

**Cour
Pénale
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**International
Criminal
Court**

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

Date: **21 July 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
With 3 Public Annexes**

**Joint Submission of the Trust Fund for Victims and Registry on the process of
eligibility**

Source: The Trust Fund for Victims and Registry

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

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**Victims Participation and Reparations
Section**

Mr Philipp Ambach

I. PROCEDURAL HISTORY

1. On 8 March 2021, Trial Chamber VI issued an order for reparations against Mr Ntaganda (“Reparations Order”), directing the Trust Fund for Victims (“Trust Fund” or “TFV”) to submit an initial draft implementation plan for victims in an urgent situation by 8 June 2021 as well as a draft implementation plan by 8 September 2021.¹
2. On 16 March 2021, the Presidency recomposed the Trial Chamber to be comprised of Judge Péter Kovács, Judge Chang-ho Chung, and Judge Maía del Socorro Flores Liera and decided to dissolve Trial Chamber VI and refer the case to Trial Chamber II (“Trial Chamber”).²
3. On 8 June 2021, the Trust Fund submitted its initial draft implementation plan³ (“Initial Draft Implementation Plan” or “IDIP”) to the Trial Chamber.⁴
4. On 23 July 2021, the Trial Chamber issued its Decision on the Trust Fund’s IDIP (“Decision of 23 July 2021”),⁵ 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.

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

² Decision assigning judges to divisions and recomposing Chambers, ICC-01/04-02/06-2663, page 7.

³ 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.

⁴ [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’).

⁵ Decision on the TFV’s initial draft implementation plan with focus on priority victims, 23 July 2021, [ICC-01/04-02/06-2696](#).

5. On the same day, the Trial Chamber granted a Trust Fund's request for extension of time and set the deadline for submission of the DIP to 17 December 2021.⁶
6. On 23 September 2021 and 23 November 2021 respectively, the Trust Fund submitted its first and second update reports on the IDIP⁷ and on 29 October 2021 the Trial Chamber issued its decision on the first update report.⁸
7. On 17 December 2021, the Trust Fund submitted the Draft Implementation Plan for reparations⁹ and on 24 March 2022 the second iteration of this Draft Implementation Plan ("DIP").¹⁰
8. On 18 May 2022, the Registry submitted observations on the DIP.¹¹
9. On 20 June 2022, the Trial Chamber directed the Registry and the TFV by way of email to conduct consultations and submit a joint filing by 22 July 2022, at the latest, to clarify in particular their respective submissions on the verification process and inform the Chamber on a workable solution agreed in relation thereto ("Instruction").¹²

⁶ 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](#).

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, [ICC-01/04-02/06-2710-Conf](#); Trust Fund's Second Update report on the Implementation of the Initial Draft Implementation Plan, [ICC-01/04-02/06-2723-Conf](#).

⁸ 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](#).

⁹ Trust Fund for Victims' submission of Draft Implementation Plan, [ICC-01/04-02/06-2732](#).

¹⁰ Trust Fund for Victims' second submission of Draft Implementation Plan, [ICC-01/04-02/06-2750](#).

¹¹ Registry Observations on the Trust Fund for Victims' Draft Implementation Plan, [ICC-01/04-02/06-2766-Red](#).

¹² Email of Trial Chamber II to TFV and Registry, dated 20 June 2022 at 12:09.

II. JOINT SUBMISSION

10. In accordance with the Instruction, the Registry and the TFV continued the consultation process they had started in June 2021. By reference to paragraph 378 of the DIP, it is recalled that the Registry had expressed its readiness to cooperate with the TFV and to find a solution to the needs of the TFV for the purposes of the verification process.

11. Accordingly, the TFV presented to the Registry the requirements for a staffing resource who would be able to carry out the verification process. It clearly underlined the need to employ dedicated staff capacity for this function. The TFV also described the tasks involved in carrying out this role and the time foreseeably required to perform the related duties during the implementation of the *Ntaganda* reparations order. Furthermore, the TFV explained how this role would best be carried out under the functional control of the TFV given its ultimate responsibility for reparations to victims and their implementation process. The relevant memorandum is appended as Annex 1 to the present submission.

12. In response to the TFV's memorandum, the Registry proposed to make available a "dedicated resource to the TFV for the relevant tasks in the *Ntaganda* process". While this person's reporting line is within the Registry, the TFV will provide "all relevant instructions and guidelines as to the exercise of relevant assignments", so that the "TFV will retain full control over the verification process". The relevant memorandum is appended hereto as Annex 2.

13. The TFV accepted the Registry's offer by way of memorandum (Annex 3).

14. Accordingly, the way forward for the *Ntaganda* verification process is neither included in Option 1 nor Option 2 as referenced in the DIP. Rather, a third way has been devised by which the Registry provides support to the TFV through a dedicated staff resource, who should be allocated at the professional level, as of January 2023, which is administratively located within the Registry. The Registry foresees this staffing resource to be embedded in VPRS with the first reporting line to this Section.

15. Specifically, the TFV will retain full control of the verification process and will thus ultimately make the final determination. At the same time, embedment of the staff resource in the Registry/VPRS will ensure immediate access to relevant information and documentation concerning potential beneficiaries already on file with the Registry as well as to available knowledge and expertise within the Registry.

16. With this close collaboration, the TFV and the Registry, anticipate that the eligibility process, while enabling in-house verification, will result in additional efficiencies in terms of financial and staffing resources. The effectiveness of the proposed system will be closely and jointly monitored and evaluated by both the TFV and Registry management, and reported on by the TFV to the Trial Chamber. As to the administrative review process, the TFV and the Registry observe that it will be conducted as described in paragraph 383 of the DIP since the TFV remains in full control of the verification process.

FOR THE FOREGOING REASONS,

The Trust Fund and the Registry, in compliance with the Instruction, submit for the Trial Chamber's consideration, the solution proposed above for the purposes of the

identification and verification process, with the TFV as the main verification body supported by staffing capacity administratively placed within the Registry.



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

p.p.



Marc Dubuisson
Director, Division of Judicial Services
on behalf of Peter Lewis, Registrar

Dated this 21 July 2022

At The Hague, The Netherlands