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Date: **22 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

**Observations on Behalf of Mr Ntaganda on the “Trust Fund for Victims’ Request
to Vary the Time Limit to Submit Draft Implementation Plan”**

Source: Defence Team of Mr Bosco Ntaganda

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

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Further to the Report on Trust Fund's Preparation for Draft Implementation Plan submitted along with the Initial Draft Implementation Plan with Focus on Priority Victims notified on 9 June 2021 ("TFV IDIP"),¹ the Trust Fund for Victims' 16 July 2021 Request to Vary the Time Limit to Submit Draft Implementation Plan ("TFV Request")² and Trial Chamber II's Order to the Parties and the Registry to submit any observations on the TFV's request by Thursday 22 July 2021 ("Chamber" and "Order"), Counsel for Mr Ntaganda ("Defence") hereby submits this:

Observations on Behalf of Mr Ntaganda on the "Trust Fund for Victims' Request to Vary the Time Limit to Submit Draft Implementation Plan"

INTRODUCTION

1. In its TFV Request, the TFV submits that two main issues, namely, the public health situation and the security situation *in situ*, prevent it from collecting data and conducting consultations "necessary for the preparation and submission of a comprehensive [Draft Implementation Plan]".³ On this basis, the TFV is requesting the Chamber to grant an extension of the time limit until 17 December 2021.

2. The Defence does not oppose the TFV Request. However, the Defence highlights the fact that, on 22 June 2021, the Trust Fund opposed the Defence Request for Suspensive Effect⁴ submitted in the context of its ongoing appeal against the 8 March Reparations Order and that, on 2 July 2021, the Appeals Chamber⁵ rejected the latter.

3. It is also noteworthy that the LRV2's and the Defence's Appeals against the Reparations Order are still pending.

¹ 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, 14 June 2021, [ICC-01/04-02/06-2676-Conf-AnxA-Corr](#) ("Initial Draft Implementation Plan").

² Trust Fund for Victims' Request to Vary the Time Limit to Submit Draft Implementation Plan, 16 July 2021, [ICC-01/04-02/06-2693](#).

³ [TFV Request](#), para.10.

⁴ Observations on the Defence Request for Suspensive Effect and Request under rule 103 of the Rules of Procedure and Evidence, 22 June 2021, [ICC-01/04-02/06-2679](#).

⁵ Decision on the Defence request for suspensive effect, 2 July 2021, [ICC-01/04-02/06-2691](#).

PROCEDURAL BACKGROUND

4. On 8 March 2021, Trial Chamber VI issued the Reparations Order⁶ (“8 March Reparations Order”) and set the deadline for the TFV to submit a draft implementation plan to 8 September 2021.
5. On 7 June 2021, the LRV²⁷ and the Defence⁸ filed their respective appeal brief against the 8 March Reparations Order. Therein, the Defence requested, *inter alia*, the immediate suspension of the Reparations Order until adjudication of the appeals.
6. On 8 June 2021, the TFV submitted its TFV IDIP.⁹
7. On 23 June 2021, the Registry,¹⁰ the Legal Representatives of Victims¹¹ and the Defence¹² submitted their observations on the TFV IDIP, highlighting various defects therein.
8. On 2 July 2021, the Appeals Chamber issued its Decision on the Defence request for suspensive effect.
9. On 16 July 2021, the TFV submitted its Request to Vary the Time Limit to Submit Draft Implementation Plan.
10. On 19 July 2021, the Chamber ordered the Parties and the Registry to submit any observations on the TFV Request by Thursday 22 July 2021, at the latest.

⁶ Reparations Order 8 March 2021, [ICC-01/04-02/06-2659](#).

⁷ Appeal Brief of the Common Legal Representative of the Victims of the Attacks against the Reparations Order, 7 June 2021, [ICC-01/04-02/06-2674](#).

⁸ Defence Appellant Brief against the 8 March Reparations Order, 7 June 2021, [ICC-01/04-02/06-2675](#).

⁹ [Initial Draft Implementation Plan](#).

¹⁰ Registry Observations on the Trust Fund for Victims Initial Draft Implementation Plan, 23 June 2021, [ICC-01/04-02/06-2683](#).

¹¹ Observations of the Common Legal Representative of the Victims of the Attacks on the Trust Fund for Victims’ Draft Initial Implementation Plan, 23 June 2021, [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, 23 June 2021, [ICC-01/04-02/06-2681](#).

¹² Defence Observations on the TFV initial draft implementation plan, 23 June 2021, [ICC-01/04-02/06-2682-Conf](#).

SUBMISSIONS

11. In light of the difficulties encountered due to the public health situation and the security situation in the Democratic Republic of Congo (“DRC”) as well as in Uganda, the Defence does not oppose the TFV Request. These are exceptional circumstances likely to significantly impede the work that has to be performed by the TFV.

12. There is no benefit for the Parties, the TFV or the victims to move forward without being able to perform the necessary tasks to produce its Draft Implementation Plan in accordance with the Chamber’s instructions. This is in line with the rationale behind the Defence’s Request for suspensive effect of the Reparations Order.¹³ In fact, delaying the issuance of the Draft Implementation Plan, especially while the LRVs’ and the Defence’s Appeals against the Reparations Order are still pending, may possibly avoid wasting scarce resources and contribute to respect the “do no harm” principle.

13. That being said, should the TFV Request be granted, the TFV must act in accordance with the instructions provided in the 8 March Reparations Order during the additional time available, and refrain from taking any action not yet approved by the Chamber.

RESPECTFULLY SUBMITTED ON THIS 22ND DAY OF JULY 2021



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¹³ Defence Appellant Brief against the 8 March Reparations Order, 7 June 2021, [ICC-01/04-02/06-2675](https://www.iccnij.org/icc-01/04-02/06-2675).