

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/04-02/06**
Date: **17 December 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

With 1 confidential annex

Trust Fund for Victims' submission of Draft Implementation Plan

Source: The Trust Fund for Victims

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

Legal Representative of Victims

Ms Sarah Pellet
Ms Caroline Walter

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

Other

Ms Jelena Vukasinovic

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

I. PROCEDURAL HISTORY

1. On 8 March 2021, Trial Chamber VI issued an order for reparations against Mr Ntaganda (the “Reparations Order”), directing the Trust Fund to submit an initial draft implementation plan for victims in an urgent situation by 8 June 2021 as well as a draft implementation plan by 8 September 2021.¹
2. On 16 March 2021, the Presidency recomposed the Trial Chamber to be comprised of Judge Péter Kovács, Judge Chang-ho Chung, and Judge Maía del Socorro Flores Liera and decided to dissolve Trial Chamber VI and refer the case to Trial Chamber II (“Trial Chamber”).²
3. On 8 June 2021, the Trust Fund for Victims (the “Trust Fund” or “TFV”) submitted its initial draft implementation plan³ (the “Initial Draft Implementation Plan” or “IDIP”) to the Trial Chamber.⁴
4. On 23 July 2021, the Trial Chamber issued its Decision on the Trust Fund’s IDIP (“Decision of 23 July 2021”),⁵ approving the IDIP subject to amendments and additional information. The Trial Chamber directed the Trust Fund to report on the details of the IDIP implementation every two months requesting it to provide the requested amendments and additional information in its first report.
5. On the same day, the Trial Chamber granted a Trust Fund’s request for extension of time and set the deadline for submission of the DIP to 17 December 2021.⁶

¹ [Reparations Order](#), ICC-01/04-02/06-2659, paras 249-253 and 257, and disposition.

² Decision assigning judges to divisions and recomposing Chambers, ICC-01/04-02/06-2663, page 7.

³ The Trial Chamber and the participants used the full title ‘initial draft implementation plan’, hence the acronym ‘IDIP’; therefore, the Trust Fund will adopt this abbreviation in these observations.

⁴ [Public redacted version of “Report on Trust Fund’s Preparation for Draft Implementation Plan”, submitted on 8 June 2021](#), ICC-01/04-02/06-2676-Red, with [Annex A, Public redacted version of “Initial Draft Implementation Plan with focus on Priority Victims”](#), ICC-01/04-02/06-2676-AnxA-Corr-Red (the ‘Initial Draft Implementation Plan’).

⁵ Decision on the TFV’s initial draft implementation plan with focus on priority victims, 23 July 2021, [ICC-01/04-02/06-2696](#).

⁶ Decision on the Trust Fund for Victims’ Request to Vary the Time Limit to Submit Draft Implementation Plan, 23 July 2021, [ICC-01/04-02/06-2697](#).

6. On 23 September 2021 and 23 November 2021 respectively, the Trust Fund submitted its first and second update reports on the IDIP⁷ and on 29 October 2021 the Trial Chamber issued its decision on the first update report.⁸

7. The Trust Fund submits its Draft Implementation plan for reparations as Annex 1 to the present submission.

II. CLASSIFICATION OF THE PRESENT SUBMISSION

8. This present submission is classified as public but its annex is classified as confidential pursuant to regulation 23 *bis* (1) of the Regulations of the Court because it contains details related to the operations of the Trust Fund/Court. A public redacted version will be submitted shortly.

III. TRUST FUND'S REQUESTS

9. *Amendment of the DIP following Appeals Chamber's judgment on the Reparations Order*
As a preliminary matter, the Trust Fund underlines that the Reparations Order is currently under appeal. Upon issuance of the appeals judgment, the Trust Fund will proceed to analysing its impact on the draft implementation plan and submit any necessary amendments to the parties and the Trial Chamber swiftly.

10. *Approval of the DIP* – In the annexes to the present filing, the Trust Fund presents its proposed draft implementation plan for reparations in the *Ntaganda* case and seeks the Trial Chamber's approval thereof. In respect of the adequate body in charge of verifying the eligibility of victims, consultations with other stakeholders at the Court are still ongoing in light of the vast implications of this determination, be it in terms of human resources, financial resources and on the implementation of the reparations. The Trust Fund will provide further information to the

⁷ Trust Fund first progress report on the implementation of the Initial Draft Implementation Plan and Notification of Board of Director's decision pursuant to regulation 56 of the Regulations of the Trust Fund, [ICC-01/04-02/06-2710-Conf](#); Trust Fund's Second Update report on the Implementation of the Initial Draft Implementation Plan, [ICC-01/04-02/06-2723-Conf](#).

⁸ Decision on TFV's first progress report on the implementation of the Initial Draft Implementation Plan and Notification of Board of Director's decision pursuant to regulation 56 of the Regulations of the Trust Fund, [ICC-01/04-02/06-2718-Conf](#).

Trial Chamber on this discrete issue as soon as consultations are concluded, and possibly, an agreement reached among sections of the Court.

11. *Invitation to make observations to the Government of DRC* – The proposed reparation measures are set to take place on the territory of Ituri in the Democratic Republic of Congo. In preparing the DIP, the Trust Fund has been in contact with the national and local authorities and Trust Fund extends its gratitude to the Government of DRC and hopes for further fruitful cooperation. The Trust Fund submits that seeking the observations of the Government of DRC is appropriate and respectfully suggests that the Trial Chamber seeks their observations, as has been done in other cases at reparations stage.⁹ In order for the parties and participants to be able to incorporate any reactions to the potential observations submitted by the DRC authorities, the Trust Fund suggests that the deadline set for their observations be shorter than that set for the parties.

12. *Consolidated quarterly reports* – Upon issuance of a decision on the proposed draft implementation plan, the Trust Fund stands ready to appraise the Trial Chamber and the parties on the progress made on the implementation by way of update reports. The Trust Fund understands the need for ongoing oversight by the Trial Chamber. As to the parties, in particular the CLRs, the Trust Fund considers that they must be kept informed on a regular basis and will do so in-between each submission by way of regular communications outside of the case record. Any disagreements or suggestions may be communicated to the Trust Fund by way of email or orally and they will be taken into account.¹⁰

13. The next update report on the implementation of the **IDIP** is due on 24 January 2022,¹¹ pursuant to the Decision of 23 July 2021 in which the Trial Chamber indicated that the Trust Fund must report to the Trial Chamber “at least every two months, or whenever required, with

⁹ Trial Chamber VIII, *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, Decision inviting Malian authorities to submit observations on the Trust Fund for Victims’ Updated Implementation Plan, 5 November 2018, [ICC-01/12-01/15-293](#), para. 3.

¹⁰ Trial Chamber VIII, *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, Decision on the Updated Implementation Plan from the Trust Fund for Victims, 4 March 2019, ICC-01/12-01/15-324-Conf

¹¹ The deadline for submission of the report falls on Sunday, 23 January 2022.

the parties and the Registry be[ing] allowed to respond to any issues raised therein within ten days of notification of the said reports”.¹²

14. The IDIP is already at implementation stage and while the Trust Fund works with the implementing partners on a continuous basis (to ensure that implementation will be conducted properly, in accordance with the Reparations Order and with the Trust Fund’s best practices), it requires from the implementing partners that they submit quarterly reports based on the quarters of a calendar year. Accordingly, similar to other cases, aligning the Trust Fund’s reporting to the Trial Chamber with the calendar of the implementing partner’s reporting to the Trust Fund would permit a more efficient, consolidated and comprehensive reporting.

15. Further, in light of the complementarity between the IDIP and the DIP, ensuring that progress reporting in relation to both the DIP and IDIP is conducted simultaneously will permit a clearer and more consolidated information to the parties and the Trial Chamber. Specifically, reporting on the last day of February, on the last day of May, on the last day of August and on the last day of November would permit including in the updated reports to the Trial Chamber the latest developments in relation to the implementation of reparations.

16. Spacing the submission to three months would not have any adverse impact on the implementation of the reparations and would avoid diverting the Trust Fund’s scarce resources from the implementation of reparations while permitting that the parties and the Trial Chamber remain comprehensively and timely informed. In the event that an issue requiring immediate resolution appears in the course of implementation, the Trust Fund will inform the parties and the Trial Chamber’s forthwith, regardless of the deadline for the submission of its update report.

17. For reasons of administrative and judicial economies, the Trust Fund requests that the page limit for the quarterly update report be set to 30 pages. Considering the lesser frequency of the reports, and the fact that they would cover the progresses made with the DIP and the IDIP,

¹² Decision of 23 July 2021, [ICC-01/04-02/06-2696](#), para. 46.

requesting such an extension of pages is prudent to avoid that similar requests be submitted regularly.

18. The Trust Fund proposes that the third update report on the IDIP be submitted by 23 January 2021, after which the next consolidated report should be submitted by 31 of May, if the DIP is approved.

FOR THE FOREGOING REASONS,

19. The Trust Fund requests that the Trial Chamber:

- approves the DIP as submitted in Annex A;
- authorizes the DRC authorities to submit observations in response to the DIP within a deadline deemed appropriate by the Trial Chamber; and
- authorizes the Trust Fund to submit consolidated update reports on the progress made with the IDIP and the DIP in accordance with paragraphs 12-18 above.



Pieter W.I. de Baan
Executive Director, Trust Fund for Victims

On behalf of the Board of Directors of the Trust Fund

Dated this 17 December 2021
At The Hague, The Netherlands