

**Cour
Pénale
Internationale**



**International
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Court**

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

Date: **25 April 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 ‘Request on behalf of Mr Ntaganda seeking a limited extension of the page limit to respond to the Second Draft Implementation Plan of the Trust Fund for Victims’

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

Ms Sarah Pellet
 Mr Tars van Litsenborgh
 Ms Ana Peña

Mr Dmytro Suprun
 Ms Fiona Lau
 Mr Patrick Tchidimbo

Counsel for Bosco Ntaganda

Mr Stéphane Bourgon
 Mr Benjamin Willame
 Mr Jacopo Ricci

Unrepresented Victims**Unrepresented Applicants for Participation/Reparation****The Office of Public Counsel for Victims**

Ms Paolina Massidda

The Office of Public Counsel for the Defence**States' Representatives**

Amicus Curiae

REGISTRY**Registrar**

Mr Peter Lewis

Counsel Support Section**Victims and Witnesses Unit****Detention Section****Victims Participation and Reparations Section**

Mr Philipp Ambach

Trust Fund for Victims

Mr Pieter de Baan

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 37(2) of the Regulations of the Court, issues this Decision on the ‘Request on behalf of Mr Ntaganda seeking a limited extension of the page limit to respond to the Second Draft Implementation Plan of the Trust Fund for Victims’ (the ‘Decision’).

I. PROCEDURAL HISTORY

1. On 8 March 2021, Trial Chamber VI, delivered its Reparations Order,¹ *inter alia*, directing the Trust Fund for Victims (‘TFV’) to submit, within six months, a Draft Implementation Plan (‘DIP’).² Following a TFV’s request,³ on 23 July 2021, the Chamber granted the TFV an extension of the time limit to submit its DIP until 17 December 2021.⁴

2. On 20 December 2021, the TFV’s submission of the DIP was notified,⁵ whereby the TFV requests, *inter alia*, the Chamber’s approval of the DIP and authorisation for the Democratic Republic of Congo (‘DRC’) authorities to submit observations in response to the DIP.⁶

3. On 18 January 2022, following a Defence request,⁷ the Chamber authorised the Defence and the Legal Representatives for Victims (‘LRVs’) to file responses of up to 30 pages each to the DIP.⁸

4. On 21 January 2022, the Chamber issued a Decision, *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)

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

⁴ 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.

⁵ Trust Fund fo [sic] Victims’ submission of Draft Implementation Plan (‘Submission of First 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.

⁶ Submission of First DIP, [ICC-01/04-02/06-2732](#), para. 19.

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

directing the parties and the Registry to file their observations on the DIP and the TFV's supplementary filing, by 24 March 2022.⁹

5. On 24 February 2022, following a TFV request,¹⁰ the Chamber issued a Decision, *inter alia*, extending the deadlines: i) for the TFV to supplement the DIP in an updated version, by 24 March 2022; ii) for the DRC authorities to submit observations on the updated DIP, if any, by 7 April 2022; and iii) for the parties and the Registry to file their observations on the updated DIP, by 24 April 2022.¹¹

6. On 25 March 2022, the TFV's updated version of the DIP was notified ('Updated DIP').¹²

7. On 8 April 2022, in light of a request by the DRC authorities,¹³ the Chamber extended the deadlines: i) for the DRC authorities to submit observations on the Updated DIP, if any, by 4 May 2022; and ii) for the parties and the Registry to file their observations on the Updated DIP, by 18 May 2022.¹⁴

8. On 14 April 2022, the Defence submitted its request seeking an extension of the page limit to respond to the TFV's Updated DIP ('Request').¹⁵ On 20 April 2022, the LRVs filed their joint response to the Request ('Joint Response').¹⁶

II. ANALYSIS

9. In the Request, the Defence submits that, although not filed due to the extension of time, when drafting its initial response to the First DIP and its attachments, which comprised

⁹ 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, [ICC-01/04-02/06-2739](#), disposition.

¹⁰ Trust Fund for Victims' Request for Extension of Time to Submit Additional Information on Draft Implementation Plan, 18 February 2022, [ICC-01/04-02/06-2746](#), para. 11.

¹¹ Decision on the Trust Fund for Victims' Request for Extension of Time to Submit Additional Information on Draft Implementation Plan, 24 February 2022, [ICC-01/04-02/06-2749](#), disposition.

¹² Trust Fund for Victims' second submission of Draft Implementation Plan (submitted on 24 March 2022 at 23:58, and notified on 25 March 2022 at 11:44), [ICC-01/04-02/06-2750](#), with 1 confidential annex, ICC-01/04-02/06-2750-Conf-Anx1, and 1 confidential *ex parte* annex available to the CLRs, ICC-01/04-02/06-2750-Conf-Exp-Anx2.

¹³ Email from the Registry requesting on behalf of the DRC authorities a variation of the time limits of two weeks from the notification of the French translation of the updated DIP to be able to submit their observations, 7 April 2022, at 17:33 hrs.

¹⁴ Email from the Chamber's Legal Officer, 8 April 2022, at 10:54 hrs.

¹⁵ Request on behalf of Mr Ntaganda seeking a limited extension of the page limit to respond to the Second Draft Implementation Plan of the Trust Fund for Victims ('Request'), 14 April 2022, [ICC-01/04-02/06-2757](#), para. 18.

¹⁶ Joint Response of the Common Legal Representatives of the Victims to the "Request on behalf of Mr Ntaganda seeking a limited extension of the page limit to respond to the Second Draft Implementation Plan of the Trust Fund for Victims" ('Joint Response'), 20 April 2022, [ICC-01/04-02/06-2758](#).

almost 120 pages, it struggled to meet the 30-page limit set by the Chamber.¹⁷ The Defence indicates that, although some issues remain unaddressed, the TFV's Updated DIP contains additional information and/or explanations on some of the 49 matters identified as requiring clarification, which need to be addressed in the response.¹⁸ Similarly, the Defence submits that it also wishes to address some of the matters raised by the Defence that the TFV declined to address.¹⁹ In the Defence's argument, the additional information provided by the TFV entails matters of relevance to the Defence and the overall fairness of the reparations process which deserve to be discussed in full.²⁰ Furthermore, the Defence submits that in its response it also aims to respond to the forthcoming observations by the DRC authorities.²¹ In light of the above, the Defence posits that exceptional circumstances are established pursuant to regulation 37(2) of the Regulations which warrant an extension of the applicable page limit of the Defence response to 40 pages.²² As the Defence explains, such extension will neither delay the proceedings nor prejudice anyone involved in the reparations proceedings, including the potential beneficiaries.²³

10. In their Joint Response, the LRVs submit that they do not oppose the Request, and ask the Chamber for the same extension of page limit in case the Request is granted.²⁴

11. The Chamber recalls that pursuant to regulation 37(2) of the Regulations, it may extend the page limit 'in exceptional circumstances'. In the instant case, the Chamber considers that the complexity and relevance of the additional information and/or explanations provided by the TFV in its Updated DIP, or lack thereof, and the additional observations that the DRC authorities may submit, all of which the Defence wishes to address in its response, constitute exceptional circumstances for the purpose of regulation 37(2) of the Regulations.²⁵ In light of the above, considering that it serves the interests of the proceedings to obtain sufficiently detailed submissions to rule on the Updated DIP, the Chamber hereby authorizes the Defence to present its observations on the Updated DIP in a document not exceeding 40 pages.

¹⁷ Request, [ICC-01/04-02/06-2757](#), para. 18.

¹⁸ Request, [ICC-01/04-02/06-2757](#), para. 15.

¹⁹ Request, [ICC-01/04-02/06-2757](#), para. 15.

²⁰ Request, [ICC-01/04-02/06-2757](#), para. 16.

²¹ Request, [ICC-01/04-02/06-2757](#), para. 17.

²² Request, [ICC-01/04-02/06-2757](#), para. 18.

²³ Request, [ICC-01/04-02/06-2757](#), para. 18.

²⁴ Joint Response, [ICC-01/04-02/06-2758](#), para. 2.

²⁵ For a similar approach *see*, Appeals Chamber, *Prosecutor v. Thomas Lubanga Dyilo*, Decision on the Prosecutor's application for an extension of page limit for his document in support of appeal, 22 July 2010, [ICC-01/04-01/06-2532](#), para. 6.

Similarly, the Chamber considers that each of the LRVs should also be authorized to file their observations on the DIP in documents not exceeding 40 pages each.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY,

GRANTS the Request;

AUTHORISES the Defence and the LRVs to file their observations on the Updated DIP in documents not exceeding 40 pages each.



Judge Chang-ho Chung, Presiding Judge



Judge Péter Kovács



Judge María del Socorro Flores Liera

Dated this Monday, 25 April 2022

At The Hague, The Netherlands