

Annex I  
Public Redacted

## Explanation of the Content and Criteria of the VPRS Individual Assessment Reports

1. The VPRS presents this and its future Reports in the format of separate assessment tables, for, respectively, victims of the attacks and victims of crimes against child soldiers.<sup>1</sup> **The VPRS also prepares distinct assessment tables for victims assessed as priority victims with urgent needs who should benefit from the TFV's IDIP.**<sup>2</sup>
2. In each line of its assessment table, the VPRS provides information on the identity of the applicant, as well as its assessment and determination on whether the applicant is eligible for reparations. **Additionally, for victims whose dossiers are being assessed for priority treatment under the IDIP, the VPRS provides information on their priority status and urgent needs.**

### *A. VPRS assessment on eligibility for reparations*

3. As the criteria regarding a victim's eligibility for reparations have already been detailed in the "Registry Submission pursuant to ICC-01/04-02/06-2860-Red" ("Registry Submission"),<sup>3</sup> the VPRS presently only provides specific points that may assist the Chamber, the TFV and the CLR in their understanding of its assessment tables:
  - (i) Whenever relevant,<sup>4</sup> the VPRS indicates in the table whether, according to VPRS' knowledge, the applicant is also a beneficiary of reparations in the case of the *Prosecutor v. Thomas Lubanga* ("*Lubanga case*"). In this regard, the VPRS continues to liaise with CLR1 and the TFV in order to further identify any victim who

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<sup>1</sup> The eligibility requirements slightly differ depending on whether the applicant is a victim of the attacks or a victim of crimes against child soldiers.

<sup>2</sup> **The subdivision into victims of crimes against child soldiers and victims of the attacks is nevertheless retained. For victims who have already been accepted as beneficiaries of reparations by the Chamber in its Addendum, the VPRS provides a separate table summarizing its decisions on their priority status and urgent needs only. See Trial Chamber II, "Addendum to the Reparations Order of 8 March 2021, ICC-01/04-02/06-2659", 14 July 2023, ICC-01/04-02/06-2858-Conf. A Public Redacted version was issued on the same day, ICC-01/04-02/06-2858-Red ("Addendum"), para. 144.**

<sup>3</sup> Annex II of the "Registry Submission pursuant to ICC-01/04-02/06-2860-Red", 3 November 2023, ICC-01/04-02/06-2878-AnxII. The scope of the conviction was reflected in Annex III of this submission (ICC-01/04-02/06-2878-AnxIII).

<sup>4</sup> **This is pertinent particularly for victims of crimes against child soldiers.**

benefits from reparations in the *Lubanga* case and has applied for reparations in the present Case.<sup>5</sup>

- (ii) The VPRS lists only the crime(s) that fall within the scope of the conviction and for which the victim provided sufficient information, including supporting document(s), when necessary.

**In this regard, the VPRS notes the following :**

- a. **the crime of murder as a crime against humanity and as a war crime in Kilo, as delineated by the scope of the Conviction, is specific to (i) an undetermined number of Lendu persons, (ii) a Ntigi man and a pregnant Lendu woman who had been detained in a pit, and (iii) a Nyali man.<sup>6</sup> In order to assess whether a person falls within category (i), the VPRS carefully considers information in the victim's application that pertain to their ethnicity, and if the applicant is not Lendu, whether there is any information or element in the victim's file that could lead to the conclusion that they were victimized because they were assimilated to, or were perceived as supporting the Lendu.<sup>7</sup>**
  - b. **[REDACTED]<sup>8</sup> [REDACTED].<sup>9</sup>**
- (iii) For victims of crimes against child soldiers, since they benefit from presumptions for all three categories of harm (physical, psychological and material),<sup>10</sup> the VPRS does not list the harm suffered by the individual victim.
- (iv) **When assessing the harm suffered by an applicant, the VPRS applies the relevant presumptions, as enumerated in the**

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<sup>5</sup>The VPRS operates relevant search functions of its database (VAMS) to identify applicants with similar names in both proceedings; due to the high frequency of multiple spellings of the same name, additional personal information is used to corroborate potential matches.

<sup>6</sup> Annex I of Addendum, p. 10.

<sup>7</sup> This is in line with the Judgement's finding that "With regard to one victim [in Kilo], who was Nyali, the Chamber notes that he was singled out because he was singing an anti-Hema song and, as such, also appears to have been targeted on the basis of the UPC/FPLC ethnic-based policy". Trial Chamber VI, Judgement, 8 July 2019, ICC-01/04-02/06-2359 ("Judgement") para. 1019. [REDACTED]. However, for the crime of persecution, the Registry notes the flexible approach of the Chamber in paragraph 1011 of the Judgement [REDACTED].

<sup>8</sup> [REDACTED].

<sup>9</sup> [REDACTED].

<sup>10</sup> Addendum, para. 123.

**Reparations Order<sup>11</sup> and its Addendum,<sup>12</sup> and, in the absence of any presumption, carefully considers the overall coherence, credibility and consistence of the victim’s narrative.<sup>13</sup>**

- (v) Within the general analysis of the harm suffered by victims, an assessment of whether a victim has suffered from transgenerational harm is not carried out by the VPRS as previously explained by the VPRS in the Registry Submission.<sup>14</sup> Should any element in the victims’ applications indicate that they may suffer from transgenerational harm, the VPRS will add a comment in this respect in the column “Additional comments”.
- (vi) Whenever relevant, the VPRS highlights any family link between the victim and other applicant(s) or victim(s) who may benefit from reparations in the instant Case. In this regard, the VPRS notes that it is only in a position to report on the family links it has been made aware of by the applicants themselves or which is apparent from any other documentation/information submitted to the VPRS.

#### ***B. VPRS assessment on priority and urgent needs***

4. The VPRS will continuously carry out the priority assessment **and urgent needs** of all dossiers of non-participating victims in its possession. For victims who participated at trial, the Section will continue to apply, in coordination with the CLRs, the priority assessment regime previously in place between the CLRs and the TFV,<sup>15</sup> and ensure coherence and speedy implementation.
5. The assessment of whether an applicant is to be considered a priority victim **with urgent needs is conducted through a desk review of information**

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<sup>11</sup> Trial Chamber VI, “Reparations Order”, 8 March 2021, ICC-01/04-02/06-2659, paras 145-147.

<sup>12</sup> Addendum, paras 123 –125.

<sup>13</sup> *Id.*, paras 127, 129-130.

<sup>14</sup> The VPRS submitted previously *inter alia* that the assessment criteria related to transgenerational harm may be beyond the area of expertise of the VPRS. *See* para. 48 of Annex II of the Registry Submission.

<sup>15</sup> *See*, for example, TFV, “Public redacted version of “Trust Fund for Victims’ Third Update Report on the Implementation of the Initial Draft Implementation Plan”, submitted on 24 January 2022”, 24 January 2022, ICC-01/04-02/06-2741-Conf, para. 14. A public redacted version was notified on the same day.

provided by the victims in their relevant application form, including additional clarifying information subsequently obtained as appropriate and feasible.<sup>16</sup> The VPRS summarizes in the table the current situation of the victims, including any relevant information on their vulnerability and urgent needs.<sup>17</sup>

6. To assess whether a victim should be given priority treatment, the VPRS follows the Reparations Order which provides that:

“(...) priority ought to be given to victims who are in a particularly vulnerable situation or require urgent assistance. In particular, priority should be given to individuals who require immediate physical and/or psychological medical care, victims with disabilities and the elderly, victims of sexual or gender-based violence, victims who are homeless or experiencing financial hardship, as well as children born out of rape and sexual slavery and former child soldiers.”<sup>18</sup>

7. **The VPRS concurrently assesses whether the applicant fulfils the requirement of 'urgency' to benefit from the IDIP in accordance with the Chamber's rulings, which defines 'urgent needs', for the purposes of the IDIP, as “those for which the victims need to receive immediate physical and/or psychological medical care, and/or support due to financial hardship that endangers the person's life”.**<sup>19</sup>
8. The VPRS applies a flexible approach as to the facts and information considered for its individual assessments. It is usually not a single element, but rather a combination of factors which, taken together, will determine whether a victim should be **found eligible for priority treatment under the IDIP**.
9. When assessing whether a victim experiences “financial hardship”, the VPRS applies *inter alia* the following principles:

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<sup>16</sup> In the case of non-participating victims who had filled-in consultation forms, the VPRS seeks additional information to ensure that the victims are able to provide up-to-date information.

<sup>17</sup> The VPRS notes that the summary may include reference to crimes and harm suffered by the victim that exceed the scope of the conviction, but that have an impact on the victims' current situation, including their vulnerability.

<sup>18</sup> Trial Chamber VI, “Reparations Order”, 8 March 2021, ICC-01/04-02/06-2659, para. 214.

<sup>19</sup> See Trial Chamber II, “Decision on the TFV's initial draft implementation plan with focus on priority victims”, 23 July 2021, ICC-01/04-02/06-2696, paras 7 to 9.

- (i) Unless there are other elements that point to the contrary, victims who are the only breadwinner in their family and have dependants requiring special care (such as young children, sick/elderly persons or persons with disabilities) are considered as priority victims **with urgent needs** on account of experiencing financial hardship. Particular consideration is given to single women who are head of household.<sup>20</sup>
- (ii) As indicated by the Chamber,<sup>21</sup> homelessness is an indicator that a victim should be given priority **and has urgent needs**. Moreover, the VPRS will also consider it an indicator of financial hardship when victims claim that they have to live with a host family because they cannot afford to pay rent.
- (iii) When the victim has an occupation, the VPRS will consider, if the information is available, the victim's daily income,<sup>22</sup> the sustainability of his or her income (including, for example, whether it stems from informal, precarious or temporary work), as well as the number of dependants.

10. The VPRS provides the result **and reasoning** of its assessment **for the** priority status **treatment of victims under the IDIP** in the table, indicating in brackets any finding regarding the victim's vulnerability and urgent needs that supports its determination.

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<sup>20</sup> The World Bank reports in the context of the DRC: "While participation [in the labour force] is relatively high, women earn considerably less than men and own fewer assets". See The World Bank in DRC, [Democratic Republic of Congo Overview: Development news, research, data | World Bank](#), accessed on 22 January 2024.

<sup>21</sup> See *supra*, para. 6.

<sup>22</sup> The VPRS notes that in 2022 the World Bank estimated that nearly 62% of Congolese - around 60 million people - were living on less than \$2.15 a day. About one out of six people living in extreme poverty in Sub-Saharan Africa lives in the DRC. See The World Bank, Understanding poverty, <https://www.worldbank.org/en/understanding-poverty>, last accessed on 22 January 2024 and The World Bank in DRC, [Democratic Republic of Congo Overview: Development news, research, data, World Bank](#), last accessed on 22 January 2024.