

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

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

Date: **16 July 2021**

**TRIAL CHAMBER II**

**Before:** Judge Chang-ho Chung, Presiding Judge  
Judge Péter Kovács  
Judge María del Socorro Flores Liera

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

***THE PROSECUTOR v. BOSCO NTAGANDA***

**Public**

**Trust Fund for Victims' Request to Vary the Time Limit to Submit Draft  
Implementation Plan**

**Source:** The Trust Fund for Victims

**To be notified in accordance with regulation 31 of the *Regulations of the Court* to:****Office of the Prosecutor**

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**Counsel for the Defence**

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Ms Sarah Pellet  
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Ms Paolina Massidda

**REGISTRY**

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**Registrar**

Mr Peter Lewis

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**Counsel Support Section****Victims and Witnesses Unit****Detention Section****Victims Participation and Reparations****Section**

Mr Philipp Ambach

**Other**

Mr Jean-Claude Aubert  
 Ms Jelena Vukasinović

## I. PROCEDURAL HISTORY

1. On 8 March 2021, following the conviction<sup>1</sup> and sentencing of Mr Bosco Ntaganda (“Mr Ntaganda”),<sup>2</sup> Trial Chamber VI issued an Order for Reparations (“Reparations Order”),<sup>3</sup> setting deadlines for the Trust Fund for Victims (“Trust Fund”) to submit an urgent plan for priority victims (“Initial Draft Implementation Plan” or “IDIP”), and a general draft implementation plan (“Draft Implementation Plan” or “DIP”) on 8 June 2021 and 8 September 2021, respectively.<sup>4</sup>
2. On 16 March 2021, pursuant to the “Decision assigning judges to divisions and recomposing Chambers”,<sup>5</sup> the present case was referred to Trial Chamber II (“Trial Chamber”).
3. On 8 June 2021, the Trust Fund submitted its Initial Draft Implementation Plan<sup>6</sup> and on 23 June 2021, pursuant to the calendar set by the Trial Chamber,<sup>7</sup> the Legal Representatives of Victims<sup>8</sup> and the Defence<sup>9</sup> submitted their observations thereon.
4. On 28 June 2021, pursuant to the authorisation granted by the Trial Chamber,<sup>10</sup> the Trust Fund submitted supplementary observations.<sup>11</sup>

## II. SUBMISSIONS

5. The Trust Fund was instructed by the Trial Chamber to submit its Draft Implementation Plan by 8 September 2021, “clearly specify[ing] the objectives, outcomes, and activities

<sup>1</sup> Judgment with public Annexes A, B and C, 8 July 2019, [ICC-01/04-02/06-2359](#) (“Judgment”).

<sup>2</sup> Sentencing judgment, 7 November 2019, [ICC-01/04-02/06-2442](#) (“Sentencing Judgment”), para. 87.

<sup>3</sup> Reparations Order, 8 March 2021, [ICC-01/04-02/06-2659](#).

<sup>4</sup> Reparations Order, p. 97.

<sup>5</sup> Decision assigning judges to divisions and recomposing Chambers, 16 March 2021, [ICC-01/04-02/06-2663](#).

<sup>6</sup> Report on Trust Fund’s Preparation for Draft Implementation Plan (notified on 9 June 2021), ICC-01/04-02/06-2676-Conf, with Annex A, Initial Draft Implementation Plan with focus on Priority Victims, ICC-01/04-02/06-2676-Conf-AnxA.

<sup>7</sup> Order for the submission of observations on the initial draft implementation plan with focus on priority victims, 10 June 2021, ICC-01/04-02/06-2677.

<sup>8</sup> Observations of the Common Legal Representative of the Victims of the Attacks on the Trust Fund for Victims’ Draft Initial Implementation Plan, ICC-01/04-02/06-2680-Conf; Response of the Common Legal Representative of the Former Child Soldiers to the TFV Initial Draft Implementation Plan with focus on Priority Victims, ICC-01/04-02/06-2681. *See also*, Registry Observations on the Trust Fund for Victims Initial Draft Implementation Plan, ICC-01/04-02/06-2683.

<sup>9</sup> Defence Observations on the TFV initial draft implementation plan, ICC-01/04-02/06-2682-Conf.

<sup>10</sup> Email from Trial Chamber to Trust Fund copying the participants on 24 June 2021 at 17:43 granting a Trust Fund’s request to submit a reply (Email from Trust Fund to Trial Chamber copying the participants on 24 June 2021 at 13:36. On the same day, by way of email, the LRVs opposed the Trust Fund’s request (Joint response by the LRVs sent by email at 15:27)).

<sup>11</sup> Observations on the responses and observations submitted on the Initial Draft Implementation Plan, ICC-01/04-02/06-2687-Conf (public redacted version submitted on the same day: ICC-01/04-02/06-2687-Red).

identified as necessary in order to give effect to the present order. In particular, the TFV shall describe the reparation projects it intends to develop, indicating the details of the proposed collective awards, each of the collective projects with individualised components, and the modalities of reparations identified in this Order considered appropriate to address each of the harms. The TFV should also clearly indicate the methods of implementation, steps to be taken, direct and indirect costs, the expected amount that the TFV will use to complement the awards, and the expected timeline necessary for the projects' development and implementation".<sup>12</sup>

6. In order to adequately implement the Trial Chamber's instruction and propose a comprehensive draft implementation plan, the Trust Fund had conducted a number of field activities in May and June, notably starting consultations with the government, international and non-governmental organisations, and holding consultations with victims, civil society and current TFV implementing partners in the field. Upon an evaluation of these consultations, the Trust Fund planned a number of follow-up activities (in addition to activities to be conducted from The Hague) to take place in July and August 2021, including consultations with the Government of the DRC in Kinshasa, conducted by Bunia-based staff, reinforced by a field mission of Hague-based staff to Bunia to hold a second round of consultations, including with victims, municipalities, local civil society organisations and current TFV implementing partners.

7. Additional nationwide measures, including the instauration of a national curfew between 22:00 and 04:00 with police patrols to enforce it and other measures aiming at limiting contaminations in gatherings and promoting social distancing practises were imposed in the DRC as of 15 June 2021.<sup>13</sup> The public health situation continued deteriorating, including in Bunia.<sup>14</sup> Accordingly, on 14 July 2021, the Registry recommended against the mission to the DRC, in consideration of the risks posed by the third wave of COVID-19 hitting the country.<sup>15</sup> Accordingly, the Trust Fund decided to cancel the mission. The return to Bunia of field based staff, currently in Kinshasa, is uncertain and this may call for an alternative modality of continued engagement. High level Government consultations in Kinshasa, involving the TFV leadership and scheduled to be held in the week of 19 July 2021, are being postponed due to

<sup>12</sup> Reparations Order, para. 249.

<sup>13</sup> Coronavirus en RDC : Félix Tshisekedi annonce la fermeture des boîtes de nuit et discothèques pendant 15 jours, Actualité, 15 June 2021, <https://actualite.cd/index.php/2021/06/15/coronavirus-en-rdc-felix-tshisekedi-annonce-la-fermeture-des-boites-de-nuit-et>.

<sup>14</sup> See Registry report on overview of the Security and Political Dynamics in Ituri with potential impact on ICC activities for the period 15 April 2021 -10 July 2021.

<sup>15</sup> Email on 14 July 2021 at 11:03.

the circumstances. It is currently unclear when the public health situation will improve sufficiently to allow for mission travel to the DRC.

8. Similarly, in Uganda, where a number of displaced potential victims are thought to reside in and around refugee camps, stringent lockdown measures were re-imposed at the beginning of June. Accordingly, while originally planned, TFV staff was not able to enter Uganda in June and returned instead earlier to The Hague. This also prevented TFV staff to travel through Uganda to reach Mahagi, in the north of the Ituri Province. The restrictions in Uganda remain in place for a minimum of 42 days.

9. Further, the security situation remains currently that “all missions outside Bunia are suspended until further notice” which renders it impossible for the time being to consult with none of the victims outside of Bunia.<sup>16</sup>

10. The Trust Fund submits that these developments prevent it from conducting any meaningful field mission thereby rendering impossible, for the time being, the collection of data and the conduct of consultations necessary for the preparation and submission of a comprehensive DIP. While the Trust Fund will seek to continue its work via intermediaries, the process of consultations will require the active and direct engagement of locally present TFV staff to ensure the quality of the data and information collection prior to the further development and design of the DIP.

11. At this moment, the operational situation in the DRC, especially in Bunia and its surroundings, remains uncertain and unpredictable. Nevertheless, the Trust Fund expects that an extension of 3 months should allow it to take the steps referred to in paragraph 10.

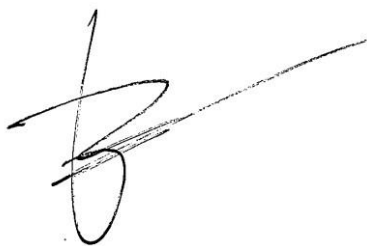
12. The Trust Fund considers that the requested extension is justified by the current factual circumstances described above and supported by good cause in the sense of Regulation 35 of the Regulations of the Court and that the Request should therefore be granted. Further, granting the Request would not unfairly prejudice the LRVs or the Defence.

### III. CONCLUSION

For the foregoing reasons, the Trust Fund respectfully requests the Trial Chamber to grant an extension of the time limit until 17 December 2021.

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<sup>16</sup> Joint Threat Assessment Group (JTAG) Recommendations sent on 5 July 2021 at 16:58.



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Pieter W.I. de Baan  
Executive Director of the Trust Fund for Victims,  
on behalf of the Board of Directors of the Trust Fund for Victims

Dated this 16 July 2021  
At The Hague, The Netherlands