision would lead to an irreversible situation or create consequences that would be difficult to correct, or defeat the purpose of the appeals at hand. The Appeals Chamber therefore rejects the Defence's request.

27. Finally, the Appeals Chamber notes that the TFV has requested leave to make further submissions on the merits of the appeals, pursuant to rule 103 of the Rules.⁶² The Appeals Chamber will rule on this request and any other necessary procedural issues in due course.

⁵⁹ See [TFV Observations](#), para. 31.

⁶⁰ [Victims Group 1 Response](#), para. 20.

⁶¹ [Victims Group 2 Response](#), para. 3.

⁶² See [TFV Observations](#), paras 32-34.

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

A handwritten signature in black ink, consisting of several stylized, connected letters and a final horizontal stroke.

Judge Marc Perrin de Brichambaut
Presiding

Dated this 2nd day of July 2021

At The Hague, The Netherlands