

**Cour
Pénale
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**International
Criminal
Court**

Original: **English**

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

Date of the original:

10 February 2022

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26 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

**Corrigendum of ‘Decision on the TFV’s Third Update Report on the Implementation
of the Initial 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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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 articles 75 and 79 of the Rome Statute (‘Statute’) and Regulation 23bis(3) of the Regulations of the Court (‘Regulations’), issues this Decision on the TFV’s Third Update Report on the Implementation of the Initial Draft Implementation Plan (the ‘Decision’).

I. PROCEDURAL HISTORY

1. On 8 March 2021, Trial Chamber VI delivered the Reparations Order,¹ *inter alia*, directing the Trust Fund for Victims (‘TFV’) to submit an urgent plan for priority victims.²
2. On 8 June 2021, the TFV submitted the initial draft implementation plan with focus on priority victims (the ‘IDIP’).³ Following the parties’ and Registry’s observations⁴ and the TFV’s reply,⁵ on 23 July 2021, the Chamber issued a decision (‘Decision on the IDIP’),⁶ approving the IDIP, subject to certain amendments and additional information to be provided by the TFV, and directing the TFV to file by-monthly progress reports its implementation.
3. On 23 September 2021, the TFV submitted its First Progress Report on the IDIP’s implementation.⁷ Following the Defence’s observations,⁸ on 28 October 2021, the Chamber issued a decision (‘Decision on the IDIP’s First Report’), *inter alia*, instructing the TFV to

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 Report on Trust Fund’s Preparation for Draft Implementation Plan (notified on 9 June 2021), ICC-01/04-02/06-2676-Conf, with Annex A, Initial Draft Implementation Plan with focus on Priority Victims, ICC-01/04-02/06-2676-Conf-AnxA (a corrigendum was filed on 14 June 2021 and a public redacted version of the cover filing and annex were filed on 15 June 2021, [ICC-01/04-02/06-2676-Red](#) and [ICC-01/04-02/06-2676-AnxA-Corr-Red](#)).

⁴ Observations of the Common Legal Representative of the Victims of the Attacks on the Trust Fund for Victims’ Draft Initial Implementation Plan, 23 June 2021, ICC-01/04-02/06-2680-Conf (a public redacted version was filed on 28 June 2021, [ICC-01/04-02/06-2680-Red](#)); Response of the Common Legal Representative of the Former Child Soldiers to the TFV Initial Draft Implementation Plan with focus on Priority Victims, 23 June 2021, [ICC-01/04-02/06-2681](#); Defence Observations on the TFV initial draft implementation plan, 23 June 2021, ICC-01/04-02/06-2682-Conf; Registry Observations on the Trust Fund for Victims’ Initial Draft Implementation Plan, 23 June 2021, [ICC-01/04-02/06-2683](#).

⁵ Observations on the responses and observations submitted on the Initial Draft Implementation Plan, 28 June 2021, ICC-01/04-02/06-2687-Conf (a public redacted version was filed on the same day [ICC-01/04-02/06-2687-Red](#)).

⁶ Decision on the TFV’s initial draft implementation plan with focus on priority victims (‘Decision on the IDIP’), 23 July 2021, [ICC-01/04-02/06-2696](#).

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, 23 September 2021, ICC-01/04-02/06-2710-Conf (a public redacted version was filed on 7 October 2021, [ICC-01/04-02/06-2710-Red](#)).

⁸ Defence observations on the TFV First Progress Report on the implementation of the Initial Draft Implementation Plan, 4 October 2021, ICC-01/04-02/06-2714-Conf (a public redacted version was filed on 5 November 2021, [ICC-01/04-02/06-2714-Red](#)).

clarify and provide additional details on certain issues relevant to the implementation of the IDIP.⁹

4. On 23 November 2021, the TFV submitted its Second Progress Report on the IDIP's implementation.¹⁰ Following the Legal Representatives for Victims ('LRVs', hereafter the 'CLR1',¹¹ the 'CLR2',¹² respectively) responses¹³ and the Defence's observations,¹⁴ on 17 December 2021 the Chamber issued a decision ('Decision on the IDIP's Second Report'), *inter alia*, instructing the TFV to provide additional information and proposals required to the proper implementation of the IDIP.¹⁵

5. On 24 January 2022, the TFV submitted its Third Update Report on the IDIP's implementation ('Third Report'), providing the Chamber with an update on the security situation, the eligibility and urgency screening, and the urgent measures for former child soldiers.¹⁶

6. On 4 February 2022, the Defence¹⁷ and CLR1¹⁸ submitted their observations on the Third Report, requesting the Chamber to instruct the TFV to promptly provide additional information.

⁹ Decision on the TFV's First Progress Report on the implementation of the Initial Draft Implementation Plan and Notification of Board of Directors' decision pursuant to regulation 56 of the Regulations of the Trust Fund ('Decision on the IDIP's First Report'), 28 October 2021, [ICC-01/04-02/06-2718-Red](#).

¹⁰ Trust Fund's Second Update report on the Implementation of the Initial Draft Implementation Plan ('IDIP Second Report'), 23 November 2021, ICC-01/04-02/06-2723-Conf (a public redacted version was filed on 28 December 2021, [ICC-01/04-02/06-2723-Red](#)).

¹¹ Common Legal Representative of the former child soldiers.

¹² Common Legal Representative of the victims of the attacks.

¹³ Response of the Common Legal Representative of the Former Child Soldiers to the Trust Fund's Second Update report on the Implementation of the Initial Draft Implementation Plan, 6 December 2021, ICC-01/04-02/06-2725-Conf (a public redacted version was filed on 7 January 2022, [ICC-01/04-02/06-2725-Red](#)); Response of the Common Legal Representative of the Victims of the Attacks to the "Trust Fund's Second Update report on the Implementation of the Initial Draft Implementation Plan", 6 December 2021, ICC-01/04-02/06-2724-Conf (a public redacted version was filed on 7 January 2022, [ICC-01/04-02/06-2724-Red](#)).

¹⁴ Defence observations on the TFV Second Progress Report on the implementation of the Initial Draft Implementation Plan, 6 December 2021, ICC-01/04-02/06-2726-Conf (a public redacted version was filed on 5 January 2022, [ICC-01/04-02/06-2726-Red](#)).

¹⁵ Decision on the TFV's Second Progress Report on the implementation of the Initial Draft Implementation Plan, 17 December 2021, ICC-01/04-02/06-2730-Conf ('Decision on the IDIP's Second Report').

¹⁶ Trust Fund for Victims' Third Update Report on the Implementation of the Initial Draft Implementation Plan, 24 January 2022 ('Third Report'), ICC-01/04-02/06-2741-Conf (a public redacted version was filed on the same date, [ICC-01/04-02/06-2741-Red](#)).

¹⁷ Defence observations on the Trust Fund for Victims' Third Update Report on the Implementation of the Initial Draft Implementation Plan, 4 February 2022 ('Defence Observations'), ICC-01/04-02/06-2744-Conf (a public redacted version was filed on the same date, [ICC-01/04-02/06-2744-Red](#)).

¹⁸ Observations of the Common Legal Representative of the Former Child Soldiers on the Trust Fund for Victims' Third Update Report on the Implementation of the Initial Draft Implementation Plan, 4 February 2022 ('CLR1 Observations'), ICC-01/04-02/06-2743-Conf-Exp (a public redacted version was filed on the same date, [ICC-01/04-02/06-2743-Red2](#)).

II. SUBMISSIONS AND ANALYSIS

7. At the outset, the Chamber deems it necessary to recall that the IDIP's exclusive purpose is to take the necessary *interim* measures to address the *most urgent needs* of vulnerable victims in need to receive *immediate physical and/or psychological medical care* and/or support due to *financial hardship that endangers the person's life*, during the time-period between the IDIP's approval and the effective implementation of the DIP.¹⁹ Further, the Chamber reiterates that the urgent needs of the victims to be addressed through the IDIP are *only* those resulting from the *harm suffered as a consequence of the crimes* for which Mr Ntaganda was convicted and for which the victims cannot continue waiting until reparations in the case are fully operational.²⁰

8. The Chamber also stresses that, although some information was not sufficiently provided, balancing the rights and interests at stake and in order to *avoid further delays*, the Chamber opted for approving the IDIP, instead of ordering the TFV to submit an amended version, but subject to the amendments and additional information to be provided by the TFV in its next report.²¹ In particular, the Chamber instructed the TFV, *inter alia*, (i) to provide additional information on the proposed activities, steps to be taken, direct and indirect costs of the specific projects to be undertaken, the estimated number of victims that could gradually benefit therein, a clear timeline for the IDIP's implementation, and any additional amount that the TFV expected to use to complement the awards and finance the IDIP;²² (ii) in case the urgent needs of some victims could not be properly addressed within the scope of work of the selected assistance projects, to consider implementing directly *urgent measures* itself;²³ (iii) to provide a concrete plan for the IDIP's implementation and a timeline for its phased approach;²⁴ and (iv) to present an alternative proposal for the eligibility assessment and urgency screening of victims, considering whether it could be carried out by the Registry in whole or in part.²⁵

9. Although some of the information requested was indeed provided by the TFV in its First Report, in light of its prior rulings, the Chamber once again ordered the TFV to provide further clarifications regarding, *inter alia*, (i) the arrangements for former child soldiers in need of urgent assistance, who are not SGVB victims or children born out of rape or sexual slavery,

¹⁹ Decision on the IDIP, [ICC-01/04-02/06-2696](#), paras 7-9.

²⁰ Decision on the IDIP, [ICC-01/04-02/06-2696](#), para. 33.

²¹ Decision on the IDIP, [ICC-01/04-02/06-2696](#), paras 15-16.

²² Decision on the IDIP, [ICC-01/04-02/06-2696](#), para. 16.

²³ Decision on the IDIP, [ICC-01/04-02/06-2696](#), para. 27.

²⁴ Decision on the IDIP, [ICC-01/04-02/06-2696](#), para. 30.

²⁵ Decision on the IDIP, [ICC-01/04-02/06-2696](#), para. 38.

to also benefit from one of the assistance projects;²⁶ (ii) the extent to which the measures of socio-economic assistance offered in the projects were suitable to meaningfully address the urgent needs to victims to receive immediate support due to financial hardship that endangers the person's life;²⁷ and (iii) the number of victims to initially benefit from the projects and the costs therein.²⁸ In addition, the Chamber encouraged the TFV to provide in its future reports to the Chamber additional information as to the way it will conduct the eligibility assessment and urgency screening.²⁹

10. Lastly, after receiving the Second Report, the Chamber once again encouraged the TFV to provide additional details as to the way it will substantively, as opposed to procedurally, assess eligibility and urgency for the purposes of the IDIP.³⁰ Further, the Chamber instructed the TFV to (i) provide concrete information regarding the impact of the security situation on the IDIP's implementation;³¹ and (ii) propose an alternative way of addressing the urgent needs of former child soldiers who are not SGVB victims or children born out of rape or sexual slavery.³²

11. Considering the provisional nature of the information provided by the TFV in its Third Report,³³ and that both the Defence³⁴ and the CLR1³⁵ submit that the details are still insufficient, the Chamber deems it necessary to reiterate the above instructions and remind the TFV of the need to proceed expeditiously, avoiding unnecessary delays, particularly considering the narrow, interim, and emergency nature of the IDIP. Within this context, the Chamber would expect that all issues listed above are properly addressed by the TFV, providing the concrete information requested at the latest in its next report. Similarly, a year after the Reparations Order was issued, the Chamber would expect that at least the participating victims in most dire need would have already started benefiting from interim measures until the proper reparations in the case are fully operational.

12. Regarding the issue raised by the CLR1 related to the legal representation of potential beneficiaries that did not participate in the trial proceedings,³⁶ the Chamber stresses that it

²⁶ Decision on the IDIP's First Report, [ICC-01/04-02/06-2718-Red](#), para. 10.

²⁷ Decision on the IDIP's First Report, [ICC-01/04-02/06-2718-Red](#), para. 12.

²⁸ Decision on the IDIP's First Report, [ICC-01/04-02/06-2718-Red](#), paras 13-14.

²⁹ Decision on the IDIP's First Report, [ICC-01/04-02/06-2718-Red](#), para. 24.

³⁰ Decision on the IDIP's Second Report, ICC-01/04-02/06-2730-Conf, para. 12.

³¹ Decision on the IDIP's Second Report, ICC-01/04-02/06-2730-Conf, para. 9.

³² Decision on the IDIP's Second Report, ICC-01/04-02/06-2730-Conf, para. 16.

³³ Third Report, [ICC-01/04-02/06-2741-Red](#), para. 7.

³⁴ Defence Observations, [ICC-01/04-02/06-2744-Red](#), para. 24.

³⁵ CLR1 Observations, [ICC-01/04-02/06-2743-Red2](#), para. 32.

³⁶ CLR1 Observations, [ICC-01/04-02/06-2743-Red2](#), paras 25-28.

decided not to appoint legal representatives for potential beneficiaries of reparations.³⁷ Nevertheless, the Chamber partly extended the mandate of both LRVs in the case, as OPCV counsel, allowing them to (i) make submissions whenever necessary to generally represent the interests and rights of all potential beneficiaries during any litigation or judicial proceedings at the reparation stage of the case;³⁸ and (ii) provide general support and assistance to potential beneficiaries during the administrative eligibility assessment, particularly to those assessed as non-eligible or that do not qualify for assistance pursuant to the IDIP.³⁹ Accordingly, the TFV's interpretation that the LRVs would only become engaged on an individual basis with potential beneficiaries in case of a negative eligibility decision is in line with the Chamber's decisions.

13. Having reviewed the public redacted versions of the underlying filings made in compliance with the Decision on the IDIP's Second Report, and pursuant to regulation 23bis(3) of the Regulations, the Chamber hereby orders the reclassification as public, without redactions, of decision ICC-01/04-02/06-2730-Conf.

³⁷ Decision on the IDIP, [ICC-01/04-02/06-2696](#), paras 39-41.

³⁸ Decision on the IDIP, [ICC-01/04-02/06-2696](#), para. 40.

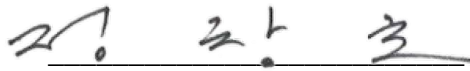
³⁹ Decision on the IDIP, [ICC-01/04-02/06-2696](#), para. 41.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY,

REITERATES its prior instructions and **ORDERS** the TFV to provide in its next report the concrete information on all topics previously indicated by the Chamber; and

ORDERS the reclassification as public, without redactions, of decision ICC-01/04-02/06-2730-Conf.

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 Tuesday, 26 April 2022

At The Hague, The Netherlands