



Original: **English**

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

Date: **7 December 2022**

TRIAL CHAMBER II

Before: Judge Chang-ho Chung, Presiding Judge
Judge Péter Kovacs
Judge Maria del Socorro Flores Liera

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
*THE PROSECUTOR V. BOSCO NTAGANDA***

Public

Public Redacted Version of “Defence request for an extension of the applicable time limit to file submissions referred to in the Implementation Order issued by Trial Chamber II”, dated 6 December 2022, ICC-01/04-02/06-2798-Conf

Source: Defence Team of Mr Bosco Ntaganda

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

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**Victims Participation and Reparations
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Further to 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”” issued by Trial Chamber II (“Chamber”) on 25 October 2022 (“Implementation Order”)¹ and the Chamber’s “Decision on the 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’”² dated 25 November 2022 (“25 November Decision”), Counsel for the Convicted Person (“Defence”) hereby submits this:

Defence request for an extension of the applicable time limit to file submissions referred to in the Implementation Order issued by Trial Chamber II

“Defence Request for Extension of Time”

INTRODUCTION

1. Pursuant to the Implementation Order, the Parties, the Trust Fund for Victims (“TFV”), the Registry and the Office of the Prosecutor (“OTP”) may submit observations in relation to, *inter alia*, the estimation of the amount of the monetary award,³ transgenerational harm and the Sayo health centre, within 60 days of the Implementation Order, *i.e.* by 28 December 2022.⁴

2. In its 25 November Decision, the Chamber supplemented the above instructions, directing the Parties, the TFV, the Registry and the OTP to complement their submissions, **due within 60 days from the notification of the Implementation**

¹ 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 (“Implementation Order”).

² Decision on the 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’”, 25 November 2022, ICC-01/04-02/06-2794 (“25 November Decision”).

³ Although para.38 of the Implementation Order refers only to the TFV, the Defence understands that the Parties, the Registry and the OTP are not precluded from submitting observations, in particular concerning “[...] any other relevant information for the estimation of the monetary award in this case.”

⁴ Implementation Order, paras.38-42, Disposition.

Order, by providing any additional information or documentation they might have as to the estimated total number of potential beneficiaries of reparations in the present case, along with an explanation of the methodology used to provide such estimate.⁵

3. For the reasons set out herein, which constitute good cause within the meaning of Regulation 35(2) of the Regulations of the Court (“RoC”), the Defence respectfully requests a limited extension of the applicable time limit with a view to submitting its observations, and possibly further evidence, no later than Monday 30 January 2023.

4. Such extension would necessarily apply to the other Party, the TFV, the Registry and the OTP.

CONFIDENTIALITY

5. This Defence Request for Extension of Time is classified confidential pursuant to Regulation 23*bis* RoC as it refers to a Defence undertaking, which should not be made public. A public redacted version of the Defence Request for Extension of Time will be filed as soon as the confidential version is notified.

SUBMISSIONS

6. For the following reasons, which constitute good cause pursuant to Regulation 35(2) RoC, the Defence respectfully requests an extension of the applicable time limit to submit observations, and possibly further evidence, in relation to the estimation of the amount of the monetary award, transgenerational harm, the Sayo health centre, and the estimated total number of potential beneficiaries of reparations in the present case.

7. First, more time is required [REDACTED]. The Defence has already [REDACTED], which requires careful organization and time. These additional efforts in conjunction with obtaining unredacted material from the experts mandated by Trial

⁵ 25 November Decision, para.37, Disposition.

Chamber VI⁶ are likely to yield the additional information necessary, [REDACTED], [REDACTED].

8. Second, the preparation of Defence submissions on the above issues requires close coordination amongst members of the Defence team as well as more time than expected. This is due mainly to the Defence team working in a reduced capacity during the reparations phase as well as away from the seat of the Court, in different time zones. This situation is further compounded by the fact that some members of the Defence team are involved in other cases and working pursuant to demanding schedules between now and the end of the year.

9. Third, while issuing a new reparations order in this case, as soon as practically possible, is certainly an important objective, the schedule put in place for the Parties to offer submissions on the 173 victims' applications included in the sample assembled, extends well into February 2023, if not later.

10. Fourth, submissions concerning the estimated total number of potential beneficiaries of reparations in the present case - which the Defence considers to be the most important issue at this stage - require time as well as some type of coordination between the Parties and participants, or, at a minimum, sufficient time to respond to submissions of the other Party or participants.

11. Fifth, there is merit in giving the Parties and participants sufficient time to provide the Chamber with meaningful submissions that will be of assistance in correcting the errors identified in the Appeals Judgment on Reparations.⁷

12. Sixth, considering that the applicable time limit for the Parties and participants to submit observations, and possibly additional evidence, falls well into the Court

⁶ Implementation Order, para.43, Disposition.

⁷ See for instance Judgment on the appeals against the decision of Trial Chamber VI of 8 March 2021 entitled "Reparations Order", 12 September 2022, ICC-01/04-02/06-2782, paras.23,155-174,235-265,493,549,745

winter recess,⁸ which ends on 8 January 2023, there is merit in extending the time limit to avoid as much as possible the overlap.

13. Lastly, neither the victims *nor* the parties and participants would be prejudiced by extending the applicable time limit until Monday 30 January 2023. In fact, the potential for the victims, the parties and the participants to be prejudiced is higher if the applicable time limit is not extended.

CONCLUSION AND RELIEF SOUGHT

14. In light of the foregoing, the Defence respectfully requests the Chamber to:

GRANT the Defence Request for Extension of Time; and

EXTEND the applicable time limit for the submission of arguments related to the above-mentioned issues until Monday 30 January 2023

RESPECTFULLY SUBMITTED ON THIS 7th DAY OF DECEMBER 2022



Me Stéphane Bourgon *Ad.E.*, Counsel for Bosco Ntaganda

The Hague, The Netherlands

⁸ The winter recess starts on 17 December 2022 and ends on 8 January 2023.