

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

Date: 3 July 2020

TRIAL CHAMBER VI

*THE PROSECUTOR v. BOSCO NTAGANDA*

Request for an extension of the time limit for the submission of the expert report

Source: The Appointed Experts

Pursuant to regulation 35 (1) of the Regulations of the Court, the Appointed Experts respectfully request an extension of the time limit for the submission of their report as set in Trial Chamber VI's "Decision appointing experts on reparations" (hereinafter "Chamber" and "Appointing Decision", respectively).<sup>1</sup> The Appointed Experts respectfully request that this deadline be extended to 28 November 2020.

## **I. Background**

On 14 May 2020, the Chamber issued its Appointing Decision. In this Decision, the Chamber appointed the undersigned as experts for the reparation proceedings in this case and set the deadline for the submission of their report to the Chamber as 28 August 2020.

As stated in the Appointing Decision, the Chamber is mindful of the current situation due to the COVID-19 pandemic and the related impact on travel, however it considers that a significant amount of preparatory and other work may be undertaken by the Appointed Experts while working remotely, taking full advantage of digital communication tools. This is what the Appointed Experts have done. They have reviewed parts of the case record and of the record in other cases before the Court, have had conversations and exchanged communications amongst themselves, and have communicated and held meetings with the Registry [REDACTED], the Trust Fund for Victims, using video conferencing and other digital communication tools, and have prepared other meetings. The Appointed Experts, with the assistance of the Registry [REDACTED] [REDACTED] are currently organizing further remote meetings with other stakeholders.

## **II. Request for an extension of the time limit**

The Appointed Experts are of the view that in order to obtain information and insights necessary to prepare their report in a comprehensive way, they would greatly benefit from a field mission [REDACTED]. Such a field mission, which is currently not possible, would enable them in particular to hear [REDACTED]

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<sup>1</sup> Trial Chamber VI, "Decision Appointing Experts on Reparations", ICC-01/04-02/06-2528-Conf, 14 May 2020.

██████████ the long term consequences as a result of the crimes for which Mr. Ntaganda has been convicted and appropriate types and modalities of reparations. To date, there is little information in the record as to the specific harms suffered by potential beneficiaries and as to their current views and concerns. A field mission would also provide an opportunity for the Appointed Experts to work directly together for a couple of weeks. Considering the impossibility ██████████, the Appointed Experts would also greatly benefit from pertinent information from a sample of potential beneficiaries of reparations that the Chamber has instructed the Registry to collect in its First Decision on Reparations Process of 26 June 2020 (at paras. 37-38).

Furthermore, the Appointed Experts are currently unable to visit the ICC Headquarters in The Hague to be more time efficient in meeting with relevant sections and offices and have access to victim-related information in a more consolidated and easier-to-retrieve fashion.<sup>2</sup>

In view of the above, and in order to allow sufficient time to prepare their report in a comprehensive and professional way, the Appointed Experts request an extension of the time limit for the submission of the report based on three considerations/challenges: 1) the challenges of remote communications compared to in-person meetings; 2) the need to substitute for a field mission; and 3) the complexities for the Appointed Experts to produce a joint report.

### **1. Lack of in-person meetings**

The Appointed Experts are currently unable to visit the ICC Headquarters in The Hague and to meet with relevant sections and offices and have easier and more “condensed” access to information and interlocutors there. The Appointed Experts are currently also unable to have in-person meetings together. To organize and hold meetings via digital communication tools takes longer than in-person meetings and has been prone to connections dropping out for participants. This is the case in particular for the meetings that the Appointed Experts are having with the relevant sections at ICC Headquarters which, without the COVID 19-restrictions, would be held in-person and would all be scheduled during a visit of the Appointed Experts in The Hague. Since not all Appointed Experts are bi-lingual in English and French, there is the need for consecutive interpretation which makes these meetings longer, less interactive and is logistically challenging to organize.

### **2. Impossibility of a field mission** ██████████

To be able to assist the Chamber adequately on the issues listed in the Appointing Decision, the Appointed Experts would have considered it critical to visit ██████████

██████████ while providing at the same time the opportunity to meet in person and create synergies including in preparing a joint report . ██████████

██████████ Since this is currently not possible, all these meetings need to be held remotely via digital communication. ██████████

██████████ There is the additional challenge of the need for

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<sup>2</sup> *Ibid.*, para. 15 (“[...] should the Experts request access to certain filings, transcripts or evidence in the case, the Registry shall facilitate such access, in the version available to the Defence”).



consecutive interpretation between the local language, French and English. This means that for the Appointed Experts [REDACTED] it will take considerably longer than would be the case if in-person meetings could be held, [REDACTED]

The Appointed Experts appreciate that the situation regarding the COVID-19 pandemic remains fluid and regional/local restrictions may still impact on operational activities. If a field mission is able to be carried out and there is relaxation of quarantine procedures, there may be challenges in promptly collecting the data, even with the Experts' adherence to restrictions, such as limits on the gathering of individuals. However, even with these limitations a field mission would be more effective at collecting appropriate information to better inform the Experts' report. While [REDACTED] the other Experts will benefit from his presence in the country, they cannot rely only on his contribution in this respect, but also need themselves direct access [REDACTED] in order to form their own opinion on these matters.

In view of the scarcity of information on the specific harms suffered by victims and their extent, and considering the above challenges to obtain such information [REDACTED] in this case, it will be particularly important for the Appointed Experts to have access to the information that will be obtained from the sample of potential beneficiaries of reparations that the Chamber has instructed the Registry to prepare in its First Decision on Reparations Process. The first report on Registry activities including pertaining to this sample is due by 30 September 2020, with subsequent reports to be submitted to the Chamber every three months. While it is understood that the Registry sampling exercise will continue beyond that date, any information obtained from the sample by September 2020 will be very valuable to the Appointed Experts.

### **3. Coordination among the Appointed Experts**

As instructed by the Chamber, the Appointed Experts will endeavour to submit a joint report. This implies more coordination and cooperation among the Appointed Experts, via distance and with only two of the experts being bi-lingual in English and French. These additional challenges will impact the speed with which preparatory work and drafts can be shared and the report can be drafted. . Such impact has already been felt in less formal meetings and communications, and has been compounded by inadequate internet connections with [REDACTED]

### **FOR THE FOREGOING REASONS**

The Appointed Experts respectfully submit this request for an extension of the time limit set in the Chamber's Appointing Decision to 28 November 2020. Should this request be granted,

the Appointed Experts will still attempt to submit their report as early as possible prior to this deadline.

[REDACTED]

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[REDACTED]

On behalf of the Appointed Experts

[REDACTED]

Dated this 3 July 2020

[REDACTED]