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

Date: 6 June 2019

TRIAL CHAMBER VI

Before: Judge Robert Fremr, Presiding Judge
Judge Kuniko Ozaki
Judge Chang-ho Chung

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
*THE PROSECUTOR v. BOSCO NTAGANDA***

Public

Thirteenth Periodic Report on Victims in the Case and their General Situation

**With one Confidential *EX PARTE* Annex, only available to the Registry and both
Legal Representatives of Victims**

Source: Registry

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

Office of the Prosecutor

Ms Fatou Bensouda

Ms Nicole Samson

Counsel for the Defence of Bosco

Ntaganda

Mr Stéphane Bourgon

Mr Christopher Gosnell

Legal Representatives of Victims

Ms Sarah Pellet

Mr Dmytro Suprun

Legal Representatives of Applicants

**Unrepresented Applicants for
Participation/Reparation**

Unrepresented Victims

Office of Public Counsel for Victims

**Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Other

Mr Jean-Claude Aubert

I. Introduction

1. The Registry hereby submits the thirteenth report on victims of the case and their general situation (“Thirteenth Report”) pursuant to Trial Chamber VI’s orders (“Chamber”) in the first and fourth decisions on victim participation in trial proceedings (“First Victim Participation Decision” and “Fourth Victim Participation Decision”, respectively).¹
2. The Common Legal Representatives of Victims (“CLRs”) provided the Victims Participation and Reparations Section (“VPRS”) with detailed information relating to their activities with participating victims during the reporting period (6 February to 6 June 2019) as well as information on the general situation of these victims.
3. During the reporting period, no new resumption of action form has been received. The number of participating victims at the close of the reporting period remains unchanged at 2,129.²
4. The present report will cover the following topics:
 - A. Update on the general situation of the former child soldiers and the activities of their Common Legal Representative in the field (“CLR1”);
 - B. Update on the general situation of the victims of the attacks and the activities of their Common Legal Representative in the field (“CLR2” and “victims of the attacks”); and
 - C. Update pertaining to the safety and security of victims and intermediaries.

¹ Trial Chamber VI, “Decision on victims’ participation in trial proceedings”, 6 February 2015, ICC-01/04-02/06-449, para. 24 (ix); Trial Chamber VI, “Fourth decision on victims’ participation in trial proceedings”, 1 September 2015, ICC-01/04-02/06-805, para 13(ii)(a).

² CLR1 represents 283 former child soldiers and CLR2 represents 1,846 victims of the attacks.

II. Procedural History

5. On 6 February 2015, the Chamber issued its First Victim Participation Decision, directing the VPRS to file every four months, in cooperation with the CLRs, a detailed report about the victims admitted to participate in the proceedings and the general situation of participating victims in the case of *The Prosecutor v. Bosco Ntaganda* (“Ntaganda case”).³
6. On 1 September 2015, the Chamber issued its Fourth Victim Participation Decision, adopting a new procedure for the resumption of action by family members or closely connected individuals of deceased victims participating in proceedings and ordering, *inter alia*, the Registry to transmit to it any applications to resume the action of a deceased victim through its periodic reports as appropriate.⁴

III. Classification

7. In accordance with regulation 23bis(1) of the Regulations of the Court (“RoC”), the annex to this filing is submitted as confidential *ex parte*, available only to the Registry and both CLRs, because it contains sensitive information that relates to the safety and physical well-being of victims.

IV. Applicable Law

8. This submission is made pursuant to articles 68(1) and (3) of the Rome Statute, rule 16 of the Rules of Procedure and Evidence, regulation 86 of the RoC and regulations 97, 99 and 109 of the Regulations of the Registry.

³ Trial Chamber VI, “Decision on victims’ participation in trial proceedings”, 6 February 2015, ICC-01/04-02/06-449, para. 24 (ix).

⁴ Trial Chamber VI, “Fourth decision on victims’ participation in trial proceedings”, 1 September 2015, ICC-01/04-02/06-805, para. 13.

V. Submissions

A. Update on the general situation of the former child soldiers and the activities of their Common Legal Representative in the field

9. As per paragraph 24(ix) of the First Victim Participation Decision, CLR1 has provided the VPRS with information relating to her team's activities regarding the victims she represents.⁵

CLR1
Information relating to activities amongst the former child soldier victims
<p>During the reporting period, neither the CLR nor her field counsel were able to travel to the field to meet with their clients due to the restrictions linked to the Ebola Outbreak. As per the 12th Periodic Report, the inability of counsel to travel to the field to meet their clients is an important factor of frustration amongst the victims as evidenced by the high number of phone calls received by the field counsel during the relevant period. CLR1 hopes that missions will resume soon. CLR1 moreover reported that this frustration of the victims is also reinforced by the fact that they do not understand why the judgement has not yet been issued and that they seem to lose patience and trust in the ICC as a result. In addition to phone calls received by the field counsel from victims themselves, persons of contact in the field also contacted him to gather information regarding the proceedings and to voice their concerns in relation to the mounting frustration from victims regarding the length of proceedings.</p>

⁵ Email from CLR1 to VPRS on 28 May 2019 at 15:21.

General situation of the participating child soldier victims
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<p>Frustration at the length of proceedings is also triggering frustration with regard to the consequential delay of potential reparations proceedings in a context of very harsh economical and psychological difficulties. Indeed, regarding the general situation of victims admitted to participate in the proceedings, victims continue to complain about the fact that they are not benefiting from the Trust Fund for Victims' ("TFV") projects or from any other support. The development of the reparations proceedings in the <i>Katanga</i> case, and to a lesser extent in the <i>Lubanga</i> case, is reinforcing the frustration with regard to the absence of support by the TFV. Moreover, the situation of the former girl child soldiers continues to be very worrisome due to lack of psychological support and adapted medical treatments.</p>
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B. Update on the general situation of the victims of the attacks and the activities of their Common Legal Representative in the field

10. In accordance with the First Victim Participation Decision, CLR2 has provided the VPRS with information relating to his team's activities regarding the victims he represents.⁶

CLR2

Information relating to activities amongst the victims of the attacks

<p>During the reporting period, CLR2 conducted no mission in the field due to the sanitary situation in the Ituri region related to the Ebola outbreak, and also due to the fact that since April 2019, the main road from Bunia to Mongbwalu has become impracticable because of the heavy rainy season.</p>

<p>The contact with victims was maintained via the local phone line available to the</p>
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⁶ Email from CLR2 to VPRS on 31 May 2019 at 10:35.

victims.

General situation of the participating victims of the attacks

According to CLR2, the victims reported that the security situation in the Djugu territory had remained volatile because of continuous attacks by various rebel groups on civil population. In particular, following attacks by unidentified armed groups in May, four civilians were killed, two civilians were injured and property was pillaged in Tara; two *Forces Armées de la République Démocratique du Congo* (“FARDC”) militaries were killed in Atute; two children were killed and property was pillaged in Blukwa; about 50 civilians were kidnapped, property was pillaged and several houses were burned in Batonga, Nyalikanga and Mulango. According to CLR2, many victims complained about the inability of both FARDC and The United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (“MONUSCO”) to handle activities of rebel groups and to effectively protect civilians.

In addition, many victims expressed their concerns about further deterioration of the sanitary situation due to the Ebola outbreak mainly in North-Kivu but also in Ituri. In this regard, as of 28 May 2019, the World Health Organisation (WHO) totalled 1945 Ebola Virus Disease (“EVD”) cases, including 1851 confirmed and 94 probable cases of Ebola. A total of 1302 deaths were reported (overall case fatality ratio 67%), including 1208 deaths among confirmed cases. Of the 1945 confirmed and probable cases with known age and sex, 58% (1122) were female, and 29% (572) were children aged less than 18 years. The number of healthcare workers affected has risen to 108 (6% of total cases) (see <https://www.who.int/csr/don/30-may-2019-ebola-drc/en/>.) Therefore, despite efforts jointly taken by the Congolese authorities, the United Nations (“UN”) and Non-Governmental Organizations (“NGOs”) in order to address the Ebola epidemic, the number of new cases has continued to increase, and ongoing

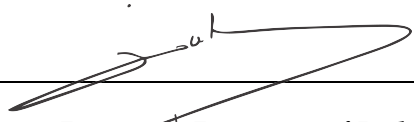
insecurity and community mistrust in the response continue to hamper access to communities.

CLR2 noted that, more generally, according to the UN Office for the Coordination of Humanitarian Affairs (OCHA), the humanitarian situation in North Kivu and Ituri which has been alarming for many years, has recently even worsened due to the deterioration of the security situation and to a significant increase of internally displaced persons. In particular, in Ituri, about 715 000 persons are classified under phase 4 (humanitarian urgency) and 2 171 000 persons are classified under phase 3 (humanitarian crisis). In North Kivu, 506 486 persons are classified under phase 4 (humanitarian urgency) and 1 113 572 persons are classified under phase 3 (humanitarian crisis). (See https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/2019_plan_operationnel_sem1_nk_ituri_fr.pdf.)

Finally, CLR2 noted that during the reporting period, a significantly increased number of victims contacted the CLR2 team in order to inquire about the eventual date of the delivery of the judgment in the present case, and many victims expressed their wish to have the judgment delivered without any further delay. Furthermore, many victims complained about their very difficult living conditions and wondered whether, and when, they may expect any sort of assistance from either the Court or any other source in the nearest future.

C. Update pertaining to the safety and security of victims and intermediaries.

11. This information is provided in the appended confidential *ex parte* annex.



Marc Dubuisson, Director, Division of Judicial Services
on behalf of Peter Lewis, Registrar

Dated this 6 June 2019

At The Hague, The Netherlands