

**Cour
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**International
Criminal
Court**

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No.: **ICC-01/04-02/06**
Date: **22 December 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

Trust Fund for Victims' submission of information on certain victims selected in Trial Chamber II's approved sample

Source: The Trust Fund for Victims

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**

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I. PROCEDURAL HISTORY

1. On 8 July 2019, Trial Chamber VI issued its Judgment, convicting Mr Bosco Ntaganda of five counts of crimes against humanity and thirteen counts of war crimes.¹
2. On 15 December 2020, following various submissions made in the context of the reparations proceedings, the Trial Chamber issued a decision ruling on a number of issues raised by the Registry in relation to the scope of the conviction.²
3. On 8 March 2021, Trial Chamber VI issued an order for reparations against Mr Ntaganda (“Reparation Order”).³
4. On 8 June 2021, the Trust Fund for Victims (the “Trust Fund” or “TFV”) submitted its initial draft implementation plan⁴ (the “Initial Draft Implementation Plan” or “IDIP”)⁵ and, on 23 July 2021, Trial Chamber II (the “Trial Chamber”) issued a decision approving it with amendments, and directing the Trust Fund to report on the IDIP implementation every two months.⁶
5. On 23 September 2021, the Trust Fund submitted its first update report⁷ and, on 29 October 2021, the Trial Chamber issued a decision approving the proposals contained therein and directing the Trust Fund to provide certain clarifications.⁸

¹ Judgment, [ICC-01/04-02/06-2359](#).

² Decision on issues raised in the Registry’s First Report on Reparations, [ICC-01/04-02/06-2630](#).

³ Reparations Order, [ICC-01/04-02/06-2659](#), paras 249-253 and 257, and disposition.

⁴ 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 submission.

⁵ 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](#).

⁶ Decision on the TFV’s initial draft implementation plan with focus on priority victims, 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, [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 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](#). A public redacted version was notified on 28 October 2021: [ICC-01/04-02/06-2718-Red](#).

6. On 23 November 2021, the Trust Fund submitted its second update report on the IDIP⁹ and, on 17 December 2021, having heard the observations of the parties,¹⁰ the Trial Chamber issued a decision thereon.¹¹

7. On 24 January 2022, the Trust Fund submitted its third update report on the IDIP¹² (“Third Update Report”) and, on 10 February 2022, having heard the observations of the parties, the Trial Chamber issued a decision thereon (“Decision on Third Update Report”).¹³

8. On 24 March 2022, the Trust Fund submitted its fourth update report on the IDIP¹⁴ (“Fourth Update Report”) and, on 12 May 2022, having heard the observations of the parties,¹⁵ the Trial Chamber issued a decision thereon (“Decision on Fourth Update Report”) in which it approved *inter alia* the mechanism for addressing urgent needs of former child soldiers who are not SGBV victims or children born out of rape or sexual slavery.¹⁶

⁹ Trust Fund’s Second Update report on the Implementation of the Initial Draft Implementation Plan, [ICC-01/04-02/06-2723-Conf](#). A public redacted version was filed on 28 December 2021: [ICC-01/04-02/06-2723-Red](#).

¹⁰ 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-Red](#); 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 (ICC-01/04-02/06-2723-Conf), 6 December 2021, [ICC-01/04-02/06-2725-Red](#); 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-Red](#).

¹¹ Decision on the TFV’s Second Progress Report on the implementation of the Initial Draft Implementation Plan, [ICC-01/04-02/06-2730-Conf](#).

¹² Trust Fund for Victim’s Third Update report on the Implementation of the Initial Draft Implementation Plan, ICC-01/04-02/06-2741-Conf. A public redacted version was filed on the same day: [ICC-01/04-02/06-2741-Red](#).

¹³ Decision on the TFV’s Third Update report on the Implementation of the Initial Draft Implementation Plan, [ICC-01/04-02/06-2745-Corr](#).

¹⁴ Trust Fund for Victims’ Fourth Update Report on the Implementation of the Initial Draft Implementation Plan, 24 April 2022, [ICC-01/04-02/06-2751-Conf](#), With one confidential annex, A public redacted version was filed on 20 May 2022: [ICC-01/04-02/06-2751-Red](#).

¹⁵ Observations of the Common Legal Representative of the Former Child Soldiers on the “Trust Fund for Victims’ Fourth Update Report on the Implementation of the Initial Draft Implementation Plan” (ICC-01/04-02/06-2751-Conf), 7 April 2022, [ICC-01/04-02/06-2754-Conf](#), A public redacted version was filed on 20 May 2022: [ICC-01/04-02/06-2754-Red](#); Defence observations on the Trust Fund for Victims’ Fourth Update Report on the Implementation of the Initial Draft Implementation Plan, 7 April 2022, [ICC-01/04-02/06-2755-Conf](#), A public redacted version was filed on 20 May 2022: [ICC-01/04-02/06-2755-Red](#).

¹⁶ Decision on the TFV’s Fourth Update Report on the Implementation of the Initial Draft Implementation Plan, 12 May 2022, [ICC-01/04-02/06-2761-Conf](#).

9. On 24 May 2022, the Trust Fund submitted its fifth update report on the IDIP¹⁷ (“Fifth Update Report”) and, on 6 July 2022, having heard the observations of the parties,¹⁸ the Trial Chamber issued a decision thereon (“Decision on Fifth Update Report”).¹⁹

10. On 25 July 2022, the Trust Fund submitted its sixth update report on the IDIP²⁰ (“Sixth Update Report”). On 5 August 2022, the Defence submitted observations on the Sixth Update Report.²¹

11. On 12 September 2022, the Appeals Chamber issued its judgment on the Reparations Order (“Appeals Judgment”).²²

12. On 26 September 2022, the Trust Fund submitted its seventh update report on the IDIP²³ (“Seventh Update Report”). On 7 October 2022, the Defence submitted observations on the Seventh Update Report.²⁴

13. On 25 October 2022, Trial Chamber II (the “Trial Chamber”) issued its Order for the implementation of the Judgment on the appeals against the decision of Trial Chamber VI of 8

¹⁷ Trust Fund for Victims’ Fifth Update Report on the Implementation of the Initial Draft Implementation Plan, 24 May 2022, [ICC-01/04-02/06-2767-Conf](#). A public redacted version was filed on 20 July 2022: [ICC-01/04-02/06-2767-Red](#).

¹⁸ Observations of the Common Legal Representative of the Former Child Soldiers on the “Trust Fund for Victims’ Fifth Update Report on the Implementation of the Initial Draft Implementation Plan” (ICC-01/04-02/06-2767-Conf), 6 June 2022, [ICC-01/04-02/06-2770-Conf](#). A public redacted version was filed on 8 July 2022: [ICC-01/04-02/06-2770-Red](#); Defence observations on the Trust Fund for Victims’ Fifth Update Report on the Implementation of the Initial Draft Implementation Plan, 6 June 2022, [ICC-01/04-02/06-2769-Conf](#). A public redacted version was filed on 19 July 2022: [ICC-01/04-02/06-2769-Red](#).

¹⁹ Decision on the TFV’s Fifth Update Report on the Implementation of the Initial Draft Implementation Plan, 6 July 2022, [ICC-01/04-02/06-2772-Conf](#).

²⁰ Trust Fund for Victims’ Sixth Update Report on the Implementation of the Initial Draft Implementation Plan, 25 July 2022, [ICC-01/04-02/06-2775-Conf](#). A public redacted version was filed the same day.

²¹ Observations on behalf of the convicted person on the Trust Fund for Victims’ Sixth Update Report on the Implementation of the Initial Draft Implementation Plan, 5 August 2022, [ICC-01/04-02/06-2780-Conf](#). A public redacted version was filed on 26 August 2022.

²² 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](#) (“Appeals Judgment”).

²³ Trust Fund for Victims’ Seventh Update Report on the Implementation of the Initial Draft Implementation Plan, 26 September 2022, [ICC-01/04-02/06-2783-Conf](#). A public redacted version was filed on 25 October 2022: [ICC-01/04-02/06-2783-Red](#).

²⁴ Observations on behalf of the convicted person on the Trust Fund for Victims’ Seventh Update Report on the Implementation of the Initial Draft Implementation Plan, 7 October 2022, [ICC-01/04-02/06-2785-Conf](#).

March 2021 entitled “Reparations Order” (“Order on the Appeals Judgment’s Implementation”).²⁵

14. On 16 November 2022, the Trial Chamber issued its Decision on the TFV’s Sixth and Seventh Update Reports on the Implementation of the Initial Draft Implementation Plan (“Decision on Sixth and Seventh Update Report”).²⁶

15. On 25 November 2022, the Trial Chamber issued its 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’” (“Decision on Sample”).²⁷

16. On 28 November 2022, the Trust Fund submitted its eighth update report on the IDIP²⁸ (“Eighth Update Report”). On 9 December 2022, the Defence submitted observations thereon.²⁹

17. On 6 December 2022, the Defence submitted its 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”).³⁰

²⁵ 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](#) (“Order on the Appeals Judgment Implementation”).

²⁶ Decision on the TFV’s Sixth and Seventh Update Reports on the Implementation of the Initial Draft Implementation Plan, 16 November 2022, [ICC-01/04-02/06-2792](#).

²⁷ 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, 25 November 2022, [ICC-01/04-02/06-2794](#) (“Decision on Sample”).

²⁸ Trust Fund for Victims’ Eighth Update Report on the Implementation of the Initial Draft Implementation Plan, 28 November 2022, [ICC-01/04-02/06-2796-Conf](#). A public redacted version was filed on the same day: [ICC-01/04-02/06-2796-Red](#).

²⁹ Observations on behalf of the convicted person on the Trust Fund for Victims’ Eighth Update Report on the Implementation of the Initial Draft Implementation Plan, 9 December 2022, [ICC-01/04-02/06-2802-Conf](#).

³⁰ Defence request for an extension of the applicable time limit to file submissions referred to in the Implementation Order issued by Trial Chamber II, 6 December 2022, [ICC-01/04-02/06-2798-Conf](#). A public redacted version was filed on 7 December 2022: [ICC-01/04-02/06-2798-Red](#).

18. On 8 December 2022, the Common Legal Representatives for Victims submitted their Joint Response to the Defence Request for Extension of Time (“Joint Response”)³¹, and the Trust Fund submitted its Response to the Defence Request for an Extension of Time.³²

19. On 12 December 2022, the Trial Chamber issued its Decision on the Defence Request for Extension of Time.³³

II. SUBMISSION OF INFORMATION

20. Further to recent consultations with the Common Legal Representatives of the Former Child Soldiers (“CLR1”) and its implementing partner, the Trust Fund hereby informs the Trial Chamber that three victims included in the sample of victims’ applications (the “Sample”), as approved by the Trial Chamber in its Decision on the Sample of 25 November 2022 and listed in its Annex 1, were already recognised as beneficiaries of reparations in the *Lubanga* case.

21. Two of these three victims, i.e. victims a/30383/15 and a/30453/15, are currently benefiting from the IDIP programme. In this regard, victim a/30383/15 was recently recognised as a beneficiary of reparations in the *Lubanga* case by Trial Chamber II in its Tenth Decision on the TFV’s administrative decision on applications for reparations and additional matters (“Tenth Decision”).³⁴ Victim a/30453/15, on the other hand, was approved as a *Lubanga* victim by Trial Chamber II in its Decision setting the size of the reparations award for which Thomas Lubanga Dyilo is liable.³⁵ It appears that due to a variation between the surname of a/30453/15 in one case and the other, they were not detected as a victim in both the *Lubanga* and *Ntaganda* cases. The

³¹ Joint Response of the Common Legal Representatives of Victims to the “Defence request for an extension of the applicable time limit to file submissions referred to in the Implementation Order issued by Trial Chamber II”, 8 December 2022, [ICC-01/04-02/06-2800](#).

³² Trust Fund for Victims’ Response to the “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, 8 December 2022, [ICC-01/04-02/06-2801](#).

³³ Decision on the Defence request for an extension of the applicable time limit to file submissions referred to in the Implementation Order issued by Trial Chamber II, 12 December 2022, [ICC-01/04-02/06-2803](#).

³⁴ Tenth Decision on the TFV’s administrative decisions on applications for reparations and additional matters, 31 October 2022, [ICC-01/04-01/06-3543-Conf](#) (“Tenth Decision”).

³⁵ Corrected version of the “Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable”, 21 December 2017, [ICC-01/04-01/06-3379-Red-Corr-tENG](#).

Trust Fund will ensure their integration to the *Lubanga* programme for services they have not yet received in the IDIP.

22. The third victim, victim a/00707/13, recognised as a beneficiary of reparations in the *Lubanga* case by Trial Chamber II in its Tenth Decision has not benefited from the IDIP and was randomly selected by the Victims Participation and Reparations Section from the universe of victims for the purposes of the Sample in the present case. It appears that the victim has changed their name shortly before their identification in the *Lubanga* case due to a religious conversion, justifying a difference in name that could not be detected.

23. Considering that their beneficiary status in the *Lubanga* case is final, and the Trial Chamber's determination in the Order on the Appeals Judgment's Implementation that individuals who also qualify as victims in the *Lubanga* case shall not be included in the sample,³⁶ victims a/30383/15, a/30453/15 and a/00707/13 should be excluded from the sample.

FOR THE FOREGOING REASONS,

24. The Trust Fund respectfully requests the Trial Chamber to receive the information conveyed by the present submission and exclude victims a/30383/15, a/30453/15 and a/00707/13 from the Sample. The Trust Fund stands ready to provide further clarifications.



Franziska Eckelmans
Acting Executive Director of the Trust Fund for Victims,

Dated this 22th Day of December 2022
At The Hague, The Netherlands

³⁶ Order on the Appeals Judgment Implementation, para. 24.