

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **31 August 2023**

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***

Confidential

**Decision on the TFV's Ninth to Twelfth Update Reports on the Implementation of the
Initial Draft Implementation Plan**

To be notified, in accordance with Regulation 31 of the Regulations of the Court, to:

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Trial Chamber II of the International Criminal Court (the ‘Chamber’), in the case of *The Prosecutor v. Bosco Ntaganda* (the ‘Ntaganda case’), having regard to articles 75 and 79 of the Rome Statute (‘Statute’) and Regulation 23bis(3) of the Regulations of the Court (‘Regulations’), issues this Decision on the TFV’s Ninth to Twelfth Update Reports on the Implementation of the Initial Draft Implementation Plan (the ‘Decision’).

I. PROCEDURAL HISTORY

1. On 8 March 2021, Trial Chamber VI delivered the Reparations Order,¹ *inter alia*, directing the Trust Fund for Victims (‘TFV’) to submit an initial draft implementation plan to deal with the urgent needs of priority victims.²
2. On 8 June 2021, the TFV submitted the initial draft implementation plan with a focus on priority victims (the ‘IDIP’).³
3. On 23 July 2021, following observations and reply, the Chamber approved the IDIP, subject to certain amendments and additional information to be provided by the TFV, and directed the TFV to file bi-monthly progress reports its implementation (‘Decision on the IDIP’).⁴
4. Following the TFV’s Reports and the parties’ observations, on 28 October 2021,⁵ 17 December 2021,⁶ 10 February 2022,⁷ 12 May 2022,⁸ 6 July 2022,⁹ 16 November 2022,¹⁰ and

¹ Reparations Order (‘Reparations Order’), 8 March 2021, [ICC-01/04-02/06-2659](#).

² Reparations Order, [ICC-01/04-02/06-2659](#), p. 97.

³ Report on Trust Fund’s Preparation for Draft Implementation Plan (notified on 9 June 2021), ICC-01/04-02/06-2676-Conf, with Annex A, Initial Draft Implementation Plan with focus on Priority Victims, ICC-01/04-02/06-2676-Conf-AnxA (a corrigendum was filed on 14 June 2021 and a public redacted version of the cover filing and annex were filed on 15 June 2021, [ICC-01/04-02/06-2676-Red](#) and [ICC-01/04-02/06-2676-AnxA-Corr-Red](#)).

⁴ Decision on the TFV’s initial draft implementation plan with focus on priority victims (‘Decision on the IDIP’), 23 July 2021, [ICC-01/04-02/06-2696](#).

⁵ Decision on the TFV’s First Progress Report on the implementation of the Initial Draft Implementation Plan and Notification of Board of Directors’ decision pursuant to regulation 56 of the Regulations of the Trust Fund (‘Decision on the First Report’), 28 October 2021, [ICC-01/04-02/06-2718-Red](#).

⁶ Decision on the TFV’s Second Progress Report on the implementation of the Initial Draft Implementation Plan, 17 December 2021, [ICC-01/04-02/06-2730](#).

⁷ Decision on the TFV’s Third Update Report on the Implementation of the Initial Draft Implementation Plan, 10 February 2022, a corrigendum was filed on 26 April 2022, [ICC-01/04-02/06-2745-Corr](#).

⁸ Decision on the TFV’s Fourth Update Report on the Implementation of the Initial Draft Implementation Plan (‘Decision on the Fourth Report’), 12 May 2022, [ICC-01/04-02/06-2761](#).

⁹ 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 (reclassified as public 2 November 2022, ICC-01/04-02/06-2772).

¹⁰ Decision on the TFV’s Sixth and Seventh Update Reports on the Implementation of the Initial Draft Implementation Plan (‘Decision on the Sixth and Seventh Report’), 16 November 2022, ICC-01/04-02/06-2792-Conf (reclassified as public 24 November 2022, [ICC-01/04-02/06-2792](#)).

13 January 2023,¹¹ the Chamber issued decisions on the IDIP's First, Second, Third, Fourth, Fifth, Sixth and Seventh, and Eighth Reports.

5. On 12 September 2022, the Appeals Chamber issued its judgment on the Reparations Order ('Appeals Judgment').¹²

6. On 30 January 2023,¹³ 30 March 2023,¹⁴ 30 May 2023,¹⁵ and 31 July 2023,¹⁶ the TFF filed its Ninth, Tenth, Eleventh, and Twelfth Update Reports on the IDIP's implementation.

7. On 10 February 2023,¹⁷ 11 April 2023,¹⁸ 12 June 2023,¹⁹ and 14 August 2023,²⁰ the Defence submitted its observations on each of the TFF's Update Reports. The Legal Representatives of Victims ('LRVs') did not file observations.

8. On 14 July 2023, the Chamber issued its Addendum to the Reparations Order wherein it, *inter alia*, ruled on a Sample of 171 victims' dossiers and set out the procedure for carrying out the eligibility assessment of victims at the implementation stage ('Addendum').²¹

¹¹ Decision on the TFF's Eighth Update Report on the Implementation of the Initial Draft Implementation Plan ('Decision on the Eight Report'), 13 January 2023, ICC-01/04-02/06-2811-Conf.

¹² Judgment on the appeal against the decision of Trial Chamber VI of 8 March 2021 entitled "Reparations Order" ('Appeals Judgment'), 12 September 2022, [ICC-01/04-02/06-2782](#).

¹³ Trust Fund Ninth Update Report on the Implementation of the Initial Draft Implementation Plan ('Ninth Update Report'), 30 January 2023, ICC-01/04-02/06-2817-Conf (public redacted version filed on 30 March 2023, [ICC-01/04-02/06-2817-Red](#)), with Confidential *ex parte* Annex A only available to the CLR1 and the Trust Fund for Victims, ICC-01/04-02/06-2817-Conf-Exp-AnxA, and Confidential Annex B, ICC-01/04-02/06-2817-Conf-AnxB.

¹⁴ Trust Fund Tenth Update Report on the Implementation of the Initial Draft Implementation Plan ('Tenth Update Report'), 30 March 2023, ICC-01/04-02/06-2839-Conf (public redacted version filed on 31 March 2023, [ICC-01/04-02/06-2839-Red](#)).

¹⁵ Trust Fund Eleventh Update Report on the Implementation of the Initial Draft Implementation Plan, ('Eleventh Update Report'), 30 May 2023, ICC-01/04-02/06-2854-Conf (public redacted version filed on 31 May 2023, [ICC-01/04-02/06-2854-Red](#)).

¹⁶ Trust Fund Twelfth Update Report on the Implementation of the Initial Draft Implementation Plan ('Twelfth Update Report'), 31 July 2023, ICC-01/04-02/06-2859-Conf (public redacted version filed on 16 August 2023, [ICC-01/04-02/06-2859-Red](#)).

¹⁷ Defence observations on the Trust Fund for Victims' Ninth Update Report on the Implementation of the Initial Draft Implementation Plan ('Defence observations on the Ninth Report'), 10 February 2023, ICC-01/04-02/06-2829-Conf.

¹⁸ Defence observations on the Trust Fund for Victims Tenth Update Report on the Implementation of the Initial Draft Implementation Plan ('Defence observations on the Tenth Report'), 11 April 2023, ICC-01/04-02/06-2843-Conf, with Public Annex A, [ICC-01/04-02/06-2843-AnxA](#).

¹⁹ Defence observations on the Trust Fund for Victims' Eleventh Update Report on the Implementation of the Initial Draft Implementation Plan ('Defence observations on the Eleventh Report'), 12 June 2023, ICC-01/04-02/06-2855-Conf, with Public Annex A, [ICC-01/04-02/06-2855-AnxA](#).

²⁰ Defence observations on the Trust Fund for Victims' Twelfth Update Report on the Implementation of the Initial Draft Implementation Plan, 14 August 2023, [ICC-01/04-02/06-2861](#).

²¹ Addendum to the Reparations Order of 8 March 2021, ICC-01/04-02/06-2659 ('Addendum to the Reparations Order'), 14 July 2023, ICC-01/04-02/06-2858-Conf (public redacted version filed the same day, [ICC-01/04-02/06-2858-Red](#)), pp. 13-58.

9. On 11 August 2023, the Chamber issued its First Decision on the Trust Fund for Victims' Draft Implementation Plan for Reparations ('First DIP Decision').²²

II. SUBMISSIONS AND ANALYSIS

10. Taking note of the TFV's Ninth to Twelfth Update Reports and the corresponding Defence observations, the Chamber will hereby address the following issues pertaining to the IDIP's implementation: (a) security situation; (b) victims eligibility assessments; (c) outreach measures; and (d) publicity.

a) Security situation

11. In its Ninth to Twelfth Update Reports, the TFV maintains that the security situation remains 'volatile and unpredictable',²³ and provides further details as to recent events. In its observations on the TFV's Ninth to Eleventh Update Reports, the Defence makes extensive submissions on the security situation as presented by the TFV.²⁴ The TFV's and Defence's submissions are summarised below.

12. In its Ninth Update Report, the TFV provides the most detailed information regarding the security situation, reporting that armed groups continued to carry out deadly attacks against the Armed Forces of the DRC ('FARDC') and the civilian population.²⁵ In particular, the TFV provides updates regarding the armed activities of five armed groups, noting (i) an increase of attacks in the Djugu territory where both *Coopérative pour le développement du Congo* ('CODECO') and *milice d'autodéfense Zaire* are active; (ii) the emergence of the group *Mouvement d'auto-défense Populaire de l'Ituri* whose objective is said to be to support the FARDC; (iii) the deployment of *Force de résistance patriotique de l'Ituri* ('FRPI') around Bogoro, on the Liri hill, at only four kilometres from Bogoro, and in Mitego and Kapuru; and (iv) the progress made by the *Mouvement du 23 mars* ('M23'), who managed to tighten their presence in several territories, cutting Goma off from a major part of the province.²⁶

²² First Decision on the Trust Fund for Victims' Draft Implementation Plan for Reparations ('First DIP Decision'), 11 August 2023, ICC-01/04-02/06-2860-Conf.

²³ Ninth Update Report, [ICC-01/04-02/06-2817-Red](#), para. 19; Tenth Update Report, [ICC-01/04-02/06-2839-Red](#), para. 11; Eleventh Update Report, [ICC-01/04-02/06-2854-Red](#), para. 11; Twelfth Update Report, [ICC-01/04-02/06-2859-Red](#), para. 6.

²⁴ Defence observations on the Ninth Report, ICC-01/04-02/06-2829-Conf, paras 8-20; Defence observations on the Tenth Report, ICC-01/04-02/06-2843-Conf, paras 5-9; Defence observations on the Eleventh Report, ICC-01/04-02/06-2855-Conf, paras 6-15.

²⁵ Ninth Update Report, [ICC-01/04-02/06-2817-Red](#), para. 19.

²⁶ Ninth Update Report, [ICC-01/04-02/06-2817-Red](#), paras 19-21.

13. In its observations to the TFV's Ninth Update Report, the Defence indicates that in the context of the security situation two major risks may arise, namely (i) financing or supporting militias, thereby allowing attacks against civilians to continue; and (ii) encouraging the local inhabitants to take up arms to protect themselves and their rights, thereby triggering more fighting in the Eastern DRC.²⁷

14. The Defence points out that the first risk is due to the fact that groups such as CODECO, FRPI, and the *Force patriotique et intégrationniste du Congo* ('FPIC') are in and/or operate from areas relevant to the reparations proceedings, where potential beneficiaries live.²⁸ Consequently, the Defence alleges that any reparations awarded to inhabitants that are former Lendu combatants and/or being affiliated to an armed group support and/or finance these armed groups, directly or indirectly.²⁹ According to the Defence, the only preventive measure is to adopt a robust eligibility determination that included looking into the potential beneficiaries' past.³⁰ Regarding the second risk, the Defence points out that members of the Hema group - such as the population of Bogoro currently encircled by the aforementioned groups - may become angered if former Lendu combatants and/or local inhabitants who are members of an active armed group are obtaining reparations, which may cause them to start fighting.³¹

15. To this end, the Defence posits that the TFV should be invited, pending the issuance of the new reparations order, to obtain and share additional information with the Chamber and parties, on the ongoing situation in these areas.³²

16. In its Tenth Update Report, the TFV informs that an increase of violence between the different armed groups operating in the region is noticeable.³³ The TFV reports that currently, M23 appears to control a considerable part of cities such as Goma (North Kivu), with large number of people allegedly displaced.³⁴ In addition, CODECO is alleged to be responsible for increasing and persistent attacks against civilians, including the killing of 32 civilians in Ituri province while 36 people was reportedly murdered in the village of Mukondi by the Allied Democratic Forces ('ADF').³⁵

²⁷ Defence observations on the Ninth Report, ICC-01/04-02/06-2829-Conf, para. 14.

²⁸ Defence observations on the Ninth Report, ICC-01/04-02/06-2829-Conf, para. 15.

²⁹ Defence observations on the Ninth Report, ICC-01/04-02/06-2829-Conf, para. 15.

³⁰ Defence observations on the Ninth Report, ICC-01/04-02/06-2829-Conf, para. 16.

³¹ Defence observations on the Ninth Report, ICC-01/04-02/06-2829-Conf, para. 19.

³² Defence observations on the Ninth Report, ICC-01/04-02/06-2829-Conf, para. 20.

³³ Tenth Update Report, [ICC-01/04-02/06-2839-Red](#), para. 11.

³⁴ Tenth Update Report, [ICC-01/04-02/06-2839-Red](#), para. 12.

³⁵ Tenth Update Report, [ICC-01/04-02/06-2839-Red](#), para. 12.

17. In its observations on the TFV's Tenth Update Report, the Defence submits that the TFV is silent regarding the impact of the ongoing and increasing violence in the areas it is implementing reparations, and reiterates its previous submissions that collecting this information now is essential to steer the eligibility assessment in the right direction.³⁶ The Defence attaches Annex A which provides additional information regarding the activities of armed groups in Ituri and the challenges arising thereof.³⁷

18. In its Eleventh and Twelfth Report, the TFV maintains that the security situation has not improved.³⁸ In its Twelfth Report, the TFV additionally informs that the highly volatile security situation in the areas in which the TFV is currently operating has not posed new or unforeseen challenges in relation to the programme implementation, and reiterates that the main impact for the TFV and the LRVs relates to the capability to reach out to and maintain contact with victims and beneficiaries.³⁹

19. In its observations on the TFV's Eleventh Update Report, the Defence complains about the TFV's lack of reporting on various attacks that occurred in the reporting period, which the Defence included in Annex A.⁴⁰ The Defence also submits that the reparations in this case – in the context of the IDIP or later – must take into consideration not only the dire situation in Ituri, but also, *inter alia*, (i) the concerns expressed by the Hema community and its advocacy efforts, for the creation of a criminal tribunal to address the security situation; (ii) the proposition(s) to create a truth and reconciliation commission in Ituri; and (iii) the majority composition of active militias in Ituri and the ongoing crimes committed by these armed groups against civilians.⁴¹

20. The Chamber notes with great concern that multiple armed groups are currently active in the Ituri region and continue to have a devastating impact on the local civilian population. At the same time, the Chamber notes the TFV's submissions that the security situation in the areas in which the TFV is currently operating has not posed new or unforeseen challenges in relation to the programme implementation, and that the main impact relates to the capability to reach out to and maintain contact with victims and beneficiaries.⁴² The Chamber is therefore

³⁶ Defence observations on the Tenth Report, ICC-01/04-02/06-2843-Conf, para. 9.

³⁷ Annex A to the Defence observations on the Tenth Report, [ICC-01/04-02/06-2843-AnxA](#).

³⁸ Eleventh Update Report, [ICC-01/04-02/06-2854-Red](#), para. 11; Twelfth Update Report, [ICC-01/04-02/06-2859-Red](#), para. 6.

³⁹ Twelfth Update Report, [ICC-01/04-02/06-2859-Red](#), para. 6.

⁴⁰ Annex A to the Defence observations on the Eleventh Report, [ICC-01/04-02/06-2855-AnxA](#).

⁴¹ Defence observations on the Eleventh Report, ICC-01/04-02/06-2855-Conf, para. 13.

⁴² Twelfth Update Report, [ICC-01/04-02/06-2859-Red](#), para. 6.

satisfied that the programme implementation in the IDIP context continues to remain generally unaffected, and expects the TFV to continue to report to the Chamber on the impact of the security situation on the IDIP implementation, and any changes thereof.

21. While the Chamber appreciates the Defence's extensive research to document the security situation and the associated risks that may arise in that context,⁴³ which either pertain to the potential financing of local militias or potential additional conflicts amongst the local ethnic groups,⁴⁴ the Chamber considers that the potential risks the Defence identifies remain speculative. The Chamber recalls that in its Decision on the Eight IDIP Report it had already addressed the Defence submissions pointing to the alleged risk of reparations funds being deviated to finance armed groups.⁴⁵ The Chamber concluded that in light of the type and modalities of reparations awarded in this case – collective reparations with individualised components – and the service package that the Chamber approved for the victims to receive within the IDIP's context, such risk is extremely limited and almost negligible.⁴⁶ However, the Chamber directed the Defence to bring to the Chamber's and the TFV's immediate attention concrete and verifiable information about specific cases of victims deviating reparations funds to other activities.⁴⁷ The Chamber also indicated that any other issue related to the groups involved in the current conflict situation should be brought to the attention of the Office of the Prosecutor and to the relevant local authorities.⁴⁸ The Chamber reiterates the above instructions.

22. Further, having issued its Addendum, which includes a mechanism for the victims' eligibility assessment,⁴⁹ the Chamber considers moot the Defence's submissions that the TFV should be invited, pending the issuance of the new reparations order, to obtain and share additional information on the ongoing situation, in order to steer the eligibility mechanism in the right direction.⁵⁰

⁴³ Defence observations on the Ninth Report, ICC-01/04-02/06-2829-Conf, paras 8-20; Defence observations on the Tenth Report, ICC-01/04-02/06-2843-Conf, paras 5-9; Defence observations on the Eleventh Report, ICC-01/04-02/06-2855-Conf, paras 6-15; *see also* Annex A to the Defence observations on the Tenth Report, [ICC-01/04-02/06-2843-AnxA](#), and Annex A to the Defence observations on the Eleventh Report, [ICC-01/04-02/06-2855-AnxA](#).

⁴⁴ Defence observations on the Ninth Report, ICC-01/04-02/06-2829-Conf, para. 14.

⁴⁵ Decision on the Eight Report, ICC-01/04-02/06-2811-Conf, para. 14.

⁴⁶ Decision on the Eight Report, ICC-01/04-02/06-2811-Conf, para. 15.

⁴⁷ Decision on the Eight Report, ICC-01/04-02/06-2811-Conf, para. 18.

⁴⁸ Decision on the Eight Report, ICC-01/04-02/06-2811-Conf, para. 18.

⁴⁹ Addendum to the Reparations Order, [ICC-01/04-02/06-2858-Red](#).

⁵⁰ Defence observations on the Ninth Report, ICC-01/04-02/06-2829-Conf, para. 20; Defence observations on the Tenth Report, ICC-01/04-02/06-2843-Conf, para. 9.

23. As to the Defence's submissions that the reparations in this case – in the context of the IDIP or later – must take into consideration not only the dire situation in Ituri, but also several other aspects as elaborated above,⁵¹ the Chamber does not, without more, consider that these aspects are relevant to the implementation of the IDIP. As to the implementation of future reparations in the context of the draft implementation plan ('DIP'), the Chamber reiterates, as held in its First DIP Decision, that the TFV will undertake a new security assessment closer to the time of implementation, taking into account the concerns raised by the Defence, to ensure that the implementation of reparations can be carried out safely and will not exacerbate conflict or tensions in the region.⁵²

b) Victims Eligibility Assessments

24. In its Ninth to Twelfth Update Reports, TFV informs that the following victims have had their eligibility assessed or have been referred to the TFV or the implementing partner, which the Chamber summarises as follows:

Between 28 November 2022 and 30 January 2023

- i) the CLR2 referred 12 victims to the TFV, of which the TFV transmitted to the implementing partner 10 victims to gather information about their urgent needs.⁵³ As the TFV informs, upon receiving this information, it will conduct the eligibility assessment.⁵⁴
- ii) the TFV submits to the Chamber's final determination information regarding one child soldier eligible to benefit from the IDIP.⁵⁵

Between 30 January 2023 and 30 March 2023

- i) two of the 10 victims previously transmitted to the implementing partner are unreachable, while the implementing partner is currently carrying out interviews for information gathering.⁵⁶

Between 30 March 2023 and 30 May 2023

⁵¹ Defence observations on the Eleventh Report, ICC-01/04-02/06-2855-Conf, para. 13.

⁵² First DIP Decision, ICC-01/04-02/06-2860-Conf, para. 145.

⁵³ Ninth Update Report, ICC-01/04-02/06-2817-Conf, para. 22.

⁵⁴ Ninth Update Report, ICC-01/04-02/06-2817-Conf, para. 22.

⁵⁵ Ninth Update Report, ICC-01/04-02/06-2817-Conf, para. 23, with Confidential *ex parte* Annex A only available to the CLR1 and the Trust Fund for Victims, ICC-01/04-02/06-2817-Conf-Exp-AnxA.

⁵⁶ Tenth Update Report, ICC-01/04-02/06-2839-Conf, para. 14.

- i) the interviews carried out by the implementing partner of the eight victims have been concluded and the TFV is expecting to receive the relevant information.⁵⁷
- ii) the TFV transmitted to the implementing partner a list of 16 priority victims to gather information about their urgent needs.⁵⁸

Between 31 May 2023 and 31 July 2023

- i) the CLR2 referred seven victims to the TFV, and the TFV reached the VPRS to receive the respective application forms.⁵⁹
- ii) the TFV received the relevant information from the implementing partner regarding the eight victims, and the TFV is currently carrying out their eligibility in accordance with the Addendum.⁶⁰

25. In its observations to the TFV's Ninth to Eleventh Update Reports, the Defence takes issue with the TFV's alleged lack of clarity as to (i) how the TFV is carrying out the eligibility assessment and on the basis of what information;⁶¹ (ii) how the information on the urgency needs is collected by the implementing partner;⁶² (iii) the origin of the 16 priority victims referred by the TFV to the implementing partner between 30 March 2023 and 30 May 2023, and the reason for their referral;⁶³ and (iv) the lengthy period of time for the implementing partner to transmit the information collected from victims to the TFV.⁶⁴

26. At the outset, having regard to the TFV's decision on the eligibility of one child soldier rendered in the reporting period of 28 November 2022 and 30 January 2023, and the related documents submitted in the Annex A,⁶⁵ which include the victim's application, and the information on the urgency provided by the implementing partner, the Chamber hereby endorses the TFV's decision on the eligibility of a/00706/13, as the victim has established on a balance of probabilities their (i) eligibility as a direct victim of the crimes for which Mr

⁵⁷ Eleventh Update Report, ICC-01/04-02/06-2854-Conf, para. 13.

⁵⁸ Eleventh Update Report, ICC-01/04-02/06-2854-Conf, para. 14.

⁵⁹ Twelfth Update Report, ICC-01/04-02/06-2859-Conf, para. 7.

⁶⁰ Twelfth Update Report, ICC-01/04-02/06-2859-Conf, para. 8.

⁶¹ Defence observations on the Ninth Report, ICC-01/04-02/06-2829-Conf, paras 21-24; Defence observations on the Tenth Report, ICC-01/04-02/06-2843-Conf, paras 12-14.

⁶² Defence observations on the Tenth Report, ICC-01/04-02/06-2843-Conf, paras 12-13; Defence observations on the Eleventh Report, ICC-01/04-02/06-2855-Conf, para. 8.

⁶³ Defence observations on the Eleventh Report, ICC-01/04-02/06-2855-Conf, para. 17.

⁶⁴ Defence observations on the Tenth Report, ICC-01/04-02/06-2843-Conf, para. 11; Defence observations on the Eleventh Report, ICC-01/04-02/06-2855-Conf, para. 16.

⁶⁵ Ninth Update Report, ICC-01/04-02/06-2817-Conf, para. 23, with Confidential *ex parte* Annex A only available to the CLR1 and the Trust Fund for Victims, ICC-01/04-02/06-2817-Conf-Exp-AnxA.

Ntaganda was convicted and (ii) need for urgent assistance. Accordingly, the victim is entitled to benefit from reparations in the present case, including from the IDIP.

27. The Chamber notes that, according to the TFV's update reports, the TFV has referred to the implementing partner eight priority victims in the reporting period of 28 November 2022 to 30 January 2023,⁶⁶ and their eligibility is yet to be completed by the TFV.⁶⁷ The Chamber recalls that in its First DIP Decision it ruled that the Registry, through the VPRS, would be responsible for carrying out the administrative eligibility assessment of victims, using the substantive criteria and eligibility mechanism established in the Addendum.⁶⁸ To ensure consistency, the Chamber hereby directs the TFV to coordinate with the VPRS and to present to the Chamber a working plan as to the way in which the handover of victims for the purposes of the eligibility for the IDIP purposes would be carried out. The Chamber concurs with the Defence's observations as to the lengthy duration of this process,⁶⁹ and considers that all the necessary measures to expedite this process and complete the eligibility assessment in a timely manner, to ensure that victims obtain access to the IDIP as soon as practicable.

28. As to the lack of clarity on the origin of the 16 priority victims referred by the TFV to the implementing partner in the reporting period of 30 March 2023 to 30 May 2023,⁷⁰ the Chamber directs the TFV to provide this information in the next update report.

29. Finally, the Chamber considers moot the Defence's submissions regarding the manner whereby the TFV is carrying out the eligibility assessment and on the basis of what information,⁷¹ as in its Addendum the Chamber set out the procedure for carrying out the eligibility assessment of victims, which is equally applicable to the IDIP.⁷² As to the Defence's observations on the alleged lack of clarity on how the information on the urgency needs is collected by the implementing partner,⁷³ the Chamber hereby directs the TFV to provide more clarity on this aspect in the next update report.

⁶⁶ Ninth Update Report, ICC-01/04-02/06-2817-Conf, para. 22.

⁶⁷ Twelfth Update Report, ICC-01/04-02/06-2859-Conf, para. 8.

⁶⁸ First DIP Decision, ICC-01/04-02/06-2860-Conf, para. 185(a).

⁶⁹ Defence observations on the Tenth Report, ICC-01/04-02/06-2843-Conf, para. 11; Defence observations on the Eleventh Report, ICC-01/04-02/06-2855-Conf, para. 16.

⁷⁰ Defence observations on the Eleventh Report, ICC-01/04-02/06-2855-Conf, para. 17.

⁷¹ Defence observations on the Ninth Report, ICC-01/04-02/06-2829-Conf, paras 21-24; Defence observations on the Tenth Report, ICC-01/04-02/06-2843-Conf, paras 12-14.

⁷² Addendum to the Reparations Order of 8 March 2021, [ICC-01/04-02/06-2858-Red](#), pp. 13-58.

⁷³ Defence observations on the Tenth Report, ICC-01/04-02/06-2843-Conf, paras 12-13; Defence observations on the Eleventh Report, ICC-01/04-02/06-2855-Conf, para. 8.

c) Outreach Measures

30. The Chamber recalls that, having regard to its previous instructions for the TFV to organise outreach and information campaigns in relation to the IDIP,⁷⁴ in its Decision on the Sixth and Seventh Update Reports, it encouraged the TFV to provide further details on the content and target communities of the messages broadcasted as part of its outreach and information campaigns.⁷⁵ The Chamber further recalls that in its Decision on the Eighth Update Report it directed the TFV to provide the Chamber with the list of questions and answers that are provided in the outreach messages.⁷⁶ The Chamber issued its instructions having noted the TFV's submission that, jointly with the LRVs and the Registry, it had designed a communication piece for the affected communities and that it was working to broadcast the messages through radio within the affected communities.⁷⁷

31. In its Ninth Update Report, the TFV provides, in accordance with the Chamber's instructions in its Decision on Eighth Update Report, the list of answers that are provided in the outreach messages.⁷⁸

32. In its observations to the Ninth Update Report and its annex B, the Defence makes extensive submissions on the issue of outreach activities,⁷⁹ which are then reiterated in its subsequent observations to the Tenth and Eleven Update Reports.⁸⁰ The Defence submits that no information is provided as to previous or future outreach activities not related to the Appeals Judgment, and that 'the identity of the communities targeted, the community radios used and most importantly the content of the outreach messages broadcasted, remain unknown, at least to the Chamber and the Defence'.⁸¹ The Defence further provides four reasons to justify the importance of outreach for the convicted, including that it is important to know what is said about Mr Ntaganda, his liability and his actions, 20 years later, as well as to which communities.⁸²

⁷⁴ Decision on the IDIP, [ICC-01/04-02/06-2696](#), para. 44.

⁷⁵ Decision on the Sixth and Seventh Report, [ICC-01/04-02/06-2792](#), para. 26.

⁷⁶ Decision on the Eight Report, ICC-01/04-02/06-2811-Conf, para. 25.

⁷⁷ Decision on the Eight Report, ICC-01/04-02/06-2811-Conf, para. 23.

⁷⁸ Ninth Update Report, ICC-01/04-02/06-2817-Conf, para. 34, with confidential Annex B, ICC-01/04-02/06-2817-Conf-AnxB.

⁷⁹ Defence observations on the Ninth Report, ICC-01/04-02/06-2829-Conf, paras 26-30.

⁸⁰ Defence observations on the Tenth Report, ICC-01/04-02/06-2843-Conf, paras 17-18; Defence observations on the Eleventh Report, ICC-01/04-02/06-2855-Conf, paras 21-22.

⁸¹ Defence observations on the Ninth Report, ICC-01/04-02/06-2829-Conf, para. 27.

⁸² Defence observations on the Ninth Report, ICC-01/04-02/06-2829-Conf, para. 28.

33. Having assessed the annex B to the Ninth Update Report, the Chamber is satisfied with the content of the said communication piece, which contains questions and answers regarding, *inter alia*, the Appeals Judgment and its impact on the implementation of reparations, as well as the next steps in the reparations proceedings.⁸³ In line with its previous instructions,⁸⁴ the Chamber further directs the TFV to clarify who the target communities were and to update the Chamber as to progress made with broadcasting the communication piece through radio within the affected communities.

34. In addition, consistent with its instructions in the First DIP Decision that general outreach should be carried out by the Public Information and Outreach Section ('PIOS'),⁸⁵ the Chamber instructs the TFV to coordinate with the PIOS and present to the Chamber a working plan as to the way in which the handover of the outreach activities, including for the IDIP purposes, would be carried out.

d) Publicity

35. Finally, in line with its previous instructions,⁸⁶ the Chamber directs the Defence to review its underlying submission and either file a public redacted version, request the reclassification as public, or justify the need to maintain the current classification as confidential within five days from the notification of the present Decision. The Chamber reiterates that it expects public redacted versions of confidential documents to be filed as expeditiously as possible, preferably simultaneously.

⁸³ Annex B to the Ninth Update Report, ICC-01/04-02/06-2817-Conf-AnxB.

⁸⁴ Decision on the Sixth and Seventh Report, [ICC-01/04-02/06-2792](#), para. 26.

⁸⁵ First DIP Decision, ICC-01/04-02/06-2860-Conf, paras 74, 76, 144, 146, 181.

⁸⁶ Decision on the First Report, [ICC-01/04-02/06-2718-Red](#), para. 29.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY,

REITERATES its previous instructions for the Defence to bring to the Chamber's and the TFV's immediate attention concrete and verifiable information about specific cases of victims deviating reparations funds to other activities, if any;

ENDORSES the TFV's decision on the eligibility of victim a/00706/13, considering that they have established, on a balance of probabilities, their eligibility as a direct victim of the crimes for which Mr Ntaganda was convicted and their need for urgent assistance, enabling them to benefit from reparations in the present case, including the IDIP;

DIRECTS the TFV to coordinate with the VPRS and the PIOS and to present to the Chamber, together with its next report, a working plan as to the way in which the handover of the eligibility determinations and outreach for the IDIP purposes would be carried out;

DIRECTS the TFV to update the Chamber as to progress made with broadcasting the communication piece through radio within the affected communities;

DIRECTS the Defence to review its underlying submission and either file a public redacted version, request the reclassification as public, or justify the need to maintain the current classification as confidential within five days from the notification of the present Decision.

Done in both English and French, the English version being authoritative.



Judge Chang-ho Chung, Presiding Judge



Judge Péter Kovács



Judge María del Socorro Flores Liera

Dated this Thursday, 31 August 2023

At The Hague, The Netherlands