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**Cour
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**International
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Court**



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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***

Confidential

Consolidated Response of the Common Legal Representative of the Former Child Soldiers to the VPRS' and TFV's Submissions of supplementary information in accordance with Trial Chamber II's First Decision on the Trust Fund for Victims' Draft Implementation Plan for Reparations (No. ICC-01/04-02/06-2860-Red)

Source: Office of Public Counsel for Victims (CLR1)

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I. INTRODUCTION

1. The Common Legal Representative of the Former Child Soldiers (the “Legal Representative”) hereby submits her consolidated response to the additional information respectively submitted by the Trust Fund for Victims (the “TFV” and the “TFV Submission”)¹ and the Registry (the “VPRS Submission”)² following Trial Chamber II’s “First Decision on the Trust Fund for Victims’ Draft Implementation Plan for Reparations” (the “Chamber’s Decision”).³

2. The Legal Representative underlines that her team has been in regular contact with both the TFV’s and the VPRS’ teams since the Chamber’s Decision and notably attended meetings with each respective team on 27 September 2023 and on 2 October 2023. This consolidated response consequently takes into consideration prior discussions and common understandings reached in the course of said exchanges.

II. PROCEDURAL BACKGROUND

3. On 8 March 2021, Trial Chamber VI issued the “Reparations Order”.⁴ Said Order was subsequently appealed by the Common Legal Representative of the victims of the attacks,⁵ and by the Defence⁶ which filed a request for suspensive effect with its appeal. The Appeals Chamber rejected said request,⁷ and issued its “Judgment on the appeals

¹ See the “Trust Fund for Victims’ Submission of Additional Information on the Draft Implementation Plan”, [No. ICC-01/04-02/06-2877-Conf](#), and its annexes [A](#) and [B](#), 3 November 2023.

² See the “Registry Submission pursuant to ICC-01/04-02/06-2860-Red”, [No. ICC-01/04-02/06-2878](#), with its annexes [I](#), [II](#) and [III](#), 3 November 2023.

³ See the “First Decision on the Trust Fund for Victims’ Draft Implementation Plan for Reparations” (Trial Chamber II), [No. ICC-01/04-02/06-2860-Conf](#) and [No. ICC-01/04-02/06-2860-Red](#), 11 August 2023.

⁴ See the “Reparations Order” (Trial Chamber VI), [No. ICC-01/04-02/06-2659](#), 8 March 2021.

⁵ See the “Appeal Brief of the Common Legal Representative of the Victims of the Attacks against the Reparation Order”, [No. ICC-01/04-02/06-2674 A4](#), 7 June 2021. See also the “Notice of Appeal of the Common Legal Representative of the Victims of the Attacks against the Reparations Order”, [No. ICC-01/04-02/06-2668 A4](#), 8 April 2021.

⁶ See the “Defence Appellant Brief against the 8 March Reparations Order”, [No. ICC-01/04-02/06-2675 OA4](#), 7 June 2021. See also the “Defence Notice of Appeal against the Reparations Order”, ICC-01/04-02/06-2659”, [No. ICC-01/04-02/06-2669 A5](#), 8 April 2021.

⁷ See the “Decision on the Defence request for suspensive effect” (Appeals Chamber), [No. ICC-01/04-02/06-2691 A4 A5](#), 2 July 2021.

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against the decision of Trial Chamber VI of 8 March 2021 entitled ‘Reparations Order’” on 12 September 2022, partially reversing the Reparations Order, and remanding the matter to Trial Chamber II (the “Chamber”).⁸

4. On 14 July 2023, the Chamber issued its “Addendum to the Reparations Order of 8 March 2021, ICC-01/04-02/06-2659”.⁹

5. On 11 August 2023, the Chamber issued its “First Decision on the Trust Fund for Victims’ Draft Implementation Plan for Reparations”, approving the TFV’s updated draft implementation plan (the “DIP”) subject to the conditions and directions set out in the Decision.¹⁰ In said Decision, the Chamber notably instructed the TFV and the Registry – through the VPRS – to file additional information by 13 October 2023. Said deadline was subsequently extended until 3 November.¹¹

6. On 1 September 2023, the Chamber issued its “Decision on the TFV’s Ninth to Twelfth Update Reports on the Implementation of the Initial Draft Implementation Plan”.¹²

⁸ See the “Judgment on the appeals against the decision of Trial Chamber VI of 8 March 2021 entitled ‘Reparations Order’” (Appeals Chamber), [No. ICC-01/04-02/06-2782 A4 A5](#), and its annexes [A](#) and [B](#), 12 September 2022.

⁹ See the “Public Redacted Version of Addendum to the Reparations Order of 8 March 2021, ICC-01/04-02/06-2659” (Trial Chamber II), [No. ICC-01/04-02/06-2858-Red](#) and its annexes [I](#) and [III](#), 14 July 2023. The Common Legal Representative of the victims of the attacks and the Defence have filed their respective notice to appeal this Decision and the appeals proceedings in this regard are ongoing.

¹⁰ See the First Decision on the Trust Fund for Victims’ Draft Implementation Plan for Reparations, *supra* note 3.

¹¹ See the email sent on behalf of Trial Chamber II on 2 October 2023 at 11:57, granting both the TFV requests for extension of time to notably submit additional information as per Decision No. ICC-01/04-02/06-2860-Conf, and the VPRS similar request. See also the email sent by the TFV on 28 September 2023 at 17:38 entitled “Request for extension of time to submit additional information listed in Decision ICC-01/04-02/06-2860-Conf”; the joint email sent by both teams of Common Legal Representatives of Victims on 29 September 2023 at 09:34 informing the Chamber that they do not oppose said request. See also the similar request sent by the VPRS by email on 29 September 2023 at 09:46; and the Defence’s response conveyed by email on 29 September 2023 at 16:22, informing similarly the Chamber that it does not oppose these requests.

¹² See the “Decision on the TFV’s Ninth to Twelfth Update Reports on the Implementation of the Initial Draft Implementation Plan” (Trial Chamber II), [No. ICC-01/04-02/06-2868-Conf](#), 1 September 2023.

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7. On 28 September 2023, the TFV submitted, by email, a request for an extension of time until 3 November 2023 to submit the additional information solicited by the Chamber.¹³

8. On 29 September 2023, the Legal Representatives,¹⁴ the Registry,¹⁵ and the Defence¹⁶ informed the Chamber, by email, that they did not oppose the TFV's request for an extension of time.

9. On 2 October 2023, the Chamber granted an extension of time until 3 November 2023 for the TFV and the Registry to submit the additional information, and adjusted the deadline for the parties to respond to said information accordingly.¹⁷

10. On 9 October 2023, the TFV filed its Thirteenth Update Report on the Implementation of the Initial Draft Implementation Plan.¹⁸

11. On 20 October 2023, the Defence filed its observations on the TFV Thirteenth Update Report on the Implementation of the Initial Draft Implementation Plan.¹⁹

12. On 3 November 2023, the TFV and the VPRS respectively filed their submissions pursuant to the Chamber's Decision.²⁰

13. On 8 November 2023, the Defence filed a request seeking an extension of time as well as leave to exceed the page limit to respond to the TFV Submission and the

¹³ See the Email correspondence from the TFV dated 28 September 2023 at 17:38.

¹⁴ See the Email correspondence from the Legal Representatives dated 29 September 2023 at 09:34.

¹⁵ See the Email correspondence from the Registry dated 29 September 2023 at 09:46.

¹⁶ See the Email correspondence from the Defence dated 29 September 2023 at 16:22.

¹⁷ See the Email correspondence from Trial Chamber II dated 2 October 2023 at 11:57.

¹⁸ See the "Trust Fund for Victims' Thirteenth Update Report on the Implementation of the Initial Draft Implementation Plan", [No. ICC-01/04-02/06-2873-Conf](#), 9 October 2023.

¹⁹ See the "Defence observations on the Trust Fund for Victims' Thirteenth Update Report on the Implementation of the Initial Draft Implementation Plan", [No. ICC-01/04-02/06-2874-Conf](#), 20 October 2023.

²⁰ See respectively *supra* notes 1, 2 and 3.

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VPRS Submission,²¹ which the Legal Representatives jointly opposed (the “Joint Response”).²²

14. On 13 November 2023, the Defence filed a request seeking leave to reply to the Joint Response,²³ after which the Legal Representatives jointly informed the Chamber that they maintained their submissions in the Joint Response and would not file a response to the new request by the Defence.²⁴

15. On 14 November 2023, the Chamber rejected both the Defence’s request seeking leave to reply to the Joint Response, and the Defence’s request seeking an extension of time and pages.²⁵

III. LEVEL OF CLASSIFICATION

16. Pursuant to regulation 23*bis*(2) of the Regulations of the Court, the present submission is filed as confidential, because it responds to submissions bearing the same level of classification. A public redacted version will be filed in due course.

²¹ See the “Defence request seeking a limited extension of time as well as leave to exceed the applicable page limit to respond to the Trust Fund for Victims’ and the Registry’s submission of additional information on the Draft Implementation Plan for Reparations”, [No. ICC-01/04-02/06-2879-Conf](#), 8 November 2023.

²² See the “Joint Response of the Common Legal Representatives of the Victims to the ‘Defence request seeking a limited extension of time as well as leave to exceed the applicable page limit to respond to the Trust Fund for Victims’ and the Registry’s submission of additional information on the Draft Implementation Plan for Reparations’ (ICC-01/04-02/06-2879-Conf)”, [No. ICC-01/04-02/06-2880-Conf](#), 10 November 2023.

²³ See the “Defence request seeking leave to reply to the Joint Response of the Common Legal Representatives of the Victims”, [No. ICC-01/04-02/06-2881-Conf](#), 13 November 2023.

²⁴ See the Email correspondence from the Legal Representatives dated 14 November 2023 at 10:22.

²⁵ See the Email correspondence from Trial Chamber II dated 14 November 2023 at 14:18.

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IV. SUBMISSIONS

1. Legal Representative's Response to the TFV Submission

17. The Legal Representative notes the ongoing constructive exchanges with the TFV and its submission of additional information on the Draft Implementation Plan.²⁶

18. In general terms, she underlines the necessity to put in place clear and transparent processes for the benefit of victims' participation and involvement in the reparations programmes.

19. As mentioned *infra* in her response to the VPRS Submission,²⁷ she also wishes to emphasise the importance for the TFV's partners to include staff members able to speak the languages in which the victims are the most comfortable. While many victims speak Swahili and/or Lingala, a lot of victims, mainly around Mahagi, speak Alur for which there is no capacity for interpretation at the moment. It is of paramount importance that victims can fully express themselves in the language of their preference, in order for all relevant information to be collected and for misunderstandings to be avoided.

20. The Legal Representative further recalls that in the first phase of implementation of the DIP, and as long as victims benefit from legal representation and hence communicate with their legal representatives (the "LRVs") to notably ask questions and to follow up, it is also fundamental that comprehensive information about access to the programmes by her clients is shared by the TFV with the LRVs concerned.²⁸ Indeed, only this way the LRVs will be in a position to respond to their clients' concerns and support victims' comprehensive access to reparations. Accordingly, good

²⁶ See the "Trust Fund for Victims' Submission of Additional Information on the Draft Implementation Plan", *supra* note 1.

²⁷ See *infra*, para. 23-ii.

²⁸ The Legal Representative submits that such comprehensive information includes notably content of urgency assessments, content of admissibility assessments when raising issues for the person concerned and information as to the exact reparations measures accessed by each of her clients in a contemporary way.

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communication and transparent and structured sharing of information between the TFV and its partners, and in turn between the TFV and the LRVs, is a key component of successful reparations programmes for the benefiting victims.

21. Finally, the Legal Representative wishes to draw the attention of the Chamber to the following issues which were discussed already with the TFV, and for which, she respectfully submits, more information still ought to be provided as soon as possible:

- i. **Starter sum** (paragraphs 40 to 46 of the Chamber's Decision): the Legal Representative underlined in her exchanges with the TFV the necessity to maintain consistency in the approach taken in order to ensure that such a reparations measure would not lead to tensions amongst victims, considering that they communicate between each other about the reparation measures they benefit from.²⁹

Following the lessons learnt from the *Lubanga* and *Katanga* reparations programmes,³⁰ the Legal Representative agrees with the TFV's position that a socio-economic starter sum would ease the reparations process for victims. In this regard however, she stresses the need for unambiguous communication in the field in order to avoid disappointing the *Lubanga* victims further.³¹

- ii. **Outreach activities** (paragraphs 71 to 77, and paragraphs 139 to 146 of the Chamber's Decision): the Legal Representative notes that, in her exchanges with the TFV, a clear and unquestioned agreement emerged as to the need to develop common messaging in relation to the reparations proceedings in all its aspects. As a result, she submits that good practices, but also the experience in the *Lubanga* reparations, clearly call for the involvement of *all* the actors concerned (TFV, VPRS,

²⁹ See also the TFV Submission, *supra* note 1, paras. 38 to 43.

³⁰ *Idem*, para. 39.

³¹ *Idem*, para. 40.

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Public Information and Outreach Section and LRVs) in *early* and *continuous* consultations.³² In turn, this will permit that victims and affected communities are not confronted with any type of uncertainty when it comes to the content and methodologies of access to reparations. Moreover, the Legal Representative underlines that it is very important to maintain the same messages throughout the implementation phase, as well as to be mindful of crafting new common messages if any changes need to be implemented in the programme. This would hopefully allow to avoid tensions and misunderstandings as to the extent of reparations measures, and the appearance, perceived or real, of discrimination amongst victims in case some measures have to be adapted throughout time.

The Legal Representative notes that she was not invited to the meetings held so far,³³ and reiterates the need to include her in further meetings to be held.

- iii. **Lump Sum in Lieu of Programming for victims residing outside of Ituri or alternatively, expense pre-approval or reimbursement procedure** (paragraphs 111 to 122 of the Chamber's Decision): in order for a lump sum in lieu of access to specific reparations measures pertaining to outcomes 1, 2 and 3 to be successful, the Legal Representative submits that the sum needs to be meaningful and effective in addressing the victims' harm. Therefore, said sum needs to be clearly determined by way of a transparent calculation method.³⁴ The Legal Representative also underlines the need to include the possibility for the TFV programmes to assist and support victims

³² See the Trust Fund for Victims' Thirteenth Update Report on the Implementation of the Initial Draft Implementation Plan, *supra* note 18, para. 35. See also the TFV Submission, *idem*, paras. 98 to 101.

³³ *Idem*, para. 98 and corresponding footnotes.

³⁴ See also *idem*, paras. 75 to 78.

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currently residing outside of Ituri who would like to come back and resume their life there, or, alternatively, for the time of the reparations programmes, in order to access more adequate services in light of their individual situation.

- iv. **Sexual and Gender-Based Violence (“SGBV”) consultant** (paragraphs 90 to 96 of the Chamber’s Decision): based on the experience of victims in the *Lubanga* programme, the Legal Representative emphasises the necessity to look into ways of improving SGBV-related services.³⁵ In this regard, in light of previous experiences, she postulates for associating with local competent specialists with knowledge of the situation of SGBV victims in the context of Ituri Province. She further underlines the need for capacity-building in order to ensure long-lasting effects of the reparations after the programmes end,³⁶ notably taking into consideration the importance of catering for victims who may need treatment for life (*e.g.* HIV-positive survivors).³⁷ One way of achieving this would be to relay these services by including the victims concerned into governmental subsidised programmes, should they be available.
- v. **Related need to reinforce local infrastructures** : keeping in mind the sustainability and long-term positive effects the reparations programmes aim to achieve (paragraphs 127 and 160 of the Chamber’s Decision, and paragraphs 91 and 194 of the Reparations Order³⁸), the Legal Representative argues for the implementation of measures throughout the various areas in which the reparations programme is being developed that would reinforce local

³⁵ See also the TFV Submission, *supra* note 1, paras. 13, and 53 to 65.

³⁶ *Idem*, para. 65.

³⁷ *Idem*, para. 60.

³⁸ See the Reparations Order, *supra* note 4.

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infrastructures (hospital, medical centres, schools, *etc.* – possibly hand in hand with the Government) and local capacities while providing the relevant services.

vi. Similarly, the Legal Representative wishes to draw the attention of the TFV and the Chamber to the identified need (through the experience of clients both in the *Lubanga* and in the *Katanga* cases³⁹) **to reinforce the local capacities in the area of psychological and mental support in particular.**

vii. **Measures related to missing persons** (paragraphs 97 to 103 of the Chamber's Decision): in light of the findings of the TFV to date and of the difficulty of the topic at hand, the Legal Representative suggests to approach this issue from a different perspective that not only looks into the possibility of finding back the missing persons and/or what happened to them, but also focuses on the associated goals of such a process, which are to bring back peace and healing to the families concerned through a long-awaited process of grief and closure.⁴⁰ She suggests that holding consultations with entities having experience in this area could help eliciting alternative ways to address the situation of these victims.

The Legal Representative stands ready to take part in further consultations, together with the TFV.⁴¹

viii. **Economic reparations measures specifically tailored to indirect victims who are older and/or incapacitated and will not be able to**

³⁹ This observation is indeed reinforced by recent information shared by the Legal Representative of victims in the *Katanga* case. See the "Version publique expurgée du Rapport du Représentant légal consécutif à sa dernière mission et sur diverses questions relatives à l'exécution et à la clôture des réparations", [No. ICC-01/04-01/07-3917-Red](#), 25 October 2023, paras. 11-30, and in particular paras. 26-27.

⁴⁰ See also the TFV Submission, *supra* note 1, paras. 66 to 69.

⁴¹ *Idem*, para. 69.

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access nor develop an IGA (paragraphs 66 to 69 of the Chamber's Decision): the Legal Representative already put this question to the TFV in their exchanges and is still awaiting a response as to the TFV's proposal for their specific situation.

- ix. **Apology** (paras. 104 to 110 of the Chamber's Decision): As mentioned in her observations annexed to the TFV Submission,⁴² the Legal Representative underlines the importance of such an apology to be genuine and sincere, particularly in light of Mr Ntaganda's past positions regarding the (in)existence of child soldiers and sexual violence perpetrated under his command.

2. Legal Representative's Response to the VPRS Submission

22. The Legal Representative notes the VPRS Submission⁴³ and appreciates the constructive discussions initiated since the Chamber's Decision.

23. In light of said submission, and in conformity with the exchanges already held with the VPRS, she wishes to emphasise the followings elements:

- i. **Identification of potential new beneficiaries** (para. 184-b of the Chamber's Decision): the Legal Representative points out that during the mapping phase in the *Lubanga* case, a few Hema villages had been identified as locations where potential beneficiaries would reside but were not fully assessed for contextual and security reasons. She therefore suggests for the VPRS to review this information when

⁴² *Idem*, [Annex A](#), "Observations of the Common Legal Representative of the Former Child Soldiers regarding Mr Ntaganda's possible apology. The Legal Representative notes that except for a direct quote to the Defence email dated 13 September 2023 bearing the classification Confidential (see para. 3), her observations do not contain any confidential information and can accordingly be reclassified as public, in due course, by the TFV.

⁴³ See the VPRS Submission, *supra* note 2.

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devising its mapping plan, especially when Bule and Fataki are concerned.

When it comes to building “a reliable network of local partners who will be able to support the VPRS activities, owing to their skills, knowledge of the context and access to relevant victims’ communities”,⁴⁴ the Legal Representative underlines the usefulness of identifying **trustful contact persons, intermediaries and focal points** in as many localities as possible in order to render feasible both the identification and the access to potential beneficiaries (para. 184-a, b and c of the Chamber’s Decision). Indeed, in her experience, the better the network, the easier the access, especially in a context where security issues hamper or render frequent road movements dangerous. Additionally, in the Legal Representative’s experience, some contact persons appear to be very good resource persons when it comes to information as to victims who might have potentially relocated.

In this regard, the Legal Representative suggests the VPRS to approach the chiefs of the Hema communities to assist them with the identification of potential new beneficiaries and with tracking down participating former child soldiers who have relocated because of security issues. While said chiefs were not inclined to share information in the context of the *Lubanga* case, they might be more inclined to do so in the present case given the fact that Mr Ntaganda is not of Hema ethnicity and thus viewed as an outsider rather than as a part of their community – as opposed to Mr Lubanga.⁴⁵ For the same reason, it might be easier for Hema victims to step forward for the purpose of reparations in the present case. It is submitted that this

⁴⁴ *Idem*, para. 21.

⁴⁵ See, *inter alia*, the “Submissions on Reparations on behalf of the Former Child Soldiers”, [No. ICC-01/04-02/06-2474](#), 28 February 2020, para. 64.

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course of action might enable a more accurate mapping of the potential beneficiaries. The Legal Representative notes that the pending appeals have no bearing on the VPRS' preparations of the eligibility process of the former child soldiers and therefore posits that this step can already be usefully developed at the moment. That way, everything will be in place for when the process itself can start. She therefore regrets that – seemingly – no concrete steps have been taken so far, and that there is no clear timeline for establishing such a network and training intermediaries and partners.⁴⁶ The Legal Representative thus welcomes regular updates on this issue.⁴⁷

Finally, the Legal Representative emphasises the importance of a full handover procedure from the TFV to the VPRS that will be done rapidly and comprehensively for the identification of potential new beneficiaries. In this regard, she notes with satisfaction that “*the TFV shared its lessons learnt in relation to identification and verification with the VPRS [...] [on 23] October 2023*”⁴⁸ and that “*the consultation process is ongoing [...] and will continue throughout the reparations implementation*”.⁴⁹

- ii. On a related note, the Legal Representative wishes to underline once more the importance of **languages used during interviews and of working with qualified interpreters**.⁵⁰ Based on her experience, if Lingala and Swahili interpreters are more easily available through the Language Services Section, certain languages such as Alur (for instance in the wider Mahagi region) are more difficult to secure and require more organisation and anticipation. Although the information

⁴⁶ *Idem*, paras. 38-42.

⁴⁷ *Idem*, para. 42.

⁴⁸ See the TFV Submission, *supra* note 1, para. 99.

⁴⁹ *Idem*, para. 101.

⁵⁰ See also *supra* para. 19.

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to be collected by the VPRS for the purpose of its assessment will be less detailed at this stage, the Legal Representative submits that it is still nonetheless of paramount importance that accurate and specific information be collected in a way that leaves no space for misunderstanding.

- iii. **Simplified system to collect information with potential new beneficiaries** (para. 184-c of the Chamber's Decision): the Legal Representative fully supports the Chamber's and the VPRS' assessment in this regard and remains available for further consultations with the VPRS as need be. The Legal Representative notably recalls the Chamber's reiterated ruling regarding the possible use of both official and unofficial identification documents,⁵¹ and, in this regard, notes the possibility to use also household documents established and verified by local authorities regarding the family composition such as the "*Attestation globale de composition familiale*" established by the *chefs de secteur*. The Legal Representative notes in this regard that the VPRS should plan a budget ahead in relation to the establishment of said *attestations*, in line with its guideline to put in place "*sufficient planning and resources*".⁵²

The Legal Representative further informs the Chamber that when in possession of updated information on her clients' family composition, she already provided said information to the VPRS.⁵³

⁵¹ See the Public Redacted Version of Addendum to the Reparations Order of 8 March 2021, ICC-01/04-02/06-2659, *supra* note 9, para. 64: "*The Chamber recalls that in the Reparations Order it indicated that victims may use official or unofficial identification documents, or any other means of demonstrating their identities.*" And para. 66.

⁵² See also the VPRS Submission, *supra* note 2, para. 12.

⁵³ See the email from the Legal Representative to the VPRS sent on 26 October 2023 at 17:39, entitled "*CONFIDENTIEL – Nombre d'enfants*". See also the VPRS Submission, *supra* note 2, para. 41.

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- iv. **Timing of eligibility assessments** (paras. 185 and 188 of the Chamber's Decision): the Legal Representative wishes to draw the attention of the Chamber and that of the VPRS – as already discussed in the meeting held on 2 October – to the fact that such process ought to allow for the identification of victims of transgenerational harm too, and of victims of SGBV who might not have disclosed this aspect of their victimisation to date, as well as for the further identification of children born out of rape (which might only be possible during the intake of their parents). This implies that intakes of all the identified potential beneficiaries ought to happen much in advance of the final deadline set by the Chamber – 31 December 2025, in order to leave some time for further additional intakes of beneficiaries identified through the intakes of their parents or other relatives.

In the same vein, the Legal Representative notes paragraph 68 of the VPRS Submission and reiterates that a certain degree of flexibility ought to be adopted with regard to the 30-day deadline established by the Chamber in case of the issuance of a negative eligibility assessment.⁵⁴ Indeed, the Legal Representative highlights once more that a key challenge for her and her team is the displacement and/or relocation of many victims in the past few years owing to the volatile security situation in the field, and the correlative difficulties to reach them.⁵⁵ This is particularly the case when the negative eligibility decision concerns a victim not having participated in the present proceedings, and thus completely unknown to the Legal Representative.

⁵⁴ See the First Decision on the Trust Fund for Victims' Draft Implementation Plan for Reparations, *supra* note 3, para. 185(b).

⁵⁵ See the VPRS Submission, *supra* note 2, footnote 52.

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- v. **The Legal Representative also wishes to draw the attention of the Chamber and the VPRS to the integration in the programme of *Lubanga* victims** who might already have had access to part of the reparations measures they are entitled to in said case, but who also ought to be included in the reparations programme in the *Ntaganda* case for another part of their victimisation recognised in this very case alone, such as SGBV, or other harm falling within the timeframe of this case specifically (but that were excluded in the frame of the *Lubanga* case).⁵⁶ This also includes their children born out of rape – up until 9 months after the 31st of December 2003, so approximately born at the latest in September 2004.
- vi. **Regarding children born out of rape specifically,** the Legal Representative further wishes to underline the need to put in place an assessment methodology that caters for the fact that, more often than not, these individuals do not have an official ID, let alone an official existence. In this regard, she suggests to use family identity documents and, where need be, witness declarations in order to palliate for this problem for short-term assessment purposes. She then suggests that either the VPRS, or the TFV with its partners, offers help in establishing valid official ID for these victims as part of, and through, the reparations processes.

⁵⁶ *Idem*, para. 64

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V. CONCLUSION

24. For the foregoing reasons, the Legal Representative respectfully requests the Chamber to take into consideration her consolidated response, and to ensure – through its monitoring function – a comprehensive and transparent collaboration between all actors involved for the benefit of the victims participating in the reparations programmes, as well as the prompt implementation of reparations in the present case.



Sarah Pellet

Common Legal Representative of the
Former Child Soldiers

Dated this 16th day of November 2023

At The Hague, The Netherlands