

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

*Original: English*

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

**Date: 8 November 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 two confidential *ex parte* annexes only available to the Registry**

**Registry submission in compliance with the “Order for the implementation of the Judgment on the appeals against the decision of Trial Chamber VI of 8 March 2021 entitled ‘Reparations Order’” (ICC-01/04-02/06-2786)**

**Source: Registry**

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

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## I. Introduction

1. On 25 October 2022, Trial Chamber II (“Chamber”) issued its “Order for the implementation of the Judgment on the appeals against the decision of Trial Chamber VI of 8 March 2021 entitled ‘Reparations Order’”<sup>1</sup> ( “Order”) in the case of *The Prosecutor v. Bosco Ntaganda* (“Ntaganda case”). It ordered the Registry to submit to the Chamber within 14 days of the issuance of the Order : (1) a list of individuals to be included in a sample of victim applications to be assessed and ruled upon by the Chamber;<sup>2</sup> and (2) all details compiled from its database in relation to those victims who are part of the sample.<sup>3</sup>
2. In the Order, the Registry was further invited to submit, within the same deadline, its observations on the procedure for the constitution of the sample established by the Order<sup>4</sup> and on the redactions of victims’ dossiers.<sup>5</sup>
3. The Registry’s Victims Participation and Reparations Section (“VPRS”) herewith submits in confidential *ex parte* Annex 1 the list of individuals to be included in the sample, compiled in compliance with the Chamber’s instructions.<sup>6</sup> A table containing details extracted from the relevant victims’ dossiers is transmitted to the Chamber in confidential *ex parte* Annex 2.
4. Pursuant to the Order, the Registry herewith submits its observations on the procedure for the constitution of the sample established by the Order and on the redactions of victims’ dossiers.

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<sup>1</sup> Trial Chamber II, “Order for the implementation of the Judgment on the appeals against the decision of Trial Chamber VI of 8 March 2021 entitled “Reparations Order””, 25 October 2022, ICC-01/04-02/06-2786.

<sup>2</sup> Order, para. 34 (d) and Disposition, p. 21. The Chamber provided instructions on how the Registry should constitute the sample at paras 20 and 22 to 34 of the Order (“Chamber’s instructions”).

<sup>3</sup> Order, para. 34 (d) and Disposition, p. 21.

<sup>4</sup> Order, para. 34 (e).

<sup>5</sup> Order, para. 36.

<sup>6</sup> See *supra*, footnote 2.

## II. Procedural History

5. On 1 October 2020 and 15 January 2021, the Registry submitted its First<sup>7</sup> and Second<sup>8</sup> Reports on Reparations, in which it *inter alia* reported on the results of consultations with victims carried out during the course of a mapping exercise ordered by the Chamber, in its former composition (former Trial Chamber VI).<sup>9</sup> In the context of said mapping exercise, the Registry collected (i) 28 short consultation forms of victims who participated in the trial proceedings and were considered by the Registry to fall within the scope of the conviction; and (ii) 53 long consultation forms of potential new beneficiaries that had not participated at trial.<sup>10</sup>
6. On 8 March 2021, the Chamber issued its Reparations Order in the *Ntaganda* case (“Reparations Order”).<sup>11</sup>
7. On 12 September 2022, the Appeals Chamber issued its Judgment on the appeal against the Reparations Order (“Appeal Judgment”).<sup>12</sup>
8. On 25 October 2022, the Chamber issued the Order.<sup>13</sup>
9. On 31 October and 1 November 2022, in conformity with the Order,<sup>14</sup> the Trust Fund for Victims (“TFV”) transmitted to the VPRS the names of the 69 victims who have been found eligible in the context of the Initial Draft Implementation Plan (“IDIP”) and whose dossiers will be part of the sample of dossiers to be

<sup>7</sup> Annex I to Registry, “First Report on Reparations”, dated 30 September 2020 and registered on 1 October 2020, ICC-01/04-02/06-2602-Conf-AnxI. A public redacted version was submitted on 26 October 2020, ICC-01/04-02/06-2602-AnxI-Red.

<sup>8</sup> Annex I to Registry, “Second Report on Reparations”, 15 January 2021, ICC-01/04-02/06-2639-Conf-AnxI. A public redacted version was submitted on 10 February 2021, ICC-01/04-02/06-2639-AnxI-Red (‘Second Report’).

<sup>9</sup> In the context of the mapping exercise, a “long form” was used by the Registry as a means of registering new potential beneficiaries. A “short form” was used to collect updated information on the harm and the current needs of a selected amount of participating victims, with a view to complement their applications for participation (See Order, paras 11 to 14).

<sup>10</sup> In its Second Report, the Registry reported to the Chamber on 25 long forms (Second Report, paras. 39 and 41). A further 28 long forms were later received by the Registry (See Order, para. 13).

<sup>11</sup> Trial Chamber VI, “Reparations Order”, 8 March 2021, ICC-01/04-02/06-2659.

<sup>12</sup> Appeals Chamber, “Judgment on the appeal against the decision of Trial Chamber VI of 8 March 2021 entitled “Reparations Order”, 12 September 2022, ICC-01/04-02/06-2782.

<sup>13</sup> See *supra*, footnote 1.

<sup>14</sup> Order, para. 20.

ruled on by the Chamber, as well as additional information in respect to five of these victims' dossiers.<sup>15</sup>

10. On 2 November 2022, the Chamber authorised the Registry to add to the sample pool a number of reparation applications of non-participating victims received by the Registry outside the context of the mapping exercise.<sup>16</sup>

### III. Classification

11. Pursuant to regulation 23*bis*(1) of the Regulations of the Court, the annexes to this document are classified confidential *ex parte*, only available to the Registry, in accordance with the Chamber's instructions.<sup>17</sup>

### IV. Applicable Law

12. The present filing is submitted in accordance with the Order.

### V. Submissions

13. Based on the Chamber's instructions, the sample of victims' dossiers listed in Annex 1 includes:

- (i) all 69 victim applications and additional information and/or supporting documentation submitted by victims whom the TFV has so far found eligible to benefit from the IDIP;<sup>18</sup> and
- (ii) a sample of victims' dossiers randomly selected by the Registry, in accordance with the criteria and methodology enunciated in the Order,<sup>19</sup> from the two groups of victims, namely 1) the victims of the attacks and 2) the victims of crimes against child soldiers. The universe of victims constituting the pool from which the Registry would extract this part of

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<sup>15</sup> Emails from TFV to VPRS, 31 October 2022, at 12:53 and 12:58; and 1 November 2022, at 15:14. The VPRS expresses its gratitude to the TFV for its speedy transmission of information prior to the relevant deadline as per the Order.

<sup>16</sup> See *infra*, fn. 23.

<sup>17</sup> Order, para. 34 (d).

<sup>18</sup> Order, para. 20.

<sup>19</sup> Order, paras 26 and 34.

the sample of victims' applications is constituted of the following ("Universe of Victims"):

- a. All victims who participated in the trial proceedings, including those victims whom the Registry preliminary assessed as not eligible following the scope of Mr Ntaganda's conviction,<sup>20</sup> but excluding the individuals who also qualify as victims in the *Lubanga* case and all 69 victims already found eligible for the IDIP purpose;<sup>21</sup> and
- b. All non-participating victims who have already submitted long forms to the Registry in the context of its mapping exercise.<sup>22</sup>
- c. Following the Chamber's guidance, 39 non-participating victims who submitted to the VPRS applications for reparations outside the context of the mapping exercise.<sup>23</sup>

14. The below table summarises the Universe of Victims:

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<sup>20</sup> Order, para. 23.

<sup>21</sup> Order, paras 24 and 26.

<sup>22</sup> Order, para. 25.

<sup>23</sup> On 2 November 2022, the VPRS requested the Chamber's guidance on whether or not it should include in the Universe of Victims applications for reparations received from non-participating victims in December 2020. Email from VPRS to Chamber, 2 November 2022 at 11:05. On the same day, the Chamber instructed the VPRS to include the above-mentioned reparation forms that pertain solely to the *Ntaganda* case to the Universe of Victims, as they are to be considered among the group of non-participating victims referred to in para. 26 (ii) of the Order. Moreover, the Chamber indicated that "[s]imilar to the treatment of the other non-participating victims, in case any of these 39 victims are randomly selected as part of the sample, para. 34 (i) of the Order should apply to them", i.e. these victims receive support and assistance "from the OPCV, through the LRVs currently representing participating victims, or through a third counsel if the OPCV considers it necessary". Email from Chamber to VPRS, 2 November 2022 at 13:19.

	Victims of the attacks	Victims of crimes against child soldiers	Total number of victims
a. Victims who participated in trial proceedings	1,837	284	2,121
<b>Excluded:</b> Victims who also qualify in the <i>Lubanga</i> case	0	(67)	(67)
<b>Excluded:</b> Victims found by the TFV to be eligible to benefit from the IDIP	(45)	(24)	(69)
<b>Total</b>	1,792	193	1,985
b. Non-participating victims who submitted long forms <sup>24</sup>	52	1	53
c. Non-participating victims who submitted applications for reparations outside the mapping exercise <sup>25</sup>	0	39 <sup>26</sup>	39
<b>Total number Universe of Victims</b>	<b>1,844</b>	<b>233</b>	<b>2,077</b>

*Administration of the random sample process*

15. In compliance with the Chamber's instructions, notably that "the Registry should randomly select from the total universe of victims a 5% of the victims of the attacks and a 5% of the victims of crimes against child soldiers",<sup>27</sup> the Registry determined that 92 victims' dossiers had to be randomly selected from the group of victims of the attacks and 12 victims' dossiers had to be randomly selected from the group of victims of crimes against child soldiers, based on the total numbers displayed in the list above.

<sup>24</sup> In light of para. 13 of the Order, and as confirmed by the Chamber (Email from the Chamber to the VPRS, 2 November 2022, at 13:19), the Registry included 28 long forms received after the Second Report, together with the previously accounted for (*see* Order, para. 13) 25 long forms in the Universe of Victims.

<sup>25</sup> See *supra* fn 23.

<sup>26</sup> Eleven out of 50 applicants were found to be also participating in the *Lubanga* reparation proceedings. They were therefore not added to the Universe of Victims, in application of the principle enunciated by the Chamber in para. 26 of the Order.

<sup>27</sup> Order, para. 34(b).

16. The VPRS compiled the random samples using an online computer program,<sup>28</sup> following the below steps:

- (i) For each of the two groups, the VPRS attributed a distinct number<sup>29</sup> to each victim's dossier;
- (ii) The program generated 1) a list of 92 numbers randomly selected from the pool of 1,844 distinct numbers corresponding to the victims of the attacks, and 2) a list of 12 numbers randomly selected from the pool of 233 distinct numbers corresponding to the victims of crimes against child soldiers; and
- (iii) The VPRS matched the numbers randomly selected by the program with the reference numbers of the victims' dossiers they corresponded to, thus constituting the two lists of dossiers randomly selected.

17. Pursuant to the Chamber's instructions, the Registry transmits in confidential *ex parte* Annex 1 the following three lists, which, together, constitute the sample ordered by the Chamber:

- (i) The list of 69 dossiers of victims found by the TFV to be eligible to benefit from the IDIP;
- (ii) The list of 92 dossiers of the victims of the attacks, randomly selected following the methodology detailed at paragraphs 15 and 16; and
- (iii) The list of 12 dossiers of the victims of crimes against child soldiers, randomly selected following the methodology detailed above at paragraphs 15 and 16.

18. Annex 2 contains the details extracted from the VPRS database and compiled in relation to the victims listed in Annex 1, organised in a table.

*Observations on the redaction of victims' dossiers*

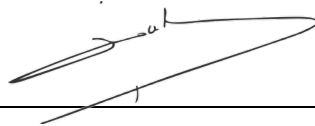
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<sup>28</sup> Available at <https://www.random.org/integer-sets/> [last visited on 8 November 2022].

<sup>29</sup> From 1 to 1,844 for the group of victims of the attacks, and from 1 to 233 for the group of victims of crimes against child soldiers.



19. At paragraphs 35 and 36 of the Order, the Chamber details the principles governing the redaction of the victims' dossiers that will be performed by the Registry in compliance with paragraph 34 (f) of the Order.
20. The VPRS has undertaken a review of its internal guidelines on redactions it has been applying in the context of the *Ntaganda* case against the principles enunciated by the Chamber. For this purpose it also consulted internally with the Registry's Victims and Witnesses Section, and with the two Common Legal Representative of Victims in the Case ("CLRs").
21. The Registry will thus apply redactions in close consultation with the CLRs<sup>30</sup> and in full compliance with the Chamber's Order.
22. The Registry stands ready to provide any further information and assistance, as the Chamber may deem necessary.



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

Dated this 8 November 2022

At The Hague, the Netherlands.

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<sup>30</sup> The Registry considers that the CLRs are best placed to assess the situation of their clients and, for this reason, will associate them in the exercise of preparing the redacted versions of their clients' dossiers.