

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original:

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

Date of original: **9
October 2023**

Date of public redacted
version: **8 March 2024**

TRIAL CHAMBER II

Before:

Judge Chang-Ho Chung, Presiding Judge

Judge Péter Kovács

Judge María del Socorro Flores Liera

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

IN THE CASE OF

THE PROSECUTOR v. BOSCO NTAGANDA

Public Redacted Version

With Confidential *ex parte* Annex 1 only available to CRL2

**Trust Fund for Victims' Thirteenth Update Report on the Implementation of the Initial
Draft Implementation Plan**

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

Ms Sarah Pellet
Ms Caroline Walter
Mr Tars Van Litsenborgh
Ms Ana Peña

Counsel for the Defence

Mr Stéphane Bourgon
Ms Kate Gibson
Mr Benjamin Willame

Mr Dmytro Suprun
Ms Cherine Luzaisu
Ms Fiona Lau

Trust Fund for Victims

Ms Deborah Ruiz Verduzco

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

Other

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Public Information and Outreach Section

Ms Sonia Robla

I. BACKGROUND

1. The Trust Fund for Victims (“TFV”) hereby submits its thirteenth bimonthly update report pursuant to Regulation 58 of the Regulations of the Trust Fund for Victims, and in accordance with Trial Chamber II’s (“Trial Chamber”) decision approving the Initial Draft Implementation Plan (“IDIP”) in the case of *The Prosecutor v. Bosco Ntaganda* and directing the Trust Fund for Victims to report to the Trial Chamber at least every two months on the implementation of the IDIP, which is addressed at priority victims in urgent need.¹

2. On 31 July 2023, the TFV submitted its twelfth update report on the Implementation of the Initial Draft Implementation Plan (“Twelfth Update Report”).²

3. On 11 August 2023, a month after the Trial Chamber had issued the Addendum to the Reparations Order of 8 March 2021 (“Addendum to the Reparations Order”),³ the Trial Chamber issued its First Decision on the Trust Fund for Victims’ Draft Implementation Plan for Reparations (“First Decision on the DIP”),⁴ approving the TFV’s draft implementation plan in large part and deciding that, during the reparations implementation phase, the eligibility process, including the identification of new beneficiaries, be conducted by the Registry/Victims Participation and Reparations Section (“VPRS”) and outreach be conducted by the Registry/Public Information and Outreach Section (“PIOS”).

4. On 31 August 2023, the Trial Chamber issued a Decision on the TFV’s Ninth to Twelfth update reports on the implementation of the IDIP (“31 August 2023 Decision”).⁵ In this decision, the Trial Chamber directed the TFV to carry out a number of activities and provide certain information, in particular by reference to the First Decision on the DIP. Specifically, the Trial

¹ Decision on the TFV’s initial draft implementation plan with focus on priority victims, 23 July 2021, ICC-01/04-02/06-2696.

² Trust Fund for Victims’ Twelfth Update Report on the Implementation of the Initial Draft Implementation Plan, 31 July 2023, ICC-01/04-02/06-2859-Conf.

³ 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.

⁴ First Decision on the Trust Fund for Victims’ Draft Implementation Plan for Reparations, 11 August 2023, ICC-01/04-02/06-2860-Conf.

⁵ Decision on the TFV’s Ninth to Twelfth Update Reports on the Implementation of the initial Draft Implementation Plan, 31 August 2023, ICC-01/04-02/06-2868-Conf.

Chamber directed the TFV to: (i) coordinate with the VPRS and present to the Chamber a working plan as to the way in which the handover of victims for the purposes of the eligibility for the IDIP purposes would be carried out (“First Request”)⁶; (ii) provide information on the origin of 16 priority victims referred by the TFV to the implementing partner in the reporting period of 30 March 2023 to 30 May 2023 (“Second Request”)⁷; (iii) provide more clarity on how the information on the urgency needs is collected by the implementing partner (“Third Request”);⁸ (iv) in relation to the communication piece annexed to the TFV Ninth Update Report,⁹ to clarify who the target communities were and update the Chamber as to progress made with broadcasting the communication piece through radio within the affected communities (“Fourth Request”);¹⁰ and (v) coordinate with PIOS and present to the Chamber a working plan as to the way the handover of the outreach activities, including for the IDIP purposes, would be carried out (“Fifth Request”).¹¹

5. Due to disruptions to the Court’s internet technology, the Trial Chamber extended the time for the submission of this update report from 3 October to 9 October 2023.¹²

II. CLASSIFICATION OF THE PRESENT SUBMISSION

6. Pursuant to Regulation 23 bis (1) of the Regulations of the Court, the Trust Fund for Victims has classified the present report as confidential insofar as it contains sensitive information related to the ongoing implementation of reparations. A public redacted version of the report will be filed in due course.

III. REGULATION 58 UPDATE REPORT

7. This update report covers the activities relevant to the implementation of the IDIP conducted by the TFV between 1 August 2023 and 6 October 2023. It provides (A) information

⁶ 31 August 2023 Decision, paras 27.

⁷ 31 August 2023 Decision, para. 28.

⁸ 31 August 2023 Decision, para. 29.

⁹ Confidential Annex B to Trust Fund for Victims’ Ninth Update Report on the Implementation of the Initial Draft Implementation Plan, 30 January 2023, ICC-01/04-02/06-2839-Conf (“TFV Ninth Update Report”).

¹⁰ 31 August 2023 Decision, para. 33.

¹¹ 31 August 2023 Decision, para. 34.

¹² Email sent by Trial Chamber II to the Trust Fund for Victims, VPRS, and Defence Counsel on 2 October 2023, at 11:57.

on external challenges, (B) an update on the status of the eligibility assessments under the purview of the TFV, (C) information on the implementation of initial reparations measures, and (D) addresses the actions and information requested by the Trial Chamber in its 31 August 2023 Decision.

A. External Challenges

8. During the reporting period, the highly volatile security situation in the areas in which the TFV is currently operating has not posed new or unforeseen challenges in relation to the programme implementation. As previously set out, the main impact of this situation for TFV and Common Legal Representatives relates to the capability to reach out to and maintain contact with victims and beneficiaries.

B. Update on the Eligibility Assessment

Status on 9 October 2023

Victims of the Attacks

9. The TFV recalls that in the reporting period of 31 May 2023 to 31 July 2023, the TFV received from [REDACTED] the information gathered concerning (i) eight of the 10 participating victims transmitted for information gathering in the period of 28 November 2022 to 30 January 2023 (two were unreachable),¹³ and (ii) a/30169/15, whose situation was previously reported by the TFV.¹⁴

10. In the reporting period, the TFV received from [REDACTED] the information gathered concerning 12 of the 16 participating victims transmitted for information gathering in the reporting period of 30 March 2023 to 30 May 2023.¹⁵ The remaining four have been reported as

¹³ See TFV Ninth Update Report, para. 22, TFV Twelfth Update Report, para. 8, and 31 August 2023 Decision, para. 24. The eight victims are: a/00840/13, a/00818/13, a/01502/13, a/00625/13, a/00119/13, a/00022/13, a/00552/13, a/01153/13.

¹⁴ See TFV Tenth Update Report, para. 22, and TFV Twelfth Update Report, para. 15.

¹⁵ See TFV Eleventh Update Report, para. 14, and 31 August 2023 Decision, para. 24. The 12 victims are: a/30365/15, a/00456/13, a/00462/13, a/00974/13, a/01218/13, a/01237/13, a/01266/13, a/01282/13, a/00211/13, a/30002/15, a/00220/13, a/00221/13.

unreachable. Additionally, in the reporting period, the TFV received from [REDACTED] the information gathered concerning participating victims a/00208/13 and a/00904/13, whose situation was reported in the TFV Twelfth Update Report.¹⁶

11. The TFV hereby submits to the Trial Chamber, in Annex 1 to this update report, the information regarding 17 of the victims referred to in paragraphs 9 and 10 above for a final approval of the TFV's positive determinations on the eligibility of all the 17 victims to benefit from the IDIP,¹⁷ in accordance with the Trial Chamber's Decision on the TFV's Sixth and Seventh Update Reports on the Implementation of the IDIP.¹⁸ The TFV notes that two of the 17 victims have been found eligible for reparations by the Trial Chamber in its Addendum to the Reparations Order.¹⁹ The TFV therefore focused solely on the assessment of the urgency of their needs, taking their status as victims of Mr Ntaganda as granted.

12. The TFV consulted with VPRS, who confirmed that it stands ready to share with the Trial Chamber the participation application forms of 15 of these 17 victims submitted for approval, given the eligibility for reparations of the two other victims is not at stake anymore.²⁰

13. Taking into account the outcome of the recent consultations with VPRS as reported below, in the upcoming reporting period the TFV will submit to its implementing partner six victims for information gathering relevant to the urgency of their needs. These victims were referred to the TFV by the Common Legal Representative for the Victims of the Attacks (" CLR2 ") during the previous reporting period.²¹ One of the six is eligible for reparations based on the Trial Chamber's Addendum to the Reparations Order.²²

¹⁶ TFV Twelfth Update Report, para. 16.

¹⁷ The 17 victims are: a/00840/13, a/00818/13, a/01502/13, a/00625/13, a/00119/13, a/00022/13, a/00552/13, a/01153/13, a/30365/15, a/00456/13, a/00462/13, a/01218/13, a/01237/13, a/01266/13, a/30002/15, a/30169/15, a/00904/13.

¹⁸ Decision on the TFV's Sixth and Seventh Update Reports on the Implementation of the Initial Draft Implementation Plan, 16 November 2022, ICC-01/04-02/06-2792-Conf.

¹⁹ a/00119/13 and a/00552/13. *See* Annex II to Addendum to the Reparations Order, respectively, paras 49 and 142.

²⁰ *See* para. 11 above.

²¹ The number of seven indicated in the TFV Twelfth Update Report (para. 7) was due to a clerical error. They are: a/20406/14, a/00633/13, a/20017/14, a/00916/13, a/00903/13, a/00210/13.

²² Victim a/00916/13; *see* Annex II to Addendum to the Reparations Order, para. 233.

14. CLR2 had provided the TFV with the applications of several victims who are in a similar situation as victims a/01636/13, a/00212/13, a/00199/13, and a/00215/13, whose eligibility was negatively determined by the Trial Chamber. On 9 October 2023, CLR2 has requested the TFV to put six applications on hold pending the Appeals Chamber's determination on his request for suspensive effect of the Appeal against the Addendum to the Reparations Order and further clarity on the matter.

Former Child Soldiers

15. During the reporting period, the TFV has not received any additional transmission of priority victims from the Common Legal Representative of the Former Child Soldiers ("CLR1").

Next steps

16. As instructed by the Trial Chamber, the TFV coordinated with VPRS with a view to establishing a working plan for the handover of the IDIP eligibility assessment. It is presented in paragraphs 20 and 21 below.

17. The TFV notes that, in the implementation of the IDIP, it has benefitted from cooperation with the Common Legal Representatives in reaching victims, and from VPRS's support in accessing application forms.

C. Update on Implementation of Initial Reparations Measures

18. In the reporting period, the TFV has not referred victims for intake to its implementing partners.²³ In its 31 August 2023 Decision, the Trial Chamber endorsed the TFV's positive eligibility assessment of victim a/00706/13, from the Former Child Soldier group of victims. The victim is currently benefitting from measures under the the IDIP programme.

²³ In the context of its Ninth Update Report, the Trust Fund submitted information regarding one victim (a/00706/13, a former child soldier) assessed eligible to benefit from the IDIP to the Trial Chamber for its final determination; see Annex A to Trust Fund for Victims' Ninth Update Report on the Implementation of the Initial Draft Implementation Plan, 30 January 2023, ICC-01/04-02/06-2817-Conf-Exp-AnxA. [REDACTED] provisionally invited this applicant to benefit from the programme.

D. Actions and Information Requested by the Trial Chamber in its 31 August 2023 Decision

First Request

19. The TFV recalls that the Trial Chamber decided in the First Decision on the DIP that the eligibility assessment for the purposes of the *Ntaganda* case be conducted by the Registry/VPRS, thereby specifically including the identification of new victims and the determination of their eligibility. Given the eligibility assessment, which includes the assessment of whether the victims are in urgent needs, has been conducted by the TFV for the purposes of the IDIP, the Trial Chamber requested the TFV to coordinate with VPRS and present to the Chamber a working plan as to the way in which the handover of victims for the purposes of the eligibility for the IDIP purposes would be carried out.²⁴

20. The TFV and VPRS held constructive consultations on the matter. During the consultations, VPRS and TFV shared the understanding that the TFV will not start engaging in the identification of new victims merely for the purposes of the IDIP. They agreed that the TFV will continue to carry out the assessment of eligibility into the IDIP programme in the same way as previously approved by the Trial Chamber. The TFV set out that the IDIP programme has currently sufficient capacity to include additional victims, as the current contractual arrangements with the two implementing partners relevant to the IDIP programme continue until 30 April 2024. Given the services are provided over a considerable period of time (*e.g.* treatment), the TFV underlines that it is necessary to include a considerable number of victims into the programme as soon as possible. Accordingly, VPRS agreed to refer victims to the TFV who they consider to be priority victims in urgent needs, insofar as they do not belong to the category of participating victims represented by CLR1 and CLR2.

²⁴ 31 August 2023 Decision, para. 27.

21. As to the time frame: VPRS and TFV agreed that the processes relevant to the verification of eligibility and the assessment of the urgency continue, as currently in place, until the end of 2023. The next common assessment point as to the way forward will be early January 2024.

22. The TFV duly notes the concern expressed by the Trial Chamber as to the duration of the eligibility determination.²⁵ The TFV regrets this reality, which stems from a range of factors, including the difficulties in reaching a number of victims, including due to the security situation. The TFV is confident that the agreed way forward with VPRS may contribute to the IDIP eligibility process being expedited. The implementing partners will be able to contact potential new victims for information gathering shortly after VPRS will have contacted them.

Second Request

23. In its 31 August 2023 Decision, the Trial Chamber requested the TFV to provide information on the origin of 16 priority victims referred by the TFV to the implementing partner in the reporting period of 30 March 2023 to 30 May 2023.²⁶ In this regard, the TFV clarifies that the 16 victims, also referred to in paragraph 10 above, were indicated by the CLR2 to the TFV as priority victims in the course of previous reporting periods, and either could not be reached or their eligibility assessment required further clarification and engagement between the TFV and the CLR2.

Third Request

24. In its 31 August 2023 Decision, the Trial Chamber requested the TFV to provide more clarity on how the information on the urgency needs is collected by the implementing partner.²⁷ The TFV has two implementing partners for the purposes of the IDIP, [REDACTED] (for the victims of the attacks) and [REDACTED] (for former child soldiers). The collection of information on the urgency of the needs takes place based on the following steps: (i) the TFV transmits lists of priority victims whom their LRV was able to contact; (ii) the implementing

²⁵ 31 August 2023 Decision, para. 27.

²⁶ 31 August 2023 Decision, para. 28.

²⁷ 31 August 2023 Decision, para. 29.

partner contacts the relevant victims by telephone to identify them and establish their exact current location; (iii) the identified victims meet with the implementing partners' field operators, who interview them based on the TFV urgency questionnaire submitted to the Trial Chamber; (iv) the questionnaires, filled in by the implementing partners, usually together with the victims, are transmitted to the TFV.

25. The TFV reiterates that no urgency assessment has been carried out or provided to the TFV by the implementing partners, which only transmit the information they gather to the TFV. The TFV has conducted the urgency assessment.

26. The TFV provides the Trial Chamber with a table containing the information relevant to the urgency assessment in the annex to the present filing. This table is filed confidential *ex parte* only for the Trial Chamber's information.

Fourth request

27. In its 31 August 2023 Decision, the Trial Chamber requested the TFV, in relation to the communication piece annexed to the TFV Ninth Update Report,²⁸ to clarify who the target communities were and update the Trial Chamber as to progress made with broadcasting the communication piece through radio within the affected communities.²⁹

28. The TFV wishes to recall that the messages of the broadcast focus on information relevant to the *Ntaganda* programme generally, including the *Ntaganda* IDIP programme.³⁰

29. Six radio stations have broadcasted radio spots for three months from December 2022 to February 2023 in French, Swahili and Lingala.

30. The six radio stations are: Radio Colombe (RCC), Radio Umoja Nizi, Canal Revelation (RCR), Radio Tuungane Mungwalu, Radio Lero de Ndrele, Radio Tamtam des Monts Bleus.

²⁸ 31 August 2023 Decision, para. 34.

²⁹ 31 August 2023 Decision, para. 33.

³⁰ See Annex B to TFV Ninth Update Report.

31. The locations from which the broadcasts were accessible were the following: Nizi, Bambu, Iga, Kilo, Lipri, Lopa, Jina, Mangala, Mabanga, Kpandroma, Ndrele, Ameer, Nyarambe, Nioka, Ngote, Kambala, Rimba, Jalasiga, Nebi and Paidha (Uganda), Bunia, Irumu, Centrale Soleniam, Nizi, Mungbwalu (in part), Mwanga, Tsili, Myamgaray, Katoni, Ezekere, Zumbé, Pluto, Saio, Makofi, Ndrele, Ngote, Kpandroma.

32. In total, the spots were broadcasted for at least 38 hours. Messages were repeatedly broadcasted, including upon request of the audience that considered them essential for their respective communities.

33. An additional radio spot was also broadcasted with messages transmitted directly by the TFV Acting Executive Director and TFV staff during a mission in Bunia in March 2023. This radio spot was available in fourteen localities in the DRC.

Fifth Request

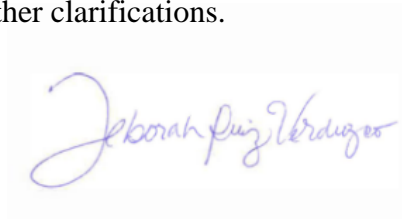
34. The TFV recalls that the Trial Chamber decided in the First Decision on DIP that outreach for the purposes of the *Ntaganda* case be conducted by the Registry/PIOS. In its 31 August 2023 Decision, the Trial Chamber requested the TFV to coordinate with PIOS and present to the Chamber a working plan as to the way the handover of the outreach activities, including for the IDIP purposes, would be carried out (fifth request).³¹

35. The TFV, VPRS and PIOS have started consultations in relation to outreach-related matters for the *Ntaganda* case, of which the IDIP forms part. The TFV will share with PIOS its experience in relation to the outreach activities conducted since the TFV started the IDIP *Ntaganda* programme. The TFV respectfully submits that the consultation process is ongoing at the time of the submission of this update report.

³¹ Annex B to the TFV Ninth Update Report.

FOR THE FOREGOING REASONS,

36. The TFV respectfully requests that the Trial Chamber takes note of the present update report and stands ready to provide further clarifications.



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

Dated this 8th Day of March 2024
The Hague, The Netherlands