



Original: **English**

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

Date: **20 March 2023**

**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**

**Defence request for a limited extension of the time limit set to make submissions  
on the dossiers of the victims included in the *sample***

**Source:** Defence Team of Mr Bosco Ntaganda

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

**Legal Representatives of Victims**

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Mr Dmytro Suprun  
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Ms Fiona Lau

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**REGISTRY**

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**Registrar**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Mr Philipp Ambach

**Trust Fund for Victims**

Ms Franziska Eckelmans

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”)<sup>1</sup>; the 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’”<sup>2</sup> rendered by the Chamber on 25 November 2022 (“25 November Decision”); transmission to the Defence of 171 dossiers of the victims included in the *sample*, between 11 January 2023 and 6 February 2023<sup>3</sup>; and the submissions of the Legal Representatives of Victims (“LRVs”) on the dossiers of the victims included in the *sample*, on 3 March 2023,<sup>4</sup> Counsel for the Convicted Person (“Defence”) hereby submits this:

**Defence request for a limited extension of the time limit set to make submissions on the dossiers of the victims included in the *sample***

**“Defence Request for Extension of Time”**

## INTRODUCTION

1. Pursuant to Regulation 35(2) of the Regulations of the Court (“RoC”) and for the reasons set out below, which constitute good cause, the Defence respectfully

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<sup>1</sup> 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”).

<sup>2</sup> 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”).

<sup>3</sup> First Transmission to the Defence of 28 Redacted Victim Dossiers pursuant to Trial Chamber II Decision ICC-01/04-02/06-2794, 11 January 2023, [ICC-01/04-02/06-2809](#); Second Transmission to the Defence of 50 Redacted Victim Dossiers pursuant to Trial Chamber II’s Decision ICC-01/04-02/06-2794, 20 January 2023, [ICC-01/04-02/06-2814](#); Third Transmission to the Defence of 92 Redacted Victim Dossiers pursuant to Trial Chamber II’s Decision ICC-01/04-02/06-2794, 27 January 2023, [ICC-01/04-02/06-2816](#); Transmission to the Defence of One Redacted Victim Dossier pursuant to Trial Chamber II’s Decision ICC-01/04-02/06-2813, 6 February 2023, [ICC-01/04-02/06-2825](#).

<sup>4</sup> Common Legal Representative of the Former Child Soldiers’ submissions on the 34 applications constituting the *sample*, 3 March 2023, [ICC-01/04-02/06-2835](#); Submissions by the Common Legal Representative of the Victims of the Attacks on the dossiers of the victims included in the *Sample*, 3 March 2023, [ICC-01/04-02/06-2836](#).

requests a limited extension of time to make submissions on the dossiers of the victims included in the sample.

2. It is in the interest of justice that the Defence be provided with sufficient time to make meaningful submissions on the victims' dossiers, before the Chamber rules on the sample of applications.

## SUBMISSIONS

3. Pursuant to the 25 November Decision, the Defence has been instructed "[...] to make submissions on the victims' dossiers, within thirty days from the notification of the LRVs submissions on the victims' dossiers [...]"<sup>5</sup> *i.e.* on 5 April 2023.<sup>6</sup>

4. For the reasons set out below, the Defence requests a limited extension of time to make its submissions on the victims' dossiers.

5. First, on 2 March 2023 - further to the reception of the last heavily redacted victims' dossiers from VPRS on 6 February 2023 - the Defence forwarded a detailed request to VPRS seeking the lifting of numerous redactions applied to the victims' dossiers. On 7 March 2023, VPRS acknowledged the Defence request, undertaking to respond as soon as possible following consultations with the LRVs. To this day, the Defence request remains pending.

6. Second, on 9 March 2023 - further to reception of the LRVs' submissions on their respective victims' dossiers on 3 March 2023 - the Defence forwarded requests to LRV1 and LRV2, seeking the lifting of redactions applied to their submissions. LRV1 responded to the Defence request on 13 March, refusing to lift any redactions applied. LRV2 responded to the Defence request on 10 March, accepting to lift limited redactions and refusing to lift the others. Consequently, the Defence is in the process of preparing a request to be submitted to the Chamber seeking the lifting of redactions applied by the LRVs. In line with the principle of judicial economy, the Defence

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<sup>5</sup> [25 November Decision](#), Disposition.

<sup>6</sup> The LRVs submissions on their respective victims' dossiers were submitted on 3 March 2023.

intends to submit a single request to the Chamber, addressing redactions applied by both the LRVs and VPRS, if any.

7. Third, pursuant to the 25 November Decision, the Trust Fund for Victims (“TFV”) was instructed “[...] to provide the Chamber and the parties with any relevant information or documentation taken into account when reaching the administrative decision on the 69 victims already found eligible for the IDIP purposes, within thirty days from the last transmission of the victims’ dossiers to the Defence [...]”.<sup>7</sup> To this day, the Defence has not received any such information or documentation from the TFV. Although the 25 November Decision does not expressly state that the thirty-day period set for the Defence to make submissions on the victims’ dossiers runs from the submission of the material to be provided by the TFV, such information and documentation is a critical component of the material required by the Defence for the purpose of making submissions on the victims’ dossiers. In particular, the questionnaires completed by the applicants - which were provided to the TFV by the implementing partners – are essential.

8. Fourth, it is noteworthy that all victims contacted by the LRVs, as instructed by the Chamber, have refused to disclose their identity to the Defence. Leaving aside for the moment the impact of this blanket refusal on the probative value to be attributed to the applications, the absence of identifying information for all victims / applicants evidently imposes an additional burden on the Defence, complicates the assessment of the applications, requires more time, and increases the need for consultations with the Convicted Person to be able to make meaningful submissions on the dossiers.

9. Fifth, further to the transfer of the Convicted Person to a State of enforcement to serve his sentence, in December 2022, the ability of the Defence to communicate with the Convicted Person is seriously impeded. Input from the convicted person is imperative with a view to being able to make meaningful submissions on the victims’ dossiers. Moreover, no material can be forwarded to, or received from, the Convicted

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<sup>7</sup> [25 November Decision](#), Disposition; *see also* [25 November Decision](#), para.34(f).

Person by electronic means and special procedures must be implemented to protect the confidentiality of the victims' dossiers.

10. Sixth, the composition of the Defence team at this stage of the reparations process is limited to a bare minimum. Moreover, the fact that Defence team members work in different time zones, also complicates the review and assessment of the victims' dossiers / applications.

## CONCLUSION

11. Considering the foregoing, which constitutes good cause pursuant to Regulation 35(2) RoC, the Defence respectfully requests a limited extension of time to make submissions on the dossiers of the victims included in the sample. It is both paramount as well as in the interest of justice that the Defence be provided with sufficient time to carefully assess the applications, in particular those not previously made available to the Defence – *i.e.* the vast majority – with a view to making meaningful submissions, before the Chamber rules on the same.

12. The limited extension of time sought should allow *inter alia*, to obtain a ruling from the Chamber on any request seeking the lifting of redactions (LRVs and VPRS); the TFV to provide the Chamber and the parties with the information and documentation referred to in the 25 November Decision; and the Defence to review this material in consultation with the Convicted Person.

13. Despite the importance of proceeding as quickly as possible, in the interest of victims, neither the convicted person *nor* the Defence should be prejudiced by the fact that the victims' dossiers were only disclosed very recently. Indeed, from the beginning of the reparations process, the Defence has systematically requested to have access to the victims' dossiers.

14. The Defence respectfully submits that a limited extension of time of 30 days following reception of the material to be provided by the TFV, and, in any event, of not less than 25 additional days (Defence submissions would thus be filed no later than

Monday 1 May 2023), would strike an appropriate balance between the rights of the Convicted Person and the need to proceed as expeditiously as possible.

### **RELIEF SOUGHT**

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

**GRANT** the Defence Request for Extension of Time; and

**EXTEND** the time limit set for the Defence to make submissions on the victims' dossiers until 30 days following reception of the information and documentation to be provided by the TFV; or, in any event, by granting 25 additional days.

**RESPECTFULLY SUBMITTED ON THIS 20<sup>th</sup> DAY OF MARCH 2023**

A handwritten signature in black ink, appearing to read 'S+B', with a small horizontal line extending from the end of the 'B'.

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

The Hague, The Netherlands