

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date of original: **24 March 2022**

Date of submission: **20 May 2022**

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

With one confidential annex

Public redacted version of “Trust Fund for Victims’ Fourth Update Report on the Implementation of the Initial Draft Implementation Plan”, 24 March 2022, ICC-01/04-02/06-2751-Conf

Source: The Trust Fund for Victims

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

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**Victims Participation and Reparations
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I. BACKGROUND

1. On 8 July 2019, Trial Chamber VI (the ‘Trial Chamber’) issued its Judgement, convicting Mr Bosco Ntaganda of five counts of crimes against humanity and thirteen counts of war crime.¹
2. On 15 December 2020, following various submissions made in the context of the reparations proceedings, the Trial Chamber issued a decision ruling on a number of issues raised by the Registry in relation to the scope of the conviction (“Decision of 15 December 2020”).²
3. On 8 March 2021, the Trial Chamber issued an order for reparations against Mr Ntaganda (the ‘Reparations Order’).³
4. On 8 June 2021, the Trust Fund for Victims (the ‘Trust Fund’ or ‘TFV’) submitted its initial draft implementation plan⁴ (the ‘Initial Draft Implementation Plan’ or ‘IDIP’)⁵ and on 23 July 2021, the Trial Chamber issued a decision approving it with amendments, and directing the Trust Fund to report on the IDIP implementation every two months.⁶
5. On 23 September 2021, the Trust Fund submitted its first update report⁷ and on 29 October 2021, the Trial Chamber issued a decision approving the proposals contained therein and directing the Trust Fund to provide clarifications in relation to six issues.⁸

¹ Judgement, [ICC-01/04-02/06-2359](#).

² Decision on issues raised in the Registry’s First Report on Reparations, [ICC-01/04-02/06-2630](#).

³ Reparations Order, [ICC-01/04-02/06-2659](#), paras 249-253 and 257, and disposition.

⁴ The Trial Chamber and the participants used the full title ‘initial draft implementation plan’, hence the acronym ‘IDIP’; therefore, the Trust Fund will adopt this abbreviation in these observations.

⁵ [Public redacted version of “Report on Trust Fund’s Preparation for Draft Implementation Plan”, submitted on 8 June 2021](#), ICC-01/04-02/06-2676-Red, with [Annex A, Public redacted version of “Initial Draft Implementation Plan with focus on Priority Victims”](#), ICC-01/04-02/06-2676-AnxA-Corr-Red.

⁶ Decision on the TFV’s initial draft implementation plan with focus on priority victims, 23 July 2021, [ICC-01/04-02/06-2696](#) (“Decision of 23 July 2021”).

⁷ Trust Fund first progress report on the implementation of the Initial Draft Implementation Plan and Notification of Board of Director’s decision pursuant to regulation 56 of the Regulations of the Trust Fund, [ICC-01/04-02/06-2710-Conf](#). A public redacted version was filed on 7 October 2021: [ICC-01/04-02/06-2710-Red](#) (“First Update Report”).

⁸ Decision on TFV’s first progress report on the implementation of the Initial Draft Implementation Plan and Notification of Board of Director’s decision pursuant to regulation 56 of the Regulations of the Trust Fund, [ICC-01/04-02/06-2718-Conf](#). A public redacted version was notified on 28 October 2021: [ICC-01/04-02/06-2718-Red](#) (Decision on First IDIP Report, [ICC-01/04-02/06-2718-Red](#)).

6. On 23 November 2021, the Trust Fund submitted its second update report on the IDIP⁹ and on 17 December 2021, having heard the observations of the parties,¹⁰ the Trial Chamber issued a decision thereon (“Decision on Second Update Report”).¹¹

7. On 24 January 2022, the Trust Fund submitted its third update report on the IDIP¹² and on 10 February 2022, having heard the observations of the parties, the Trial Chamber issued a decision thereon (“Decision on Third Update Report”).¹³

II. UPDATE REPORT OF 24 MARCH 2022

8. This update report covers the activities relevant to the implementation of the IDIP conducted between 25 January 2022 and 24 March 2022. In addition, it responds to the Trial Chamber’s instructions contained in the Decision on Third Update Report of 22 February 2022.

9. The Trial Chamber directed the Trust Fund to provide clarifications in relation to: (i) the arrangements made for former child soldiers who are not SGBV victims or children born out of rape (“First Query”); (ii) the extent to which the socio-economic measures offered are suitable to address the victims’ urgent needs (“Second Query”); and (iii) the number of victims to initially benefit from the projects and the associated costs (“Third Query”). The Trial Chamber also encouraged the Trust Fund to provide more information as to the assessment of the eligibility of the beneficiaries.¹⁴

⁹ Trust Fund’s Second Update report on the Implementation of the Initial Draft Implementation Plan, [ICC-01/04-02/06-2723-Conf](#). A public redacted version was filed on 28 December 2021: [ICC-01/04-02/06-2723-Red](#) (“Second Update Report”).

¹⁰ Response of the Common Legal Representative of the Victims of the Attacks to the “Trust Fund’s Second Update report on the Implementation of the Initial Draft Implementation Plan”, 6 December 2021, [ICC-01/04-02/06-2724-Red](#); Response of the Common Legal Representative of the Former Child Soldiers to the Trust Fund’s Second Update report on the Implementation of the Initial Draft Implementation Plan (ICC-01/04-02/06-2723-Conf), 6 December 2021, [ICC-01/04-02/06-2725-Red](#); Defence observations on the TFV Second Progress Report on the Implementation of the Initial Draft Implementation Plan, 6 December 2021, [ICC-01/04-02/06-2726-Red](#) (“Defence Observations on Second Update Report”).

¹¹ Decision on the TFV’s Second Progress Report on the implementation of the Initial Draft Implementation Plan, [ICC-01/04-02/06-2730-Conf](#).

¹² Trust Fund for Victim’s Third Update report on the Implementation of the Initial Draft Implementation Plan, ICC-01/04-02/06-2741-Conf. A public redacted version was filed on the same day: [ICC-01/04-02/06-2741-Red](#).

¹³ Decision on the TFV’s Third Update report on the Implementation of the Initial Draft Implementation Plan, [ICC-01/04-02/06-2745](#).

¹⁴ Decision on Third Update Report, , [ICC-01/04-02/06-2745](#), paras 9 and 11.

A. UPDATE ON THE SECURITY SITUATION

10. In its Third Update Report, in response to a Trial Chamber’s instruction, the Trust Fund had provided the Trial Chamber with an update on the security situation, including its operational impact on the implementation of the IDIP. Since then, the security situation in Ituri has not improved: it remains volatile and unpredictable and is still causing important movements of population within and outside Ituri.

11. This continues to have an impact on the the implementation of the IDIP, in particular, on the ability of the Trust Fund to locate and contact the victims and ultimately to ensure provision of services. That being said, with the precious assistance of the CLR’s and the implementing partners, the Trust Fund continues its efforts to contact victims identified as priority victims in urgent need.

B. UPDATE ON THE ELIGIBILITY AND URGENCY SCREENING: ANSWER TO FIRST QUERY

12. In relation to the eligibility and urgency screening, the Trust Fund has conducted the eligibility screening of 45 beneficiaries. As indicated in the Third Update Report, the Trust Fund has provided the legal representatives of victims (jointly the “CLR’s”) with information on a rolling basis, in relation in particular to the assessment of the eligibility of their clients into the IDIP.¹⁵

13. In conducting its assessment, the Trust Fund is applying the eligibility criteria, as provided for by the Trial Chamber in its Reparations Order, in the Decision of 15 December 2020 – read together with the Judgement.

14. For complete reference and noting that the Trial Chamber’s encouraged the Trust Fund to provide more information in relation to the eligibility screening, the Trust Fund attaches its internal eligibility guidelines as annex 1. They are an internal tool aimed at clarifying how the Trust Fund applies the Trial Chamber’s criteria and are provided for the sake of full information

¹⁵ Third Update Report, : [ICC-01/04-02/06-2741-Red](#), para. 7.

of the parties. This document is a living document and is bound to evolve as the Trust Fund reviews victims' applications. So far, the Trust Fund has not encountered any case for which the criteria set by the Trial Chamber are not sufficiently clear. Should that be the case, the Trust Fund will revert to the Trial Chamber for guidance, as appropriate.

15. The Trust Fund has so far only rejected those victims from the scope of the IDIP who are already beneficiaries to the *Lubanga* programme, i.e. those who were already found eligible to that programme. The Trust Fund considers that these victims cannot be considered in urgent need, given their status as beneficiaries. The Trust Fund has followed up with the implementing partner in the *Lubanga* programme as to their current status in the programme and will report to the CLR1 accordingly. For those whose intake has not yet started, the Trust Fund ensures their priority intake into the *Lubanga* programme.

16. Apart from this, at the time of the submission of this report, the Trust Fund has not reached any negative conclusion on the eligibility to the IDIP programme by any victim submitted by either of the CLRs. However, should an application raise doubts as to whether it falls within the scope of the case, the Trust Fund will first liaise with the CLRs to ensure a common understanding of the factual situation put forward in the application. Should the factual situation raise doubts as to whether it falls within the scope of the conviction, despite the guidance already provided by the Trial Chamber so far, the Trust Fund will seize the Trial Chamber and request guidance on the appropriate way forward.

17. As to the eligibility and urgency screening conducted so far and as reported in the Trust Fund's Third Update Report,¹⁶ on 17 December 2021 the Trust Fund transmitted a list of 24 priority victims belonging to the group of Former Child Soldiers to [REDACTED], together with a questionnaire, and informed them that they should contact the victims to gather additional information.¹⁷

¹⁶ ICC-01/04-02/06-2741-Conf, para. 17.

¹⁷ Email from the Trust Fund to [REDACTED] on 17 December 2021 at 16:48.

18. On 1 February 2022¹⁸ and 8 February 2022,¹⁹ the Trust Fund transmitted to [REDACTED] two lists of, respectively, six and two priority victims belonging to the group of Former Child Soldiers whom their CLR1s previously managed to reach.

19. On 2 February 2022, [REDACTED] transmitted to the Trust Fund the information gathered, on the basis of the questionnaire, concerning 22 victims.²⁰ On 24 February 2022, [REDACTED] transmitted the information concerning two further victims.²¹

20. On 3 March 2022, the Trust Fund transmitted to [REDACTED] the outcome of the assessment concerning the 24 victims for whom information had been provided.²²

21. On 14 March 2022, [REDACTED] transmitted to the Trust Fund information concerning the last eight victims for whom the Trust Fund needed additional information.²³ On 23 March 2022, the Trust Fund transmitted to [REDACTED] the outcome of the assessment concerning this last group of victims.²⁴

22. Of the 32 victims, 12 *Ntaganda* victims have been recognised by the Trust Fund as being in urgent needs; they have been referred to the [REDACTED] IDIP programme. The other 19 victims are victims of both *Ntaganda* and *Lubanga*, i.e. they are already beneficiaries in the *Lubanga* case. Two victims remain unreachable; the Trust Fund is currently liaising with the CLR1 in this regard.

23. As reported in the Trust Fund's Third Update Report,²⁵ on 17 December 2021, a list of 24 priority victims belonging to the group of Victims of the Attacks was transmitted to [REDACTED], together with the questionnaire.²⁶

¹⁸ Email from the Trust Fund to [REDACTED] on 1 February 2022 at 10:50.

¹⁹ Email from the Trust Fund to [REDACTED] on 8 February 2022 at 18:57.

²⁰ Email from [REDACTED] to the Trust Fund on 2 February 2022 at 9:15.

²¹ Email from [REDACTED] to the Trust Fund on 24 February 2022 at 16:24.

²² Email from the Trust Fund to [REDACTED] on 3 March 2022 at 19:48.

²³ Email from [REDACTED] to the Trust Fund on 14 March 2022 at 10:39.

²⁴ Email from the Trust Fund to [REDACTED] on 23 March 2022 at 16:39.

²⁵ ICC-01/04-02/06-2741-Conf, para. 17.

²⁶ Email from the Trust Fund to [REDACTED] on 17 December 2021 at 16:53.

24. On 14 January 2022, [REDACTED] provided the Trust Fund with a first overview on the contact made with the referred victims;²⁷ this was limited to an update on some victims' new domicile or contact details. On 3 March 2022, [REDACTED] transmitted to the Trust Fund the newly collected information concerning a first group of 16 victims from the 24 victims transmitted.²⁸ On 22 March 2022, [REDACTED] transmitted to the Trust Fund information concerning another victim.²⁹

25. The Trust Fund assessed the information provided concerning the 17 victims and found all of them as being in urgent needs. The Trust Fund referred them to [REDACTED] for intake on 11 March 2022 (16 victims)³⁰ and on 22 March 2022 (one).³¹ Of the remaining 7 victims of the group of 24 transmitted to [REDACTED], [REDACTED] informed the Trust Fund that they are gathering information concerning two of them,³² while five remain unreachable. Trust Fund is currently liaising with the CLR2 in regard to these five.

C. UPDATE ON URGENT MEASURES FOR FORMER CHILD SOLDIERS: ANSWER TO SECOND QUERY

26. In relation to the Trial Chamber's instruction to propose an alternative way (to the proposal to using the *Lubanga* reparation programme directly for these victims) of addressing the urgent needs of those Former Child Soldiers, who are not falling in the category of SGBV victims or children born out of rape,³³ the Trust Fund has explored the available options, bearing in mind the below enumerated factors after concluding that currently at issue are not more than 15 victims (who are not SGBV-related victims), indicated by the CLR1 as being in urgent needs in April 2021.

27. First, in the Decision of 23 July 2021, the Trial Chamber had considered that providing this group of victims with services already available as a result of reparations in another case was not

²⁷ Email from [REDACTED] to the Trust Fund on 14 January 2022 at 15:22.

²⁸ Email from [REDACTED] to the Trust Fund on 3 March 2022 at 19:43.

²⁹ Email from [REDACTED] to the Trust Fund on 22 March 2022 at 14:14.

³⁰ Email from the Trust Fund to [REDACTED] on 11 March 2022 at 20:18.

³¹ Email from the Trust Fund to [REDACTED] on 22 March 2022 at 16:04.

³² Email from [REDACTED] to the Trust Fund on 22 March 2022 at 14:14.

³³ Decision on Second Update Report, [ICC-01/04-02/06-2730-Conf](#), paras 14-16.

appropriate and had directed that the Trust Fund does not proceed with intake of the victims in this way. Since then, the Trust Fund has been exploring alternative options.

28. Second, the Trial Chamber has identified this group of victims as having priority and has enshrined the principle of equality of victims in the Reparations Order.

29. Third, as explained in previous submissions, direct implementation – that is the Trust Fund’s core staff providing victims with services is also not an option considering that the urgent needs of the victims are such that they cannot be addressed by Trust Fund’s core staff (for instance medical needs). Procuring such services means involving a wide array of Court’s resources and will result in taking considerable time before victims would receive reparative measures addressing their urgent needs.

30. In view of the above factors, the Trust Fund considered whether the contract signed with [REDACTED] for the purpose of the IDIP would permit the Trust Fund to provide services to this group of victims, while remaining within its contractual obligations. A review of the contract framework concluded that this is feasible.

31. Having so concluded, the Trust Fund held exchanges with [REDACTED] to ensure the operational feasibility of this approach – which was confirmed by [REDACTED]. In terms of the services that this organisation will offer, the Trust Fund recalls the submissions made in its First Update Report.³⁴ In short, all urgent needs of these victims can be cared for through the provision of services by [REDACTED]. The three categories of services: medical, psychological and educational / vocational / professional will be accessible for all priority Former Child Soldiers and indirect victims in urgent needs. Access is effective immediately and services are comprehensive. The project is already operational and accessible in localities where this group of victims presumably resides (subject to the security situation). Lastly, the Trust Fund intends to implement a communication strategy (which was shared and commented upon by the CLR’s) to ensure proper dissemination of information on the IDIP programme and the Reparations Order.

³⁴ First Update Report, [ICC-01/04-02/06-2710-Red](#), paras 18-21.

32. On 8 March 2022, the Trust Fund informed the CLR1 of the proposed solution and proceeded to answer to a number of queries raised by the CLR1. The Trust Fund understood the CLR1 as not opposed to this way forward.

D. UPDATE ON IMPLEMENTATION OF URGENT MEASURES – ANSWER TO THIRD QUERY

33. Having considered that 29 victims are eligible, the implementing partners are currently proceeding to their intake.

34. As to the Trial Chamber's query in relation to how the socio-economic measures address the urgent needs of victims, the Trust Fund would like to underline that not all the needs addressed by the IDIP may have to be of an urgent character. The urgency of needs is an eligibility criterion for victims to become beneficiaries of the IDIP programme. Urgent needs can be not only of material character but also of physical or psychological character. To improve the situation of the victims as such, also socio-economic measures, including training and support in starting an income-generating activity are offered (even though the IDIP programme does not have the same wide variety of choice of trainings and at the level of financial support offered in the *Lubanga* reparation programme).

35. As to the victims who have urgent needs of material character, the implementing partners have leeway to address their situation, including with material support in the form of subsistence allowances, if and when required. However, none of the Trust Fund's assistance programmes focuses only on selective short-term assistance; rather any kind of assistance provided aims at improving the situation of the victims and to provide the victims with the opportunity for rehabilitation. Regulation 50(a) of the Regulations of the Trust Fund is the legal basis for the assistance programmes, and it focuses on the rehabilitative character of such programmes.

36. Lastly, the Trust Fund referred to its prior submissions in relation to the number of beneficiaries that these programmes can take in and the associated costs.³⁵ Based on the

³⁵ First Update Report, [ICC-01/04-02/06-2710-Red](#), paras 17-23; Second Update Report, : [ICC-01/04-02/06-2723-Red, para. 27](#). *See also, paras 24-28 in relation to the concrete steps of implementation and associated costs.*

projections, it is estimated that [REDACTED] will provide services to 100 Former Child Soldiers and also up to 150 individuals who may/or may not be children born out of rape and/or are dependants of the aforementioned 100 Former Child Soldiers. These numbers may vary based on the realities of the implementation and their costs. As to [REDACTED], it is equipped to deal with a number of 60 beneficiaries, a number that could be adjusted as well depending on the implementation.³⁶

37. In relation to the timeline of implementation, for the time being, the Trust Fund expects that the IDIP [REDACTED] project might not reach its full capacity before the end of the second contract year, considering that only few individuals were referred to the Trust Fund so far because a number of them could not be reached. In addition, the Former Child Soldiers will be able to get reparations very soon after the DIP is approved, if so. A contrario, it appears that [REDACTED] might reach its full capacity of 60 beneficiaires over the next weeks and that new beneficiaries might be able to receive their reparations only after the start of the second year of the contract (starting in May). Once it is foreseeable that additional beneficiaries can be taken in, the Trust Fund will engage with VPR in order to receive their indication as to the victims in urgent needs who they interviewed until March 2021.

38. The two projects will start their third contract year by 1 May 2022. The Trust Fund will engage with the implementing partners in relation to the continuation of the part of their project that relates to the *Ntaganda* IDIP and as to what can be expected from the partners in terms of numbers of new beneficiaries that could be taken in over the next contract year, taking into account the different circumstances for the Victims of the Attacks and the Former Child Soldiers.

FOR THE FOREGOING REASONS,

39. The Trust Fund requests that the Trial Chamber take note of the present update report and stands ready to provide further clarifications.

³⁶ First Update Report, [ICC-01/04-02/06-2710-Red](#), para. 35 (*see also*, paras 30-34).



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Executive Director, Trust Fund for Victims

Dated this 24 Day of March 2022
At The Hague, The Netherlands