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Date: **22 February 2022**

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 Document

**Joint Response of the Common Legal Representatives of the Victims to the
“Trust Fund for Victims’ Request for Extension of Time to Submit Additional
Information on Draft Implementation Plan”**

Source: Office of Public Counsel for Victims

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

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I. INTRODUCTION

1. The Common Legal Representative of the Victims of the Attacks and the Common Legal Representative of the Former Child Soldiers (jointly the “Legal Representatives”) hereby file a joint response to the “Trust Fund for Victims’ Request for Extension of Time to Submit Additional Information on Draft Implementation Plan” (the “TFV Request” or the “Request”).¹

2. The Legal Representatives submit that having been provided already with an extension of time to submit its Draft Implementation Plan (the “DIP”), the Trust Fund for Victims (the “TFV”) fails to show good cause for yet another extension of time to provide additional information to its DIP. If, by extraordinary, Trial Chamber II (the “Trial Chamber”) were incline to extend said deadline, such an extension should be limited to no more than one month and the corresponding deadlines for the parties and the Registry should be extended accordingly.

II. PROCEDURAL BACKGROUND²

3. On 8 March 2021, Trial Chamber VI issued the “Reparations Order”,³ whereby it, *inter alia*, instructed the TFV to file the DIP in the present case within six months of that decision.⁴

¹ See the “Trust Fund for Victims’ Request for Extension of Time to Submit Additional Information on Draft Implementation Plan”, [No. ICC-01/04-02/06-2746](#), 18 February 2022 (the “TFV Request”).

² The procedural background included in these submissions is non-exhaustive and primarily focuses on the procedure relevant to these submissions. It also omits the various procedural steps taken before the Appeals Chamber.

³ See the “Reparations Order” (Trial Chamber VI), [No. ICC-01/04-02/06-2659](#), 8 March 2021.

⁴ *Idem*, para. 249.

4. On 16 March 2021, the Presidency assigned the present case to the newly constituted Trial Chamber.⁵ Judge Chang-ho Chung was subsequently elected Presiding Judge of the Trial Chamber.⁶

5. On 16 July 2021, the TFV submitted a request for the variation of the time limit for the submission of the DIP. In particular, the TFV sought an extension of time until 17 December 2021.⁷

6. On 22 July 2021, the parties expressed their support for the TFV's request.⁸ The Registry informed the Chamber that it had no observations to make on the matter.⁹

7. On 23 July 2021, the Chamber granted the TFV an extension of time limit to submit its DIP by 17 December 2021.¹⁰ The Chamber did not indicate when the parties were to respond.

8. On 20 December 2021, the TFV filed its DIP.¹¹

9. On 18 January 2022, the Common Legal Representative of the Former Child Soldiers filed an urgent request for an extension of time-limit to respond to the DIP,¹²

⁵ See the "Decision assigning judges to divisions and recomposing chambers" (Presidency), [No. ICC-01/04-02/06-2663](#), 16 March 2021, p. 7.

⁶ See the "Decision on the Election of the Presiding Judge" (Trial Chamber II), [No. ICC-01/04-02/06-2664](#), 22 March 2021, para. 2.

⁷ See the "Trust Fund for Victims' Request to Vary the Time Limit to Submit Draft Implementation Plan", [No. ICC-01/04-02/06-2693](#), 16 July 2021.

⁸ See the "Joint Response of the Common Legal Representatives of Victims to the "Trust Fund for Victims' Request to Vary the Time Limit to Submit Draft Implementation Plan", [No. ICC-01/04-02/06-2694](#), 22 July 2021; "Observations on Behalf of Mr Ntaganda on the "Trust Fund for Victims' Request to Vary the Time Limit to Submit Draft Implementation Plan", [No. ICC-01/04-02/06-2695](#), 22 July 2021.

⁹ See the Email communication from the Registry to the Chamber's Legal Officer, 22 July 2021, at 11:10.

¹⁰ See the "Decision on the Trust Fund for Victims' Request to Vary the Time Limit to Submit Draft Implementation Plan" (Trial Chamber II), [No. ICC-01/04-02/06-2697](#), 23 July 2021.

¹¹ See the "Trust Fund for Victims' submission of Draft Implementation Plan", [No. ICC-01/04-02/06-2732](#), [No. ICC-01/04-02/06-2732-Conf-AnxA](#) and [No. ICC-01/04-02/06-AnxA-Red](#), 20 December 2021.

¹² See the "URGENT Request of the Common Legal Representative of the Former Child Soldiers for an extension of the time limit to respond to the Trust Fund for Victims' Draft Implementation Plan", [No. ICC-01/04-02/06-2735-Conf-Exp](#) and [No. ICC-01/04-02/06-2735-Red](#), 18 January 2022.

to which the Defence,¹³ the Legal Representative of the victims of the attacks¹⁴ and the TFV¹⁵ responded on 20 January 2022.

10. On 21 January 2022, the Trial Chamber granted an extension of time until 24 March 2022 to respond to the DIP, instructed the TFV to provide additional information by 24 February 2022, and the Government of the Democratic Republic of Congo to provide its submissions by 10 March 2022.¹⁶

11. On 18 February 2022, the TFV filed its Request.¹⁷

12. On the same date, the Trial Chamber directed the parties and the Registry to submit any observations on the TFV Request by 22 February 2022 at the latest.¹⁸

III. SUBMISSIONS

13. The Legal Representatives first note that the TFV intends to issue a second version of its DIP and, since the DIP requires approval by the TFV Board of Directors, seeks, for this purpose, an extension of time until 11 April 2022.¹⁹ However, the Trial Chamber did not instruct the TFV to issue a second version of its DIP but simply to

¹³ See the “Response on behalf of Mr Ntaganda to the CLR1’s request for an extension of the time limit to respond to the Trust Fund for Victims’ Draft Implementation Plan”, [No. ICC-01/04-02/06-2736](#), 20 January 2022. See also the “Additional matters identified by the Defence in the Draft Implementation Plan that should be addressed by the Trust Fund for Victims”, [No. ICC-01/04-02/06-2740-Conf](#) and [No. ICC-01/04-02/06-2740-Conf-AnxA](#), 24 January 2022.

¹⁴ See the “Response of the Common Legal Representative of the Victims of the Attacks to the ‘Public Redacted version of the ‘URGENT Request of the Common Legal Representative of the Former Child Soldiers for an extension of the time limit to respond to Trust Fund for Victims’ Draft Implementation Plan’ (ICC-01/04-02/06-2735-Conf-Exp)’”, [No. ICC-01/04-02/06-2737-Conf](#), 20 January 2022.

¹⁵ See the “Trust Fund for Victims’ Observations in relation to CLR1’s Request for Extension of Time to Respond to the Draft Implementation Plan”, [No. ICC-01/04-02/06-2738](#), 20 January 2022.

¹⁶ See the “Decision on the ‘Request of the Common Legal Representative of the Former Child Soldiers for an extension of the time limit to respond to the Trust Fund for Victims’ Draft Implementation Plan’ and additional request by the TFV” (Trial Chamber II), [No. ICC-01/04-02/06-2739](#), 21 January 2022 (the “21 January 2022 Decision”).

¹⁷ See the TFV Request, *supra* note 1.

¹⁸ See the Email correspondence from the Trial Chamber to the parties and participants on 18 February 2022 at 16:53.

¹⁹ See the TFV Request, *supra* note 1, para. 9.

provide to the parties “as many details as possible [...] regarding the projected awards”.²⁰ The Request is based on the need for the TFV to finalise a number of adjustments to the *Lubanga* programme in order to be able to provide the relevant data drawn from said programme, because of “nearing the end of the first contractual year and preparing for a renewal into the second year”.²¹ The Legal Representatives posit that the TFV should have anticipated the need for such adjustments as part of its standard procedures and thus should have submitted its Request much earlier, rather than on a last minute basis. Accordingly, the TFV Request is untimely and should be rejected as such.

14. Moreover, the parties’ requests for additional information were not limited to data related to the *Lubanga* programme but also related to many other matters of no direct relevance to the above mentioned programme. The TFV hence fails to explain the reasons why it is unable to provide supplementary information on said matters at this stage, and therefore fails to show good cause for the extension of time requested.

15. As stressed by the Trial Chamber, “the scope and content of the DIP was clearly defined in the Reparations Order”²² and “its clear instructions for the TFV to resort to existing structures, programmes and partners should allow the TFV to have a clear understanding of the specific modalities, timelines, and costs involved in the reparation programmes that could be implemented in the present case”, given that “the TFV faces the unprecedented scenario of having already implemented reparations in two cases within the same country, region, and regarding crimes committed during the same time-frame”.²³

16. The Legal Representatives contend that although many details sought by the parties should have already been included in the first version of the DIP, these details are in any event meant to be in possession of the TFV and should be provided to the Legal Representatives with no further delay to enable them to consult their clients. They further underline that the slow pace of the TFV internal procedures coupled with

²⁰ See the 21 January 2022 Decision, *supra* note 16, para. 14.

²¹ See the TFV Request, *supra* note 1, para. 8.

²² See the 21 January 2022 Decision, *supra* note 16, para. 8.

²³ *Idem*, para. 10.

its slow time reaction appear to already be at the origin of the delay accumulated in the reparation processes and is not acceptable.²⁴

17. In light of the above, the Legal Representatives respectfully request the Trial Chamber to reject the Request, since it is untimely and no good cause has been shown pursuant to regulation 35 of the Regulations of the Court. If, by extraordinary the Trial Chamber were incline to extend the deadline, such an extension should be limited to no more than one month, and the corresponding deadlines for the parties and the Registry set out in the 21 January 2022 Decision should be extended accordingly.

RESPECTFULLY SUBMITTED,



Sarah Pellet
Common Legal Representative of the
Former Child soldiers



Dmytro Suprun
Common Legal Representative of the
Victims of the Attacks

Dated this 22nd day of February 2022

At The Hague, The Netherlands

²⁴ The Legal Representatives also refer in this regard to the unacceptable delays with regard to the implementation of the IDIP for priority victims.