

## **Annex A: Procedural History**

## ANNEX A: PROCEDURAL HISTORY

### A. Proceedings before the Trial Chamber

1. On 8 July 2019, the Trial Chamber rendered the Conviction Judgment, in which it found Mr Ntaganda guilty of five counts of crimes against humanity (murder and attempted murder, rape, sexual slavery, persecution, forcible transfer and deportation) and thirteen counts of war crimes (murder and attempted murder, intentionally directing attacks against civilians, rape, sexual slavery, pillage, ordering the displacement of the civilian population, conscripting and enlisting children under the age of 15 years into an armed group and using them to participate actively in hostilities, intentionally directing attacks against protected objects, and destroying the adversary's property).<sup>1</sup>
2. On 25 July 2019, Judge Chang-ho Chung, acting as Single Judge on behalf of Trial Chamber VI issued an order directing the Registry to provide preliminary information relevant to the reparations proceedings.<sup>2</sup>
3. On 5 September 2019, the Registry provided its preliminary observations on reparations setting out, *inter alia*, the Registry's proposal for the identification and registration of potential beneficiaries in the *Ntaganda* case.<sup>3</sup>
4. On 3 October 2019, the Prosecutor,<sup>4</sup> the Defence,<sup>5</sup> the two victim groups<sup>6</sup> and the TFV<sup>7</sup> each filed their responses to the Registry's Preliminary Observations.
5. On 7 November 2019, the Trial Chamber rendered the Sentencing Judgment, in which it sentenced Mr Ntaganda to a joint sentence of 30 years of imprisonment.<sup>8</sup>
6. On 5 December 2019, the Single Judge of the Trial Chamber issued an order, inviting the Prosecutor and the DRC authorities, and instructing the parties, the Registry, and the TFV, to make submissions on reparations related issues.<sup>9</sup> In order to facilitate the fair and expeditious conduct of the reparations proceedings, the Single Judge instructed the Registry, in consultation

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<sup>1</sup> [Conviction Judgment](#), para. 1199, pp. 535-538.

<sup>2</sup> [Order for Preliminary Information](#).

<sup>3</sup> [Registry's Preliminary Observations](#).

<sup>4</sup> [Prosecutor's Response to Registry's Preliminary observations](#).

<sup>5</sup> [Defence Response to Registry's Preliminary Observations](#).

<sup>6</sup> [Joint Response of the Victims to Registry's Preliminary Observations](#).

<sup>7</sup> [TFV Response to Registry's Preliminary Observations](#).

<sup>8</sup> [Sentencing Judgment](#), p. 117.

<sup>9</sup> [December 2019 Order](#).

with the victims groups and/or the TFV, to (i) continue to carry out the preliminary mapping of potential new beneficiaries of reparations; (ii) conduct an assessment of how many of the victims in the *Ntaganda* case may be eligible for reparations; (iii) conduct an assessment of how many of the victims eligible for reparations as direct victim beneficiaries in the *Lubanga* case are also eligible for reparations in the *Ntaganda* case; and, in consultation with the Defence and victims groups, and (iv) provide a list of proposed experts on five issues relevant for the reparations proceedings.<sup>10</sup>

7. On 28 February 2020, the Defence,<sup>11</sup> the victims groups,<sup>12</sup> the Registry,<sup>13</sup> the Prosecutor,<sup>14</sup> and the TFV<sup>15</sup> submitted their respective observations on reparations. The government of the DRC<sup>16</sup> and IOM<sup>17</sup> also made their observations in relation to reparations.

8. On 14 May 2020, the Trial Chamber appointed experts on reparations pursuant to rule 97(2) of the Rules.<sup>18</sup>

9. On 26 June 2020, the Trial Chamber issued its First Decision on Reparations Process,<sup>19</sup> being its first substantive decision on the matter.

10. On 11 September 2020, the Defence filed its request seeking clarification and/or further guidance from the Trial Chamber on aspects of the First Decision on Reparations Process.<sup>20</sup>

11. On 24 September 2020, the victims groups submitted a joint response to the Defence Request for Clarification.<sup>21</sup>

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<sup>10</sup> [December 2019 Order](#), para. 9(a) and (b). The Trial Chamber added that the experts should have “expertise in, *inter alia*: (i) the scope of liability of the convicted person; (ii) the scope, extent, and evolution of the harm suffered by both direct and indirect victims, including the long-term consequences of the crimes on the affected communities and including the potential cost of repair; (iii) appropriate modalities of reparations; (iv) sexual violence, in particular sexual slavery, and the consequences thereof on direct and indirect victims; and (v) any other matter deemed relevant after the aforesaid consultation” (*see* [December 2019 Order](#), para. 9 (b)).

<sup>11</sup> [Defence February 2020 Submissions](#).

<sup>12</sup> [CLR1 February 2020 Submissions](#); [CLR2 February 2020 Submissions](#).

<sup>13</sup> [Registry February 2020 Submissions](#).

<sup>14</sup> [Prosecution February 2020 Submissions](#).

<sup>15</sup> [TFV February 2020 Submissions](#).

<sup>16</sup> [DRC March 2020 Submissions](#).

<sup>17</sup> [IOM March 2020 Submissions](#).

<sup>18</sup> [Decision Appointing Experts on Reparations](#), paras 9, 12, p. 10.

<sup>19</sup> [First Decision on Reparations Process](#).

<sup>20</sup> [Defence Request for Clarification](#).

<sup>21</sup> [Joint Response of the Victims to Defence Request for Clarification](#).

12. On 29 September 2020, the Trial Chamber issued its decision rejecting the Defence Request for Clarification.<sup>22</sup>
13. On 30 September 2020, pursuant to the First Decision on Reparations Process, the Registry submitted its report, containing (i) an update on the Registry's reassessment exercise for participating victims; (ii) key legal and factual issues relevant to the eligibility assessment; (iii) update on *Lubanga* victims; and (iv) report on the methodology applied in the preparation of the sample and for the completion of the mapping of potential new beneficiaries.<sup>23</sup>
14. On 30 October 2020, the Victims Groups<sup>24</sup> and the Defence<sup>25</sup> filed their respective submissions on the Registry's First Report.
15. On 3 November 2020, the Registry transmitted the First Experts Report and the Second Expert Report.<sup>26</sup>
16. On 9 November 2020, Victims Group 2 requested the Trial Chamber to direct the Registry to collect information pertaining to reparations.<sup>27</sup>
17. On 18 and 20 November 2020, the Registry<sup>28</sup> and the Defence<sup>29</sup> submitted their responses to the request of Victims Group 2 to direct the Registry to collect information pertaining to reparations.
18. On 15 December 2020, the Trial Chamber issued a decision regarding the Registry's First Report on Reparations.<sup>30</sup>
19. On 18 December 2020, the Trial Chamber rejected the Victims Group 2's request for information.<sup>31</sup>

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<sup>22</sup> [Decision on Defence Request for Clarification.](#)

<sup>23</sup> [Registry's First Report.](#)

<sup>24</sup> [CLR1 Observations on the First Report; CLR2 Observations on the First Report.](#)

<sup>25</sup> [Defence Observations on the Registry First Report on Reparations.](#)

<sup>26</sup> [First Experts Report; Second Expert Report.](#)

<sup>27</sup> [CLR2's Request for Information.](#)

<sup>28</sup> [Registry's Observations on Request for Information.](#)

<sup>29</sup> [Defence Response to the Request for Information.](#)

<sup>30</sup> [Decision on the First Report.](#)

<sup>31</sup> [Decision on the CLR2's Request for Information.](#)

20. On the same day, Victims Group 1, Victims Group 2, the Defence and the TFV submitted their final observations on reparations.<sup>32</sup>
21. On 15 January 2021, the Registry filed its Second Report on Reparations.<sup>33</sup>
22. On 28 January 2021, Victims Group 2<sup>34</sup> and the Defence<sup>35</sup> filed their respective observations regarding the Registry's Second Report on Reparations.
23. On 8 March 2021, the Trial Chamber issued the Impugned Decision.<sup>36</sup>
24. On 16 March 2021, the Presidency assigned this case to a different trial chamber (*i.e.*, Trial Chamber II, composed of Judge Kovács, Judge Chung and Judge Flores Liera).<sup>37</sup>
25. On 30 March 2021, the Appeals Chamber confirmed both the Conviction Judgment and Sentencing Judgment.<sup>38</sup>

## **B. Proceedings before the Appeals Chamber**

26. On 8 April 2021, Victims Group 2 and the Defence filed their notices of appeal against the Impugned Decision.<sup>39</sup>
27. On 7 June 2021, Victims Group 2 and the Defence filed their appeal briefs against the Impugned Decision.<sup>40</sup> In his appeal brief, Mr Ntaganda requested the Appeals Chamber, *inter alia*, to order “the immediate suspension of the Impugned Decision”.<sup>41</sup>
28. On 11 June 2021, the Appeals Chamber issued an order inviting the TFV, pursuant to rule 103(1) of the Rules, to submit observations on the Defence's request for suspensive effect; and set a time limit for the Defence and the legal representatives of victims, pursuant to rule 103(2), to respond to those observations and for the latter also to respond to the Defence's request for suspensive effect.<sup>42</sup>

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<sup>32</sup> See [CLR1 Final Submissions](#); [CLR2 Final Submissions](#); [Defence Final Submissions](#); [TFV Final Submissions](#).

<sup>33</sup> [Registry's Second Report](#).

<sup>34</sup> [CLR2 Observations on the Second Report](#).

<sup>35</sup> [Defence Observations on the Registry's Second Report on Reparations](#).

<sup>36</sup> [Impugned Decision](#).

<sup>37</sup> [16 March 2021 Presidency Decision](#), p. 7.

<sup>38</sup> See [Appeals Chamber Judgment on Conviction](#), p. 13; [Appeals Chamber Judgment on Sentencing](#), p. 9.

<sup>39</sup> [Victims Group 2's Notice of Appeal](#); [Defence Notice of Appeal](#).

<sup>40</sup> [Victims Group 2's Appeal Brief](#); [Defence Appeal Brief](#).

<sup>41</sup> [Defence Appeal Brief](#), para. 273. See also paras 260-272.

<sup>42</sup> [Order for Time Limit for Responses and Invitation for TFV Observations](#).

29. On 22 June 2021, the TFV submitted its “Observations on the Defence Request for Suspensive Effect and Request under rule 103 of the Rules of Procedure and Evidence”.<sup>43</sup>
30. On 25 June 2021, the Defence, Victims Group 1, as well as Victims Group 2 submitted their responses to, *inter alia*, the TFV observations; both groups of victims also responded to the Defence’s Request for Suspensive Effect.<sup>44</sup>
31. On 2 July 2021, the Appeals Chamber rejected the Defence’s request for suspensive effect and noted that it would rule in due course on the TFV’s request for leave to make further submissions on the merits of the appeals, and any other procedural issues.<sup>45</sup>
32. On 2 July 2021, the Defence submitted a request for the recusal or disqualification of Judge Lordkipanidze.<sup>46</sup>
33. On 8 July 2021, the Presidency issued an order concerning the Defence’s request seeking the recusal or disqualification of Judge Lordkipanidze.<sup>47</sup>
34. On 9 August 2021, the Defence responded to Victims Group 2’s appeal, Victims Group 2 responded to the Defence appeal, and Victims Group 1 submitted a consolidated response to both appeals.<sup>48</sup>
35. On 13 August 2021, the Defence requested that the Appeals Chamber grant it leave to reply to six issues raised in the submissions made by Victims Group 1 and Victims Group 2 in response to its appeal.<sup>49</sup>
36. On 18 August 2021, Victims Group 1 and Victims Group 2 responded to the request made by the Defence seeking leave to reply to their responses to its Appeal Brief.<sup>50</sup>

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<sup>43</sup> [Observations on Defence’s Request for Suspensive Effect and Request under Rule 103.](#)

<sup>44</sup> [Defence Response to the TFV’s Observation and Request; Victims Group 1’s Response to the Defence Request for Suspensive Effect; Victims Group 2’s Response to the Defence Request for Suspensive Effect.](#)

<sup>45</sup> [Decision on the Defence Request for Suspensive Effect](#), p. 3, paras 26, 27.

<sup>46</sup> [Disqualification Request](#), paras 3, 38.

<sup>47</sup> [Order on Disqualification Request.](#)

<sup>48</sup> [Defence Response to Victims Group 2’s Appeal Brief; Victims Group 2’s Response; Victims Group 1’s Response.](#)

<sup>49</sup> [Request for Leave to Reply to Victims Groups 1 and 2 Responses](#), para. 1, p. 14.

<sup>50</sup> [Victims Group 1’s Response to the Defence’s Request for Leave to Reply; Victims Group 2’s Response to the Defence’s Request for Leave to Reply.](#)

37. On 19 August 2021, the Presidency notified, *inter alia*, the parties, of Judge Lordkipanidze's observations on the Defence's request seeking his recusal or disqualification.<sup>51</sup>

38. On 9 September 2021, the Appeals Chamber issued a decision in which it: granted the Defence leave to reply to the victims' responses to its appeal brief; authorised the TFV to submit observations; and authorised the parties to submit responses to those observations. It found that it did not deem it necessary to hold a hearing at that stage of the proceeding.<sup>52</sup> Judge Ibáñez Carranza partly dissented from the decision, in respect of the decision not to hold a hearing at that stage.<sup>53</sup>

39. On 29 September 2021, the Presidency notified the decision of the Plenary of Judges which, by majority, denied the Defence's request for Judge Lordkipanidze to recuse himself or be disqualified.<sup>54</sup>

40. On 30 September 2021, the Defence replied to the victims' responses to its appeal brief.<sup>55</sup>

41. On 30 September 2021, the TFV submitted its observations in relation to the appeals.<sup>56</sup>

42. On 25 October 2021, Victims Group 2 and the Defence filed their responses to the TFV's observations.<sup>57</sup> Victims Group 1 did not file any response to the TFV's observations.

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<sup>51</sup> [Notification on the Disqualification Request; Annex I to the Notification on the Disqualification Request.](#)

<sup>52</sup> [Decision on Various Procedural Issues](#), pp. 3-4, para. 19.

<sup>53</sup> [Dissent to the Decision on Various Procedural Issues.](#)

<sup>54</sup> *See* [Plenary's Decision on the Defence's Request to Disqualify Judge Lordkipanidze](#); Annex to [Plenary's Decision on the Defence's Request to Disqualify Judge Lordkipanidze.](#)

<sup>55</sup> [Defence Reply to Victims' Responses.](#)

<sup>56</sup> [TFV's Observations on the Defence Appeal Brief.](#)

<sup>57</sup> [Victims Group 2's Response to the TFV's Observations; Defence Response to the TFV's Observations.](#)