

**Cour
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Internationale**



**International
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Court**

Original: **English**

No.: **ICC-01/04-02/06**
Date: **24 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

**Decision on the Trust Fund for Victims' Request for Extension of Time to Submit
Additional Information on Draft Implementation Plan**

To be notified, in accordance with Regulation 31 of the Regulations of the Court, to:**Legal Representatives of Victims**

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Trust Fund for Victims

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Others

Trial Chamber II of the International Criminal Court (the ‘Chamber’), in the case of *The Prosecutor v. Bosco Ntaganda* (the ‘Ntaganda case’), having regard to article 75 of the Rome Statute and Regulation 35(2) of the Regulations of the Court, issues this Decision on the Trust Fund for Victims’ Request for Extension of Time to Submit Additional Information on Draft Implementation Plan (the ‘Decision’).

I. PROCEDURAL HISTORY AND SUBMISSIONS

1. On 8 March 2021, Trial Chamber VI, delivered its Reparations Order,¹ *inter alia*, directing the Trust Fund for Victims (‘TFV’) to submit, by 8 September 2021, a Draft Implementation Plan (‘DIP’).²
2. On 23 July 2021, the Chamber granted the TFV an extension of the time limit to submit its DIP until 17 December 2021.³ On 17 December 2021, following a Defence’s request,⁴ the Chamber directed the parties and the Registry to file their observations on the DIP, if any, by 24 January 2022.⁵
3. On 20 December 2021, the TFV’s submission of the DIP was notified.⁶ On 18 January 2022, following a Defence’s request,⁷ the Chamber authorised the Defence and the Legal Representatives for Victims (‘LRVs’, hereafter the ‘CLR1’⁸, the ‘CLR2’⁹, respectively) to file responses of up to 30 pages each to the DIP.¹⁰

¹ Trial Chamber VI, *Prosecutor v. Bosco Ntaganda*, Reparations Order (‘Reparations Order’), 8 March 2021, [ICC-01/04-02/06-2659](#).

² Reparations Order, [ICC-01/04-02/06-2659](#), p. 97.

³ 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](#), p. 6.

⁴ Defence request for an extension of the time limit to respond to the Trust Fund for Victims’ Draft Implementation Plan, 15 December 2021, [ICC-01/04-02/06-2728](#).

⁵ Order for the submission of observations on the draft implementation plan, 17 December 2021, [ICC-01/04-02/06-2731](#).

⁶ Trust Fund fo [sic] Victims’ submission of Draft Implementation Plan (‘Submission of DIP’), dated 17 December 2021 (submitted on 18 December 2021 at 00:30:53 and notified on 20 December 2021), [ICC-01/04-02/06-2732](#), with 1 Confidential Annex, ICC-01/04-02/06-2732-Conf-AnxA, (‘DIP’).

⁷ Request on behalf of Mr Ntaganda seeking an extension of the page limit to respond to the Draft Implementation Plan of the Trust Fund for Victims, 14 January 2022, [ICC-01/04-02/06-2733](#).

⁸ Common Legal Representative of the former child soldiers.

⁹ Common Legal Representative of the victims of the attacks.

¹⁰ Email from the Chamber’s Legal Officer, 18 January 2022, at 12:49 hrs.

4. On 21 January 2022, following the parties' requests for the TFV to provide further information on the DIP,¹¹ the Chamber issued a decision,¹² *inter alia*, i) ordering the TFV to supplement the DIP by addressing, to the extent possible, all matters requiring further clarification as identified by the LRVs and the Defence, by 24 February 2022; ii) inviting the DRC authorities to submit observations on the DIP and the TFV's supplementary filing, by 10 March 2022; and iii) directing the parties and the Registry to file their observations on the DIP and the TFV's supplementary filing, by 24 March 2022.

5. On 18 February 2022, the TFV submitted a request for extension of time to submit the additional information on the DIP ('Request'), in a second version of its DIP, by 11 April 2022.¹³

6. On 22 February 2022, in accordance with the Chamber's instructions,¹⁴ the LRVs¹⁵ and the Defence¹⁶ submitted their responses to the Request.

II. ANALYSIS

7. In the Request, the TFV submits that, after assessing the nature of the information sought by the LRVs and the Defence, they require further clarification on, *inter alia*, details pertaining to the current *Lubanga* programme.¹⁷ The TFV explains that it intends to address all these matters in a second version of its DIP, after it concludes an ongoing evaluation exercise with the implementing partner aimed at bringing certain adjustments to the programme, which should conclude within two weeks.¹⁸ Taking into account that the DIP requires approval by the

¹¹ 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, 18 January 2022, ICC-01/04-02/06-2735-Conf-Exp (public redacted version filed on the same day, [ICC-01/04-02/06-2735-Red](#)); 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 ('Defence Response'), 20 January 2022, [ICC-01/04-02/06-2736](#); 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 the Trust Fund for Victims' Draft Implementation Plan' (ICC-01/04-02/06-2735-Conf-Exp)" ('CLR2 Response'), 20 January 2022, ICC-01/04-02/06-2737-Conf.

¹² 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 ('21 January 2022 Decision'), 21 January 2022, [ICC-01/04-02/06-2739](#).

¹³ Trust Fund for Victims' Request for Extension of Time to Submit Additional Information on Draft Implementation Plan ('Request'), 18 February 2022, [ICC-01/04-02/06-2746](#).

¹⁴ Email from the Chamber's Legal Officer, 18 February 2022, at 16:53 hrs.

¹⁵ 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" ('Joint Response'), 22 February 2022, [ICC-01/04-02/06-2747](#).

¹⁶ Defence response to the "Trust Fund for Victims' Request for Extension of Time to Submit Additional Information on Draft Implementation Plan", 22 February 2022 ('Defence Response'), [ICC-01/04-02/06-2748](#).

¹⁷ Request, [ICC-01/04-02/06-2746](#), para. 7.

¹⁸ Request, [ICC-01/04-02/06-2746](#), para. 8.

TFV's Board of Directors before it is submitted to the Chamber, the TFV asserts that good cause is shown pursuant to Regulation 35 of the Regulations, warranting an extension of the time limit to submit the supplementary information by 11 April 2022.¹⁹

8. In their Joint Response, the LRVs submit that the Request should be rejected as untimely and failing to show good cause pursuant to regulation 35 of the Regulations.²⁰ The LRVs submit, *inter alia*, that: i) the adjustments to the *Lubanga* programme which the TFV refers to should have been anticipated as part of its standard procedures, and thus the TFV should have submitted its Request much earlier; ii) the Chamber instructed the TFV to provide 'as many details as possible [...] regarding the projected awards', and not a second version of its DIP;²¹ iii) the additional matters requiring clarification are not limited to the *Lubanga* programme and the TFV did not explain why it is unable to provide supplementary information on said matters at this stage.²² In the alternative, the LRVs submit that an extension should be limited to no more than one month, and the corresponding deadlines for the responses by the LRVs, the Defence, and the Registry should be extended accordingly.²³

9. In its Response, the Defence submits that the reasons put forward by the TFV in the Request do not constitute a good cause justifying the extension of time limit, but that it does not oppose a limited extension of time for reasons of efficiency and in the interest of justice.²⁴ The Defence submits that the TFV failed to provide information regarding the difficulties encountered, if any, or its inability to provide the information sought by parties,²⁵ that many of the additional matters requiring clarification are not related to the *Lubanga* programme,²⁶ and takes issue with the TFV's '*proprio motu* endeavor' to submit a second version of its DIP.²⁷

10. The Chamber notes that, pursuant to regulation 35(2) of the Regulations, the Chamber may extend or reduce a time limit if good cause is shown, and, where appropriate, after having given the participants an opportunity to be heard.

11. In the view of the Chamber, the TFV's undertaking of the evaluation exercise of the *Lubanga* programme with its implementing partners, aimed at bringing the necessary

¹⁹ Request, [ICC-01/04-02/06-2746](#), para. 10.

²⁰ Joint Response, [ICC-01/04-02/06-2747](#), para. 17.

²¹ Joint Response, [ICC-01/04-02/06-2747](#), para. 13.

²² Joint Response, [ICC-01/04-02/06-2747](#), paras 13-14.

²³ Joint Response, [ICC-01/04-02/06-2747](#), para. 17.

²⁴ Defence Response, [ICC-01/04-02/06-2748](#), para. 2.

²⁵ Defence Response, [ICC-01/04-02/06-2748](#), para. 3.

²⁶ Defence Response, [ICC-01/04-02/06-2748](#), para. 4.

²⁷ Defence Response, [ICC-01/04-02/06-2748](#), para. 5.

adjustments therein, does have an impact on the design of the *Ntaganda* reparations programme and seems to justify a limited extension of time for the submission of the additional information by the TFV. Consequently, the Chamber is satisfied that good cause has been shown to partly extend the time limit for the TFV to 24 March 2022. The Chamber however stresses that, in line with its previous instructions,²⁸ the TFV shall address in its updated version of the DIP, to the extent possible, all matters requiring further clarification as identified by the LRVs and the Defence, and not limit itself to modifications relating to the *Lubanga* programme. The Chamber notes that the TFV is exceptionally granted an authorisation to submit an updated version of the DIP, for the sake of judicial economy and in order for it to compile in one single document all the relevant information necessary for the Chamber's assessment of the DIP.

12. In light of the limited extension granted above, the Chamber considers that the DRC authorities, the parties, and Registry should also be granted an extension of time to submit their observations on the updated version of the DIP.

13. As to the Defence's submission regarding the TFV's reporting schedule in respect of the Initial Draft Implementation Plan (IDIP) and the DIP,²⁹ the Chamber considers that pending its decision on the DIP, the current reporting scheme as to the IDIP and the deadline for responses should remain unchanged.

²⁸ 21 January 2022 Decision, [ICC-01/04-02/06-2739](#), para. 11.

²⁹ Defence Response, [ICC-01/04-02/06-2748](#), para. 9.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY,


PARTIALLY GRANTS the Request;

EXTENDS the deadline for the TFV to supplement the DIP by addressing, to the extent possible, all matters requiring further clarification as identified by the LRVs and the Defence, in an updated version of the DIP, by 24 March 2022;

EXTENDS the deadline for the DRC authorities to submit observations on the updated DIP, if any, by 7 April 2022;

EXTENDS the deadline for the parties and the Registry to file their observations on the updated DIP, by 24 April 2022.

Done in both English and French, the English version being authoritative.



Judge Chang-ho Chung, Presiding Judge



Judge Péter Kovács



Judge María del Socorro Flores Liera

Dated this Thursday, 24 February 2022

At The Hague, The Netherlands