

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

No.: **ICC-01/04-02/06**  
Date: **28 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**

**Public redacted version of “Trust Fund’s Second Update report on the Implementation of the Initial Draft Implementation Plan”, submitted on 23 November 2021, ICC-01/04-02/06-2723-Conf**

**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. BACKGROUND

1. On 8 March 2021, Trial Chamber VI (the ‘Trial Chamber’) issued an order for reparations against Mr Ntaganda (the ‘Reparations Order’).<sup>1</sup>
2. On 8 June 2021, the Trust Fund for Victims (the ‘Trust Fund’ or ‘TFV’) submitted its initial draft implementation plan<sup>2</sup> (the ‘Initial Draft Implementation Plan’ or ‘IDIP’) to the Trial Chamber.<sup>3</sup>
3. On 23 July 2021, the Trial Chamber issued its Decision on the Trust Fund’s IDIP (‘23 July 2021 Decision’),<sup>4</sup> 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.
4. On 23 September 2021, the Trust Fund submitted its first report (‘First Update Report on IDIP’).<sup>5</sup>
5. On 29 October 2021, the Trial Chamber issued a decision on the First Update Report on IDIP (‘Decision on First Update Report on IDIP’)<sup>6</sup> approving the proposals contained therein and directing the Trust Fund to provide clarifications in relation to six issues.<sup>7</sup>

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

<sup>2</sup> 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.

<sup>3</sup> [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’).

<sup>4</sup> Decision on the TFV’s initial draft implementation plan with focus on priority victims, 23 July 2021, [ICC-01/04-02/06-2696](#).

<sup>5</sup> 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](#).

<sup>6</sup> 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](#).

<sup>7</sup> [Decision on First Update Report on IDIP](#), paras 10(i), 10(ii), 12(i) to 12(iii), 13, 14, 24-25. The Trial Chamber directed that the Trust Fund clarifies that : (i) [REDACTED] project will provide services to child soldiers in need

## **II. UPDATE REPORT ON THE IDIP**

6. This report addresses the six issues raised by the Trial Chamber and informs about the progress made in relation to the implementation of the IDIP. The security situation is addressed first.

### **A. PRELIMINARY MATTER: SECURITY SITUATION**

7. From 25 October 2021 to 5 November 2021, the Trust Fund conducted a mission for the purpose of the draft implementation plan (DIP). Relevant information collected in this regard will be fully presented in the DIP due on 17 December 2021. However, the Trust Fund deems it relevant for the purpose of the present report to inform the Trial Chamber briefly of the recent developments in relation to the security situation.

8. The security situation remains extremely volatile and has considerably worsened in the past few weeks, in particular in the areas of relevance for the implementation of reparations. During the mission, the Trust Fund had contacts with local and national civil society organisations, international organisations, [REDACTED], groups of victims and medias. All reports are unanimous and indicated that the civilian population in the area relevant to the case has now fled their localities towards safer places, some to Bunia, and some to unknown locations.

9. Further, the situation has also worsened for the organizations active in Ituri and international organisations have temporarily ceased all activities in the areas around Bambu (Djugu territory) as a result of being the target of attacks.

10. In short, the Trust Fund is to implement reparations in the following situation: (i) victims are displaced and hardly reachable; (ii) a large number of them is currently in Bunia or elsewhere having fled their home localities; (iii) victims' agendas are volatile and directly influenced by the

---

of urgent assistance, other than SGBV victims or children born out of rape or sexual slavery; (ii) children born out of rape and sexual slavery are direct victims; (iii) to which extent the socio-economic measures proposed adequately address the need of priority victims, whether additional measures are necessary, and if so, which ones; (iv) the number of beneficiaries that the [REDACTED] project can provide services to; (v) the discrepancy between the budget of [REDACTED] and [REDACTED] and the number of beneficiaries they can provide services to; and (vi) the potential costs related to outreach activities.

context, with some of them willing to go back home as soon as the security situation so permits and others deciding to remain in Bunia or elsewhere and not to return home; (iv) international and national organisations have ceased their operations in the areas of relevance for the reparations.

11. While this does not imply that the IDIP cannot be implemented, the Trust Fund deems it critical to bring these circumstances to the Trial Chamber's attention as they have a profound impact on how and at what speed the Trust Fund and its partners will be able to implement the IDIP. The Trust Fund commits to keep the Trial Chamber informed of any developments in its update reports.

## **B. ELIGIBILITY**

12. The Trust Fund welcomes the Trial Chamber's Decision on the First Update Report on the IDIP approving the limited eligibility mechanism proposed. The Trial Chamber encouraged the Trust Fund to provide further details on the process.

13. In accordance with the proposal made in the First Update Report, upon issuance of the Trial Chamber's decision, the Trust Fund liaised with the LRVs with a view to obtaining an updated list of priority victims.<sup>8</sup>

14. Upon receipt of the lists,<sup>9</sup> and as discussed with the LRVs, the Trust Fund will communicate the victim codes to the Registry with a view of obtaining the relevant application forms together with any relevant information.

15. The further process is described in the First Update Report on IDIP as follows:

---

<sup>8</sup> It is recalled that both LRVs had provided the Trust Fund with a list of priority victims in the preparation of the IDIP. At this stage, an updated list is required, in particular to clarify which of their clients the LRVs could reach out and should be prioritized by the Trust Fund.

<sup>9</sup> The Trust Fund already received a list of the clients that the LRV Child Soldiers was able to reach out to on 19 November 2021; and confirmation of the details provided by the LRV Victims of the Attacks of the list submitted in May 2021; further victims will be added to the respective lists as the LRVs continue to reach out to their clients.

- d. The Trust Fund, if requiring additional information, may contact the victims and organize a meeting, including insofar as information-gathering is concerned through either [REDACTED] or [REDACTED], as appropriate;
- e. The Trust Fund Secretariat takes a final determination on eligibility including on urgency based on all information before it.<sup>10</sup>

16. Accordingly, in line with the Trial Chamber’s decision approving this process,<sup>11</sup> “[s]hould additional information be required, the Trust Fund [will] organize meetings with victims through the relevant implementing partner, who may reach out to victims throughout Ituri Province and provide the necessary information to the Trust Fund”<sup>12</sup>.

17. The Trust Fund will thus instruct the implementing partner to collect information as to the current status of the individuals, which requires that basic information such as identity, the general contours of their claims and their contact details be shared with the relevant partner. Upon collection of such additional information the partner will provide it to the Trust Fund and the Trust Fund will reach a final determination on eligibility.

18. Upon reaching a determination on the eligibility of the victims, the Trust Fund will inform the relevant LRV by way of email. Should a negative determination be reached, the Trust Fund will provide the relevant LRV with the reasons.

19. The Trust Fund is currently in the process of finalizing the proposal for the eligibility process including for the administrative review process. In line with the Regulations of the Trust Fund, the Board of Directors needs to approve the proposed way forward. To allow the Board to take an informed decision when approving the DIP, the parties, including the Defence, and the Registry, i.e. in particular VPRS and the relevant Country Office, will be given an opportunity to provide comments on the proposed eligibility mechanism.<sup>13</sup> Pending the Trial Chamber’s decision on the eligibility process to be presented in the DIP, should a negative determination be made in the meantime, the relevant administrative review process will be brought to the Trial Chamber for approval in a separate filing relevant to the IDIP.

---

<sup>10</sup> [First Update Report on IDIP](#), para. 48.

<sup>11</sup> [Decision on First Update Report on IDIP](#), para. 21.

<sup>12</sup> [First Update Report on IDIP](#), para. 46.

<sup>13</sup> The proposed eligibility mechanism is being circulated for comments on 23 November 2021.

20. Immediately upon reaching a positive determination, not only the relevant LRV, but also the beneficiary will be contacted by the implementing partner for the intake, with a view to starting the implementation of reparations.

21. By reference to the guidance provided by the Trial Chamber, the Trust Fund is in communication with VPRS as to their role in the eligibility process for the victims who had contact with the Court.

### **C. REPARATIONS FOR PRIORITY VICTIMS IN URGENT NEEDS**

22. Immediately upon submission of the First Update Report on IDIP, the Trust Fund took steps to ensure that reparations can be provided to priority victims in accordance with the schedule provided to the Trial Chamber. Accordingly, throughout the period, the Trust Fund worked on contractual matters to allow for the signature of amendments to the contracts with its partners ([REDACTED] and [REDACTED]) on 1 November 2021, in accordance with the parameters presented in the First Update Report on IDIP. Accordingly, both partners stand ready to (1) address potential beneficiaries with any requests for additional information as required by the Trust Fund for the eligibility process and (2) start the intake.

23. The Trust Fund recalls that the reparative measures offered by both implementing partners comprise a set of physical rehabilitation, psychological rehabilitation and socio-economic rehabilitation measures.<sup>14</sup>

24. As to the questions raised in paragraph 12 of the Decision on First Update Report on IDIP and in particular in relation to socio-economic measures, both projects, [REDACTED] and [REDACTED], offer adjusted opportunities ranging from educational measures such as literacy classes, vocational training, training on entrepreneurship etc. The measure offered will be individualised and tailored to the choice of the victim and will take into account the security situation that is such that most individuals are currently displaced from their homes, which will have direct consequences on their choice of socio-economic measures. The partners are

---

<sup>14</sup> [First Update Report on the IDIP](#), paras 17-23 and 30-36.

experienced and ready to adjust to this reality by accompanying beneficiaries in a manner that is apposite to their current situation. The socio-economic measures will address the current and immediate needs of the beneficiaries, but the implementing partners' programming also addresses the longer-term needs, including training needs of the beneficiaries. This will allow the beneficiaries to sustain themselves and their families even in the current security situation. The implementing partner will adapt to the realities and needs of the victims in the field, insofar as possible in the given security situation. As set out in the First Update Report on IDIP, when additional urgent needs will be identified with regard to a specific victim, the Trust Fund will address those on a case-by-case basis in collaboration with the implementing partner.<sup>15</sup>

25. Accordingly, the Trust Fund considers that both projects address the most urgent socio-economic harm adequately<sup>16</sup> in that the package offered will be tailored to each victim's situation and aligned, to the extent feasible, with their wishes.

26. As to the Trial Chamber's question in relation to the budgets of each organisation,<sup>17</sup> the Trust Fund would like to draw the attention to the fact that these are budgets and not yet real costs. The actual costs will only be finalised once the partners submit their annual or final reports. The different budgets derive from the fact that the services offered by [REDACTED] tend to be substantially more expensive than those provided by [REDACTED]. Indeed, [REDACTED] proposed a budget on the basis that beneficiaries may require corrective surgeries, a costly type of intervention (where [REDACTED] budgeted differently, taking into account the possibility that some beneficiaries might require corrective surgeries but that others would require services such as medical treatments), that are less costly. Should the relevant partner be in a position to provide services to more beneficiaries, it will do so.

27. In reference to the [REDACTED] project intended for SGBV victims, the Trust Fund confirms that tailored services will be provided to 250 victims eligible to the project which addresses SGBV related crimes. As a result and for planning purposes, based on a projection,

---

<sup>15</sup> [First Update Report on IDIP](#), para. 36.

<sup>16</sup> [Decision on First Update Report on IDIP](#), para. 12(i) to 12(iii).

<sup>17</sup> [Decision on First Update Report on IDIP](#), para. 14.



[REDACTED] project will provide services to 100 former child soldiers having suffered from SGBV crimes and also up to 150 individuals who may/or may not be children born out of rape and/or are dependants of the aforementioned 100 former child soldiers. These numbers may vary based on the reality observed during the implementation. For now, they merely reflect an anticipation of what is to be expected. The Trust Fund is cognisant of the Trial Chamber's finding that children born out of rape or sexual slavery are to be considered as direct victims and will act accordingly.

28. With respect to the issue raised by the Trial Chamber in the Decision on First Update Report on IDIP, as to the measures envisaged for former child soldiers, the Trust Fund has noted the Trial Chamber's concern as to the inclusion in the [REDACTED] project of child soldiers who are not SGBV victims but in urgent need. The Trust Fund recalls that it is not feasible to expand the scope of this project, both from a contractual and from an operational point of view.

29. The Trust Fund notes, however, that the number of individuals having suffered harm other than sexual and gender-based and identified by the LRV Child Soldiers<sup>18</sup> in April 2021 as priority victims likely being in urgent need is limited. Accordingly, the Trust Fund proposes that these individuals, limited in number, be provided with reparations through the collective-service-based reparations programme in the *Lubanga* case.

30. The Trust Fund recalls that it had proposed in the IDIP that all *Ntaganda* Child Soldiers be included in the *Lubanga* service based collective reparation programme. The current proposal therefore only focuses on the very limited number of Child Soldiers in urgent need who are not SGBV victims.

31. Having explored all possible avenues and having concluded that this proposal is feasible on the basis that the *Ntaganda* and *Lubanga* victims fully overlap, the Trust Fund discussed this

---

<sup>18</sup> It is understood that the LRV Child Soldiers considers that all her clients are priority victims (in accordance with the Reparations Order). The Trust Fund welcomes however the fruitful cooperation which resulted in the LRV Child Soldiers proposing a list of the most vulnerable victims.

proposal on 19 November 2021 with the LRV Child Soldiers, who expressed her support by reference to her past observations to the Trial Chamber.

32. In practice, this would result in these individuals starting to receive reparations in the same way as the beneficiaries of the *Lubanga* case. In this regard, the Trust Fund considers that the timing of the matter is ripe, as the Trust Fund requested on 16 November 2021 the LRVs in the case of *Lubanga* to refer those beneficiaries to the Trust Fund who urgently require the reparations to start. Their intake will start upon referral of the contact details to the implementing partner.

33. The current proposal, which is therefore an amendment to the IDIP, is limited to providing these reparations to the individuals identified by the LRV Child Soldiers, thereby permitting that the Trust Fund is fully responsible to the Trial Chamber's order to ensure that victims other than SGBV Victims have access to reparations.

#### **D. OUTREACH**

34. Immediately upon the issuance of the Decision on the First IDIP Report, on 30 October 2021, the Trust Fund participated in Bunia to a radio programme hosted by Bunia based radio station Canal Révélation.<sup>19</sup> In addition to briefly presenting current activities in Ituri in other cases and under the assistance mandate, the Trust Fund presented the Reparations Order in the present case, as well as the IDIP.

35. Further, the Trust Fund is currently in contact with the Registry to design a general outreach strategy (for the IDIP and in general terms about the Reparations Order). Subject to further consultations with the Registry as well as with the LRVs, the outreach strategy has three main goals: (i) informing potential beneficiaries of the Reparations Order; (ii) informing individuals outside of the case of the Reparations Order to ensure a full understanding within the communities; (iii) informing of the IDIP and clarifying its scope. The second aspect of the

---

<sup>19</sup> At the conclusion of the radio-programme, an article was written by Radio Canal Révélation and can be found here: <https://canalrevelation.net/ituri-cpi-fpv-encore-le-risque-de-retard-dans-le-processus-de-reparation-des-victimes-en-ituri-suite-aux-operations-militaires/>.

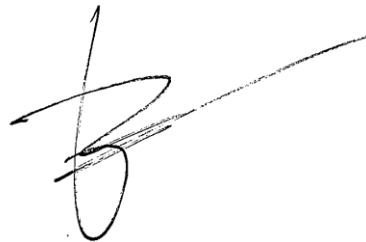
outreach is of critical importance to avoid that tensions arise between individuals entitled to reparations and others, given the attacks, on which the *Ntaganda* case focused.

36. At this stage, and in light of the security situation, it is expected that outreach will be conducted by way of radio messages, as well as through various focal points living in the communities and whose understanding of the reparations proceedings is sufficient to disseminate key messages.

37. In relation to the Trial Chamber's instruction to provide clarifications as to the costs of outreach in the update reports, the Trust Fund will keep the Trial Chamber apprised of the costs that arose for those activities.

**FOR THE FOREGOING REASONS,**

38. The Trust Fund requests that the Trial Chamber approve the proposal at paragraphs 29-33 and take note of the present report. The Trust Fund stands ready to provide further information.



---

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

Dated this 28<sup>th</sup> Day of December 2021  
At The Hague, The Netherlands