

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 27 January 2023

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 Confidential *EX PARTE* Annexes 1 to 17, only available to the Defence and CLR1, and Annexes 18 to 97, only available to the Defence and CLR2

Third Transmission to the Defence of 92 Redacted Victim Dossiers pursuant to Trial Chamber II's Decision ICC-01/04-02/06-2794

Source: Registry

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

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I. Introduction

1. On 25 November 2022, Trial Chamber II (“Chamber”) issued a decision approving a sample of 173 victims’ dossiers previously assembled by the Victims Participation and Reparations Section (“VPRS”).¹ In that Decision, the Chamber further instructed the Registry, through the VPRS, to implement redactions to the victims’ dossiers and transmit them to the Defence.²

II. Procedural History

2. On 25 October 2022, the Chamber issued its “Order for the implementation of the Judgment on the appeals against the decision of Trial Chamber VI of 8 March 2021 entitled ‘Reparations Order’”³ (“Order”), in which it ordered *inter alia* the Registry to submit to the Chamber a list of individuals to be included in a sample of victim applications to be assessed and ruled upon by the Chamber (“Sample”).⁴
3. On 8 November 2022, the Registry submitted to the Chamber a list of 173 victim’s dossiers, compiled in compliance with the Order, as well as a table containing details extracted from the aforementioned victims’ dossiers.⁵

¹ Trial Chamber II, “Decision on the Registry submission in compliance with the “Order for the implementation of the Judgment on the appeals against the decision of Trial Chamber VI of 8 March 2021 entitled ‘Reparations Order’”, 25 November 2022, [ICC-01/04-02/06-2794](#), Disposition, p. 23. The Registry notes that in the “Decision on the Trust Fund for Victims’ submission of information on certain victims selected in Trial Chamber II’s approved sample” issued on 9 January 2023 ([ICC-01/04-02/06-2808](#), p. 8), the Chamber excluded victims a/30383/15, a/30453/15 and a/00707/13 from the sample of victims to be assessed and ruled upon by the Chamber. Those three victims’ dossiers are thus excluded from the VPRS’ transmissions of victims’ dossiers to the Defence.

² Decision, para. 34(d) and Disposition, p. 23. The Registry notes that the Chamber instructed it to transmit the redacted versions of the victims’ dossiers on a rolling basis and at the latest within thirty days from the date it receives the information from the relevant Common Legal Representatives of the victims about the victims’ consent for their identities to be transmitted to the Defence.

³ Trial Chamber II, “Order for the implementation of the Judgment on the appeals against the decision of Trial Chamber VI of 8 March 2021 entitled ‘Reparations Order’”, 25 October 2022, [ICC-01/04-02/06-2786](#).

⁴ Order, para. 34 and Disposition, p. 21.

⁵ Registry, “Registry submission in compliance with the “Order for the implementation of the Judgment on the appeals against the decision of Trial Chamber VI of 8 March 2021 entitled ‘Reparations Order’” (ICC-01/04-02/06-2786)”, 8 November 2022, [ICC-01/04-02/06-2788](#).

4. On 25 November 2022, the Chamber issued the Decision in which it approved the Sample and instructed *inter alia* the VPRS to transmit the unredacted dossiers of the victims included in the Sample to the Chamber and the common legal representatives of Victims (“CLR(s)”) ⁶ by 28 November 2022.⁷ The Decision further instructed the CLRs to (1) contact the victims they represent or assist and consult with them as to whether they consent to their identities being disclosed to the Defence, and (2) inform the Defence and the VPRS about the victims’ consent, on a rolling basis and within thirty days from the notification of the Decision.⁸ Finally, the Chamber instructed the VPRS to redact the victims’ dossiers accordingly, and transmit the redacted victims’ dossiers to the Defence, on a rolling basis and within thirty days from the date it receives from the CLRs information about the victims’ consent.⁹
5. On 28 November 2022, the Registry transmitted the 173 unredacted victims’ dossiers to the Chamber and the CLRs.¹⁰
6. On 28 December 2022 and 9 January 2023, CLR1 informed the VPRS that out of the 17 victims of crimes against child soldiers whose dossiers are transmitted with the present filing: (i) four victims did not consent to disclose their identities to the Defence;¹¹ and (ii) CLR1 was not able to consult 13 victims. CLR1 informed the VPRS that since these 13 victims are currently unable to consent to the disclosure of their identity to the Defence, and in view of reasons provided by her other clients who did not consent to the disclosure of their identity (fear for their security, and/or that of their family and the general

⁶ Ms Sarah Pellet represents the group of the “victims of crimes against child soldiers” (“CLR1”) and Mr Dmytro Suprun represents the group of “victims of the attacks” (“CLR2”).

⁷ Decision, para. 34(a) and Disposition, p. 23.

⁸ Decision, paras 34(b) and (c) and Disposition, p. 23

⁹ Decision, para 34(d) and Disposition, p. 23.

¹⁰ Registry, “Registry Transmission of 173 Unredacted Victims’ Dossiers to the Chamber and the Legal Representatives of Victims”, 28 November 2022, [ICC-01/04-02/06-2795](#).

¹¹ Email from CLR1 to VPRS, 28 December 2022, at 11:57. VPRS notes that while it had initially received information from CLR1 regarding five victims, one dossier (a/00707/13) was excluded from the Sample by the “Decision on the Trust Fund for Victims’ submission of information on certain victims selected in Trial Chamber II’s approved sample”, issued on 9 January 2023 ([ICC-01/04-02/06-2808](#), p. 8). Consequently, the above mentioned victim’s dossier is not transmitted to the Defence. See also fn. 1, *supra*.

volatile security situation in Ituri) which also concern these victims, the redactions to their identity should be maintained.¹²

7. On 28 December 2022, CLR2 informed the VPRS that out of the 75 victims of the attacks whose dossiers are transmitted with the present filing: (i) 10 victims did not consent to disclose their identities to the Defence; (ii) the identities of another 10 victims should not be redacted in their dossiers as they are already known to the Defence;¹³ and (iii) CLR2 was not able to consult the remaining 55 victims. Absent their consent, CLR2 indicated that their identities should not be disclosed to the Defence.¹⁴
8. The VPRS proceeded thereon to redact the respective victims' dossiers, in accordance with the criteria outlined in the Order,¹⁵ and in consultation with the CLRs.¹⁶
9. On 11 and 20 January 2023, the Registry transmitted a first¹⁷ and a second¹⁸ batch of, respectively, 28 and 50 redacted victims' dossiers to the Defence and the respective CLRs.

¹² Email from CLR1 to VPRS, 9 January 2023, at 12:27. VPRS notes that while it had initially received information from CLR1 regarding 14 victims, one dossier (a/30453/15) was excluded from the Sample by the "Decision on the Trust Fund for Victims' submission of information on certain victims selected in Trial Chamber II's approved sample", issued on 9 January 2023 ([ICC-01/04-02/06-2808](#), p. 8).

Consequently, said victim's dossier is not transmitted to the Defence. See also fn. 1 and 11, *supra*.

¹³ As mentioned by CLR2, the identities of these victims are already known to the Defence as they were called either by the Prosecution to testify as witnesses or by the CLR2 team to present evidence or to present their views and concerns.

¹⁴ Email from CLR2 to VPRS, 28 December 2022, at 10:33.

¹⁵ Order, paras. 35-36; and Decision, paras. 29-30.

¹⁶ For this purpose, the VPRS initiated the consultation by transmitting proposed redactions to the respective CLRVs. Email from VPRS to CLR1, 17 January 2023 at 17:51. CLR1 promptly provided her feedback (email from CLR1 to VPRS, 23 January 2023 at 15:40). Emails from VPRS to CLR2, 13 January 2023 at 13:31 and 18 January 2023 at 12:55. CLR2 promptly provided his feedback (emails from CLR2 to VPRS, 23 January 2023 at 09:12 and 24 January 2023 at 08:55). Thereafter, VPRS proceeded to apply the redactions to the respective victims' dossiers following the CLRs' instructions. In this context, the VPRS notes that the manner in which the redactions are applied to the victims' dossiers may differ between the two victim groups depending on the guidance received from each CLR (for example, for the victims of the group of former child soldiers the identity documents are submitted in a lesser redacted version than for victims of the attacks, to allow the Defence to verify the age of the victims, as this is a key element of the crimes against former child soldiers).

¹⁷ Registry, "First Transmission to the Defence of 28 Redacted Victim Dossiers pursuant to Trial Chamber II Decision ICC-01/04-02/06-2794", 11 January 2023, [ICC-01/04-02/06-2809](#).

¹⁸ Registry, "Second Transmission to the Defence of 50 Redacted Victim Dossiers pursuant to Trial Chamber II Decision ICC-01/04-02/06-2794", 20 January 2023, [ICC-01/04-02/06-2814](#).

III. Classification

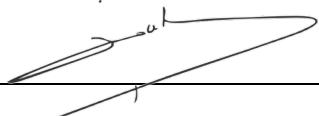
10. Pursuant to regulation 23*bis*(1) of the Regulations of the Court, the annexes to this document are classified confidential *ex parte*, only available to the Defence and CLR1 (for annexes 1 to 17), or only available to the Defence and CLR2 (for annexes 18 to 97), in accordance with the Decision.

IV. Applicable Law

11. The present transmission is submitted in accordance with the Decision.

V. Transmission

12. The Registry hereby transmits a third batch of 92 redacted victims' dossiers¹⁹ to the Defence and the respective CLRs.²⁰



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

Dated this 27 January 2023

At The Hague, the Netherlands.

¹⁹ Because they contain both an application for participation and a consultation form, five dossiers are transmitted in two separate and consecutive annexes (a/00140/13, a/00256/13, a/00880/13, a/01635/13, a/30286/15). This explains the disparity between the overall number of victim dossiers vs. the number of annexes to the present filing.

²⁰ The Registry notes that, together with the dossiers in the current transmission, it has transmitted so far to the Defence and the respective CLRs 170 redacted victims' dossiers out of the 173 included in the Sample.