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TRIAL CHAMBER II

Before: Judge Chang-ho Chung, Presiding
Judge Péter Kovács
Judge María del Socorro Flores Liera

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF**

THE PROSECUTOR v. THOMAS LUBANGA DYILO

Public Redacted Version

“Twentieth progress report on the implementation of collective reparations as per Trial Chamber II’s decisions of 21 October 2016, 6 April 2017 and 7 February 2019”, dated 6 March 2023, ICC-01/04-01/06-3551-Conf

With

Confidential *ex parte* Annexes A and D only available to the LRV01, the Trust Fund for Victims, and the VPRS, B only available to the LRV02, the Trust Fund for Victims, and the VPRS, C only available to the LRV02 and the Trust Fund for Victims, E, F, H and I only available to the LRV01, LRV02, OPCV and the Trust Fund for Victims, G only available to the LRV01, OPCV and the Trust Fund for Victims, and J only available to the OPCV and the Trust Fund for Victims

Source: The Trust Fund for Victims

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:**Legal Representatives of Victims V01**

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BACKGROUND

1. Following Trial Chamber II’s (“Trial Chamber”) decisions of 21 October 2016, 6 April 2017 and 7 February 2019, approving, respectively, the programmatic framework for collective symbolic reparations as submitted by the Trust Fund for Victims (“Trust Fund”),¹ the programmatic framework for the service-based collective reparations as submitted by the Trust Fund,² and the Trust Fund’s proposal in relation to the process for locating new applicants and determining their eligibility,³ and recalling its previous progress reports in this regard, the Trust Fund hereby submits its twentieth progress report.

CLASSIFICATION OF THE PRESENT SUBMISSION

2. Pursuant to regulation 23 *bis* (1) of the Regulations of the Court, the Trust Fund has classified the report as confidential, and its annexes as confidential *ex parte*, as they contain very detailed information related to operational aspects of the on-going implementation of reparations and sensitive information related to victims.

RELEVANT PROCEDURAL HISTORY

3. The Trust Fund recalls the procedural history set out in the Eighteenth progress report on the implementation of collective reparations (“Eighteenth progress report”) submitted on 4 August 2022.⁴

4. On 10 August 2022, the Legal Representatives V01 (“LRV01 or V01”) requested an extension of time to submit their observations on the Eighteenth progress report.⁵

¹ Order approving the proposed plan of the Trust Fund for Victims in relation to symbolic collective reparation, 21 October 2016, [ICC-01/04-01/06-3251](#).

² Order approving the proposed programmatic framework for collective service-based reparations submitted by the Trust Fund for Victims, 6 April 2017, [ICC-01/04-01/06-3289](#).

³ Decision Approving the Proposals of the Trust Fund for Victims on the Process for Locating New Applicants and Determining their Eligibility for Reparations, 7 February 2019, [ICC-01/04-01/06-3440-Red-tENG](#).

⁴ Eighteenth progress report on the implementation of collective reparations as per Trial Chamber II’s decisions of 21 October 2016, 6 April 2017 and 7 February 2019 (“Eighteenth progress report”), With Confidential *ex parte* Annex A only available to the LRV01, the Trust Fund for Victims and the VPRS and Confidential *ex parte* Annexes B only available to the LRV01, the LRV02, the OPCV and the Trust Fund for Victims, 4 August 2022, [ICC-01/04-01/06-3537-Red](#).

⁵ *Demande des Représentants légaux des victimes V01 de modifier le délai du dépôt d’observations du dix-huitième Rapport sur le progrès de la mise en œuvre des réparations collectives déposé par le Fonds au profit des victimes le 4 août 2022*, 10 August 2022, [ICC-01/04-01/06-3538-Red](#).

5. On 11 August 2022, the Trial Chamber granted the request.⁶
6. On 2 September 2022, the LRV01,⁷ the Legal Representatives V02 (“LRV02 or V02”),⁸ and the Office of Public Counsel for Victims (“OPCV”)⁹ (altogether the “LRVs”) submitted their respective responses to the Eighteenth progress report.
7. On 3 October 2022, the Trust Fund notified 832 administrative decisions from the Trust Fund for Victim’s Board of Directors¹⁰, pursuant to Trial Chamber II’s “Ninth Decision on the TFV’s administrative decisions on applications for reparations and additional matters”.¹¹
8. On 31 October 2022, the Trial Chamber issued the “Tenth Decision on the TFV’s administrative decisions on applications for reparations and additional matters” (“Tenth Decision”).¹²
9. On 2 November 2022, the Trust Fund requested,¹³ and was granted its request,¹⁴ to file its Nineteenth progress report latest by 25 November 2022.
10. On 25 November 2022, the Trust Fund submitted its Nineteenth progress report.¹⁵

⁶ Email from Trial Chamber II to LRVs and the TFV on 11 August 2022, at 16.05.

⁷ *Réponse des Représentants légaux des victimes V01 au Dix-huitième Rapport sur le progrès de la mise en œuvre des réparations collectives déposé par le Fonds au profit des victimes le 4 août 2022*, 15 September 2022, [ICC-01/04-01/06-3541-Conf-Corr](#).

⁸ *Réponse des Représentants légaux des victimes du groupe V02 au Dix-huitième Rapport sur le progrès de la mise en œuvre des réparations collectives déposé par le Fonds au profit des victimes le 4 août 2022* (ICC-01/04-01/06-3537-Conf avec annexes), 21 September 2022, [ICC-01/04-01/06-3540-Corr](#).

⁹ *Réponse du BPCV au Dix-huitième Rapport de progrès sur la mise en œuvre des réparations collectives déposé par le Fonds au profit des victimes le 4 août 2022* (ICC-01/04-01/06-3539-Conf), 13 September 2022, [ICC-01/04-01/06-3539-Conf-Corr](#).

¹⁰ Notification of 832 administrative decisions from the Trust Fund for Victim’s Board of Directors pursuant to Trial Chamber II’s “Ninth Decision on the TFV’s administrative decisions on applications for reparations and additional matters”, With Confidential *ex parte* Annex A only available to the LRV01, the Trust Fund for Victims and the VPRS, Confidential *ex parte* Annex B only available to the OPCV, the Trust Fund for Victims and the VPRS, and Confidential *ex parte* Annex C only available to the LRV02, the Trust Fund for Victims and the VPRS, 17 June 2022, 3 October 2022, [ICC-01/04-01/06-3542](#).

¹¹ Ninth Decision on the TFV’s administrative decisions on applications for reparations and additional matters, 22 September 2022, [ICC-01/04-01/06-3536-Red](#).

¹² 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](#).

¹³ Email from the TFV to Trial Chamber II and the LRVs on 02 November 2022, at 10.57.

¹⁴ Email from Trial Chamber II to LRVs, the Defence and the TFV on 03 November 2022, at 12.27.

¹⁵ Nineteenth progress report on the implementation of collective reparations as per Trial Chamber II’s decisions of 21 October 2016, 6 April 2017 and 7 February 2019, With Confidential *ex parte* Annex A only available to the LRV01 and the Trust Fund for Victims and Confidential *ex parte* Annexe B only available to the LRV02, and the Trust Fund for Victims, 25 November 2022, [ICC-01/04-01/06-3544-Conf](#).

11. On 22 February 2022, having considered responses from the LRVs,¹⁶ Trial Chamber II issued the “Eleventh Decision on the TFV’s administrative decisions on applications for reparations and additional matters” (the “Eleventh Decision”).¹⁷

12. On 23 February 2023, Trial Chamber II granted¹⁸ the Trust Fund’s request¹⁹ to file its Twentieth progress report latest by 6 March 2023.

PROGRESS REPORT

13. The Trust Fund hereby submits its Twentieth progress report, with information on the implementation of the collective reparations awards. It provides updated information regarding the security (A) and public health (B) situations, the administrative decisions (C), collective service based reparations (D), collective symbolic reparations (E), and additional matters (F).

14. In its Eleventh Decision, the Trial Chamber directed the Trust Fund to provide information, assurances and clarifications in relation to issues addressed under the abovementioned parts of the report as necessary.

A. Security Situation

15. Based on the Court’s security assessment shared with the Trust Fund, the security situation in Ituri remains volatile and unpredictable. On 13 January 2023, the DRC Government authorised the extension of the state of siege in the provinces of Ituri and North-Kivu. According to the government, this decision will allow the Armed Forces of the DRC (“FARDC”) to consolidate the achievements of previous operations and to continue actions to restore peace and security in Eastern DRC.²⁰ During the reporting period armed groups continued to carry out deadly attacks against the

¹⁶ *Réponse des Représentants légaux des victimes V01 au dix-neuvième Rapport sur le progrès de la mise en œuvre des réparations collectives déposé par le Fonds au profit des victimes le 4 août 2022* », 25 novembre 2022, 9 December 2022, [ICC-01/04-01/06-3545-Conf](#) ; *Réponse des Représentants légaux des victimes du groupe V02 au Dix-neuvième rapport sur le progrès de la mise en œuvre des réparations collectives déposé par le Fonds au profit des victimes le 25 novembre 2022 (ICC-01/04-01/06-3544-Conf avec annexes)*, 9 December 2022, [ICC-01/04-01/06-3546-Conf](#) ; and *Réponse du BPCV au Dix-neuvième rapport de progrès sur la mise en œuvre des réparations collectives déposé par le Fonds au profit des victimes le 25 Novembre 2022*, 12 December 2022, [ICC-01/04-01/06-3547](#).

¹⁷ Eleventh Decision on the TFV’s administrative decisions on applications for reparations and additional matters, With Confidential *ex parte* Annex A only available to the LRV01 and the Trust Fund for Victims, 22 February 2023, [ICC-01/04-01/06-3912](#).

¹⁸ Email from Trial Chamber II to LRVs, the Defence and the TFV on 23 February 2023, at 10.41.

¹⁹ Email from the TFV to Trial Chamber II, the LRVs and the Defence on 22 February 2023, at 18.10.

²⁰ “RDC: le gouvernement adopte le projet d’ordonnance loi autorisant la prorogation de l’état de siège en Ituri et au Nord-Kivu” accessible at <<https://actualite.cd/2023/01/15/rdc-le-gouvernement-adopte-le-projet-dordonnance-loi-autorisant-la-prorogation-de-letat>>

Armed Forces of the DRC (“FARDC”) and the civilian population. An increase in the number of attacks was noted, in particular in the Djugu territory where both *Coopérative pour le développement du Congo* (CODECO) and *milice d’autodéfense Zaïre* are active. They are also engaged in fierce battles with each other, including over control of the mining areas around Mongbwalu. Their attacks against the civilian population continue to take place on a regular basis. A newly composed armed group has emerged: *Mouvement d’auto-défense Populaire de l’Ituri* (“MAPI”)²¹ whose objective is apparently supporting the FARDC.

16. It was reported to the Trust Fund, during the implementation of activities, that the *Force de résistance patriotique de l’Ituri* (“FRPI”) has deployed around Bogoro, on the Liri hill, at only four km from Bogoro, and in Mitego and Kapuru. The sporadic shooting of the militiamen installed in Liri can be heard in Bogoro. Militiamen are visible and move around Bogoro armed. They have set up a barrier in Lagabo. Anyone going to Boga or Mitego has to pay an illegal tax of USD 2.5 or risk physical attack. It was also reported that CODECO and *Force patriotique et intégrationniste du Congo* (“FPIC”) militias are also positioned in such a way that Bogoro is surrounded in a 8 km pocket between FRPI, CODECO, and FPIC.

17. In North Kivu province, the previous reporting period was marked by the serious progress made by the *Mouvement du 23 mars* (“M23”) movement, who have managed to tighten their presence in several territories, cutting Goma off from a major part of the province. Battles have reached close to Goma, leading to high numbers of casualties and making the population of Goma, as well as the displaced population, very anxious. Last month, withdrawal movements of the M23 from some localities have been observed in accordance with the Luanda cease-fire agreement.²² Regardless, such withdrawal movements are still not considered to have met the Luanda cease-fire agreement.²³

18. Finally, the United Nations Humanitarian Air Service (UNHAS) suspended flights in Congo’s North Kivu and Ituri provinces following an attack on one of the service’s helicopters last

²¹ “Sécurité: un nouveau groupe armé dénommé « MAPI » surgit en Ituri” accessible at <<https://www.politico.cd/encontinu/2023/01/08/securite-un-nouveau-groupe-arme-denomme-mapi-surgit-en-ituri.html/125661/>>

²² “Nord-Kivu : le M23 se retire de plusieurs localités de Rutshuru”, accessible at <<https://www.radiookapi.net/2023/01/16/actualite/securite/nord-kivu-le-m23-se-retire-de-plusieurs-localites-de-rutshuru>>

²³ “Kinshasa prend acte du refus du M23 d’exécuter les recommandations de Luanda”, accessible at <<https://www.radiookapi.net/2023/01/19/actualite/politique/kinshasa-prend-acte-du-refus-du-m23-dexecuter-les-recommandations-de>>

week, during which a helicopter operated by UNHAS came under heavy fire about ten minutes outside of Goma as it returned from Walikale to Goma according to the World Food Programme.²⁴

B. Public Health Situation

19. The COVID-19 situation is not thoroughly monitored throughout the country. Testing is not systematic, so the available statistics are not very reliable. The Country Office does not report any significant resurgence of new cases. On 14 February 2022, the Government of the DRC has relaxed measures concerning COVID-19 in terms of the previously established curfew. Travellers from outside of the DRC are no longer required to get tested before entering the territory, provided they are fully vaccinated. Although there are no new preventive measures taken by the Congolese Government, other measures previously established by the Government, the UN and the Registry's Occupational Health Unit are still in force and are respected by the TFV during all implementation activities.

C. Admissibility Decisions

20. In its Eleventh Decision, the Trial Chamber mentions that it has not been able to establish the details of the additional information or documentation that may have allowed the Board of Directors to confirm their assessment and reach a final positive decision in relation to victims a/41347/21 and a/41363/21. The Board of Directors had considered a/41347/21 and a/41363/21 eligible provided that they respectively submit a signature page of the application form with the applicant's name, and the applicant's identity document. These documents were transmitted to the Trust Fund on 6 October 2022.²⁵ They are annexed to the present report and shared with the VPRS.²⁶

21. In its Eleventh Decision, the Trial Chamber further instructed the Trust Fund to provide in the present report its final decisions and supporting documents in relation to the five additional applicants provisionally approved. In the absence of the legible document requested to the LRV02

²⁴ "U.N. humanitarian flights suspended in Congo's North-Kivu and Ituri provinces, WFP says", accessible at <<https://www.reuters.com/world/africa/un-suspends-flights-congos-north-kivu-province-2023-02-27/>>.

²⁵ Email from the LRV01 to the TFV on 6 October 2022, at 18.02.

²⁶ See Annex D.

representing these applicants since 6 October 2022,²⁷ the Trust Fund appends to the present report five negative decisions adopted by the Board of Directors.²⁸

22. The Trust Fund was informed by the LRV01 and the LRV02 that a decision was not issued for seven applicants for which they have submitted an application. Further to the Board of Directors' verification, the Trust Fund appends to the present report seven positive decisions.²⁹

23. The Trust Fund respectfully request the Trial Chamber to issue a final decision on the fourteen above-mentioned applications.

24. After verification, the Trust Fund concludes that Trial Chamber II has confirmed as beneficiaries a total number of 2036 victims determined eligible by the Board of Directors. Trial Chamber II has considered as beneficiary one more victim who was determined non-eligible by the Board of Directors, and 425 victims following its 2017 sampling. To date the number of confirmed beneficiaries stands at 2462. In the event the Trial Chamber confirms the eligibility of the fourteen beneficiaries positively assessed by the Board of Directors, this will bring the total number to 2476, which would be the final number of beneficiaries in the *Lubanga* case.

D. Update on Implementation of Collective Service-Based Reparations

1) Progress on the targets of the quarter

a) Activities carried out during the period

25. The reporting period was notable for the continuation of the provision of psychosocial, psychological and physical health services, leading to the conclusion of the provision of certain categories of services for a significant number of beneficiaries. The state of health of a large number of beneficiaries improved. There were a total of 855 victims treated out of a total of 1042 beneficiaries currently in the programme, including 58 new victims taken in, in addition to the 797 victims already in the circuit. The TFV continues to partake in efforts and implement new strategies for the improvement in the provision of such services in order to have the desired positive impact. Despite some shortcomings, the reporting period was also marked by the continuation of the schooling intake with a total of 630 new dependants, who were added to those already taken care of in September. A total of 1551 dependants of beneficiaries and 1 beneficiary received schooling

²⁷ Email from the TFV to the LRV02 on 6 October 2022, at 10.41.

²⁸ See Annex C.

²⁹ See Annexes A and B.

support. In line with the start of the academic year, the reporting period was marked by the determination of students that would benefit from university support.

i. Mental health

26. 794 beneficiaries benefitted from at least one psychosocial service, ranging from screening to psychosocial and psychological care. In the reporting period, 212 treatment cases were closed, including for 180 beneficiaries whose psychological state improved and 32 victims who chose to withdraw from psychological care. With regard to group therapy and psychosocial activities, 589 beneficiaries are currently receiving support, including 371 of them who have participated in at least one follow-up session.

27. Overall, pathologies related to anxiety, post-traumatic stress and clinical depression are often diagnosed. Many beneficiaries also experience psychosomatic symptoms related to the trauma still present. Two beneficiaries, out of a total of 11 beneficiaries suffering from severe forms of depression, were transferred to [REDACTED] for neuropsychiatric care. TFV field staff reported an improvement in the psychosocial approach of the provider in terms of psychological care, although complaints from beneficiaries about the quality of care were raised. [REDACTED]

28. These challenges are addressed in the section below, including with measures that the TFV is taking.

29. With regard to cases of community or family discordance, 180 cases (41 women and 139 men) were identified among the victims, including 75 who began to benefit from mediation sessions with social counsellors in the reporting period. Three serious cases of family discordance were definitively resolved in 2022.

ii. Physical health

30. Concerning physical health, 693 victims have received at least one physical health service, of which 689 cases of treatment were closed due to healing or absence of pathologies. 19 victims were treated outside the province for specialised care [REDACTED]. Seven victims with physical disabilities began to receive support, and among them, three were assisted with prostheses.

31. Only 70 victims (four women and 66 men), out of the 400 planned for, joined the mutual health insurance companies, despite the sensitisation carried out by the implementing partner. As membership of mutual health insurance companies is an element of sustainability of the project, in

terms of care and the well-being of victims' entire families, the implementing partner continues to raise awareness among the beneficiaries.

32. In the past the implementing partner received multiple requests to take care of medical situations not directly related to the harm suffered. The understanding was that because the project is a rehabilitation project, only a comprehensive intake would allow for victims to fully overcome the medical harm they have suffered. This is why [REDACTED] has taken into consideration some minor illnesses or illnesses that cannot be reasonably linked to the harm suffered.

33. [REDACTED] and the Trust Fund have addressed the matter during the reporting period. Given the beneficiaries have experienced such broader treatment, it requires sensitivity in communicating this change in practice (not in programming) to the current beneficiaries.

34. In this context, the Trust Fund and implementing partner have noticed the tendency of certain beneficiaries to make repeated attempts to be treated for very minor illnesses in order to benefit from transportation costs for the medical intake. These situations have led to frequent cash shortages of the subcontractor in charge of physical health and budget rearrangements during 2022. These cash shortages caused, in November and December 2022, discontent of a limited group of beneficiaries [REDACTED].

35. This practical approach by the victims to receive transport costs needs to be approached together with the limitation of treatment to harm suffered as a consequence of the crimes. The Trust Fund is aware that this may lead to strong discontent of a limited group of beneficiaries, but has started in January 2023 to discuss this change in practice with the legal representatives and has involved the legal representatives in raising awareness among victims.

iii. Socio-economic rehabilitation

36. With regard to socio-economic rehabilitation, the activities focused on education, training and income-generating activities.

i) Schooling

37. In terms of educational support, 630 new dependants (333 girls and 297 boys) benefitted from school support during the reporting period, A total of 1551 dependants of beneficiaries and 1 beneficiary received schooling support. The payment of school fees experienced some delays in September and October due to the late availability of funds to the implementing partner, which led

to protests by a limited group of victims during this period. The Trust Fund appreciates the involvement of the LRVs to help addressing the situation.

ii) University support

38. Given the university year starts in January, the month of December 2022 was dedicated by the implementing partner to the determination of individuals to receive university support, which is paid directly to the university by the implementing partner. In the first year of implementation, 154 beneficiaries were included, including 134 dependants of beneficiaries and 20 beneficiaries, enrolled in the 22 universities [REDACTED] to study in law, biology, engineering, languages, development, management, amongst others. Initially, university support was intended for beneficiaries who had reached university level. The expectation was that a limited number of beneficiaries were concerned. The measure was extended to dependants of beneficiaries because the legitimate expectation was that only a very limited number of beneficiaries had dependants who are actually depending on them at university and that the success of any income generating activity they implement could be impacted by this important expense. As the implementation progressed, the Trust Fund found that the beneficiaries have determined not only close but any relatives, for them to benefit from this measure. In a number of cases the Trust Fund has found that the aim is to arrange to recover the registration fee from the university. In a number of other cases, the beneficiaries simply want someone (who is not actually dependant on them) but who has some connection with them to benefit from the university grant. This last quarter, several victims even demanded to each have a dependant at the university, and that university fees be paid directly to them. However, including dependants into university support was based on the notion that the dependants are only those individuals who are effectively dependant on a beneficiary; a broader notion cannot be supported for budgetary constraints. The Trust Fund has engaged with the implementing partner and the LRVs to put in place a closer examination of the existence of dependency. This requires that victims need to be made further aware of the degree of dependency required. For the time being, the answers given during the initial intake interviews are considered as a means of verifying the credibility of the existence of dependants. Biological children are automatically considered dependent. For all other individuals, proof must be provided. The Trust Fund has consulted with the LRV and sought their assistance in communicating the requirements.

iii) Vocational Training

39. At end of the current reporting period, a total of 630 victims received long or short training, compared to a total of 432 at the end of the previous quarter, *i.e.* 198 additional beneficiaries. A total of 359 beneficiaries were trained in a trade, including 103 in agropastoral, and 256 in other skilled trades. Some disruptions were noted as the classes started later than expected by the last wave of beneficiaries, but the situation quickly normalised thanks to the assistance of legal representatives.

iv) Setting up IGAs

40. During 2022, a total of 434 beneficiaries were installed in their IGAs; by the end of the previous quarter, the total number had been 292 beneficiaries. There are 54 beneficiaries in agropastoral, 109 in skilled trades and 271 in trade, including 87 women and 347 men. IGA monitoring agents were recruited by the implementing partner this quarter in order to carry out a technical follow-up of the beneficiaries installed, with a view to monitoring and working towards the sustainability of these activities. From 2023, they will travel through all the areas in which beneficiaries operate to provide them with technical advice, but also to collect all the lessons learned on the implementation of IGAs, and better guide or reorient the approach. Some beneficiaries who may not have invested the funds received into IGAs, have already shown resentment towards these agents; therefore the implementation of this measure will require a good balance between ensuring the security of the agents and a do no harm approach.

iv. Unreachable victims

41. At the end of the current reporting period, the project registered 855 beneficiaries, compared to the total of 797 at the end of the previous period, who could be reached and were integrated into the programme, out of a total of 1042 victims referred by the TFV to the implementing partner. The implementing partner managed to reach 58 previously unreachable victims in the reporting period; 187 victims remained unreachable at the end of December 2022.

b) Comparison of current and previous reporting period's targets

INDICATORS	Q3	Q4	Gap
	Total sum		
Number of victims referred by the TFV	1042	1042	0
Number of victims contacted by telephone by [REDACTED]	797	855	+58
Number of victims who could not be reached	245	187	-58

Number of victims with initial diagnosis by [REDACTED] as part of psychological support	760	801	+41
Number of victims diagnosed as part of physical support by [REDACTED]	625	693	+68
Number of victims who completed basic training	432	630	+198
Number of victims who received IGA cash	292	434	+142

c) Challenges

42. Several challenges from the previous reporting period have been resolved or are ongoing, thanks to corrective actions taken by TFV and the implementing partner, with the assistance of LRVs insofar as applicable. Some challenges are related to monitoring and evaluation. Organisational procedures have been taken into account and are being resolved, while new ones arise, such as management challenges and the problematic behaviour of a limited group of beneficiaries.

i. Management challenges

43. The challenges associated with the implementation of reparations continue to change as the implementation goes on. Following the Tenth Decision, the Trust Fund has proceeded to budgetary projections based on the final number of victims. Initially, the reparation programme was aiming at addressing 1500 beneficiaries, while keeping in mind that the number of beneficiaries would be above this number. Given the final number of beneficiaries is now known (see part C above on admissibility decisions), simulations made by the Trust Fund have shown that budget shortcomings will arise if some of the measures are continued in the way they are currently implemented in practice.

44. The measures that require adaptation of the practice used to date, but not a change of programming, relate to physical rehabilitation and the inclusion of dependants into university support, as already addressed above.

45. In addition, the schooling measure cannot be supported for the period foreseen currently in the programme, i.e. for a total of three years for each dependant. Schooling for the beneficiaries' dependants was conceived as an auxiliary activity enabling the victims to develop their IGA in a sustainable manner so that they can take over the costs of financing the schooling of their dependants in the medium term. In light of the number of beneficiaries, costs of such activities

initially considered for three years are no longer feasible for such a duration and the length thus needs to be reduced to two years. The Trust Fund does not see this as an issue affecting the impact of the programme as such, as effective monitoring of the IGAs may ensure that the beneficiaries are in a position to take full responsibility for the school fees of their dependants after two years. Such monitoring has started as described above (see paragraph 40). Given none of the beneficiaries has received schooling assistance for longer than two years, this change can still be implemented equally for all beneficiaries.

46. The Trust Fund anticipates that this programme adjustment together with the two concrete measures that require change of practice should now ensure a solid programme for the ensuing years without any need to further substantially adapt the programme.

47. The Trust Fund has developed these changes after consultation with the implementing partner, informed/consulted on this matter with the LRVs in January 2023 and is planning a joint mission with the LRVs in the week of 13 March 2023 to enable the LRVs to communicate these adaptations to the beneficiaries. The Trust Fund is cognisant that this adaptation may generate dissatisfaction. At the same time, the Trust Fund trusts the beneficiaries' ability to understand the reasons behind these adjustments provided that an adequate explanation of the full situation is given to them.

48. The changes will also feature in writing (as the adapted 'package') and be provided by the implementing partner to the beneficiaries and the new group of beneficiaries. The information about the 'package' had been developed in 2022 and now requires the described adaptations. Evidently, the implementing partner and its sub-contractors will continue explaining orally to the beneficiaries the services and their limits. However, experience has shown that the beneficiaries doubt such information, and need to see it in black and white or hear it from their LRVs.

49. While beneficiaries have not been made aware by the Trust Fund or its implementing partner of potential changes, a limited group of victims have already expressed dissatisfaction about matters related to medical care and university schooling. [REDACTED] The joint mission organised by the Trust Fund and the LRVs will hopefully help addressing the situation.

50. On the other hand, the Trust Fund has noted that a certain number of beneficiaries are under the impression that the duration of each service is three years, taking into account the duration of the university and schooling of three years. That is to say, for victims who do not develop

physical or psychological pathologies, they expect to be able to benefit from services each year in all areas. This expectation has been detected mainly in beneficiaries nearing the end of their participation in the programme cycle. The Trust Fund expects that communication about the programme package by the LRVs will improve the level of understanding of beneficiaries. The Trust Fund has also started to reflect about how to mark the end of the provision of services for beneficiaries, while ensuring that the conditions for a holistic rehabilitation are met.

51. The Trust Fund has shared with the LRVs the adapted programme and the planning of intakes in 2023.³⁰ The Trust Fund keeps on ensuring that it informs the LRVs systematically about any relevant information it receives.

52. The Trust Fund has ensured that sufficient funds are available in the complement for the case *Lubanga*, to continue the programme into the third year of implementation after 1 September 2023. The renewal of the contract will require a decision of the Procurement Review Committee as it did in 2022. Accordingly, the Trust Fund and the implementing will engage in the budget process as of March 2023 to ensure that the contract can be renewed for 12 months as of 1 September 2023.

53. In addition, the Trust Fund has put in place a monthly meeting between officials in headquarters of both the Trust Fund and the implementing partner to keep abreast of matters arising in the implementation of reparations. This also serves to reinforce the communication at the working level between staff of the Trust Fund [REDACTED] and staff of the implementing partner and enables an effective monitoring of the work of the implementing partner. [REDACTED]

54. Furthermore, given the security situation in the region keeps worsening and the impact on the beneficiary group is palpable, the TFV decided to contract a conflict-sensitivity consultant to analyse the programme and advise on measures to be taken to increase the programme's conflict sensitivity. This will strengthen the TFV's role in monitoring the programme. Steps to advance the hiring of the consultant will be taken shortly.

55. In terms of evaluation of the programme, the TFV has contracted a partner to carry out an objective evaluation of the programme, as it currently stands. The evaluators will soon start the interviews with the beneficiaries. To strengthen in particular the monitoring of the psychological component of the programme, the Trust Fund considers carrying out an additional, comprehensive

³⁰ See Annexes E and F.

evaluation of this component, but will first address the need and feasibility of this measure with the current evaluators.

56. In relation to the complaint mechanism, the Trust Fund will discuss with the LRVs and implementing partner about ways to improve it.

ii. Challenges related to beneficiaries' attitudes and behaviour

57. In the reporting period, the implementing partner recorded several incidents involving beneficiaries, for various reasons. [REDACTED] A description of these incidents is annexed to the present report.³¹

58. [REDACTED] the Trust Fund identifies a number of risks that need to be addressed.

59. [REDACTED] A harmonised approach to such behaviour among the various actors is therefore urgently needed.

60. [REDACTED]

61. [REDACTED]

62. [REDACTED].

63. Third, the Trust Fund has always been aware of difficulties that could arise while dealing with victims of crimes such as those in the *Lubanga* case considering their seriousness and the extent of the harm caused. [REDACTED]

64. [REDACTED]

65. [REDACTED]

66. [REDACTED].

67. [REDACTED].

68. [REDACTED] The Trust Fund hereby seeks guidance from the Trial Chamber as to the proper way to address them. [REDACTED]

2) Planning targets and activities for next quarter

³¹ See Annex G (only available to the OPCV and the LRV01 as beneficiaries they represent are mentioned). [REDACTED]. In addition the Trust Fund shares annexes H, I, and J it believes informative.

69. In the upcoming reporting period, the programme will enter its second year of implementation; in total, 1355 victims will be included, including 313 new beneficiaries and, hopefully, the 187 victims who have not yet been located, gradually from mid-May, until the end of August 2023. 554 victims will benefit from psychological screening and 662 from medical screening. 338 students and new beneficiaries will be able to access training, and 276 will have access to IGAs. The third year of implementation will start on 1 September 2023.

INDICATORS	Year 1 + extension	Year 2	Total
Number of victims referred by the TFV	1042	313	1355
Number of victims contacted and cared for, including beneficiaries not yet located	855	500	1355
Number of victims with an initial diagnosis by [REDACTED] as part of psychological support, including screening	801	554	1355
Number of victims diagnosed as part of physical support by [REDACTED], including screening	693	662	1355
Number of victims who completed basic training	630	338	968
Number of victims who received cash as part of their income-generating activities	434	276	710

E. Symbolic Reparations

70. As indicated in the Ninth progress report on the implementation of collective reparations,³² and reiterated in the last progress report, the Trust Fund asked the LRVs to inform interested victims about consultations held by the implementing partner in relevant localities. In the reporting period, consultations amongst the communities took place with a view to ensuring that the construction of **symbolic structures**, in the form of commemoration centres that will host *inter alia* interactive symbolic activities remains an adequate measure of symbolic reparations next to the development of **mobile memorialisation** initiatives in communities that will promote awareness raising of the crimes and resulting harms, reintegration, reconciliation, and memorialisation. In these consultations, beneficiary communities agreed on the modality of the construction of community centres. Following these consultations, the implementing partner proceeded to create committees within each locality, constituted by members of the community, including victims, civil society and local authorities, to monitor the construction of the community

³² Annex A to *Neuvième rapport sur le progrès de la mise en œuvre des réparations collectives conformément aux ordonnances de la Chambre de première instance II des 21 octobre 2016 (ICC-01/04-01/06-3251) et 6 avril 2017 (ICC-01/04-01/06-3289) et la Décision du 7 février 2019 (ICC-01/04-01/06-3440-Red)*, 21 April 2020, [ICC-01/04-01/06-3474-AnxA-Red](#).

centres. In parallel, a separate committee made up of community members is envisioned to monitor the overall progress of implementation of symbolic reparations.

71. In the reporting period, the follow-up committee commenced its activities, and intensified community mobilisation and public information sessions. The actual construction of the community buildings is scheduled for 2023.

72. 75 community therapy sessions were held by psycho-social assistants with the support of the psychologist of the implementing partner to facilitate rehabilitation and community reintegration. The sessions took place in Irumu, Djugu, and Mahagi between 3 October 2022 and 30 December 2022, with 1125 participants (276 men, 152 boys, 505 women, and 192 girls).

73. 45 community mediation sessions were organised and took place, allowing for the identification, analysis and documentation of cases of dispute, and conflict between former child soldiers and their families and communities to help break the chain of stigma and ensure the full community reintegration of the former child soldiers. The sessions took place in Irumu, Djugu, and Mahagi between 3 October 2022 and 30 December 2022 with 900 participants (412 men, 488 women).

74. 45 community dialogues were organised with a view to encouraging community change, by way of i) collection of ideas and suggestions of the community on peacebuilding mechanisms, ii) development of community plans for conflict prevention and mitigation, and iii) holding open house sessions on the causes and consequences of war. The dialogue meetings took place in Irumu, Djugu, and Mahagi between 3 October 2022 and 30 December 2022 with 1200 participants (527 men, 673 women).

75. 50 members (25 men, 25 women), meant to make up the groups of local initiatives for peace and reconciliation, were selected, trained and supported to enable the envisioned door-to-door interventions and mass sensitisation. Training included knowledge of the criteria that determine the status of victims, the roles, functioning and responsibilities in the psychosocial care of victims, communication strategies, conflict sensitivity tools, do no harm principle, cohesive leadership, and tools for community accountability and citizen engagement activities, among others.

76. In addition, sensitisation messaging was produced in the form of media content, and broadcasted in the form of four radio broadcasts per month with three selected partner radio stations.

77. The Trust Fund intends to use the opportunity of the upcoming mission to give a fuller picture to the LRVs in regard to symbolic reparations.

F. Communication with beneficiaries and LRVs

78. In its Eleventh Decision, while commending the initial steps taken towards enhancing communication, the Trial Chamber reiterated “the need for the TFV and its implementing partners to continue strengthening communication, putting in place a consistent strategy that will ensure that the beneficiaries and their representatives are properly and timely informed of the services to be received and their calendar”.

79. At the outset, the Trust Fund wishes to recall the specific circumstances of the *Lubanga* case whereby implementation of reparations takes place *without* the support of the relevant communities, heads of communities, figures of authority and families, circumstances required by the confidentiality of the *Lubanga* programme. Traditional or well-recognised forms of communication that usually go along with the necessary authority and related acceptance by individuals of the content of the communication cannot be relied upon for this reason. In addition, given the many fighting fractions in Ituri Province and the state of siege, determining how best to include the community is challenging in any case. In addition, beneficiaries are widely spread throughout Ituri Province and beyond.

80. Accordingly, the Trust Fund remains to date, in terms of communication, limited to the actors involved in implementation, of which only the sub-contractors are grass-root organisations. The experience in implementing the programme is that the beneficiaries have little trust in the communication of the implementing partner and its sub-contractors, some trust, subject to the below, in that of the legal representatives. Ultimately, their reference point is the Court, the reparation order of USD 10 million and their right to reparations that some of them consider cannot or should not have limits.

81. The Trust Fund continues to strengthen its communication with the victims. One of the measures that the Trust Fund has adopted in early 2022 was to ensure that it would inform the LRVs of any information to be communicated to victims. By adopting this measure, the Trust Fund

is achieving two results: keeping the LRVs informed, as well as receiving their assistance to inform the beneficiaries, together with the Trust Fund and the implementing partner. Given the above-described situation, the Trust Fund continues to make use of this form of communication.

82. The Trust Fund remains strongly committed to ensuring that its activities are implemented in accordance with concrete practices related to the principles of do no harm and a victim-centred approach. The Trust Fund cautions against considering as a matter of fact allegations that may not reflect the actual or full reality of the circumstances surrounding the implementation of reparations. Therefore, the Trust Fund hereby attempts to provide the Trial Chamber with a fuller background surrounding the implementation of activities in the field.

83. Since the beginning of the implementation of the reparations, various groups of victims have formed with different interests from each other and independently of the contacts they have had with their LRVs. It is important to note that communication has never been an easy task in relation to the multiplicity of interlocutors, the multiplicity of messages communicated, and the multiplicity of postures adopted towards the victims as they were being addressed.

84. [REDACTED] The Trust Fund has endeavoured to adapt the programme to the extent possible to the wishes expressed by the victims as far as this was compatible with the approval received from the Trial Chamber, while keeping the Trial Chamber informed on an ongoing basis.

85. [REDACTED]

86. The Trust Fund has systematically considered the complaints and proposals made by the various groups of victims on the one hand and the legal representatives on the other (which were not always the same) as the activities were being implemented. Significant efforts have been made to accommodate as many proposals as are reasonable and feasible in the circumstances at hand. Complaints made have always been taken seriously, whether they relate to proven facts or mere allegations. The Trust Fund has always acted beyond due diligence in this regard, in the spirit of cooperation and being as considerate to the individual circumstances of each victims as possible.

87. The Trust Fund has always made maximum efforts to ensure to the largest extent possible that all beneficiaries feel satisfied by the content of the programme implemented and that LRVs may play a favourable role with the beneficiaries but also for the programme. [REDACTED].

88. [REDACTED]

89. [REDACTED]

90. The Trust Fund does not formulate any request in this regard. That being said, the Trust Fund merely hopes that when addressing communication issues, the Trial Chamber may use the parameters thus described which make the situation more complex than it may appear to be based merely on the various requests related to communication the Trial Chamber has addressed so far.

91. The Trust Fund and LRVs are conducting a joint mission shortly aiming *inter alia* at improving communication between various stakeholders. The Trust Fund is hopeful that this will strengthen the communication between all stakeholders.

G. Additional matters

92. Pursuant to regulation 56 of the Regulations of the Trust Fund for Victims, the Board of Directors decided in February 2023 to allocate USD 2 million from the Trust Fund's reparations resources (including EUR 650,000 from Ireland) to the *Lubanga* case and to approve the pre-allocation or obligation of funds from New Zealand (EUR 364,000) and Germany (EUR 80,000) to the case of *Lubanga*. Finland earmarked in 2022 EUR 100,000 directly to the case of *Lubanga*. The total complement for the *Lubanga* case amounts currently to EUR 6.94 million (subject to changes in exchange rates). The TFV reiterates that raising funds for reparations in the present case (an additional EUR 2.7 million at the current exchange rates) remains a top priority, given all *Lubanga* related reparations costs of the first and second years of implementation (until 1 September 2023 for the service-based collective reparations and until 1 October 2023 for the symbolic reparations) amount to EUR 4,693,310 (taking into account changes in exchange rates over the past two years).

FOR THE FOREGOING REASONS

The Trust Fund respectfully requests the Trial Chamber to take note of the present report.



Deborah Ruiz Verduzco
Executive Director of the Trust Fund for Victims,

Dated this 2nd of September 2023

(Date of original 6 March 2023)

The Hague, Netherlands