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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***

Public Redacted Version of

**Second Decision on the Trust Fund for Victims' Draft Implementation Plan for
Reparations**

To be notified, in accordance with Regulation 31 of the Regulations of the Court, to:**Legal Representatives of Victims**

Ms Sarah Pellet
 Ms Caroline Walter
 Mr Tars van Litsenborgh
 Ms Ana Peña

Mr Dmytro Suprun
 Ms Fiona Lau
 Ms Cherine Luzaisu

Counsel for Bosco Ntaganda

Mr Stéphane Bourgon
 Mr Benjamin Willame
 Ms Kate Gibson

Unrepresented Victims**Unrepresented Applicants for Participation/Reparation****The Office of Public Counsel for Victims**

Ms Paolina Massidda

Office of the Prosecutor

Mr Karim A. Khan
 Ms Nicole Samson

REGISTRY**Registrar**

Mr Osvaldo Zavala Giler

Counsel Support Section**Victims and Witnesses Unit****Detention Section****Victims Participation and Reparations Section**

Mr Philipp Ambach

Trust Fund for Victims

Ms Deborah Ruiz Verduzco

Public Information and Outreach Section

Ms Sonia Robla

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Trial Chamber II of the International Criminal Court (the ‘Court’), in the case of *The Prosecutor v. Bosco Ntaganda* (the ‘Ntaganda case’), having regard to articles 75 and 79 of the Rome Statute (‘Statute’), rule 98 of the Rules of Procedure and Evidence (‘Rules’), and regulation 81(4) of the Regulations of the Court (‘Regulations’), issues this Second Decision on the Trust Fund for Victims’ Draft Implementation Plan for Reparations (‘Decision’).

I. PROCEDURAL HISTORY

1. On 8 March 2021, Trial Chamber VI delivered the Reparations Order,¹ *inter alia*, directing the Trust Fund for Victims (‘TFV’) to submit an initial draft implementation plan for the urgent needs of priority victims (‘IDIP’)² and a Draft Implementation Plan (‘DIP’).³
2. On 8 June 2021, the TFV submitted the IDIP with focus on priority victims.⁴ On 23 July 2021, following observations and reply, the Chamber approved the IDIP subject to certain amendments and additional information to be provided by the TFV, directing the TFV to file bi-monthly progress reports on its implementation (‘Decision on the IDIP’).⁵
3. On 20 December 2021, as authorised by the Chamber,⁶ the TFV’s DIP was notified.⁷ On 24 March 2022, as instructed by the Chamber,⁸ the TFV submitted an updated version of the DIP (‘Updated DIP’).⁹
4. On 12 September 2022, the Appeals Chamber issued its Judgment on the appeal against the decision of Trial Chamber VI of 8 March 2021 entitled “Reparations Order” (the ‘Appeals

¹ Reparations Order (‘Reparations Order’), 8 March 2021, [ICC-01/04-02/06-2659](#).

² Reparations Order, [ICC-01/04-02/06-2659](#), p. 97.

³ Reparations Order, [ICC-01/04-02/06-2659](#), p. 97.

⁴ Report on Trust Fund’s Preparation for Draft Implementation Plan (notified on 9 June 2021), ICC-01/04-02/06-2676-Conf, with Annex A, Initial Draft Implementation Plan with focus on Priority Victims, ICC-01/04-02/06-2676-Conf-AnxA (a corrigendum was filed on 14 June 2021 and a public redacted version of the cover filing and annex were filed on 15 June 2021, [ICC-01/04-02/06-2676-Red](#) and [ICC-01/04-02/06-2676-AnxA-Corr-Red](#)).

⁵ Decision on the TFV’s initial draft implementation plan with focus on priority victims (‘Decision on the IDIP’), 23 July 2021, [ICC-01/04-02/06-2696](#).

⁶ Decision on the Trust Fund for Victims’ Request to Vary the Time Limit to Submit Draft Implementation Plan, 23 July 2021, [ICC-01/04-02/06-2697](#), p. 6.

⁷ Trust Fund fo [sic] Victims’ submission of Draft Implementation Plan, dated 17 December 2021 (submitted on 18 December 2021 at 00:30:53 and notified on 20 December 2021), [ICC-01/04-02/06-2732](#), with Annex A, public redacted version filed on 25 January 2022, [ICC-01/04-02/06-2732-AnxA-Red](#).

⁸ Decision on the ‘Request of the Common Legal Representative of the Former Child Soldiers for an extension of the time limit to respond to the Trust Fund for Victims’ Draft Implementation Plan’ and additional request by the TFV (‘January 2022 Decision’), 21 January 2022, [ICC-01/04-02/06-2739](#), p. 8; and Decision on the Trust Fund for Victims’ Request for Extension of Time to Submit Additional Information on Draft Implementation Plan, 24 February 2022, [ICC-01/04-02/06-2749](#), p. 7.

⁹ Trust Fund for Victims’ second submission of Draft Implementation Plan, 24 March 2022, [ICC-01/04-02/06-2750](#), with Annex 1, corrigendum to public redacted version filed on 14 April 2022, [ICC-01/04-02/06-2750-Anx1-Red-Corr](#) (‘Updated DIP’).

Judgment’).¹⁰ The Appeals Judgment remanded the matter to the Chamber, partially reversing the Reparations Order as it considered that the Chamber failed to, *inter alia*, lay out at least the most fundamental parameters of a procedure to carry out the eligibility assessment.¹¹

5. On 14 July 2023, the Chamber issued the Addendum to the Reparations Order of 8 March 2021 (‘Addendum’),¹² in which it, *inter alia*, detailed the substantive aspects of the procedure for carrying out the eligibility assessment of victims at the implementation stage and indicated that the procedural aspects of the mechanisms for the determination of eligibility would be dealt with when ruling on the DIP.¹³

6. On 11 August 2023, the Chamber issued the First Decision on the Trust Fund for Victims’ Draft Implementation Plan for Reparations (‘First DIP Decision’),¹⁴ in which it, *inter alia*, approved the Updated DIP, subject to certain conditions and directions set out therein.¹⁵ Specifically, the Chamber instructed the Registry, through the Victims Participation and Reparations Section (‘VPRS’), and the TFV to submit additional information required to approve certain aspects of the Updated DIP.¹⁶

7. On 9 October 2023, the TFV filed its Thirteenth Update Report on the Implementation of the Initial Draft Implementation Plan (‘TFV Thirteenth Update IDIP Report’), in which it submitted for the Chamber’s endorsement, 17 victims that the TFV had found eligible for the IDIP program.¹⁷ On 3 November 2023, as authorised by the Chamber,¹⁸ the TFV filed its Submission of Additional Information on the Draft Implementation Plan (‘TFV Additional

¹⁰ Judgment on the appeal against the decision of Trial Chamber VI of 8 March 2021 entitled “Reparations Order” (‘Appeals Judgment’), 12 September 2022, [ICC-01/04-02/06-2782](#).

¹¹ Appeals Judgment, [ICC-01/04-02/06-2782](#), p. 11.

¹² Addendum to the Reparations Order of 8 March 2021, ICC-01/04-02/06-2659 (‘Addendum’), 14 July 2023, ICC-01/04-02/06-2858-Conf (with Public Annex I, Confidential *ex parte* and Confidential Annex II, and Public Annex III), public redacted version of the same date, [ICC-01/04-02/06-2858-Red](#).

¹³ Addendum, [ICC-01/04-02/06-2858-Red](#), paras 34-148, 362.

¹⁴ First Decision on the Trust Fund for Victims’ Draft Implementation Plan for Reparations (‘First DIP Decision’), ICC-01-04-02/06-2860-Conf, 11 August 2023, [ICC-01/04-02/06-2860-Red](#).

¹⁵ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), p. 66.

¹⁶ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), p. 66.

¹⁷ Confidential Trust Fund for Victims’ Thirteenth Update Report on the Implementation of the Initial Draft Implementation Plan (‘TFV 13th Update Report’), 9 October 2023, ICC-01/04-02/06-2873-Conf with Confidential *ex parte* Annex 1 available only to the CLR2 (‘TFV 13th Update Report Annex 1’), ICC-01/04-02/06-2873-Conf-Exp-Anx1.

¹⁸ Email from the Chamber’s Legal Officer, 2 October 2023, at 11:57 hrs. *See also*, emails: from the TFV, 28 September 2023, at 17:38 hrs; from the CLRs, 29 September 2023, at 09:34 hrs; from the VPRS, 29 September 2023, at 09:46 hrs; and from the Defence, 29 September 2023, at 16:22 hrs.

Submissions’), which contains, *inter alia*, the additional information requested by the Chamber with respect to specific reparation projects the TFV had proposed in its Updated DIP.¹⁹

8. On 3 November 2023, the VPRS submitted the Registry Submission pursuant to ICC-01/04-02/06-2860-Red (‘VPRS Additional Submission’), in which it provided information regarding, *inter alia*, the victim identification and collection of information process and the procedure for the eligibility assessment of victims.²⁰

9. On 16 November 2023, the Defence submitted the Defence response to the TFV and Registry’s submissions pursuant to the First Decision on Updated DIP (ICC-01/04-02/06-2860) (‘Defence Response’), in which it provided, *inter alia*, observations on both the VPRS’ proposal with respect to the victim identification, collection of information and the eligibility assessment, as well as the TFV’s proposals regarding specific projects.²¹

10. On 16 November 2023, the Common Legal Representative for the Former Child Soldiers (‘CLR1’) submitted its Consolidated Response 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) (‘CLR1 Consolidated Response’), providing observations on the VPRS’s proposal with respect to victim identification, collection of information and the eligibility assessment, as well as the TFV’s additional information regarding specific reparations projects.²²

¹⁹ Trust Fund for Victims’ Submission of Additional Information on the Draft Implementation Plan (‘TFV Additional Submissions’), 3 November 2023, ICC-01/04-02/06-2877, with confidential Annex A (‘TFV Annex A’) ICC-01/04-02/06-2877-Conf-AnxA, and confidential Annex B (‘TFV Annex B’) ICC-01/04-02/06-2877-Conf-AnxB.

²⁰ Registry Submission pursuant to ICC-01/04-02/06-2860-Red (‘VPRS Additional Submission’), 3 November 2023, [ICC-01/04-02/06-2878](#), with Public Redacted Annex I to Registry submission pursuant to ICC-01/04-02/06-2860-Red (‘VPRS Annex I’) [ICC-01/04-02/06-2878-AnxI-Red](#), with Public Annex II Eligibility criteria for the VPRS administrative eligibility assessment for reparations of potential beneficiaries (‘VPRS Annex II’), [ICC-01/04-02/06-2878-AnxII](#), with Public Annex III Graphics on the Scope of the Conviction (‘VPRS Annex III’), [ICC-01/04-02/06-2878-AnxIII](#), and Confidential *ex parte* Annex IV, available only to the Registry Update on the Security Situation in the Democratic Republic of Congo from the Registry’s Country Analysis Unit (‘VPRS Annex IV’), ICC-01/04-02/06-2878-Conf-Exp-AnxIV.

²¹ Defence response to the TFV and Registry’s submissions pursuant to the First Decision on Updated DIP (ICC-01/04-02/06-2860) (‘Defence Response’), 16 November 2023, ICC-01/04-02/06-2882-Conf, with Confidential Annex A Defence observations and submissions inserted in the Registry Submissions (ICC-01/04-02/06-2878-Conf-AnxI) after the relevant paragraphs, ICC-01/04-02/06-2882-Conf-AnxA.

²² 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) (‘CLR1 Consolidated Response’), 16 November 2023, ICC-01/04-02/06-2883-Conf.

11. On 1 December 2023, the Defence submitted a statement provided by Mr Ntaganda regarding the reparation proceedings.²³ In his statement, Mr Ntaganda explained that, aside from the ongoing appeal against the Addendum, he ‘intends to stand down and refrain from making further submissions’ but trusts that the Chamber will take his past submissions into consideration.²⁴
12. On 11 December 2023, the TFV filed its Fourteenth Update Report on the Implementation of the Initial Draft Implementation Plan (‘TFV Fourteenth Update IDIP Report’), in which it, *inter alia*, submitted for the Chamber’s endorsement, six victims the TFV had found eligible for the IDIP program.²⁵
13. On 23 January 2024, the Registry submitted its First Registry Notification of VPRS Determinations of Victims’ Eligibility for Reparations and/or Priority Status (‘First VPRS Eligibility Determinations’), transmitting simultaneously to the Chamber and the TFV the dossiers of 32 victims found eligible for reparations and priority treatment.²⁶
14. On 2 February 2024, the Registry submitted its First Registry Report on VPRS Determinations of Victims’ Most Urgent Needs (‘First VPRS Urgent Needs Determinations’), which complemented the VPRS’ findings in its First VPRS Eligibility Determinations regarding the victims’ urgent needs.²⁷
15. On 5 February 2024, the Appeals Chamber issued its Decision on the requests for suspensive effect and other procedural issues, in which it rejected the Common Legal

²³ Statement provided by Mr Bosco Ntaganda on 30 November 2023 regarding reparations proceedings, 1 December 2023, ICC-01/04-02/06-2884-Conf, with Confidential Annex A Statement provided by Mr Ntaganda, (‘Statement of Mr Ntaganda’), ICC-01/04-02/06-2884-Conf-AnxA.

²⁴ Statement of Mr Ntaganda, ICC-01/04-02/06-2884-Conf-AnxA, pp. 2-3.

²⁵ Confidential Trust Fund for Victims’ Fourteenth Update Report on the Implementation of the Initial Draft Implementation Plan (‘TFV 14th Update Report’), 11 December 2023, ICC-01/04-02/06-2885-Conf with Confidential *ex parte* Annex 1 available only to CLR2 and VPRS (‘TFV 14th Update Report Annex 1’), ICC-01/04-02/06-2885-Conf-Exp-Anx1.

²⁶ First Registry Notification of VPRS Determinations of Victims’ Eligibility for Reparations and/or Priority Status (‘First VPRS Eligibility Determinations’), 23 January 2023, [ICC-01/04-02/06-2890](#), with four annexes, Public Annex I, providing an explanation of the content and criteria applied for the VPRS in its assessment, [ICC-01/04-02/06-2890-Anx](#); Confidential *Ex Parte* Annexes II-IV, containing individual assessment reports, ICC-01/04-02/06-2890-Conf-Exp-AnxII, ICC-01/04-02/06-2890-Conf-Exp-AnxIII, and ICC-01/04-02/06-2890-Conf-Exp-AnxVI.

²⁷ First Registry Report on VPRS Determinations of Victims’ Most Urgent Needs (‘First VPRS Urgent Needs Eligibility Determinations’), 2 February 2024, [ICC-01/04-02/06-2891](#), with confidential *ex parte* annexes containing individual assessment reports, Confidential *Ex Parte* Annex I, ICC-01/04-02/06-2891-Conf-Exp-AnxI, Confidential *Ex Parte* Annex II, ICC-01/04-02/06-2891-Conf-Exp-AnxII, and Confidential *Ex Parte* Annex III, ICC-01/04-02/06-2891-Conf-Exp-AnxIII.

Representative for the Victims of the Attacks (‘CLR2’)’s and the Defence’s requests for suspensive effect of the Addendum.²⁸

16. On 12 February 2024, the TFCV filed its Fifteenth Update Report on the Implementation of the Initial Draft Implementation Plan (‘TFCV Fifteenth Update IDIP Report’), in which it, *inter alia*, informed the Chamber that the VPRS had commenced conducting eligibility assessments for the IDIP programme on 8 December 2024.²⁹

II. ANALYSIS

A. ADDITIONAL INFORMATION PROVIDED BY THE TFCV

17. In the First DIP Decision, the Chamber directed the TFCV to provide additional information regarding: (i) specific reparation projects; (ii) steps to be taken and expected timelines; and (iii) its engagement with the Democratic Republic of the Congo (‘DRC’) Government. The additional information provided by the TFCV is outlined below and addressed by the Chamber. The Chamber will not address general comments or advice provided by the parties regarding how the VPRS and TFCV should carry out the details of their work. The Chamber notes that the majority of these communications appear to have already taken place informally between the parties,³⁰ and commends the parties for their open dialogue regarding past experiences and best practices. The Chamber does not, however, deem it necessary to supervise the details of these exchanges.

1. Specific Reparation Projects

a) *Socio-economic starter sum*

18. With respect to the TFCV’s proposal of providing a cash payment prior to commencing physical, psychological, or socio-economic programming,³¹ the Chamber ruled in the First DIP Decision that it did not have sufficient information to approve such a proposal.³² The Chamber further held that the TFCV had failed to explain how a cash payment would increase the likelihood of the victims’ success in the rehabilitation programs.³³ However, the Chamber explained that because the practice of providing a cash payment prior to commencing

²⁸ Decision on the requests for suspensive effect and other procedural issues (‘Decision on Request for Suspensive Effect’), 5 February 2024, [ICC-01/04-02/06-2892 A6 A7](#).

²⁹ Trust Fund for Victims’ Fifteenth Update Report on the Implementation of the Initial Draft Implementation Plan (‘TFCV 15th Update Report’), 12 February 2024, [ICC-01/04-02/06-2893](#).

³⁰ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 23.

³¹ Updated DIP, [ICC-01/04-02/06-2750-Anx1-Red-Corr](#), para. 182.

³² First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 44.

³³ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 44.

programming appeared to have been adopted in the *Lubanga* case, it was concerned that rejecting this proposal may have the unintended effect of creating an unequal treatment between the child soldier victims already benefiting from the *Lubanga* reparations programme and the *Ntaganda* victims.³⁴ As such, the Chamber instructed the TFV to provide further information as to the exact amount paid to the *Lubanga* victims and whether it is considering that the same amount should be paid to all victims in the *Ntaganda* case and under what conditions.³⁵

(1) Submissions

19. The TFV submits that victims do not receive a socio-economic starter sum in the *Lubanga* programme and only receive a lump sum to compensate for transportation costs and the loss of earnings that takes place when they participate in activities and trainings.³⁶ The TFV clarifies that this support will be applicable to the *Ntaganda* victims and is different from the proposed starter sum.³⁷ The TFV restates what it perceives to be the benefits of a starter sum³⁸ and recalls that in the *Lubanga* programme, victims expressed their disappointment that they did not receive a starter sum.³⁹

20. With respect to the exact amount to be paid, the TFV submits that it ‘is not in a position to provide the Trial Chamber with an actual and viable calculation [...]’ but refers the Chamber to the \$250 USD that was provided to victims in the *Katanga* case as a reference point.⁴⁰ The TFV states that [REDACTED]

[REDACTED]⁴¹

21. Regarding the conditions of payment, the TFV submits that ‘it can be predicted with some certainty that most payments will be made via mobile cash transfer [...]’ but the TFV will have to determine for each of the sub-programmes whether these payments are executed by the TFV or the implementing partners.⁴²

³⁴ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 46.

³⁵ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 46.

³⁶ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 40.

³⁷ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 40.

³⁸ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 39.

³⁹ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 40.

⁴⁰ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 41.

⁴¹ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 42.

⁴² TFV Additional Submissions, ICC-01/04-02/06-2877, para. 43.

22. The Defence submits that based on the TFV's Additional Submissions, it is now clear that starter sums were not paid in the *Lubanga* case.⁴³ The Defence further argues that [REDACTED]

[REDACTED]⁴⁴ The Defence also notes that the TFV has failed to adequately explain the amount that should be paid and how payments would be made.⁴⁵ Finally, the Defence submits that the TFV did not address a number of concerns raised by the Chamber and the parties regarding the provision of cash payments to victims.⁴⁶ The Defence submits that it 'can therefore reasonably be assumed that the TFV has no information to allay these concerns'.⁴⁷

23. The CLR1 agrees with the TFV's position that a starter sum would ease the reparations process for victims, though stresses the need for clear communication to avoid disappointing the *Lubanga* victims further.⁴⁸ The CLR1 further notes the importance of maintaining consistency in the approach taken between groups of victims to ensure that this reparation measure 'would not lead to tensions amongst victims, considering that they communicate between each other about the reparation measures they benefit from'.⁴⁹

(2) Chamber's Determination

24. The Chamber recalls the First DIP Decision, in which it noted that despite its concerns regarding a lump sum payment,⁵⁰ it understood that a socio-economic starter sum had been implemented in the *Lubanga* case.⁵¹ It was for this reason that the Chamber asked for additional information from the TFV about the starter sum payment, to ensure equal treatment between the *Ntaganda* and *Lubanga* victims. However, the TFV has now informed the Chamber that the *Lubanga* victims do not receive a starter sum.⁵² Instead, they receive a lump sum to compensate for transportation costs and the loss of earnings, which the *Ntaganda* victims will

⁴³ Defence Response, ICC-01/04-02/06-2882-Conf, para. 69.

⁴⁴ Defence Response, ICC-01/04-02/06-2882-Conf, para. 69.

⁴⁵ Defence Response, ICC-01/04-02/06-2882-Conf, para. 70.

⁴⁶ Defence Response, ICC-01/04-02/06-2882-Conf, para. 70. For instance, the Defence submits that the TFV failed to address: (i) the Chamber's concern that providing victims with a lump sum payment may remove the incentive to engage in the programme more broadly; (ii) the Defence's concern of the risk of financing armed groups; and (iii) the CLR2's concern that distribution of starter sums 'is likely to even worsen the prevailing general insecurity in the affected communities' and is contrary to the do no harm principle.

⁴⁷ Defence Response, ICC-01/04-02/06-2882-Conf, para. 70.

⁴⁸ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 21(i).

⁴⁹ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 21(i).

⁵⁰ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), paras 44-46.

⁵¹ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 46.

⁵² TFV Additional Submissions, ICC-01/04-02/06-2877, para. 40.

also receive.⁵³ Considering this clarification from the TFV, the Chamber is concerned that awarding such a sum to the *Ntaganda* victims is contrary to the principle that all victims are to be treated equally and that reparations awards must avoid creating tensions, jealousy, or animosity given that the *Lubanga* victims do not receive this sum.⁵⁴ Accordingly, unless the TFV is prepared to provide the same socio-economic starter sum to all *Lubanga* victims, the proposal should be rejected.

25. The Chamber notes the TFV's argument that the *Ntaganda* victims should receive [REDACTED]⁵⁵ The Chamber rejects this argument, noting that implementation of reparations by the TFV must follow the reparations order issued by the respective Chamber and that [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] The Chamber reminds the Registry, through the Public Information and Outreach Section ('PIOS'), of the necessity of clear communication with victims regarding the scope of the *Ntaganda* reparations programme in in order to manage their expectations.⁵⁷

b) Sayo health centre

26. The Chamber instructed the TFV to consult with local healthcare practitioners and present a proposal to the Chamber regarding the Sayo health centre.⁵⁸ Specifically, the Chamber ordered the TFV to present a proposal regarding the implementation of reparations

⁵³ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 40.

⁵⁴ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 94.

⁵⁵ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 42.

⁵⁶ [REDACTED]
[REDACTED]

⁵⁷ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 146.

⁵⁸ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 89.

for the amount of \$130,000 USD which was awarded to increase the existing healthcare capacities, in consultation with local healthcare practitioners.⁵⁹

(1) Submissions

27. The TFV submits that it has ‘started to conduct consultations on this question as expeditiously as possible and aims to identify members of the Sayo community and healthcare practitioners to determine suitable measures to increase the existing healthcare capacity’.⁶⁰ However, the TFV notes that due to the ongoing conflict, Sayo remains inaccessible.⁶¹ The TFV therefore suggests that it will engage in remote consultations until the security situation has changed, though these will ‘need to be followed by more ample consultations’.⁶²

28. The Defence and CLR1 did not make submissions on the additional information provided by the TFV regarding the Sayo health centre.

(2) Chamber’s Determination

29. The Chamber notes the TFV’s submission that the ongoing conflict has made access to Sayo for the purpose of consultations impossible.⁶³ The Chamber directs the TFV to focus its remote consultations with local healthcare practitioners in Sayo so that progress can be made on a proposal to remedy the harm to the Sayo health centre. The Chamber recalls the evidence presented by the CLR2 with respect to the harm caused to the health centre in Sayo, which may be helpful to the TFV in planning its consultations.⁶⁴ The Chamber further directs the TFV to report on its progress with respect to this proposal in its next update report.

c) Issuance of ID cards

30. The Chamber instructed the TFV to consult with victims about potential barriers with respect to the issuance of ID cards to children born out of rape and sexual slavery and present the Chamber with a concrete plan to support victims in obtaining the ID cards.⁶⁵ This was in response to the CLR2, who had submitted that his clients did not believe there were

⁵⁹ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 89; Addendum, [ICC-01/04-02/06-2858-Red](#), para. 243.

⁶⁰ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 47.

⁶¹ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 47.

⁶² TFV Additional Submissions, ICC-01/04-02/06-2877, para. 48.

⁶³ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 47.

⁶⁴ See Submissions by the Common Legal Representative of the Victims of the Attacks on the harm caused as a result of the attack on the health centre in Sayo, 22 February 2023, ICC-01/04-02/06-2834-Conf, public redacted version filed on 15 June, [ICC-01/04-02/06-2834-Red](#), with public redacted version of Annexes 1-3 [ICC-01/04-02/06-2834-Anx1-Red](#), [ICC-01/04-02/06-2834-Anx2-Red](#), [ICC-01/04-02/06-2834-Anx3-Red2](#).

⁶⁵ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 95.

impediments in the DRC that prevented mothers from obtaining documentation for their children.⁶⁶

(1) Submissions

31. The TFV submits that it has consulted with the CLRs and several local organisations regarding the issue of ID cards for children born out of rape.⁶⁷ The TFV notes that as a result of these consultations it now understands that ‘obtaining an ID card is not currently subject to administrative difficulties, including for children born out of rape’.⁶⁸ However, the TFV submits that it was ‘also advised to stand ready to address the issue, should it arise during implementation’.⁶⁹ The TFV therefore proposes that should this issue arise, its implementing partners would need to agree with local authorities on a process for beneficiaries to acquire ID cards.⁷⁰ The TFV further submits that beneficiaries who have reached the ‘age of majority’ by the time the programme commences would need ‘to get psycho-social support and be accompanied in this process’.⁷¹

32. The CLR1 notes that many children born out of rape do not have ID cards and suggests that the VPRS or the TFV offer help in obtaining valid IDs for these victims.⁷² The CLR1 also stresses the need to establish a temporary assessment methodology until ID cards can be obtained.⁷³ The Defence did not make submissions on the additional information provided by the TFV regarding the issuance of ID cards.

(2) Chamber’s Determination

33. The Chamber understands from the TFV that, currently, there are no administrative difficulties for children born out of rape to obtain ID cards. As such, the Chamber rejects the TFV’s initial proposal in the Updated DIP to collaborate with local officials to advocate for the issuance of ID cards and other legal documents for children born out of rape.⁷⁴ However, the Chamber concurs with the TFV that should such an issue arise in the future, the TFV or its implementing partners should liaise with local officials to resolve the issue. With respect to the

⁶⁶ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 92; CLR2 Observations on Updated DIP, ICC-01/04-02/06-2764-Conf, para. 44.

⁶⁷ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 51.

⁶⁸ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 51.

⁶⁹ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 51.

⁷⁰ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 52.

⁷¹ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 52.

⁷² CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 23(vi).

⁷³ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 23(vi).

⁷⁴ Updated DIP, [ICC-01/04-02/06-2750-Anx1-Red-Corr](#), para. 239.

CLR1's submission that the TFV or VPRS should help children born of rape obtain ID cards and that a temporary assessment methodology should be deployed in the meantime, the Chamber is of the opinion that since there is no impediment to the beneficiaries obtaining ID cards, there is no need for the TFV or the VPRS to intervene or create a temporary assessment method as part of the reparations programme.

d) Gender-sensitive programming consultant

34. The Chamber instructed the TFV to provide further information regarding its proposal to hire a consultant specialised in gender-sensitive programming, having found that the proposal lacked specificity and did not explain what tasks the consultant would undertake.⁷⁵ The Chamber therefore instructed the TFV to provide additional information regarding the consultant's envisioned role and how it relates to the reparation of the victims' harm.⁷⁶

(1) Submissions

35. The TFV submits that a 'sexual violence expert' would ensure that all branches of the reparations programme would be sensitive to the specific harms caused to the victims of sexual and gender based crimes ('SGBC').⁷⁷ For instance, the TFV explains that the consultant would ensure the rehabilitation programmes address the specific concerns of SGBC victims and children born out of rape.⁷⁸ The TFV submits that the consultant would also address 'specific issues' pertaining to SGBC victims, including combatting stigmatisation within families and communities.⁷⁹ The TFV envisions that the consultant will be involved in the preparation of the programme as well as its implementation.⁸⁰ The TFV further submits that the SGBC consultant will assist in training and capacity building by working with implementing partners and staff to ensure that the programmes are delivered with a sensitivity toward SGBC victims.⁸¹ The TFV also emphasises that such a consultant must have local expertise and knowledge of victims' diverse needs in the context of the conflict in Ituri province.⁸²

⁷⁵ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 96.

⁷⁶ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 96.

⁷⁷ TFV Additional Submissions, ICC-01/04-02/06-2877, paras 54-55, 58.

⁷⁸ TFV Additional Submissions, ICC-01/04-02/06-2877, paras 54, 59.

⁷⁹ TFV Additional Submissions, ICC-01/04-02/06-2877, paras 54, 63.

⁸⁰ TFV Additional Submissions, ICC-01/04-02/06-2877, paras 57, 61. The TFV submits that the SGBC consultant will help to monitor the implementation of the two programmes and can advise the TFV on adjustments or adaptations that could be made if necessary.

⁸¹ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 62.

⁸² TFV Additional Submissions, ICC-01/04-02/06-2877, para. 64.

36. The CLR1 submits that based on the experience of victims in the *Lubanga* programme, it is necessary to ‘look into ways of improving’ services for victims of SGBC.⁸³ The CLR1 therefore supports ‘associating with local competent specialists with knowledge of the situation of SGBV victims in the context of Ituri Province’.⁸⁴ The Defence did not made submissions on the additional information provided by the TFV regarding a SGBC consultant.

(2) Chamber’s Determination

37. The Chamber is satisfied with the additional information provided by the TFV regarding the inclusion of a SGBC consultant and accepts this proposal. The Chamber notes the submission of the CLR1 that the experience of victims in the *Lubanga* programme demonstrated the necessity of improving programming for SGBC victims and believes that hiring a SGBC consultant to aid in the preparation and implementation of the reparations will lead to such an improvement.⁸⁵ The Chamber also finds merit in the submissions of the TFV and CLR1, which indicate the necessity of hiring a consultant with local knowledge and experience.⁸⁶ The Chamber thus encourages the TFV to hire a consultant with this skillset.

e) Consultant to locate and identify missing persons

38. The Chamber previously found that the TFV’s proposal to hire a consultant to locate and identify missing persons, who were former child soldiers or other persons missing since the two attacks (deceased or alive), lacked details and elaboration such as whether the consultant’s task would include the location and identification of victims or whether it is only expected to prepare a plan of action.⁸⁷ As such, the Chamber instructed the TFV to engage in consultations with local organisations and/or provide more detail on how it envisions a consultant would be successful in carrying out this task.⁸⁸

(1) Submissions

39. The TFV submits that consultations regarding the issue of missing persons already took place in the context of the *Lubanga* case with international and local organisations who advised that they could not help with the identification of missing persons.⁸⁹ The TFV further informs

⁸³ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 21(iv).

⁸⁴ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 21(iv).

⁸⁵ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 21(iv).

⁸⁶ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 64; CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 21(iv).

⁸⁷ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 103.

⁸⁸ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 103.

⁸⁹ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 67.

that it took other measures to find relevant expertise and organisations to help with missing persons but has been unsuccessful.⁹⁰ The TFV submits that it therefore proposed to include an ‘expert in investigations in the context of missing persons in the present case’.⁹¹ The TFV now indicates that as a result of consultations with the CLRs, it plans to conduct further consultations to ‘explore in more breadth the scope of measures in support of the families of missing persons’ which could include the registration of names of missing persons, analysis of data in relation to the whereabouts of missing persons, interview with people who may have information, ‘mechanisms for human identification’, or ‘any other investigative activity’.⁹² The TFV advises that it will ‘endeavour to undertake the relevant consultations in early 2024’.⁹³

40. The Defence reiterates its concerns regarding the efficacy of this measure, which it argues is supported by the fact that the TFV has failed to identify organisations in the DRC that can assist with this exercise.⁹⁴ The Defence further submits that the TFV’s new proposal to ‘explore in more breadth the scope of the measures in support of the families of missing persons’ lacks clarity as to which entity would carry out this project given the TFV’s inability to find an organisation that specialises in identifying missing persons in the DRC.⁹⁵ For these reasons, the Defence restates its concern that this proposal may not be an efficient use of the TFV’s resources.⁹⁶

41. The CLR1 submits that due to the difficulties the TFV has encountered in finding an entity to carry out this project, the issue of missing persons should be analysed from a ‘different perspective’.⁹⁷ The CLR1 submits that this could include attempts to find missing persons while also focusing on bringing peace and healing to the families of missing persons.⁹⁸ The CLR1 does not specify what measures this would entail, but suggests holding consultations with entities that have experience in this area to elicit alternative ways to address the situation.⁹⁹

(2) Chamber’s Determination

42. Having considered the additional information provided by the TFV and the submissions of the parties, the Chamber rejects the TFV’s proposal regarding missing persons. In the First

⁹⁰ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 67.

⁹¹ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 67.

⁹² TFV Additional Submissions, ICC-01/04-02/06-2877, para. 68.

⁹³ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 68.

⁹⁴ Defence Response, ICC-01/04-02/06-2882-Conf, para. 71.

⁹⁵ Defence Response, ICC-01/04-02/06-2882-Conf, para. 72.

⁹⁶ Defence Response, ICC-01/04-02/06-2882-Conf, para. 72.

⁹⁷ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 21(vii).

⁹⁸ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 21(vii).

⁹⁹ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 21(vii).

DIP Decision, the Chamber partially approved this measure subject to certain conditions and directed the TFV to engage in consultations and provide details as to how *a consultant* would be successful in carrying out the task of identifying missing persons.¹⁰⁰ Based on the submissions of the TFV, it is now clear to the Chamber that there are no consultants or organisations in the DRC that would be able to assist with such a task.¹⁰¹ The Chamber finds merit in the Defence's submission that the TFV's new proposal to 'explore in more breadth the scope of the measures in support of the families of missing persons' lacks clarity as to which entity would carry out this project given absence of such organisations in the DRC.¹⁰² For the same reason, the Chamber also rejects the CLR1's proposal to have consultations with 'entities that have experience in this area' in order to find alternative ways to address the situation.¹⁰³ While the Chamber supports the proposal in principle, it cannot approve projects that are unlikely to be implemented.¹⁰⁴ This would be contrary to the 'do no harm' principle as well as the principle that reparations should be appropriate, adequate and prompt.¹⁰⁵ It would further serve as a source of confusion and frustration for victims for projects to be approved and never implemented.¹⁰⁶

f) Apology by Mr Ntaganda

43. With respect to an apology from Mr Ntaganda, the Chamber instructed the TFV, depending on Mr Ntaganda's willingness to apologise, to carry out consultations on how concretely this measure would be implemented and inform the Chamber accordingly.¹⁰⁷

(1) Submissions

44. The TFV submits that it was informed by the Defence that [REDACTED]

[REDACTED]¹⁰⁸ The TFV also provided the outcome of the CLR's consultations

¹⁰⁰ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), paras 99-103.

¹⁰¹ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 67.

¹⁰² Defence Response, ICC-01/04-02/06-2882-Conf, para. 72.

¹⁰³ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 21(vii); TFV Additional Submissions, ICC-01/04-02/06-2877, para. 67.

¹⁰⁴ Special Criminal Court of the Central African Republic, Appeals Chamber, *SP v. Adoum Issa Sallet alias Bozizé et al.*, Arrêt no 13 relatif à l'appel interjeté contre le jugement no001-2023 du 16 juin 2023 de la Première Section d'Assises ('Sallet Reparations Appeal'), 23 October 2023, [N°13-2023](#), paras 98-100. In this case, the Appeals Chamber of the Special Criminal Court of the Central African Republic found that a trial chamber cannot order reparation measures whose implementation are not guaranteed or at least probable.

¹⁰⁵ Reparations Order, [ICC-01/04-02/06-2659](#), paras 50-52, 94-95.

¹⁰⁶ *Sallet Reparations Appeal*, [N°13-2023](#), para. 99.

¹⁰⁷ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 110.

¹⁰⁸ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 71.

with their clients regarding their opinions as to a prospective apology.¹⁰⁹ The TFV explains that it plans to convene a meeting with the Defence and the CLRs regarding [REDACTED], which the TFV will report on at a later date.¹¹⁰

45. The Defence [REDACTED]
[REDACTED]
[REDACTED]¹¹¹ However, the Defence reiterates [REDACTED]
[REDACTED]
[REDACTED]¹¹² The Defence further submits that [REDACTED]
[REDACTED]
[REDACTED]¹¹³

46. As previously mentioned, the outcome of the CLRs consultations with their clients regarding a prospective apology were annexed to the TFV's Additional Submissions.¹¹⁴ The CLR1 reiterates in her submission the importance that an apology be genuine and sincere.¹¹⁵

(2) Chamber's Determination

47. The Chamber recalls its instruction to the TFV to carry out consultations [REDACTED] and inform the Chamber accordingly.¹¹⁶ The Chamber notes that the TFV has failed to do so and still requires additional consultations with the parties. The Chamber therefore instructs the TFV, once again, to inform the Chamber [REDACTED]
[REDACTED]

48. The Chamber also notes [REDACTED]
[REDACTED]¹¹⁷ It is not clear to the Chamber [REDACTED]
[REDACTED]
[REDACTED]

¹⁰⁹ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 73; TFV Annex A, ICC-01/04-02/06-2877-Conf-AnxA; TFV Annex B, ICC-01/04-02/06-2877-Conf-AnxB.

¹¹⁰ [REDACTED].

¹¹¹ Defence Response, ICC-01/04-02/06-2882-Conf, para. 77.

¹¹² Defence Response, ICC-01/04-02/06-2882-Conf, para. 77.

¹¹³ Defence Response, ICC-01/04-02/06-2882-Conf, para. 77.

¹¹⁴ TFV Annex A, ICC-01/04-02/06-2877-Conf-AnxA; TFV Annex B, ICC-01/04-02/06-2877-Conf-AnxB.

¹¹⁵ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 21(ix).

¹¹⁶ [REDACTED]

¹¹⁷ Defence Response, ICC-01/04-02/06-2882-Conf, para. 77.

g) Payment in lieu of services

49. The TFV proposed addressing the situation of victims who are residing outside of Ituri Province by providing them with a lump sum payment *in lieu* of the other services proposed.¹¹⁸ The Chamber instructed the TFV to provide additional information regarding the amount of money it intends to provide as a lump sum *in lieu* – as well as the amount it intends to devote to this aspect of the programme.¹¹⁹

(1) Submissions

50. The TFV submits that the amount of money it intends to provide as a lump sum *in lieu* can only be provided closer to implementation when the cost of the programmes is known.¹²⁰ The TFV also notes that the system of an expense preapproval/reimbursement regime, which the Chamber encouraged it to explore instead of a lump sum *in lieu*, will not work in Ituri.¹²¹ The TFV explains that it has explored this possibility in the past, but found that the receipts produced were often unreliable and overcharged or the authenticity of the receipt was doubtful.¹²²

51. The Defence reiterates its concern that cash payments could lead to the inadvertent financing of armed groups and submits that the TFV overlooks the risk that these payments could lead to greater insecurity in the region.¹²³ The Defence further argues that the TFV's submission that overcharged or unreliable receipts were given to the TFV serves as evidence that cash payments are not used by victims for reparation purposes.¹²⁴

52. The Defence reiterates its submission that if the expense preapproval/reimbursement regime is not possible, and cash handouts are unavoidable, then the TFV should implement a reporting system on how the sums have been spent.¹²⁵ The Defence states that the TFV has failed to provide details on reporting systems or other safeguards that will be put in place should cash payments be deployed.¹²⁶

¹¹⁸ Updated DIP, [ICC-01/04-02/06-2750-Anx1-Red-Corr.](#), paras 198-205.

¹¹⁹ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 122.

¹²⁰ TFV Additional Submissions, ICC-01/04-02/06-2877, paras 77-78.

¹²¹ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 93.

¹²² TFV Additional Submissions, ICC-01/04-02/06-2877, para. 93.

¹²³ Defence Response, ICC-01/04-02/06-2882-Conf, para. 73.

¹²⁴ Defence Response, ICC-01/04-02/06-2882-Conf, para. 74.

¹²⁵ Defence Response, ICC-01/04-02/06-2882-Conf, para. 75.

¹²⁶ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 75.

53. The CLR1 states that the sum of a lump sum *in lieu* needs to be meaningful and effective in order to address the victims' harm and should therefore be determined through a transparent calculation.¹²⁷ The CLR1 also submits that the reparations programme should assist victims to come back to Ituri to resume their life there or, alternatively, for the time of the reparations programmes, in order to access more adequate services.¹²⁸

(2) Chamber's Determination

54. The Chamber accepts the TFV's submission that the exact amount of a lump sum *in lieu* should be determined closer to the date of implementation when the TFV is aware of the cost of the projects for which they are compensating victims.¹²⁹ The Chamber further accepts that the amount the TFV intends to devote to this aspect of the programme will therefore also have to be determined at a later date. The Chamber therefore instructs the TFV to report on the amount it proposes for a lump sum *in lieu* as soon as that information is available to it, so that the Chamber may assess the proposal.

55. The Chamber acknowledges the Defence's concerns regarding the inadvertent financing of armed groups. However, the Chamber recalls that it has asked the Defence on several occasions to bring concrete and verifiable information about specific cases to the Chamber's attention, which the Defence has not done.¹³⁰ As such, the Chamber does not presently consider this issue to be a risk in this case. The Chamber reiterates that should the Defence, or any of the parties, come across this issue, or any inadvertent effects that the payments are having on the security situation in general, they should bring it to the Chamber's and the TFV's immediate attention so that the issue can be addressed.¹³¹ The Chamber instructs the TFV to remain vigilant in its assessment of any risks presented and expects the TFV to continue to report to the Chamber on the impact of the payments on the security situation, if any, and changes thereof.

56. With respect to the issue of an expense preapproval/reimbursement regime, the Chamber defers to the experience of the TFV in the DRC and accepts its submission that it would be problematic to deploy such measures in Ituri.¹³² Regarding the Defence's argument

¹²⁷ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 21(iii).

¹²⁸ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 21(iii).

¹²⁹ TFV Additional Submissions, ICC-01/04-02/06-2877, paras 77-78.

¹³⁰ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 119; Decision on the TFV's Eighth Update Report on the Implementation of the Initial Draft Implementation Plan, 13 January 2023, ICC-01/04-02/06-2811-Conf, para. 18.

¹³¹ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 119.

¹³² TFV Additional Submissions, ICC-01/04-02/06-2877, para. 93.

that the TFV's past experiences with overcharged or unreliable receipts serve as evidence that cash payments are not used by victims for reparation purposes,¹³³ the Chamber notes that the TFV's submission is that victims may have overcharged or distorted receipts. This does not mean that victims used the money they received for non-reparation purposes.

57. Regarding the CLR1's submission that the reparations programme should assist victims to come back to Ituri or, alternatively, for the time of the reparations programmes, them coming back to Ituri, the Chamber notes that it has already ruled that victims outside of Ituri will be provided with a lump sum *in lieu*.¹³⁴ In the interest of advancing the implementation of reparations in this case, the Chamber will not entertain new proposals at this stage of the proceedings.

h) Crime of persecution, or the deportation or forcible transfer of a population

58. The Chamber instructed the TFV to explain in concrete terms how it intends to address the harm of victims of the crime of persecution, or the deportation or forcible transfer of a population.¹³⁵

(1) Submissions

59. The TFV submits that the direct victims of the attack, which the Chamber notes includes victims of persecution or the deportation or forcible transfer of a population, experienced, *inter alia*, material harm, physical injury and trauma, psychological trauma, loss of productivity capacity, interruption and loss of schooling and vocational training, exposure to an environment of violence and fear, loss of childhood, and loss of life plan.¹³⁶ The TFV notes that the DIP has been designed to address these harms and thus submits that no further programming is necessary to address the specific harm of victims of persecution or the deportation or forcible transfer of a population.¹³⁷ The TFV further submits that during consultations this approach was supported by the CLR2.¹³⁸ The Defence and CLR1 did not make submissions on this issue.

(2) Chamber's Determination

¹³³ Defence Response, ICC-01/04-02/06-2882-Conf, para. 74.

¹³⁴ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 117.

¹³⁵ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 199.

¹³⁶ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 83.

¹³⁷ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 84.

¹³⁸ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 84.

60. The Chamber concurs with the TFV that the Updated DIP adequately addresses the harms caused to direct victims of the attack, which includes victims of persecution or the deportation or forcible transfer of a population. The Chamber therefore accepts the Updated DIP in its current form regarding its responsiveness to the harms caused to victims of persecution or the deportation or forcible transfer of a population.

2. Steps to be Taken and Expected Timelines

61. The Chamber instructed the TFV to: (i) provide updated information based on developments that have taken place since the Updated DIP was submitted regarding the expected timeline;¹³⁹ (ii) provide the next steps and timeline, where appropriate, regarding outcomes four and five;¹⁴⁰ (iii) indicate how the next steps it envisages fit within the five-year timeframe set for the implementation of reparations in the case;¹⁴¹ and (iv) provide updated estimates as to the direct and indirect costs of the approved projects and information as to the TFV's projections of its ability to complement the award.¹⁴²

(1) Submissions

62. The Chamber notes that the TFV has not provided the information requested, but informs that the CLR2 and the Defence have filed requests for suspensive effect of the Reparations Order with their appeals of the Addendum.¹⁴³ The TFV submits that the outcome of the requests for suspensive effect will be essential to providing a fully informed response to the Trial Chamber's requests for additional information and for the TFV to 'properly plan the way forward and report to the Trial Chambers in relation to such plans, on the steps already taken, as well as on the financing scenarios linked thereto'.¹⁴⁴ The TFV therefore requests the Chamber to allow it to provide additional submissions 21 days after the Appeals Chamber issues its decision on suspensive effect.¹⁴⁵

¹³⁹ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 126.

¹⁴⁰ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 126.

¹⁴¹ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 127.

¹⁴² First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 131.

¹⁴³ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 33, referencing, Notice of Appeal of the Common Legal Representative of the Victims of the Attacks against the "Addendum to the Reparations Order of 8 March 2021, ICC-01/04-02/06-2659", and Request for Suspensive Effect in relation to Trial Chamber II's Decision on the eligibility of Victims a/01636/13, a/00212/13, a/00199/13 and a/00215/13, 16 August 2023, [ICC-01/04-02/06-2862](#) and Defence Notice of Appeal against the 14 July Addendum to the Reparations Order of 8 March 2021, 16 August 2023, [ICC-01/04-02/06-2863- Conf](#). The TFV notes that the CLR2 has requested suspensive effect in relation to a distinct part of one of his three grounds of appeal relating to the Chamber's determination on the eligibility of four victims.

¹⁴⁴ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 34.

¹⁴⁵ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 35.

63. The Defence does not oppose the request of the TFV and notes its opposition to the Chamber continuing with the reparation proceedings in this case while appeals are pending.¹⁴⁶ The CLR1 makes no submissions on the issue.

(2) Chamber's Determination

64. The Chamber first notes that it does not accept the submission of the TFV that the outcome of the request for suspensive effect was 'essential to providing a fully informed response' to the Chamber with respect to the information requested.¹⁴⁷ The TFV has already begun planning the implementation of the reparations programs and has submitted the Updated DIP. The ability of the TFV to provide information regarding expected timelines, costs of the approved projects, and information as to the TFV's projections of its ability to complement the award is not affected by the current appeals.

65. However, the Chamber notes that the request for suspensive effect has been denied by the Appeals Chamber.¹⁴⁸ The Chamber therefore directs the TFV to file the above information in its next update report. The Chamber recalls its instruction that it does not require detailed plans, but rather a high-level understanding of what next steps are necessary for the projects that have now been approved to be implemented.¹⁴⁹ Finally, the Chamber stresses that regardless of the ongoing appeals, the TFV should be working efficiently and effectively toward the swift implementation of reparations for victims who have already waited two decades for reparations. The Chamber is of the opinion that proceeding in this manner is consistent with victims' right to prompt reparations.¹⁵⁰

3. Engagement with DRC Government

66. The Chamber instructed the TFV to present to the Chamber alternate options as to how the reparations programmes would be implemented if the DRC Government cannot ensure that the critical infrastructure is in place.¹⁵¹ The Chamber further instructed the TFV to provide information as to the steps taken to engage with the DRC Government on these issues.¹⁵²

(1) Submissions

¹⁴⁶ Defence Response, ICC-01/04-02/06-2882-Conf, para. 76.

¹⁴⁷ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 34.

¹⁴⁸ Decision on Request for Suspensive Effect, [ICC-01/04-02/06-2892 A6 A7](#), p. 4.

¹⁴⁹ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 126.

¹⁵⁰ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 20.

¹⁵¹ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 160.

¹⁵² First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 160.

67. The TFV indicates that since the submission of the Updated DIP, it has ‘engaged repeatedly’ with DRC authorities at the national and provincial levels.¹⁵³ The TFV explains that these authorities were aware of the need to provide critical infrastructure in order to implement reparations, but have advised that due to the current security situation, the likelihood that such infrastructure is in place by the time reparations implementation commences is low.¹⁵⁴ The TFV states that it will continue to raise this issue with the DRC in its ongoing meetings and reinforces its submission that reparations implementation is dynamic and it will therefore address issues that may arise on a case-by-case basis.¹⁵⁵ The CLR1 points out the need for the reinforcement of local infrastructure and local capacities and suggests this could possibly be done in hand with the Government.¹⁵⁶ The Defence makes no submissions on this issue.

(2) Chamber’s Determination

68. The Chamber commends the TFV for its continued engagement with the DRC authorities on the issue of critical infrastructure. However, the Chamber notes that the TFV has not presented alternate options as to how the reparations programme would be implemented if the DRC Government cannot ensure that the critical infrastructure is in place. Nevertheless, the Chamber accepts the TFV’s submission that the implementation of reparations in a volatile security situation is dynamic and may therefore be best addressed on a case-by-case basis. The Chamber therefore instructs the TFV to provide updates on these situations, should they arise, in its update reports.

B. ADDITIONAL INFORMATION PROVIDED BY THE VPRS

69. The Chamber recalls its direction that the VPRS provide the Chamber with information concerning: (i) the chosen mechanism for the identification of victims;¹⁵⁷ (ii) the chosen mechanism for the collection of information from beneficiaries;¹⁵⁸ (iii) the chosen time-frame for initial review of eligibility determinations;¹⁵⁹ and (iv) whether it was able to make the necessary preparations and arrangements to start the administrative eligibility process by 1

¹⁵³ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 80.

¹⁵⁴ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 80.

¹⁵⁵ TFV Additional Submissions, ICC-01/04-02/06-2877, paras 80-81.

¹⁵⁶ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 21(v-vi).

¹⁵⁷ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 184(b). The Chamber notes the existence of an inadvertent error in the First DIP Decision, in which this instruction is listed as 183(b). It should instead be 184(b).

¹⁵⁸ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 184 (c).

¹⁵⁹ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 185 (c).

January 2024.¹⁶⁰ The additional information provided by the VPRS and the Chamber's determinations thereon are outlined below.

1. Mechanism for the identification of victims

(1) Submissions

70. The VPPRS submits that in order to identify victims it will rely on information previously gathered during mapping exercises¹⁶¹ and utilise several actors for the identification of new potential beneficiaries.¹⁶²

71. The VPRS submits that it will rely on several actors in order to identify potential beneficiaries including: (i) civil society organisations ('CSOs') and local authorities; (ii) victims and potential beneficiaries; and (iii) the Office of the Prosecutor ('OTP').¹⁶³

72. Regarding CSOs and local authorities, the VPRS submits that it has been active in identifying and consulting with reliable CSOs, local authorities, and representatives in order to retrieve documentation or information on potential beneficiaries.¹⁶⁴ The VPRS further submits that some of these interlocutors will be able to assist the VPRS to locate displaced victims.¹⁶⁵ The VPRS explains that these consultations will continue throughout the identification cycle.¹⁶⁶

73. The VPRS also submits that it intends to gather information on potential beneficiaries from other victims.¹⁶⁷ VPRS submits that the CLR1 has agreed to provide the VPRS with information regarding the family composition of the clients she represents or other information she receives regarding potential beneficiaries.¹⁶⁸ The VPRS submits that the CLR2 has also agreed to assist.¹⁶⁹ The VPRS submits that beneficiaries may also be identified by victims currently enrolled in the *Ntaganda* or the *Lubanga* reparations programmes and that it is currently discussing with the TFV how these victims can be best identified.¹⁷⁰

74. Regarding the OTP, the VPRS explains that the Judgment provides specific findings on potential beneficiaries of reparations, which were recalled in Annex I of the Addendum.¹⁷¹ The

¹⁶⁰ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 187.

¹⁶¹ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 31.

¹⁶² VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), paras 34-37.

¹⁶³ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), paras 34-37.

¹⁶⁴ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 34.

¹⁶⁵ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 34.

¹⁶⁶ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 34.

¹⁶⁷ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 35.

¹⁶⁸ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 35.

¹⁶⁹ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 35.

¹⁷⁰ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 36.

¹⁷¹ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 37.

VPRS submits that where appropriate, it will reach out to the OTP to request information that may help it locate these potential beneficiaries.¹⁷²

75. The Defence submits that more information is required from the VPRS regarding the identity of reliable CSOs and local authorities, particularly interlocutors, who will be assisting the VPRS.¹⁷³ The Defence further submits that a proper security verification, assessment and training of these organisations is required.¹⁷⁴

76. The CLR1 offers several recommendations to the VPRS with respect to the identification of new beneficiaries. These include: (i) asking the VPRS to take into consideration areas that may not have been properly assessed during previous mapping exercises due to security concerns;¹⁷⁵ (ii) encouraging the VPRS to identify ‘trustful contact persons, intermediaries and focal points in as many localities as possible in order to facilitate the identification and access to beneficiaries’;¹⁷⁶ (iii) suggesting that the VPRS approach the chiefs of the Hema communities to assist with the identification of potential beneficiaries;¹⁷⁷ (iv) emphasising the importance of a ‘full handover procedure from the TFV to the VPRS’;¹⁷⁸ and (v) underlining the importance of working with qualified interpreters.¹⁷⁹

(2) Chamber’s Determination

77. The Chamber approves the VPRS’ plan to identify potential beneficiaries by (i) relying on information previously gathered during mapping exercises;¹⁸⁰ and (ii) utilising CSOs, local authorities, the network of existing victims, and the OTP to identify new potential beneficiaries.¹⁸¹ The Chamber further notes the suggestions raised by the CLR1¹⁸² and encourages the VPRS to take these into account when carrying out the process of identification of victims.

¹⁷² VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 37.

¹⁷³ Defence Response, ICC-01/04-02/06-2882-Conf, para. 37.

¹⁷⁴ Defence Response, ICC-01/04-02/06-2882-Conf, para. 37.

¹⁷⁵ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 23(i).

¹⁷⁶ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 23(i).

¹⁷⁷ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 23(i). The CLR1 notes that while Hema chiefs ‘were not inclined to share such 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’.

¹⁷⁸ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 23(i).

¹⁷⁹ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 23(i).

¹⁸⁰ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 31.

¹⁸¹ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), paras 34-37.

¹⁸² CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 23(i).

78. The Chamber rejects the Defence's argument that more information is required about CSOs, local authorities, and other interlocutors who will be assisting the VPRS.¹⁸³ The Chamber recalls the First DIP Decision, in which it explained that it would only 'render an overall decision to approve, modify or reject proposed measures' and that other aspects of implementation would subsequently entail a series of further consultations in order to ensure its execution.¹⁸⁴ As such, the Chamber explained that it would 'not seek to regulate all aspects of the proposed measures [...]'.¹⁸⁵ While this direction was made in reference to the projects proposed in the DIP, the Chamber is of the opinion that the same rationale applies to the details regarding the administrative eligibility process. The Chamber does not find it necessary to regulate all details of the Registry's work processes. For the same reason, regarding the Defence's submission that a proper security verification, assessment and training of CSOs, local authorities and other interlocutors is required,¹⁸⁶ the Chamber entrusts the VPRS with ensuring that the CSOs or other persons it consults are secure, trustworthy, and reliable. With that said, the Chamber reminds the VPRS that while it may consult with CSOs or local authorities, the identification of victims remains its own responsibility and cannot be delegated to other organisations or individuals.

2. Mechanism for the collection of information from beneficiaries

(1) Submissions

79. The VPRS submits that it intends to use the 'traditional' individualised form along with two additional complementary tools to collect information from potential beneficiaries, namely, a 'household' or 'group' form and a data collection tool.¹⁸⁷

80. The VPRS submits that the household/group form would allow families or other groups with similar types of victimisation to submit a combined request for reparations.¹⁸⁸ The VPRS explains that this type of form could be a more efficient way to collect information.¹⁸⁹ The VPRS notes, however, the importance that individual members of each household or group remain sufficiently identifiable, that victims are still able to share their story in a meaningful

¹⁸³ Defence Response, ICC-01/04-02/06-2882-Conf, para. 37.

¹⁸⁴ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 20.

¹⁸⁵ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 20.

¹⁸⁶ Defence Response, ICC-01/04-02/06-2882-Conf, para. 37. The same reasoning applies to the Defence's other requests for the Chamber to rule on the need for certain individuals or organisations to undergo a proper security check, validations and training. See Defence Response, ICC-01/04-02/06-2882-Conf, paras 11, 21-22, 45, 49.

¹⁸⁷ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 44.

¹⁸⁸ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 45.

¹⁸⁹ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 45.

way so that their harm is not disregarded, and that individuals who are part of a household or group are not unnecessarily or forcibly exposed.¹⁹⁰ Finally, the VPRS explains that the household form and methodology are currently being ‘tested in the field prior to being put to use’.¹⁹¹

81. Further, the VPRS submits that it is developing a data collection tool in the form of an electronic interactive form/questionnaire, which the Chamber understands would include the traditional individualised form as well as the household/group form.¹⁹² The VPRS explains that this tool will ensure that ‘all relevant information from the potential beneficiary is retrieved at the moment of the interview, reducing the future need to collect supplementary information from the victims’.¹⁹³ The VPRS further notes that the forms will include close-ended questions, which will be more efficient than full narratives, as the answers will be directly exportable to the VPRS database known as VAMS.¹⁹⁴

82. The VPRS notes that it has identified the data-collection tool it intends to use and is in the process of ensuring its compliance with the Court’s information security framework, compatibility with its database, and its capacity to be used effectively in the field.¹⁹⁵ The VPRS submits that it envisages a test period for the technology in the field and training for individuals who will be using the software.¹⁹⁶

83. Regarding the actors involved in the collection of information, the VPRS submits that it has identified a number of community-based CSOs in Ituri and/or individuals who have the capacity and interest to assist victims with reparation applications.¹⁹⁷ The VPRS explains that it intends to locally recruit individuals who speak the local languages and will be trained by VPRS staff and [REDACTED]

[REDACTED].¹⁹⁸

84. The VPRS states that it expects the individual and household forms to be ready for use in the field by 1 January 2024 and that the finalisation of the data collection tool will continue

¹⁹⁰ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), paras 45-46.

¹⁹¹ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 46.

¹⁹² VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 47.

¹⁹³ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 47.

¹⁹⁴ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 47.

¹⁹⁵ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 48.

¹⁹⁶ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 48.

¹⁹⁷ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 49.

¹⁹⁸ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 49.

into 2024.¹⁹⁹ The VPRS states that it expects to be able to start the collection of reparations forms ‘at the latest as of 1 January 2024’.²⁰⁰

85. The Defence submits that the use of a simplified system to collect information should not be mistaken with the need for a proper eligibility determination.²⁰¹ The Defence argues that the household form should not be used as each individual should be subject to an individual eligibility assessment.²⁰² The Defence does not oppose the use of a data collection tool, but emphasises the need for victims to provide a full narrative to allow for a proper eligibility determination and notes that limiting information through close-ended questions would not yield sufficient information.²⁰³ Further, the Defence submits that more information is required from VPRS regarding the role and tasks which may be assigned to CSOs and/or individuals who may be involved in the collection of information.²⁰⁴ Finally, the Defence submits that intermediaries must undergo a proper security check and trainings regarding the interview process.²⁰⁵

86. The CLR1 submits that she ‘fully supports’ the VPRS’ assessment with respect to a simplified system to collect information with potential new beneficiaries.²⁰⁶

(2) Chamber’s Determination

87. The Chamber commends the VPRS for proposing innovative ways to collect data in a reliable and efficient manner. The Chamber approves the use of a household or group form so long as it will increase efficiency and the VPRS finds, through its trial period in the field, that it is a useful and workable tool. The Chamber does, however, find merit in the Defence’s concern that the use of this form could undermine the requirement of ensuring that an eligibility assessment is undertaken for each potential beneficiary.²⁰⁷ The Chamber therefore instructs the VPRS to ensure that the household or group form will still provide the VPRS with sufficient information regarding each individual to make an individual assessment. The Chamber takes the same position with respect to the use of an electronic form/questionnaire. This method is approved by the Chamber so long as the VPRS finds that it contributes to the efficiency of data

¹⁹⁹ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 51.

²⁰⁰ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 51.

²⁰¹ Defence Response, ICC-01/04-02/06-2882-Conf, para. 38.

²⁰² Defence Response, ICC-01/04-02/06-2882-Conf, para. 39.

²⁰³ Defence Response, ICC-01/04-02/06-2882-Conf, para. 40.

²⁰⁴ Defence Response, ICC-01/04-02/06-2882-Conf, para. 41.

²⁰⁵ Defence Response, ICC-01/04-02/06-2882-Conf, para. 41.

²⁰⁶ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 23(iii).

²⁰⁷ Defence Response, ICC-01/04-02/06-2882-Conf, para. 39.

collection and provides the VPRS with sufficient information to make an individual assessment. The Chamber is not persuaded by the Defence's submission that close-ended questions do not provide sufficient information to make an eligibility assessment.²⁰⁸

88. Nevertheless, the Chamber underlines that whatever the form used, the victims should *only* be asked to provide information necessary for the VPRS to reach eligibility, vulnerability, and urgency determinations. Accordingly, questions to potential beneficiaries should be focused on their identification, the crimes and the harm they allege to have suffered, and their current circumstances. The victims *should not* be consulted by the VPRS as to the victims' expectations regarding the manner in which their harm could be addressed, as the types and modalities of reparations have already been decided by the Chamber.

89. The Chamber also rejects the Defence's argument that more information is required from VPRS regarding the role and tasks which may be assigned to CSOs and/or individuals who may be involved in the collection of information.²⁰⁹ The Chamber understands from the VPRS' submissions that it has simply engaged in consultations with these actors but will recruit individuals who will ultimately be responsible for the collection of information.²¹⁰ For the sake of clarity, the Chamber reminds the VPRS that only VPRS staff, or those the VPRS hires for the purpose of collecting information, will be responsible for collecting victims' information. This is consistent with the Chamber's instruction above that the VPRS' responsibilities, including collection of information, cannot be delegated to other organisations.²¹¹ The Chamber concurs with the Defence's submission that those the VPRS hires to help with the collection of information must undergo a proper security check and trainings regarding the interview process.²¹² As such, the Chamber entrusts the VPRS to ensure its staff are duly trained and will undergo a proper security check. The Chamber also notes that the VPRS stated its intention to train its staff on the interview process.²¹³

3. Timeframe for initial review of eligibility determinations

90. In the First DIP Decision, the Chamber asked the VPRS to advise on the chosen timeframe for the initial review of its negative eligibility determinations.²¹⁴ The VPRS submits that after 'carefully considering its internal organisation regarding the eligibility determination

²⁰⁸ Defence Response, ICC-01/04-02/06-2882-Conf, para. 40.

²⁰⁹ Defence Response, ICC-01/04-02/06-2882-Conf, para. 41.

²¹⁰ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 49.

²¹¹ See para. 78 above.

²¹² Defence Response, ICC-01/04-02/06-2882-Conf, para. 41.

²¹³ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 49.

²¹⁴ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 185 (c).

process’ it estimates that it will be in a position to review an initial assessment and issue a final determination on eligibility within 30 days of its (re)submission by the CLR.²¹⁵ The VPRS submits that while it considers this timeframe to be reasonable, it would seek the Chamber’s permission to change it subsequently should the need arise.²¹⁶ The Defence and CLR2 make no submissions on this issue.

91. The Chamber finds the VPRS’ suggestion of 30 days reasonable and therefore approves this proposal.

4. Commencement of eligibility process

92. The Chamber ordered the VPRS to advise as to whether it was able to make the necessary preparations and arrangements to start the administrative eligibility process by 1 January 2024.²¹⁷ The VPRS states in its submission that it ‘hereby confirms its preparedness to start its activities according to the different timelines outlined in its current submission, and at the latest by 1 January 2024’.²¹⁸

93. The Chamber notes, however, the VPRS’ submission that it will commence its assessment of victims’ applications on a rolling basis once the Chamber ‘validates, or amends the VPRS proposed assessment criteria (in Annex II) and scope of the conviction (in Annex III)’.²¹⁹ The Chamber wishes to make clear that the VPRS should not wait to commence its assessment of victims’ applications until the Chamber ‘validates or amends’ Annex II²²⁰ or Annex III²²¹ as the Chamber will not be assessing these Annexes.²²²

94. Contrary to the submission of the Defence,²²³ the VPRS does not need to advance its own understanding of the scope of the conviction or eligibility mechanism as it has done in Annex II and Annex III. The Chamber has clearly outlined its instructions regarding the eligibility criteria in the Reparations Order,²²⁴ the Addendum,²²⁵ and in the First DIP Decision.²²⁶ Similarly, the scope of the conviction has been confirmed and outlined by the

²¹⁵ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 70.

²¹⁶ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 70.

²¹⁷ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 187.

²¹⁸ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 76.

²¹⁹ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 57.

²²⁰ VPRS Annex II, [ICC-01/04-02/06-2878-AnxII](#).

²²¹ VPRS Annex III, [ICC-01/04-02/06-2878-AnxIII](#).

²²² This issue was addressed by the Chamber in an email to the VPRS on 12 December 2023. See Email from the Chamber’s Legal Officer, 12 December 2023, at 12:15 hrs.

²²³ Defence Response, ICC-01/04-02/06-2882-Conf, para. 15.

²²⁴ Reparations Order, [ICC-01/04-02/06-2659](#).

²²⁵ Addendum, [ICC-01/04-02/06-2858-Red](#).

²²⁶ First DIP Decision, [ICC-01/04-02/06-2860-Red](#).

Chamber in the Conviction Judgment,²²⁷ the Sentencing Judgment,²²⁸ the Decision on issues raised in the Registry's First Report on Reparations ('Clarification Decision'),²²⁹ the Reparations Order²³⁰ and in Annex I to the Addendum,²³¹ in which the Chamber provided a detailed review of the scope of the conviction. As such, the Chamber does not need to address yet another iteration of the eligibility criteria and the scope of the conviction as understood by VPRS. This information is clearly laid out in the Chamber's prior decisions mentioned above, which the VPRS should directly apply.²³²

95. Notwithstanding the above, if the VPRS has specific questions it would like the Chamber to address about the eligibility criteria or the scope of the conviction, the Chamber can provide specific clarifications. In line with this, the Chamber has provided guidance on two specific issues that were raised by the Defence below.

96. First, the Defence alleges that one of the material issues pertains to the temporal scope set out in Annex III, which 'focuses on the dates of the first and second operations rather than on the dates of specific events'.²³³ As previously instructed,²³⁴ regarding the alleged inaccuracies with respect to the temporal scope of the conviction in the VPRS Annex III, the Chamber notes that this should be resolved by the VPRS closely following the Chamber's previous decisions noted above with respect to the correct temporal scope for each of the locations.²³⁵

97. Second, the Defence submits that there are inaccuracies in VPRS Annex III regarding the crime of persecution in Gola, explaining that Trial Chamber VI made a negative finding in the Judgment regarding destruction of property in Gola.²³⁶ Accordingly, the Defence argues,

²²⁷ Judgment, 8 July 2019, [ICC-01/04-02/06-2359](#).

²²⁸ Sentencing Judgment, 7 November 2019, [ICC-01/04-02/06-2442](#).

²²⁹ Decision on issues raised in the Registry's First Report on Reparations ('Clarification Decision'), 15 December 2020, [ICC-01/04-02/06-2630](#).

²³⁰ Reparations Order, [ICC-01/04-02/06-2659](#).

²³¹ Annex I to the Addendum, [ICC-01/04-02/06-2858-AnxI](#).

²³² The Chamber notes that in response to the VPRS' submission that it will be issuing eligibility determinations on the basis of the evidentiary criteria, standard of proof and the scope of the conviction as stated in the Judgment, the Reparations Order and the Addendum (see VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 14), the Defence submits that without prejudice to its current appeal against the Addendum, the VPRS should also consult a number of other decisions issued by the Chamber, though notes that the Judgment 'has a limited impact considering the content of Annex I to the Addendum' (see Defence Response, ICC-01/04-02/06)- 2882-Conf, paras 14, 42). As previously discussed, the Chamber has directed the VPRS to numerous decisions in which it has clearly articulated the evidentiary criteria, standard of proof and scope of the conviction. The Chamber does not share the view of the Defence that the Judgment 'has limited impact' but concurs that Annex I to the Addendum provides a detailed review of the scope of the conviction.

²³³ Defence Response, ICC-01/04-02/06-2882-Conf, paras 16, 54.

²³⁴ Email from the Chamber's Legal Officer, 12 December 2023, at 12:15 hrs.

²³⁵ Email from the Chamber's Legal Officer, 12 December 2023, at 12:15 hrs.

²³⁶ Defence Response, ICC-01/04-02/06-2882-Conf, para. 54.

that potential beneficiaries claiming to have suffered persecution through destruction of their property in Gola cannot be considered eligible.²³⁷ Once again, in a previous communication, the Chamber directed the VPRS to the detailed the scope of the conviction laid out in Annex I to the Addendum.²³⁸ In particular, the Chamber directed the VPRS to footnote 162 of Annex I to the Addendum regarding the specific paragraphs describing the underlying acts of persecution in Gola.²³⁹

98. Further, the Defence submits, without specificity, that there are other mistakes and inaccuracies in Annex III and that the Registry should be instructed to review and correct Annex III as a result.²⁴⁰ The Chamber reiterates that information regarding the scope of the conviction has been set out numerous times by the Chamber, including most recently in Annex I to the Addendum.²⁴¹ These documents, drafted by the Chamber, are the authoritative documents the VPRS should be utilising regarding the scope of the conviction.

C. OTHER ISSUES RAISED BY THE PARTIES

1. Concerns with the outreach, identification, and eligibility processes

99. The Defence raises several concerns regarding the outreach, identification, and eligibility processes, which are addressed below.

a) Concerns regarding outreach

100. The VPRS submits that outreach activities concerning reparations will take place at two levels: the PIOS will conduct outreach sessions and deliver key messages on reparations to affected communities while the VPRS will prepare and disseminate targeted messages to potential beneficiaries, ahead and during the identification process and collection of information.²⁴²

101. The Defence submits that it understood from the First DIP Decision that the VPRS will not be involved in preparing and disseminating targeted messages to potential beneficiaries.²⁴³ The Defence states that in the event the VPRS targeted messages are approved, potential

²³⁷ Defence Response, ICC-01/04-02/06-2882-Conf, para. 54.

²³⁸ Email from the Chamber's Legal Officer, 12 December 2023, at 12:15 hrs; Annex I to the Addendum, [ICC-01/04-02/06-2858-AnxI](#).

²³⁹ Email from the Chamber's Legal Officer, 12 December 2023, at 12:15 hrs; Annex I to the Addendum, [ICC-01/04-02/06-2858-AnxI](#).

²⁴⁰ Defence Response, ICC-01/04-02/06-2882-Conf, paras 54-55.

²⁴¹ Annex I to the Addendum, [ICC-01/04-02/06-2858-AnxI](#).

²⁴² VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 27.

²⁴³ Defence Response, ICC-01/04-02/06-2882-Conf, para. 32.

beneficiaries and community leaders should not be informed of the eligibility criteria in advance of the collection of information as this may ‘obscure’ the eligibility determination process.²⁴⁴ Instead, the Defence submits that potential beneficiaries should only be informed about the temporal and geographical scope of the conviction.²⁴⁵ Finally, the Defence submits that in the event the VPRS is authorised to issue targeted messages to potential beneficiaries, the Defence requests to be involved in the preparation of messages.²⁴⁶

102. The CLR1 submits that the experience in the *Lubanga* reparations programme showed the need for all actors (TFV, VPRS, PIOS and CLR1s) to be involved in outreach.²⁴⁷ The CLR1 thus asks to be included in future meetings regarding outreach.²⁴⁸

103. The Chamber rejects the VPRS’ proposal to prepare targeted messages to potential beneficiaries, ahead and during the identification process and collection of information.²⁴⁹ As was stated in the First DIP Decision, outreach is the responsibility of the PIOS and any outreach campaign should be designed and conducted by the PIOS.²⁵⁰ With that said, the Chamber notes its previous finding that it may be practical, in certain circumstances, for outreach and the identification of potential victims to take place in tandem.²⁵¹ As such, the VPRS may engage in the dissemination of messaging if it coincides with its outreach activities. Given that the Chamber has rejected the proposal of targeted messaging prepared by VPRS, it will not address the remainder of the Defence’s submissions on the matter.²⁵²

104. With respect to the CLR1’s submission that all actors (TFV, VPRS, PIOS and CLR1s) should be involved in outreach,²⁵³ the Chamber reminds the PIOS of its previous ruling that communication materials that will be provided to victims are to be designed by the PIOS *after* engaging in consultations with the parties, the TFV, the VPRS, the OPCV, and the Country Office.²⁵⁴ The Chamber notes that this includes the Defence, which advises that it has yet to be consulted on outreach materials.²⁵⁵ The Chamber thus takes this opportunity to remind the PIOS that the Defence is to be consulted on outreach materials.

²⁴⁴ Defence Response, ICC-01/04-02/06-2882-Conf, para. 34.

²⁴⁵ Defence Response, ICC-01/04-02/06-2882-Conf, para. 35.

²⁴⁶ Defence Response, ICC-01/04-02/06-2882-Conf, para. 36.

²⁴⁷ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 21(ii).

²⁴⁸ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 21(ii).

²⁴⁹ VPRS Annex I, [ICC-01/04-02/06-2878-Anxi-Red](#), para. 27.

²⁵⁰ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 184(a).

²⁵¹ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 184(a).

²⁵² Defence Response, ICC-01/04-02/06-2882-Conf, paras 34-36.

²⁵³ CLR1 Consolidated Response, ICC-01/04-02/06-2883-Conf, para. 21(ii).

²⁵⁴ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 184(a).

²⁵⁵ Defence Response, ICC-01/04-02/06-2882-Conf, paras 30, 33.

105. The VPRS has also advised that ‘all relevant Court actors’ have agreed on the need to be consulted on the content of any communications about reparations in order to manage impact on their respective activities and create a ‘maximum of synergies’.²⁵⁶ The Defence requests that it also be consulted on the content of any communications about reparations.²⁵⁷ The Chamber rejects the Defence’s request. The Chamber has clearly outlined the consultation process regarding outreach in the First DIP Decision.²⁵⁸ Beyond this, the Chamber takes no position on who the VPRS consults with within the Court in order to efficiently manage its work.

b) Training partners on the eligibility criteria

106. In presenting its methodology regarding the identification of potential beneficiaries, the VPRS submits that its partners (individuals/organisations) will receive training to ensure they have knowledge of, *inter alia*, the eligibility criteria to benefit from reparations.²⁵⁹ The Defence submits that these partners do not need to be familiar with the eligibility criteria.²⁶⁰ The Chamber however notes that it is perfectly reasonable, and in fact, necessary, for the individuals involved in identifying potential beneficiaries to be familiar with the eligibility criteria that would make them beneficiaries of the reparations programme.²⁶¹ Familiarity with this criterion will make their work more effective and efficient. However, as noted above, the Chamber reminds the VPRS that only its staff, or those it hires specifically for the purpose of victim identification, will be responsible for identifying victims.²⁶² No other partners or individuals should indeed be trained on the eligibility criteria.

c) Involvement of local communities in the design of identification and eligibility processes

107. The VPRS submits that victims, community leaders, and victims’ communities need to be involved in the design of the identification and eligibility processes, including by providing their views on how the VPRS identifies and collects information.²⁶³ The Defence argues that while it may be necessary to involve these groups in the organisation and the provision of suitable working areas to conduct the eligibility determination process, they should not be

²⁵⁶ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 26.

²⁵⁷ Defence Response, ICC-01/04-02/06-2882-Conf, para. 31.

²⁵⁸ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 184.

²⁵⁹ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 22.

²⁶⁰ Defence Response, ICC-01/04-02/06-2882-Conf, para. 22.

²⁶¹ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 184(c).

²⁶² See para. 88 above.

²⁶³ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 12.

involved in the design of the identification and eligibility process, which is the responsibility of the VPRS.²⁶⁴ The Chamber concurs with the Defence that the identification, collection of information and eligibility process is ultimately the responsibility of the VPRS.²⁶⁵ However, the Chamber sees no harm in the VPRS consulting with local communities and community leaders to determine the best methods to successfully identify potential beneficiaries and collect their information. The eligibility assessment, however, must be completed only by the VPRS using the substantive criteria and eligibility mechanism established by the Chamber in the Addendum.²⁶⁶

d) Distance measuring issue

108. The VPRS submits that in order to assess the distances set out in the scope of the conviction, it will be required to retrieve and cross-check the information from local authorities, and, where feasible, and use software to calculate the distances on maps in a straight line.²⁶⁷ The VPRS notes that it will provide these results to the Chamber on a rolling basis, as it assesses the applications for reparations.²⁶⁸

109. The Defence submits that further to the Clarification Decision, the VPRS did not report any difficulty when assessing whether a village where victims suffered relevant harms was considered inside or outside the scope of the conviction.²⁶⁹ The Defence further submits that other than for Kobu and Sangi, which involved a five kilometres issue, the Chamber does not seem to have any difficulty either in this regard.²⁷⁰ Thus, the Defence argues that the VPRS should limit its distance measuring exercise to the issues raised in the Clarification Decision and that the results of this exercise must also be communicated to the Defence.²⁷¹

110. The Chamber concurs with the Defence that the only distances which need to be measured using the five-kilometre method are to determine the extent to which victims' houses burned down 'in or around Kobu' and 'in or around Sangi'.²⁷²

²⁶⁴ Defence Response, ICC-01/04-02/06-2882-Conf, para. 12.

²⁶⁵ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), paras 184(b)-(c).

²⁶⁶ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 185(a).

²⁶⁷ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 24.

²⁶⁸ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 24.

²⁶⁹ Defence Response, ICC-01/04-02/06-2882-Conf, para. 27.

²⁷⁰ Defence Response, ICC-01/04-02/06-2882-Conf, para. 27.

²⁷¹ Defence Response, ICC-01/04-02/06-2882-Conf, para. 27.

²⁷² Clarification Decision, [ICC-01/04-02/06-2630](#), para. 20.

e) Clarification regarding rulings on individual applications

111. The Defence submits that the VPRS is wrong in stating that regarding ‘the eligibility process itself, the Chamber specified that there was no need to rule on the merits of individual applications for reparations.’²⁷³ The Defence argues that this was ‘clearly reversed’ in the Appeals Judgment and states that the merits of all applications for reparations, leading to an award of individual components under collective reparations, must be assessed during the implementation stage’.²⁷⁴ The Chamber rejects this argument. As was stated in the First DIP Decision, because collective reparations were awarded in this case, there is no need to rule on the merits of individual applications for reparations.²⁷⁵ The VPRS therefore only needs to collect information that allows it to make an assessment as to whether the victim is eligible to be accepted into the *Ntaganda* reparations programme.²⁷⁶

f) De novo review of participating victims

112. The VPRS submits that in 2020, it completed a review of 2,121 victims’ dossiers and concluded that 1,460 victims were eligible to receive reparations (the ‘Reassessment Exercise’).²⁷⁷ The VPRS submits that the Reassessment Exercise was of a preliminary nature and that the Chamber has since provided further clarifications on the scope of the conviction in Annex I of the Addendum.²⁷⁸ The VPRS therefore submits that the dossiers of all participating victims should be reassessed *de novo*.²⁷⁹

113. The Defence submits that the VPRS’ proposal to review all 2,121 applications should be rejected.²⁸⁰ The Defence argues that these victims were found ineligible on the basis of the scope of the conviction as set out in the Clarification Decision.²⁸¹

114. The Chamber accepts the VPRS’ proposal to reassess the 2,121 victims *de novo*. The Reassessment Exercise was preliminary in nature and intended to provide an estimate of how

²⁷³ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 18.

²⁷⁴ Defence Response, ICC-01/04-02/06-2882-Conf, para. 18.

²⁷⁵ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 184(c).

²⁷⁶ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 184(c).

²⁷⁷ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 61.

²⁷⁸ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 62.

²⁷⁹ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 62.

²⁸⁰ Defence Response, ICC-01/04-02/06-2882-Conf, para. 44.

²⁸¹ Defence Response, ICC-01/04-02/06-2882-Conf, para. 44.

many victims *may* be eligible for reparations. It was not a definitive ruling as to their eligibility under the current eligibility criteria.²⁸²

g) Postponement of issuance of eligibility determinations

115. The VPRS has identified the ongoing appeals of the Addendum as a challenge to its work.²⁸³ Specifically, the VPRS submits that the appeals may directly affect its work regarding communication with victims and partners, including on the eligibility criteria for victims and the scope of the conviction.²⁸⁴ The VPRS submits that until there is legal certainty on the eligibility criteria, it will be cautious in its communication with victims in order to ensure that their expectations are managed regarding their potential eligibility.²⁸⁵ The VPRS further proposes to ‘postpone the actual issuance of eligibility determinations until a final judicial determination of the eligibility criteria is made’.²⁸⁶

116. The Defence concurs with the VPRS’ proposal to postpone the issuance of eligibility determinations until a final judicial determination of the eligibility criteria is made.²⁸⁷ The Defence explains that it is for this reason that it has asked for suspensive effect of its appeal.²⁸⁸

117. The Chamber rejects the VPRS’ proposal to postpone the issuance of eligibility determinations. The request for suspensive effect has been rejected by the Appeals Chamber and the Chamber will not further delay the implementation of reparations for victims. The Chamber understands the VPRS’ concern with respect to victims’ expectations but expects this to be managed through effective communication. As part of its outreach strategy, the PIOS must communicate to victims that appeals in this case are pending.

h) The provision of VPRS reports on eligibility assessments to the Defence

118. The Defence submits that the VPRS update reports on the results of administrative eligibility assessments should also be addressed to the Defence despite the fact that the Chamber previously ruled that no intervention of the Defence is required regarding the

²⁸² The Chamber recalls the December 2019 Order, in which it instructed the Registry to determine how many of the participating victims ‘*may* potentially be eligible for reparations given the scope of the Judgment’. See Order setting deadlines in relation to reparations, 5 December 2019, [ICC-01/04-02/06-2447](#) (‘December 2019 Order’), para. 9(a) [emphasis added].

²⁸³ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 24.

²⁸⁴ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 24.

²⁸⁵ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 24.

²⁸⁶ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 24.

²⁸⁷ Defence Response, ICC-01/04-02/06-2882-Conf, paras 17, 29, 46.

²⁸⁸ Defence Response, ICC-01/04-02/06-2882-Conf, para. 29.

eligibility determinations that take place during the implementation stage.²⁸⁹ The Defence argues that the implementation of reparations is significant to Mr Ntaganda, considering that he has been ordered to pay reparations in the amount of \$31.3 million USD.²⁹⁰ The Defence submits that while Mr Ntaganda is indigent, the liability determined by the Trial Chamber will ‘remain a live issue for Mr Ntaganda until the entire sum has been raised by the TFV, if ever, and applied to reparations awarded to beneficiaries in this case’.²⁹¹

119. The Chamber rejects this submission and reminds the Defence that it has already ruled on this issue in the First DIP Decision, where it stated that ‘update reports on the results of the administrative eligibility assessment, providing statistics about the positive and negative eligibility determinations, shall be provided to the Chamber by the VPRS’.²⁹² Separately, the VPRS proposes to submit these reports once every four months, which the Chamber accepts.²⁹³ The Chamber notes that the parties do not have a right to respond to these reports unless invited to do so by the Chamber. This is consistent with the Chamber’s direction in the First DIP Decision that the involvement of the Defence and the CLRs concludes with the judicial stage of the reparation proceedings.²⁹⁴

2. Additional information regarding victims who have fled [REDACTED]

120. The VPRS submits that a number of potential beneficiaries have fled [REDACTED]
[REDACTED].²⁹⁵ The VPRS has identified this as a challenge with respect to the identification of potential beneficiaries.²⁹⁶ The Defence requests that the VPRS be ordered to provide more information on their sources regarding the presence of potential victims [REDACTED].²⁹⁷ The Chamber rejects this request as unnecessary. It is the responsibility of the VPRS to identify potential victims in this case and the Defence does not need to be informed of the methods the VPRS employs to locate victims.

3. *Ex-parte* Annex IV

121. The VPRS filed a confidential *ex parte* Annex IV with its submission, which provides an update on the security situation in the DRC and is available only to the Chamber and the

²⁸⁹ Defence Response, ICC-01/04-02/06-2882-Conf, para. 47.

²⁹⁰ Defence Response, ICC-01/04-02/06-2882-Conf, para. 47.

²⁹¹ Defence Response, ICC-01/04-02/06-2882-Conf, para. 47.

²⁹² First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 185(e).

²⁹³ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 74.

²⁹⁴ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), paras 182, 186.

²⁹⁵ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 24.

²⁹⁶ VPRS Annex I, [ICC-01/04-02/06-2878-AnxI-Red](#), para. 24.

²⁹⁷ Defence Response, ICC-01/04-02/06-2882-Conf, para. 25.

Registry.²⁹⁸ The Defence submits that there is no reason why information on the security situation could not be provided to the parties in a confidential annex with limited redactions, if necessary.²⁹⁹

122. In light of the content of the document, the rights of the parties to the reparations proceedings, and the need to ensure fairness and publicity of such proceedings, pursuant to article 75 of the Statute, Rule 96 of the Rules, and Regulation 23bis(3) of the Regulations, the Chamber ordered the Registry to provide further justification for the *ex parte* classification or proceed to request the reclassification of Annex IV either as public or confidential, both with or without redactions.³⁰⁰

123. Pursuant to the Chamber's order, the Registry has since filed a confidential redacted version of Annex IV and provided justifications for the redactions, which the Chamber accepts.³⁰¹ Given that a confidential redacted version of Annex IV has been shared with the Defence, the Chamber considers the Defence's submission on this point moot.

4. Allocation of funding for the reparations programme

124. The Chamber wishes to address the submission of the TFV regarding the funding of the *Ntaganda* reparations programme. Specifically, the TFV states that while the Chamber set out sums of liability for specific categories of harm, these amounts do not correspond directly to what victims receive under the reparations programme.³⁰² The TFV submits that it 'is not bound through implementation to apply these exact amounts to the relevant groups of victims and for the relevant activities, and that it is instead the DIP that determines the forms through which harm is repaired'.³⁰³ The Defence rejects this interpretation and argues that it 'no longer stands' because the Addendum makes specific monetary liability findings for the different harms suffered.³⁰⁴

125. The TFV is correct in its submission that it is not bound by the exact amounts of liability for each category of harm as set out in the Addendum.³⁰⁵ As the Chamber stated in the Addendum, Mr Ntaganda's financial liability for each category of harm is based off estimates

²⁹⁸ VPRS Annex IV, ICC-01/04-02/06-2878-Conf-Exp-AnxIV.

²⁹⁹ Defence Response, ICC-01/04-02/06-2882-Conf, paras 10, 23.

³⁰⁰ Email from the Chamber's Legal Officer, 17 November 2023, at 19:12 hrs.

³⁰¹ Confidential Redacted Annex IV to Registry submission pursuant to ICC-01/04-02/06-2680-Red, 22 November 2023, ICC-01/04-02/06-2878-Conf-AnxIV-Red.

³⁰² TFV Additional Submissions, ICC-01/04-02/06-2877, para. 19.

³⁰³ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 19.

³⁰⁴ Defence Response, ICC-01/04-02/06-2882-Conf, paras 63-64.

³⁰⁵ Addendum, [ICC-01/04-02/06-2858-Red](#), para. 358.

for the cost of running programs and an estimated number of victims.³⁰⁶ Indeed, the number of victims used to calculate liability is not a limit to the number of victims that may come forward to benefit from the award.³⁰⁷ Thus, while the TFCV should endeavour to adhere to the total value assigned to each category of harm, the Chamber understands that some discretion may be necessary depending on how many victims are found eligible and the type and extent of the harm they suffered. The Chamber notes, however, that \$31,229,905 USD is the maximum limit of resources that can be used for the purposes of repairing the harm caused to the victims of the crimes for which Mr Ntaganda was convicted.³⁰⁸

5. Security Assessment

126. In the First DIP Decision, the Chamber instructed the TFCV to undertake a new security assessment closer to the time of implementation of reparations to ensure that they can be carried out safely and will not exacerbate conflict or tensions in the region.³⁰⁹

127. The TFCV submits that the security situation in the DRC is highly volatile given the political instability surrounding the presidential elections as well as the possible departure of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo ('MONUSCO').³¹⁰ The TFCV states that it is an unpredictable environment that could deteriorate rapidly.³¹¹ The TFCV submits that it will conduct a security assessment after the presidential elections and when the conditions of the departure of the MONUSCO, which at the time of the TFCV's submission was currently under discussion, are known.³¹²

128. The Defence states its concern that the TFCV must not only consider the insecurity in Ituri but other factors that could affect security, including an assessment of the majority composition of active militias in Ituri as well as the ongoing crimes committed by these armed groups against civilians.³¹³ The Defence submits that the lack of security assessment at this stage means that the TFCV 'has no strategy in place to implement reparations in a way that will circumvent the active conflict'.³¹⁴

³⁰⁶ Addendum, [ICC-01/04-02/06-2858-Red](#), paras 359-360.

³⁰⁷ Addendum, [ICC-01/04-02/06-2858-Red](#), para. 314.

³⁰⁸ Addendum, [ICC-01/04-02/06-2858-Red](#), para. 314.

³⁰⁹ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), p. 65.

³¹⁰ TFCV Additional Submissions, ICC-01/04-02/06-2877, para. 96.

³¹¹ TFCV Additional Submissions, ICC-01/04-02/06-2877, para. 96.

³¹² TFCV Additional Submissions, ICC-01/04-02/06-2877, para. 97.

³¹³ Defence Response, ICC-01/04-02/06-2882-Conf, para. 57.

³¹⁴ Defence Response, ICC-01/04-02/06-2882-Conf, para. 59.

129. The Chamber approves of the TFV's plan to conduct an assessment when the presidential elections have concluded and once the conditions of the departure of the MONUSCO are understood.³¹⁵ The Chamber once again notes the Defence's concerns regarding the security situation in Ituri and reminds the Defence of its instruction to the TFV that the implementation of any reparations programme must take into account the security situation on the ground at the time. This security assessment should take into account the situation in Ituri, which should include an assessment of all factors that could affect security in the region when the reparations programme is implemented. The Chamber thus maintains its instruction to the TFV to undertake a new security assessment closer to the time of implementation, taking into account the concerns raised by the Defence, to ensure that the implementation of reparations can be carried out safely and will not exacerbate conflict or tensions in the region.³¹⁶

6. Direct payments to education or income generating activity providers

130. In the First DIP Decision, the Chamber ruled that the TFV should direct payments to the relevant service providers for income generating activities ('IGA') and educational activities.³¹⁷ The Chamber stated that where this was not possible, the TFV should create an expense pre-approval or reimbursement regime.³¹⁸

131. The TFV submits that there are several difficulties associated with providing direct payments to service providers.³¹⁹ Specifically, the TFV expresses its concern that the resources the TFV would need to dedicate to implement direct payments to education providers would be higher than providing the beneficiaries with a mobile cash transfer.³²⁰ The TFV also submits that direct payments to IGA providers is unlikely because there are no providers of goods in Ituri who could accept such payments and setting up such a programme would be difficult considering that the providers are unlikely to meet the Court's procurement standards.³²¹ Regarding an expense preapproval/reimbursement regime, the TFV has explained that such a system will not work in Ituri.³²² The TFV explains that it has explored this possibility in the

³¹⁵ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 97.

³¹⁶ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), p. 65.

³¹⁷ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 59.

³¹⁸ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 59.

³¹⁹ TFV Additional Submissions, ICC-01/04-02/06-2877, paras 86-91.

³²⁰ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 88.

³²¹ TFV Additional Submissions, ICC-01/04-02/06-2877, paras 90-91.

³²² TFV Additional Submissions, ICC-01/04-02/06-2877, para. 93.

past, but found that the receipts produced were often unreliable and overcharged or the authenticity of the receipt was doubtful.³²³

132. The Defence submits that the TFV should avoid cash hand-outs as much as possible and favour instead direct payments to the relevant service providers.³²⁴ Where this is not possible, the Defence proposes an expense preapproval/reimbursement regime.³²⁵

133. The Chamber has reviewed the TFV's submissions with respect to the challenges associated with providing direct payments to IGA and education providers. While the Chamber prefers direct payments, it finds merit in the TFV's submissions and thus affords the TFV the discretion to provide money directly to victims for IGA and education programming if direct payments to education and/or IGA providers is unfeasible or would, as in the case of the education providers, cost an unreasonable amount to implement. The Chamber stresses, however, that the TFV should follow a similar approach and implement similar monitoring and an oversight mechanism to those implemented in the *Lubanga* programme, such as the support and monitoring that victims receive regarding IGAs,³²⁶ close monitoring of attendance of schooling by support beneficiaries, and direct payment of university fees.³²⁷ With respect to the issue of an expense preapproval/reimbursement regime, the Chamber notes its ruling above and accepts the TFV's submissions.³²⁸

D. IDIP Update Reports

134. The Chamber takes note of the TFV's Thirteenth to Fifteenth Update Reports and the corresponding Defence observations for the Thirteenth and Fourteenth Reports. The Chamber will hereby address the following issues pertaining to the IDIP's implementation: (i) security concerns; (ii) handover of eligibility determinations; (iii) coordination of handover of outreach to the PIOS; and, (iv) endorsement of eligibility determinations.

1. Security concerns

135. The Chamber takes note of the TFV's updates regarding the 'highly volatile' security situation in the DRC and the TFV's submission that this situation has not posed new or

³²³ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 93.

³²⁴ Defence Response, ICC-01/04-02/06-2882-Conf, para. 73.

³²⁵ Defence Response, ICC-01/04-02/06-2882-Conf, para. 73.

³²⁶ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 90.

³²⁷ See Trust Fund for Victims, *The Prosecutor v. Thomas Lubanga*, Nineteenth progress report on the implementation of collective reparations as per Trial Chamber II's decisions of 21 October 2016, 6 April 2017 and 7 February 2019, 28 November 2002, ICC-01/04-01/06-3544-Red, paras 23-24.

³²⁸ TFV Additional Submissions, ICC-01/04-02/06-2877, para. 93. See para. 56 above.

unforeseen challenges in relation to programme implementation.³²⁹ The Chamber further notes with concern that TFV staff were requested to leave the Country Office in December 2023 due to heightened insecurity surrounding the election period,³³⁰ which the TFV submits has continued after the election.³³¹ The TFV advised that it will monitor the implementation of the IDIP programme from outside the country and would return when the security situation allows.³³² The TFV further reports advances of certain rebel groups in specific area, which has caused increased violence, displacement and demonstrations.³³³ In its observations on the Thirteenth Update Report, the Defence reiterates its concerns regarding the risk of financing or supporting militias.³³⁴

136. The Chamber notes with great concern the insecurity that has resulted in the TFV leaving the Country Office and the advancements of rebel groups in certain areas. At the same time, the Chamber notes the TFV's submissions that the security situation in the areas in which the TFV is currently operating has not posed new or unforeseen challenges in relation to the programme implementation.³³⁵ The Chamber is therefore satisfied that the programme implementation in the IDIP context has continued despite these challenges and expects the TFV to continue to report to the Chamber on the impact of the security situation on the IDIP implementation, and any changes thereof. With respect to the Defence's concerns regarding the indirect financing of armed groups, the Chamber adopts its previous findings that this risk is extremely limited given the type and modalities of reparations ordered in this case.³³⁶

2. Handover of eligibility determinations

137. The Chamber recalls its instruction to the TFV to coordinate with the VPRS to present the Chamber with a working plan for the handover of the eligibility process for the IDIP programme.³³⁷

³²⁹ TFV 15th Update Report, [ICC-01/04-02/06-2893](#), paras 6-7; TFV 14th Update Report, ICC-01/04-02/06-2885-Conf, para. 5.

³³⁰ TFV 14th Update Report, ICC-01/04-02/06-2885-Conf, para. 7.

³³¹ TFV 15th Update Report, [ICC-01/04-02/06-2893](#), para. 5.

³³² TFV 14th Update Report, ICC-01/04-02/06-2885-Conf, para. 7.

³³³ TFV 15th Update Report, [ICC-01/04-02/06-2893](#), para. 5.

³³⁴ Defence observations on the Trust Fund for Victims' Thirteenth Update Report on the Implementation of the Initial Draft Implementation Plan ('Defence Observations on the 13th Report'), 20 October 2023, ICC-01/04-02/06-2874-Conf, paras 4-6.

³³⁵ TFV 15th Update Report, [ICC-01/04-02/06-2893](#), para. 5.

³³⁶ Decision on the TFV's Ninth to Twelfth Update Reports on the Implementation of the Initial Draft Implementation Plan, 31 August 2023, [ICC-01/04-02/06-2868](#), paras 21-23.

³³⁷ Decision on the TFV's Ninth to Twelfth Update Reports on the Implementation of the Initial Draft Implementation Plan, 31 August 2023, [ICC-01/04-02/06-2868](#), para. 27.

138. The Chamber notes that the TFCV continued to conduct the eligibility assessments until 8 December 2023, when the VPRS informed the TFCV that it was now in a position to carry out the eligibility and urgency assessment for the IDIP programming.³³⁸ The Chamber acknowledges the Defence's submission that the eligibility process should have been handed from the TFCV to the VPRS earlier.³³⁹ However, given that the handover has now taken place, the Chamber considers the Defence's submissions moot. The Chamber further notes that it is in the interest of expeditious implementation of reparations for the eligibility assessments conducted by the TFCV and submitted to the Chamber in its Thirteenth and Fourteenth Update Reports to stand.

3. Coordination for the handover of outreach to the PIOS

139. Consistent with its instructions in the First DIP Decision that general outreach should be carried out by the PIOS,³⁴⁰ the Chamber instructed the TFCV to coordinate with the PIOS and present to the Chamber a working plan as to the way in which the handover of the outreach activities, including for the IDIP purposes, would be carried out.³⁴¹

140. The TFCV reports in its Thirteenth Updated Report that consultations between the TFCV, the VPRS and the PIOS have started in relation to outreach-related matters, and that consultations were ongoing at the time of the submission of the Thirteenth Update Report.³⁴² There were no updates regarding the plan for the handover of outreach to PIOS provided in the Fourteenth or Fifteenth Update Reports. The Defence submits that the VPRS should be involved in the handover of outreach activities to the PIOS.³⁴³ The Defence further submits that the VPRS be instructed 'to provide more information regarding the messages that will be transmitted and the broadcast of these messages, including justifications for the selection of locations as well as information on the radio stations used'.³⁴⁴

141. With respect to the Defence's submission that VPRS should be involved in the handover of outreach activities to the PIOS, the Chamber notes that the TFCV has stated that the VPRS has been involved in the consultations.³⁴⁵ With respect to the Defence's submission that

³³⁸ TFCV 15th Update Report, [ICC-01/04-02/06-2893](#), para. 7.

³³⁹ Defence Observations on the 13th Report, ICC-01/04-02/06-2874-Conf, paras 9-16.

³⁴⁰ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), paras 74, 76, 144, 146, 181.

³⁴¹ Decision on the TFCV's Ninth to Twelfth Update Reports on the Implementation of the Initial Draft Implementation Plan, 31 August 2023, [ICC-01/04-02/06-2868](#), para. 34.

³⁴² TFCV 13th Update Report, ICC-01/04-02/06-2873-Conf, paras 34-35.

³⁴³ Defence Observations on the 13th Report, ICC-01/04-02/06-2874-Conf, para. 28.

³⁴⁴ Defence Observations on the 13th Report, ICC-01/04-02/06-2874-Conf, paras. 29.

³⁴⁵ TFCV 13th Update Report, ICC-01/04-02/06-2873-Conf, paras 34-35.

more information is required regarding the message that will be transmitted, including justifications for the selection of locations and radio stations used,³⁴⁶ the Chamber reminds the PIOS of its duty to engage in consultations with the parties, the TFV, the VPRS, the OPCV and the country office.³⁴⁷ As such, the Defence should be consulted regarding prospective messaging. However, the Chamber does not find it necessary for the PIOS to share the details of the justifications for the selection of locations and radio stations used. This information and level of detail falls outside the scope of the consultations described in the First DIP Decision.³⁴⁸ The Chamber notes the Defence's submission that messages may be broadcast to communities that were not mentioned in the Trial Judgment or to communities that are far away from locations for which positive findings were made.³⁴⁹ However, the Chamber notes that victims may have moved from the communities they lived in at the time of the commission of Mr Ntaganda's crimes. As such, the Chamber sees no issue with the messages being broadcast to other communities.

142. The Chamber directs the TFV to provide an update with respect to the handover of outreach from the TFV to the PIOS in its next update report.

4. Endorsement of eligibility determinations

143. The Chamber notes that the eligibility determinations that were transmitted by the TFV to the Chamber in its Thirteenth³⁵⁰ and Fourteenth³⁵¹ Update Reports on the Implementation of the IDIP. In the Thirteenth Update Report, the TFV submitted information regarding 17 victims the TFV had found eligible for the IDIP program for the Chamber's endorsement,³⁵² though notes that two were already found eligible for reparations by the Chamber in the Addendum.³⁵³

³⁴⁶ Defence Observations on the 13th Report, ICC-01/04-02/06-2874-Conf, paras. 29.

³⁴⁷ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 184(a).

³⁴⁸ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para. 184(a).

³⁴⁹ Defence Observations on the 13th Report, ICC-01/04-02/06-2874-Conf, para. 24.

³⁵⁰ TFV 13th Update Report, ICC-01/04-02/06-2873-Conf with TFV 13th Update Report Annex 1, ICC-01/04-02/06-2873-Conf-Exp-Anx1. The 17 victims are: a/00840/13, a/00818/13, a/01502/13, a/00625/13, a/00119/13, a/00022/13, a/00552/13, a/01153/13, a/30365/15, a/00456/13, a/00462/13, a/01218/13, a/01237/13, a/01266/13, a/30002/15, a/30169/15, and a/00904/13.

³⁵¹ TFV 14th Update Report, ICC-01/04-02/06-2885-Conf with TFV 14th Update Report Annex 1, ICC-01/04-02/06-2885-Conf-Exp-Anx1.

³⁵² TFV 13th Update Report, ICC-01/04-02/06-2873-Conf, paras 11-12; TFV 13th Update Report Annex 1, ICC-01/04-02/06-2873-Conf-Exp-Anx1.

³⁵³ The TFV notes that a/00119/13 and a/00552/13 were found eligible in the Addendum. See TFV 13th Update Report, ICC-01/04-02/06-2873-Conf, para. 11, fn. 19.

In its Fourteenth Update Report, the TFV submitted for the Chamber's endorsement information regarding six victims the TFV had found eligible for the IDIP program.³⁵⁴

144. In its Fifteenth Update Report,³⁵⁵ the TFV informed the Chamber that, as noted above, on 8 December 2023 the VPRS informed the TFV that it was in a position to carry out the eligibility and urgency assessment for the IDIP programming moving forward.³⁵⁶ As such, the VPRS, on 23 January 2024, submitted the First VPRS Eligibility Determinations, in which it transmitted simultaneously to the Chamber and the TFV the dossiers of 32 victims found eligible for reparations and priority treatment.³⁵⁷ On 2 February 2024, the VPRS filed the First VPRS Urgent Needs Eligibility Determinations, which complemented the First VPRS Eligibility Determinations, by providing additional information on those victims deemed to have urgent needs.³⁵⁸

145. Pursuant to the First DIP Decision,³⁵⁹ the Chamber hereby endorses the TFV's and VPRS' eligibility determinations filed in the Thirteenth Update Report,³⁶⁰ Fourteenth Update Report,³⁶¹ and the First VPRS Eligibility Determinations.³⁶² The Chamber notes that going forward, the TFV shall submit one update report regarding IDIP and DIP implementation every four months, with the first report to be filed four months from the date of this decision. As noted above,³⁶³ the Chamber also instructs the VPRS to file its report on the eligibility determinations every four months, with the first report to be filed four months from the date of this decision.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY,

APPROVES the TFV's proposal in the Updated DIP to hire a consultant specialised in gender-sensitive programming, as described in paragraphs 37 of the present Decision;

³⁵⁴ TFV 14th Update Report, ICC-01/04-02/06-2885-Conf, paras 10, 15-16; TFV 14th Update Report Annex 1, ICC-01/04-02/06-2885-Conf-Exp-Anx1. The six victims are: a/20406/14, a/00633/13, a/00893/13, a/00916/13, a/00903/13, and a/00210/13.

³⁵⁵ Confidential Trust Fund for Victims' Fifteenth Update Report on the Implementation of the Initial Draft Implementation Plan (TFV 15th Update Report), 12 February 2024, [ICC-01/04-02/06-2893](#).

³⁵⁶ TFV 15th Update Report, [ICC-01/04-02/06-2893](#), para. 7.

³⁵⁷ First VPRS Eligibility Determinations, [ICC-01/04-02/06-2890](#).

³⁵⁸ VPRS Urgent Needs Eligibility Determinations, [ICC-01/04-02/06-2891](#).

³⁵⁹ First DIP Decision, [ICC-01/04-02/06-2860-Red](#), para 185(f).

³⁶⁰ TFV 13th Update Report, ICC-01/04-02/06-2873-Conf; TFV 13th Update Report Annex 1, ICC-01/04-02/06-2873-Conf-Exp-Anx1.

³⁶¹ TFV 14th Update Report, ICC-01/04-02/06-2885-Conf, paras 10, 15-16; TFV 14th Update Report Annex 1, ICC-01/04-02/06-2885-Conf-Exp-Anx1.

³⁶² First VPRS Eligibility Determinations, [ICC-01/04-02/06-2890](#); VPRS Urgent Needs Eligibility Determinations, [ICC-01/04-02/06-2891](#).

³⁶³ See para. 119 above.

DIRECTS the TFV to provide the Chamber with the additional information detailed in paragraphs 29 and 65 of the present Decision in its next status report, which should be filed four months from the date of the present Decision and include DIP and IDIP implementation updates in one report;

DIRECTS the TFV to provide the Chamber with the additional information detailed in paragraphs 54 and 68 when new information is available to the TFV;

DIRECTS the VPRS to file its next report on the eligibility determinations four months from the date of the present Decision;

MAINTAINS its instruction to the TFV to undertake a new security assessment closer to the time of implementation of reparations to ensure that they can be carried out safely; and

DIRECTS the parties, the TFV, and the Registry to review their underlying submissions and either file public redacted versions, request the reclassification as public, or justify the need to maintain the current classification as confidential, if applicable, within five days from the notification of the present Decision.

Done in both English and French, the English version being authoritative.



Judge Chang-ho Chung, Presiding Judge



Judge Péter Kovács



Judge María del Socorro Flores Liera

Dated this 27 February 2024

At The Hague, The Netherlands