

1 International Criminal Court  
2 Trial Chamber VI  
3 Situation: Democratic Republic of the Congo  
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06  
5 Presiding Judge Chang-ho Chung, Judge Robert Fremr and  
6 Judge Olga Herrera Carbuccion  
7 Delivery of Reparations Order - Courtroom 3  
8 Monday, 8 March 2021  
9 (The hearing starts in open session at 10.00 a.m.)  
10 THE COURT USHER: [10:00:24] All rise.  
11 The International Criminal Court is now in session.  
12 Please be seated.  
13 PRESIDING JUDGE CHUNG: [10:00:51] Good morning, everyone.  
14 Court officer, please call the case.  
15 THE COURT OFFICER: [10:00:55] Thank you, Mr President.  
16 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor  
17 versus Bosco Ntaganda, case reference ICC-01/04-02/06.  
18 For the record, we are in open session.  
19 PRESIDING JUDGE CHUNG: [10:01:12] Thank you, court officer.  
20 I am Judge Chang-ho Chung and today I will be presiding this hearing. To my right  
21 is Judge Robert Fremr and to my left is Judge Olga Herrera Carbuccion.  
22 I welcome everyone to this hearing, which is being held with some additional security  
23 measures due to the exceptional circumstances. For the same reason, the Defence  
24 counsel for Mr Ntaganda has informed the Chamber that he will follow these  
25 proceedings remotely, as you can see on the screen. I would like to thank everyone

1 for cooperating in ensuring the efficient conduct of the proceedings in this case.

2 Now I would like to ask the Legal Representatives of Victims, the Defence team for

3 Mr Ntaganda, the representatives of the Registry, Office of the Prosecutor, and Trust

4 Fund for Victims, to introduce themselves and their teams for the record.

5 The Legal Representatives of Victims first.

6 MS PELLET: [10:02:22](Interpretation) Thank you, your Honour. The former child

7 soldiers are represented by myself, Sarah Pellet, OPCV.

8 MR SUPRUN: [10:02:37] Good morning, Mr President. Good morning your

9 Honours. The victims of the attacks are represented by myself, Dmytro Suprun,

10 counsel at the Office of Public Counsel for Victims. Thank you.

11 MS BEAULIEU-LUSSIER: [10:02:49] Good morning, Mr President, your Honours. I

12 am Mélissa Beaulieu-Lussier, legal assistant for Mr Bosco Ntaganda. In the

13 courtroom with me there is Maître Laurence Hortas-Laberge. And remotely there is

14 Maître Bourgon, that is present remotely. And also Didace Nyirinkwaya, pro bono

15 local assistant, assisting remotely. Thank you.

16 PRESIDING JUDGE CHUNG: [10:03:23] Any -- no Registry.

17 Then Office of the Prosecutor, please.

18 MS SAMSON: [10:03:25] Good morning, Mr President. Good morning, your

19 Honours. Appearing for the Prosecution today are Ms Meritxell Regué and myself,

20 Nicole Samson.

21 MR DE BAAN: [10:03:38] Good morning, Mr President, your Honours. For the

22 Trust Fund for Victims, representation is by Ms Franziska Eckelmans, legal adviser,

23 and myself Pieter de Baan.

24 PRESIDING JUDGE CHUNG: [10:03:53] Thank you.

25 Members of the legal staff of Trial Chamber VI are also present at this hearing.

1 Now, we gathered today for the Chamber to pronounce its Order on Reparations to  
2 Victims under Article 75 of the Rome Statute in the case of the Prosecutor versus  
3 Bosco Ntaganda.

4 As provided for by Rule 144(1) of the Rules, the Chamber delivers a public summary  
5 of its main findings and conclusions, in the presence of the accused, the Legal  
6 Representatives of Victims, and the Prosecutor. The Chamber underscores that only  
7 the written Reparations Order, which was filed this morning and will be notified  
8 shortly after this hearing, is authoritative.

9 Timing for the issuance of this order and the type of reparations granted.

10 I shall begin today by noting that, in order to contribute towards more expeditious  
11 reparations proceedings, and considering that the mandate of two of the Chamber's  
12 Judges comes to an end on 10 March 2021, including that of Judge Fremr who  
13 presided over the trial, the Chamber has decided to issue this Reparations Order prior  
14 to the issuance of the appeals judgment on the conviction and sentence.

15 In that respect, the Chamber recalls the victims' right to prompt reparations; that the  
16 crimes for which Mr Ntaganda was convicted took place almost two decades ago and  
17 most victims have received little to no assistance so far; and that, due to their  
18 particular vulnerability, some victims may require urgent assistance.

19 As to the type of reparations awarded, the Chamber notes that, after detailed  
20 consideration of the submissions of parties and other participants in the proceedings,  
21 reports from the Registry and appointed experts, the Trust Fund for Victims, relevant  
22 case file records, and the applicable legal framework, the Chamber has concluded that  
23 awarding collective reparations with individualised components is the most  
24 appropriate course of action in the present proceedings.

25 The Chamber reached this conclusion in light of the scope of the case, the potentially

1 large number of unidentified eligible victims, the extent of the harm the victims  
2 suffered, and the scope, types, and modalities of reparations the Chamber considers  
3 appropriate to address such harm, in the circumstances of the case.

4 The Chamber stresses that in reaching this decision it particularly took into account  
5 the victims' wish not to be granted any form of memorialisation or other types of  
6 symbolic reparations, unless they serve practical purposes, and their wish to receive  
7 awards aiming at supporting sustainable and long-term livelihood and well-being,  
8 rather than simply addressing their needs on a short-term basis.

9 Scope of the case.

10 Moving now to the background and scope of the case, the Chamber recalls that on  
11 8 July 2019, Mr Bosco Ntaganda, the former deputy chief of staff of the UPC/FPLC,  
12 was found guilty of five counts of crimes against humanity and 13 counts of war  
13 crimes, namely: murder and attempted murder, intentionally directing attacks against  
14 civilians, rape, sexual slavery, persecution, pillaging, forcible transfer, deportation,  
15 and ordering the displacement of the civilian population, conscripting and enlisting  
16 children under the age of 15 years into an armed group and using them to participate  
17 actively in hostilities, intentionally directing attacks against protected objects, and  
18 destroying the adversary's property.

19 The crimes were committed in the context of at least one non-international armed  
20 conflict between the UPC/FPLC and opposing organised armed groups, in the Ituri  
21 district of the DRC, from on or about 6 August 2002 to on or about 31 December 2003;  
22 and a widespread and systematic attack against the civilian population conducted by  
23 UPC/FPLC between August 2002 and May 2003.

24 Within that context, the UPC/FPLC committed a series of crimes during a first  
25 operation, in the Banyali-Kilo *collectivité* in November/December 2002, and a second

1 operation, in the Walendu-Djatsi *collectivité* in February/March 2003. The UPC/FPLC  
2 also conscripted and enlisted children under the age of 15 years between on or about  
3 6 August 2002 and 31 December 2003 and used them to participate actively in the  
4 hostilities between on or about 6 August 2002 and on or about 30 May 2003.

5 Principles on reparations:

6 Pursuant to Article 75(1) of the Statute, the Court shall establish principles relating to  
7 reparations, which are to be distinguished from the order for reparations.

8 The Chamber has adopted that 13 principles are identified by the Appeals Chamber  
9 in the Lubanga case, as adapted in the Katanga and Al Mahdi cases, as they are of  
10 general application. The Chamber has adapted and expanded such principles as  
11 detailed in the order, and has also identified six additional new principles, as  
12 necessary in light of the specific circumstances of the case.

13 The new principles identified by the Chamber are:

14 Principle of 'do no harm'. This refers to the need to take all steps necessary to ensure  
15 that access to justice and reparations by victims and affected communities does not  
16 lead to further or secondary victimisation, does not create or exacerbate security  
17 concerns or tensions among communities, and that victims are not endangered or  
18 stigmatised as a result. Particular attention should be paid to victims belonging to  
19 more vulnerable groups.

20 Principle of gender-inclusive and sensitive approach to reparations. This approach  
21 should guide every step of the reparation process. It requires the Court to give due  
22 consideration and address the specific needs of individuals based on their sex and  
23 their real or perceived gender expression or identity, without discrimination on that  
24 basis. This approach should integrate intersectionality as a core component and take  
25 into account the existence of previous gender and power imbalances, as well as the

1 differentiated impact of harm for victims.

2 Principle related to sexual and gender-based violence. Sexual and gender-based  
3 violence refers to crimes committed against persons because of their sex or gender  
4 expression or identity. The principle recognises the Court's obligation to adopt all  
5 necessary measures to ensure that the victims of these crimes come forward and  
6 benefit from reparations, and it addresses the potential obstacles, including stigma  
7 and ostracism, without reinforcing pre-existing discriminatory patterns. Reparations  
8 should recognise especially the grave nature and consequences of these crimes and  
9 should reflect and address the multifaceted harm suffered by the victims.

10 Principle of prioritisation. All victims are to be treated fairly and equally.  
11 However, priority may need to be given to certain victims who are in a particularly  
12 vulnerable situation or require urgent assistance. The Court may adopt measures in  
13 order to guarantee equal, effective, and safe access to reparations for particularly  
14 vulnerable victims.

15 Principle of transformative reparations. Reparations should strive to be  
16 transformative in their design, implementation, and impact. They should have a  
17 rectification effect, confronting social exclusion by prioritising a participatory process  
18 over outcomes and by challenging unequal power relations.

19 Principle of no-over compensation. Reparations may neither enrich nor impoverish  
20 the victim, but adequately repair the harm caused, to the extent possible. Granting  
21 multiple modalities of reparations for the same harm suffered by the victims shall not  
22 be regarded as an over-compensation.

23 Order for reparations against Mr Bosco Ntaganda - elements of a reparations order.  
24 As determined by the Appeals Chamber, a reparations order must contain, at a  
25 minimum, five essential elements. The Chamber will hereafter detail its findings

1 with reference to those elements:

2 Eligible victims.

3 The present order is for collective reparations against Mr Ntaganda, to be made  
4 through the Trust Fund for Victims pursuant to Rules 97(1) and 98(3) of the Rules.

5 In light of the type of reparations awarded, the Chamber establishes the eligibility  
6 criteria for reparations, including the characteristics of the categories of eligible  
7 victims, in order to enable their identification by the Trust Fund for Victims.

8 The Chamber stresses that eligibility for reparations is to be determined by reference  
9 to the territorial, temporal, and subject matter scope of the crimes for which  
10 Mr Ntaganda was convicted.

11 Direct victims.

12 Natural and legal persons are eligible for reparations as direct victims if they can  
13 demonstrate, at the relevant standard of proof, that they suffered a harm as a result of  
14 at least one of the following crimes:

15 Victims of the attacks:

16 Counts 1 and 2: Victims of murder and attempted murder as a crime against  
17 humanity and as a war crime in Mongbwalu, Nzebi, Sayo, and Kilo in the context of  
18 the first operation, and in Kobu, Sangi, and Bambu in the context of the second  
19 operation. Specifically in the context of the first operation: Abbé Bwanalonga in  
20 Mongbwalu; a woman in front of the health centre in Sayo; people in Mongbwalu and  
21 Sayo during ratissage operations, including a Lendu woman and persons killed at the  
22 *Appartements* camps; two Lendu persons in Nzebi; and Lendu persons, a Ngiti man, a  
23 pregnant Lendu woman, and a Nyali man in Kilo.

24 In the context of the second operation: At least two fleeing children in Kobu, and  
25 people during the ratissage operation that followed; nine hospital patients in Bambu;

1 a woman who was raped and P-0018's sister-in-law in the bushes surrounding Sangi;  
2 at least 49 persons in a banana field near the Paradiso building in Kobu; and some  
3 men who were raped by UPC/FPLC soldiers in Kobu.

4 And in the context of the first and second operation: The attempted murder of  
5 P-0018, P-0019, P-0022, P-0108, and a patient of Bambu hospital.

6 Count 3: Victims of intentionally directing attacks against civilians as a war crime in  
7 Mongbwalu and Sayo in the context of the first operation, and in Bambu, Jitchu, and  
8 Buli, in the context of the second operation.

9 Counts 4 and 5: Victims of rape as a crime against humanity and as a war crime in  
10 Mongbwalu and Kilo in the context of the first operation, and in Kobu, Sangi, and  
11 Buli, in the context of the second operation. Specifically in the context of the first  
12 operation: Women and girls during and in the aftermath of the UPC/FPLC assault  
13 on Mongbwalu, including a number of women in the *Appartements* camp and girls in  
14 Kilo. And in the context of the second operation: Detained women and men in  
15 Kobu; women in Sangi; and P-0113 in Buli.

16 Counts 7 and 8: P-0113 and an 11-year-old girl, as victims of sexual slavery as a  
17 crime against humanity and as a war crime, in Kobu and Buli in the context of the  
18 second operation.

19 Count 10: Victims of persecution as a crime against humanity in Mongbwalu, Nzebi,  
20 Sayo, and Kilo, in the context of the first operation, and in Nyangarai, Lipri, Tsili,  
21 Kobu, Bambu, Sangi Gola, Jitchu, and Buli, in the context of the second operation.

22 Count 11: Victims of pillage as a war crime in Mongbwalu and Sayo in the context  
23 of the first operation; and in Kobu, Lipri, Bambu, and Jitchu, in the context of the  
24 second operation.

25 Counts 12 and 13: Victims of forcible transfer and deportation as a crime against



1 humanity and ordering the displacement of the civilian population as a war crime in  
2 Mongbwalu, in the context of the first operation; and in Lipri, Tsili, Kobu, and Bambu,  
3 in the context of the second operation.

4 Count 17: Victims of intentionally directing attacks against protected objects as a  
5 war crime, namely against the health centre in Sayo, in the context of the first  
6 operation.

7 Count 18: Victims of destroying the adversary's property as a war crime, in  
8 Mongbwalu and Sayo, in the context of the first operation; and Lipri, Tsili, Kobu,  
9 Jitchu, Buli, and Sangi, in the context of the second operation.

10 Child soldiers victims:

11 Counts 14, 15 and 16: Victims of conscription and enlistment of children under the  
12 age of 15 years into an armed group between on or about 6 August 2002  
13 and 31 December 2003, and their use to participate actively in hostilities between on  
14 or about 6 August 2002 and on or about 30 May 2003, with respect to the participation  
15 of children under the age of 15 in the first operation and in the UPC/FPLC assault on  
16 Bunia in May 2003; the use of children under the age of 15 as bodyguards for  
17 UPC/FPLC soldiers and commanders; and the use of children under the age of 15 to  
18 gather information about the opposing forces and MONUC personnel, as war crimes.

19 Counts 6 and 9: Victims of rape and sexual slavery of child soldiers as war crimes,  
20 against children under the age of 15 years incorporated into the UPC/FPLC between  
21 on or about 6 August 2002 and 31 December 2003, in Ituri. Specifically, the rape of  
22 Nadège, an approximately 9-year-old girl in Camp Lingo and the rape and sexual  
23 slavery of P-0883, a girl under 15 years of age, at Camp Bule and Mave, and a girl  
24 under the age of 15 years assigned to Floribert Kisémbu. However, these findings  
25 are not representative of the number of female UPC/FPLC victims who were

1 subjected to rape and sexual violence, which was a common practice in the  
2 UPC/FPLC during this time period.  
3 Children born out of rape and sexual slavery.  
4 The Chamber recalls that a number of victims of rape and sexual slavery, including  
5 girls under the age of 15, became pregnant and children were born as a result.  
6 To qualify as a direct victim, a causal link must exist between the harm suffered and  
7 the crimes of which an accused person is found guilty. For indirect victims, it must  
8 be established that, because of the person's relationship with the direct victim, the loss,  
9 injury, or damage suffered by the latter gives rise to their harm.  
10 In light of the circumstances of the case, the Chamber considers that the children born  
11 out of rape and sexual slavery may qualify as direct victims, as the harm they suffer is  
12 a direct result of the commission of the crimes of rape and sexual slavery. In contrast,  
13 other children of women and girls who were victims of rape or sexual slavery may be  
14 considered indirect victims of the crimes for which Mr Ntaganda was convicted, as  
15 they may have suffered harm as a consequence of the harm suffered by the direct  
16 victims.  
17 The Chamber notes that recognising children born out of rape and sexual slavery as  
18 direct rather than indirect victims, is an acknowledgment of the particular harm they  
19 suffered and may constitute an adequate measure of satisfaction, in addition to other  
20 forms of reparations that may be awarded to them.  
21 Indirect victims.  
22 As to indirect victims, the Chamber relies on the Appeals Chamber jurisprudence and  
23 recognises as indirect victims all categories identified in the Lubanga case. The  
24 Chamber reiterates that the key consideration is the personal harm. Indirect victims  
25 must demonstrate, at the relevant standard of proof, to have suffered harm because of

1 the commission of a crime against the direct victim.

2 To define the harm caused to direct and indirect victims, the Chamber considered all  
3 relevant information before it, including the judgment, the sentencing judgment,  
4 evidence submitted during the trial and sentencing proceedings, observations by the  
5 parties and other participants in the proceedings, including the Registry, the Trust  
6 Fund for Victims and the appointed experts.

7 The Chamber has defined the harms suffered as a result of the crimes committed by  
8 Mr Ntaganda as follows:

9 a) harms suffered by the direct victims of the attacks:

10 Material harm;

11 Physical injury and trauma, including memory loss, neurological disturbances, and  
12 extensive physical scarring;

13 Psychological trauma and the development of psychological disorders such as, inter  
14 alia, suicidal tendencies, depression, and dissociative behaviour; psychosocial trauma,  
15 due to exclusion from and disintegration of families and communities; loss of  
16 productivity capacity, reduced standard of living and socio-economic opportunities;  
17 interruption and loss of schooling and vocational training;

18 Exposure to an environment of violence and fear;

19 Loss of childhood;

20 Loss of life plan;

21 And damage to the health centre in Sayo and loss of adequate health care provision to  
22 the community that benefitted from it.

23 b) Harm suffered by direct victims of crimes against child soldiers:

24 Material harm;

25 Physical injury and trauma;

1 Psychological trauma and the development of psychological disorders such as,  
2 inter alia, suicidal tendencies, depression, and dissociative behaviour;  
3 Psychosocial trauma due to exclusion from and disintegration of families and  
4 communities;  
5 Interruption and loss of schooling and vocational training;  
6 Separation from families;  
7 Loss of childhood;  
8 Loss of life plan;  
9 Exposure to an environment of violence, fear, and threats; Difficulties socialising with  
10 their families and communities, including rejection and stigmatisation;  
11 Difficulties in controlling aggressive impulses; and  
12 Non-development of civilian life skills resulting in the victim at a disadvantage,  
13 particularly as regards employment.

14 c) Harm suffered by direct victims of rape and sexual slavery, including child soldiers  
15 and children born out of rape and sexual slavery:  
16 Physical, psychological, psychiatric, psychosocial, and economic consequences  
17 (including injuries, trauma, ostracism, stigma, and social rejection), in immediate and  
18 longer term, in the case of the direct victims of rape and sexual slavery; and  
19 Physical, psychological, psychosocial, and economic consequences (including  
20 rejection at multiple levels, discrimination, and marginalisation) in the case of  
21 children born out of rape and sexual slavery.

22 d) Harm suffered by indirect victims:  
23 Material deprivation that accompanies the loss of the family member's contributions;  
24 Loss, injury or damage suffered by person intervening to attempt to prevent the direct  
25 victims from being further harmed as a result of the relevant crime;

1 Psychological harm experienced as a result from the sudden loss of a family member,  
2 including behavioural disorders, such as trauma, depression, suicidal tendencies and  
3 feelings of hatred;

4 Psychological harm and trauma as a result of what they witnessed during or after the  
5 attacks;

6 Psychological, psychosocial, and material harm resulting from aggressive behaviour  
7 by former child soldiers reunited with their families and communities; and

8 Transgenerational harm of children of direct victims.

9 Due to the limitations that reading the summary of the reparations order imposes, the  
10 Chamber is not able to describe in more detail in this hearing the great suffering and  
11 long-lasting consequences suffered by all victims of the crimes for which  
12 Mr Ntaganda was convicted, as elaborated in the order.

13 However, particularly on this day, the Chamber would like to recall some of the  
14 testimonies heard during the trial proceedings. These testimonies exemplify that the  
15 crimes of rape and sexual slavery resulted in fear of stigma and ostracism for the  
16 victims within their families and communities, as well as fear of abandonment by  
17 their partners if information about the crimes would become known.

18 Testimonies of witnesses heard during the trial proceedings account for victims  
19 having difficulties to stay with everybody, and that the crime affected the victim's  
20 personal development and life plan. A victim also recounted that after her rape, she,  
21 and I quote, "was torn inside and out", was seriously injured for a long time,  
22 explaining, I quote again, "the abuse instilled a lot of fear in me. I could no longer go  
23 to school", and "was traumatised in my heart for a very long time."

24 An expert witness who interviewed victims of the case testified that "typically,  
25 women or indeed men who have been sexually violated will feel contaminated, dirty,

1 and unclear, because of the nature of the violation, the very private violation that  
2 they have experienced." She added that the victims she interviewed felt "extreme  
3 anger", which "affected their children".

4 Types and modalities of reparations.

5 As noted above, the Chamber has concluded that collective reparations with  
6 individualised components are the most appropriate type of reparations, as they may  
7 provide a more holistic approach to address the multiple harms suffered by the large  
8 number of victims eligible to receive reparations in this case. In addition, it aims to  
9 provide victims with a sustainable and long-term livelihood and well-being rather  
10 than simply addressing their daily needs on a short-term basis. It also ensures a  
11 more efficient, prompt and practical approach.

12 At the same time, the Chamber considers that this approach addresses the concerns  
13 that victims should receive equal reparations to avoid awards being a source of  
14 jealousy, animosity or stigmatisation among the affected communities and between  
15 inter-ethnic groups, especially given the unstable security situation on the ground.

16 It will also ensure that reparations respond to the victims' harms and needs, as  
17 determined following the Trust Fund for Victims consultations with the victims at the  
18 implementation stage.

19 The Chamber further notes that collective reparations with individualised  
20 components appear the most appropriate type of reparations to address the harm  
21 caused by rape and sexual slavery and that suffered by for former child soldiers,  
22 particularly considering the potential reluctance of these victims to come forward if  
23 they were to be singled out for specific awards, due to their rejection and  
24 stigmatisation at the family and community levels.

25 As to the modalities of reparations, the Chamber acknowledges that the multiple,

1 diverse, and multifaceted nature of the harms suffered by the victims in this case  
2 makes it difficult to reinstate the victims to the situation they were in before the  
3 commission of the crimes. In order to address the various harms suffered by the  
4 victims in the best manner possible, a combination of different modalities of  
5 reparations available should be applied.

6 The modalities of reparations may include measures of restitution, compensation,  
7 rehabilitation, and satisfaction, which may incorporate, when appropriate, a symbolic,  
8 preventative, or transformative value. The Trust Fund for Victims is therefore  
9 ordered to design a draft implementation plan on the basis of all the modalities of  
10 reparations identified in the order, in consultation with the victims.

11 The Chamber further notes that priority should be given to individuals who require  
12 immediate physical and psychological medical care, victims with disabilities and the  
13 elderly, victims of sexual or gender-based violence, victims who are homeless or  
14 experiencing financial hardship, as well as children born out of rape and sexual  
15 slavery and former child soldiers.

16 Order against the convicted person.

17 Reparation orders are intrinsically linked to the individual whose criminal liability is  
18 established in the conviction and must be proportionate to the harm caused. As  
19 such, in light of the principle of accountability of the offender, this order for  
20 reparations is made against the convicted person.

21 Scope of liability.

22 The Chamber has followed the Appeals Chamber jurisprudence in previous cases,  
23 namely, that the question of whether other individuals may also have contributed to  
24 the harm resulting from the crimes for which the person has been convicted is  
25 irrelevant to the convicted person's liability to repair that harm. In effect, it is not,

1 per se, inappropriate to hold the person liable for the full amount necessary to repair  
2 the harm. The focus, in all cases, should be the extent of the harm caused and the  
3 cost to repair such harm, rather than the person's role and the mode of liability for  
4 which the person was convicted.

5 Accordingly, the Chamber finds Mr Ntaganda liable to repair the full extent of the  
6 harm caused to direct and indirect victims of all crimes for which he was convicted,  
7 regardless of the different modes of liability relied in the conviction and regardless of  
8 whether others may have also contributed to the harm.

9 As to the shared liability of Mr Ntaganda and his co-perpetrators in the crimes for  
10 which he was convicted, including Mr Thomas Lubanga, the Chamber considers them  
11 all jointly liable *in solidum* to repair the full extent of the harm caused to the victims.

12 The Chamber took into account the Trust Fund for Victims' submissions that the  
13 reparation programmes in the Lubanga case constitute a collective award aimed at  
14 comprehensively repairing the harm suffered by all direct and indirect victims.

15 Accordingly, and considering the principle of "no overcompensation", the Chamber  
16 considers reasonable to adopt, for the purposes of reparations in this case, the  
17 reparation programmes ordered by Trial Chamber II in the Lubanga case, in relation  
18 to the overlapping victims and harms of both cases. As a result, these programmes  
19 should be understood to repair the overlapping victims' harm on behalf of both  
20 Mr Lubanga and Mr Ntaganda.

21 It should be stressed however that this, under no circumstances, diminishes  
22 Mr Ntaganda's liability to repair in full the harm caused to all victims of the crimes  
23 for which he was convicted. To the contrary, Mr Lubanga and Mr Ntaganda are  
24 jointly and severally liable to repair in full the harm suffered by the overlapping  
25 victims and both remain liable to reimburse the funds that the Trust Fund for Victims



1 may eventually use to complement the reparation awards for their shared victims.  
2 Regarding the additional harm suffered by the victims of rape and sexual slavery  
3 within the UPC/FPLC and victims of recruitment beyond the temporal scope of the  
4 Lubanga case, for which Mr Ntaganda bears sole liability, additional reparation  
5 measures should be implemented.

6 As to the amount of Mr Ntaganda's financial liability, the Chamber notes that it  
7 should focus on the cost to repair the harm, depending on the circumstances of the  
8 case and bearing in mind the overall purpose of reparations. Ultimately, the goal is  
9 to set an amount that is fair and properly reflects the rights of the victims, bearing in  
10 mind the rights of the convicted person. If the available information does not allow  
11 the Chamber to set the amount with precision it may, with caution, rely on estimates,  
12 after making every effort to obtain calculations that are as accurate as possible.

13 The Chamber recalls the large scope of the case in terms of the crimes for which  
14 Mr Ntaganda was convicted and the potential large number of victims of such crimes  
15 eligible to receive reparations. The Chamber notes that it has carefully considered  
16 the information and evidence provided by the Registry, the Trust Fund for Victims,  
17 and appointed experts, and the parties, all of whom have made substantial efforts in  
18 helping the Chamber reach accurate estimates as to the number of potentially eligible  
19 victims and the cost to repair the harms they have suffered.

20 The Chamber has concluded that thousands of victims may be eligible for reparations  
21 in the present case. However, the Chamber is cognisant of the impossibility to  
22 predict in advance how many victims may ultimately come forward to benefit from  
23 collective reparations with individualised components during the implementation  
24 stage, particularly considering the widespread, systematic and large-scale nature of  
25 the crimes for which Mr Ntaganda was convicted.

1 The Chamber notes the estimation made by the appointed experts that at least 3,500  
2 direct victims are potentially eligible for the reparations, but that the number of  
3 indirect victims could not be ascertained by them. The Chamber also notes that a  
4 total of 2,121 victims were admitted for participation at the trial stage, including 1,837  
5 victims of the attacks and 284 former child soldier victims. The Registry has also  
6 reported that, in relation to the victims of the attacks, there may be at least 1,100 new  
7 potential applicants. As of December 2020, Trial Chamber II has recognised 933  
8 beneficiaries for reparations in the Lubanga case, all eligible for reparations in the  
9 Ntaganda case. However, the Chamber notes that the numbers detailed above do  
10 not reflect the totality of the potential beneficiaries of reparations in this case. It is  
11 clear that there is still a significant number of as yet unidentified potentially eligible  
12 victims, for which no reliable figures are available. In effect, estimates vary greatly  
13 and range from at least approximately 1,100 to a minimum of 100,000 across all  
14 locations affected by Mr Ntaganda's crimes.

15 As to the costs to repair the harm, the Chamber also has relied on the conservative  
16 estimates made by the Trust Fund for Victims and the appointed experts. The  
17 Chamber has equally considered the figures and assessments made by Trial Chamber  
18 II in the context of the Katanga and Lubanga cases, in light of their similarities with  
19 the present case, as they relate to crimes committed in Ituri during the same time  
20 frame, and as relevant to the types and modalities of reparations envisaged by the  
21 Chamber.

22 Nevertheless, the Chamber notes that the victims of the case suffered different kinds  
23 of harm and, in the context of collective reparations with individualised components,  
24 the cost to repair the harm for each individual may substantially differ from one to  
25 another. Having considered the Appeals Chamber's jurisprudence, the Chamber

1 sets an amount that it considers fair and appropriate, in light of the circumstances of  
2 the case and bearing in mind the rights of the convicted person, based on all the  
3 information before it, at this point in time, on the basis of conservative estimates, and  
4 weighing the need for accuracy of estimates against the goal of awarding reparations  
5 without delay.

6 Taking all the above considerations into account, resolving uncertainties in favour of  
7 the convicted person and taking a conservative approach, the Chamber sets the total  
8 reparations award for which Mr Ntaganda is liable at US\$30 million.

9 Implementation.

10 In line with the Court's jurisprudence, the Chamber seeks the assistance of the Trust  
11 Fund for Victims, for it to design the award for reparations and determine the size,  
12 nature of the reparation award.

13 Pursuant to Rule 98(3) of the Rules and Regulations 54 and 69 of the Regulations of  
14 the Trust Fund, the Chamber orders the Trust Fund for Victims to prepare a draft  
15 implementation plan which should clearly specify the objectives, outcomes, and  
16 activities identified as necessary in order to give effect to the order.

17 Consultations with victims should take place for the purposes of designing and  
18 implementing reparations awards. The Trust Fund for Victims shall rely on the  
19 Registry and the Legal Representatives of Victims, as appropriate in light of their  
20 mandate and expertise, in order to ensure that the implementation process and  
21 consultations with victims comply with all principles on reparations as established in  
22 the order.

23 The Chamber notes that no property and assets belonging to Mr Bosco Ntaganda  
24 have been identified to date and, accordingly, the Chamber finds him indigent for the  
25 purposes of reparations.

1 Noting Mr Ntaganda's indigence, the Chamber encourages the Trust Fund for Victims  
2 to complement the reparation awards to the extent possible and engage in additional  
3 fundraising efforts as necessary to complement the totality of the award.  
4 For the foregoing reasons, the Chamber hereby unanimously issues an order for  
5 reparations against Mr Ntaganda;  
6 Orders collective reparations with individualised components to be awarded to direct  
7 and indirect victims of the crimes for which Mr Ntaganda was convicted, as specified  
8 in the order;  
9 Assesses Mr Ntaganda's liability for these reparations at US\$30 million;  
10 Sets the deadlines for the Trust Fund for Victims to submit its general draft  
11 implementation plan by 8 September 2021, and the deadline for the Trust Fund for  
12 Victims to submit an urgent plan for the priority victims by 8 June 2021, at the latest;  
13 Finds Mr Ntaganda indigent for the purpose of reparations at the time of the present  
14 order;  
15 Requests the Presidency's assistance, with the support of the Registry, to continue  
16 exploring whether Mr Ntaganda possesses any undiscovered assets and to monitor  
17 Mr Ntaganda's financial situation on an ongoing basis; and  
18 vacates the deadline for the Registry to report to the Chamber, as set out in the first  
19 decision.  
20 This concludes the Chamber's summary and today's hearing.  
21 The Chamber wishes to thank again the interpreters, court reporters, and all other  
22 Registry staff for facilitating this hearing.  
23 This hearing is adjourned.  
24 THE COURT USHER: [10:56:13] All rise.  
25 (The hearing ends in open session at 10.56 a.m.)