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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

**Observations of the Common Legal Representative of the Former Child Soldiers
on the “Joint Submission of the Trust Fund for Victims and Registry on the
process of eligibility” (ICC-01/04-02/06-2774)**

Source: Office of Public Counsel for Victims (CLR1)

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 Former Child Soldiers (the “Legal Representative”) hereby files her observations on the “Joint Submission of the Trust Fund for Victims and Registry on the process of eligibility” (the “Joint Submission”).¹

II. PROCEDURAL BACKGROUND

2. The Legal Representative incorporates by reference the procedural background set out in her “Response to the ‘Trust Fund for Victims’ second submission of Draft Implementation Plan’ (ICC-01/04-02/06-2750)”.²

3. On 20 June 2022, the Chamber directed the Registry and the Trust Fund for Victims (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.³

4. On 21 July 2022, the TFV and the Registry filed the Joint Submission.⁴

III. SUBMISSIONS

5. The Legal Representative commends the Registry and the TFV for their continued cooperation and the proposed solution whereby the Registry provides a

¹ See the “Joint Submission of the Trust Fund for Victims and Registry on the process of eligibility”, With 3 Public Annexes, [No. ICC-01/04-02/06-2774](#), 21 July 2022 (the “Joint Submission”).

² See the “Common Legal Representative of the Former Child Soldiers’ Response to the ‘Trust Fund for Victims’ second submission of Draft Implementation Plan’ (ICC-01/04-02/06-2750)”, [No. ICC-01/04-02/06-2763-Conf](#) and [No. ICC-01/04-02/06-2763-Red](#), 18 May 2022, paras. 5-29.

³ See the email communication from Trial Chamber II to the Registry and the TFV, 20 June 2022 at 12:09.

⁴ See the Joint Submission, *supra* note 1.

dedicated staff resource to the TFV to perform a number of tasks in relation to the *Ntaganda* verification process.⁵

6. Nonetheless, the Legal Representative notes that the dedicated staff resource “would focus on the Victims of the Attacks” and that, “[i]n relation to the Former Child Soldiers, the TFV currently considers that the majority of them has already been identified and found eligible and that therefore the gist of the work relates to indirect beneficiaries; a work that can be continued for efficiency purposes by the TFV’s legal staff member who has been dedicated to the victims who are Former Child Soldiers”.⁶

7. In this regard, the Legal Representative would like to remind the TFV that there are still hundreds of direct victims, mostly residing outside of Bunia, as well as a large group of indirect victims, who were unable to apply for reparations in the *Lubanga* case before the deadline set by the Chamber as a result of the imposed security and health restrictions.⁷ She further recalls that the Chamber suggested their potential inclusion into the *Ntaganda* reparation programme.⁸ Therefore, it is expected that the workload related to the verification of the Former Child Soldiers’ applications for reparations will also be substantial.

8. The Legal Representative recalls that the TFV proposed a verification procedure whereby “[t]he verification body must be in a position to make a determination within a short period of time, ideally within 15 days of receipt of the forms”,⁹ and understands this procedure to be equally applicable to both groups of victims. As the TFV rightly points

⁵ *Idem*, para. 14.

⁶ See “Annex 1 to the Joint Submission of the Trust Fund for Victims and Registry on the process of eligibility”, [No. ICC-01/04-02/06-2774-Anx1](#), 21 July 2022, para. 29.

⁷ See, *inter alia*, the “Réponse des RLV V01 au Quinzième Rapport sur le progrès de la mise en œuvre des réparations collectives déposé par le Fonds au profit des victimes (ICC-01/04-01/06-3524) avec annexe du 21 octobre 2021”, [No. ICC-01/04-01/06-3526](#), 2 November 2021, paras. 12-13.

⁸ See the “Sixth Decision on the TFV’s administrative decisions on applications for reparations and other related matters” (Trial Chamber II), [No. ICC-01/04-01/06-3523](#), 23 August 2021, para. 11.

⁹ See “Annex 1 to the Trust Fund for Victims’ second submission of Draft Implementation Plan”, [No. ICC-01/04-02/06-2750-Conf-Anx1](#) and [No. ICC-01/04-02/06-2750-Anx1-Red-Corr](#), 25 March 2022, para.

out, “[t]he staff in charge of the verification will therefore need to be readily available, without delay, to expeditiously process information as it is received, and to coordinate and organise the workflow”.¹⁰ Considering that the Registry’s dedicated staff resource’s tasks would pertain exclusively to the eligibility process of Victims of the Attacks, as opposed to the TFV’s legal staff member who would be in charge of the verification process of Former Child Soldiers on top of his or her regular workload, the Legal Representative hopes that this differentiation will not result in different procedures and delays to the detriment of her clients and/or potential beneficiaries.

9. Additionally, the Legal Representative notes that the Registry’s dedicated staff resource would also play a fundamental role in the identification process, notably in relation to the training of implementing partners, the design of the process of collecting information, and the relevant criteria or factual circumstances to be taken into account.¹¹ As set out *supra*, there still is a considerable group of Former Child Soldiers who would need to be identified.¹² Therefore, the Legal Representative would be grateful if the TFV could clarify whether it envisages a role for the Registry’s dedicated staff resource in this regard and, if so, what said role would be.

Respectfully submitted,



Sarah Pellet

Dated this 1st day of August 2022

At The Hague, The Netherlands

¹⁰ See “Annex 1 to the Joint Submission of the Trust Fund for Victims and Registry on the process of eligibility”, *supra* note 6, para. 16.

¹¹ *Idem*, para. 24.

¹² See *supra*, para. 7.