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TRIAL CHAMBER II

Before: Judge María del Socorro Flores Liera, Presiding Judge
Judge Kimberly Prost
Judge Nicolas Guillou

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

IN THE CASE OF

THE PROSECUTOR v. THOMAS LUBANGA DYILO

PUBLIC

Public redacted version of “Trust Fund for Victims’ First Update Report on the implementation of reparations for former child soldiers and for victims of the attacks, including for victims in urgent needs, in the *Lubanga* and the *Ntaganda* cases”, submitted on 28 June 2024, ICC-01/04-01/06-3568-Conf-Exp

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I. INTRODUCTION

1. This update report pursuant to regulation 58 of the Regulations of the Trust Fund for Victims (“TFV”) covers reparations related activities in the Democratic Republic of Congo (“DRC”), in relation to the cases of *The Prosecutor v. Thomas Lubanga* (“*Lubanga case*”) and *The Prosecutor v. Bosco Ntaganda* (“*Ntaganda case*”), from 12 February 2024 onwards.

2. Given the two different victim populations in the *Ntaganda case* – the former child soldiers and the victims of the attacks – and the overlap of one of these victim populations – the former child soldiers – in the *Lubanga case* and the *Ntaganda case*, the structure of this report is guided by the status of implementation of three different TFV programmes as follows:

- i. the implementation of reparations measures for former child soldiers in the *Lubanga* and *Ntaganda* cases through the Former Child Soldiers Programme,
- ii. the implementation of reparations measures for victims of the attacks in the *Ntaganda* case through the Victims of the Attacks Programme;
- iii. the implementation of initial reparations measures for priority victims (former child soldiers and victims of the attacks) in urgent needs in the *Ntaganda case*; and
- iv. other programme support activities conducted during the reporting period.

II. CLASSIFICATION OF THE REPORT

3. The present update report is classified as confidential, in line with underlying decisions and filings.¹ It also contains sensitive information related to the TFV’s and the Court’s operations that ought to remain confidential for the time being. A public redacted version will be filed without undue delay.

¹ See in particular, Second Decision on the Trust Fund for Victims’ Draft Implementation Plan for Reparations, 27 February 2024, [ICC-01/04-02/06-2894-Conf](#) (“*Ntaganda* Second Decision on DIP”).

III. BACKGROUND AND PROCEDURAL HISTORY

4. In the *Ntaganda* case, on 24 March 2022, the TFV submitted a second version of its draft implementation plan for reparations (“DIP”).²

5. On 12 February 2024, the TFV submitted its Fifteenth Update Report on the Implementation of the Initial Draft Implementation Plan (“*Ntaganda* Fifteenth Update Report”).³

6. On 27 February 2024, the Trial Chamber, issued its Second Decision on the Trust Fund for Victims’ Draft Implementation Plan for Reparations (“Second Decision on the DIP”), in which, it directed, *inter alia*, the TFV to file its first update report within four months from the date of the decision and that it includes information concerning progress made in relation to both the implementation of reparations in general and the implementation of reparations for victims in urgent needs.⁴

7. In the *Lubanga* case, on 6 March 2024, the TFV submitted its Twenty-fourth progress report on the implementation of collective reparations (“*Lubanga* Twenty-fourth Update Report”),⁵ in which it requested to report jointly on progress made in the implementation of reparations in the *Ntaganda* and *Lubanga* cases and amend the reporting schedule accordingly.⁶

² Trust Fund for Victims’ second submission of Draft Implementation Plan, 24 March 2022, [ICC-01/04-02/06-2750-Red-Corr](#), with [Annex 1](#). A public redacted version is available : [ICC-01/04-02/06-2750-Anx1-Red-Corr](#) (“*Ntaganda* DIP”). Following the issuance of the Addendum to the Reparations Order on 14 July 2023 (*Ntaganda* Addendum to the Reparations Order of 8 March 2021, 14 July 2023, [ICC-01/04-02/06-2659](#)), the TFV submitted supplementary information (Trust Fund for Victims’ Submission of Additional Information on the Draft Implementation Plan, 3 November 2023, [ICC-01/04-02/06-2877-Conf](#), with two confidential annexes). A public redacted version is available: [ICC-01/04-02/06-2877-Red](#) (“*Ntaganda* Additional Submission on DIP”).

³ Fifteenth Update Report on the Implementation of the Initial Draft Implementation Plan, 12 February 2024, [ICC-01/04-02/06-2893](#), page. 48.

⁴ *Ntaganda* Second Decision on DIP.

⁵ Twenty-fourth 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 and request to amend the reporting schedule to the Trial Chamber, 6 March 2024, [ICC-01/04-01/06-3653-Conf Exp](#) (“*Ntaganda* Twenty-fourth Update Report”).

⁶ *Ntaganda* Twenty-fourth Update Report, paras. 28-31.

8. On 5 April 2024, the Single Judge granted the request and directed that the upcoming consolidated reports be filed in the case record of both cases (“Decision on Amended Reporting Schedule”).⁷

9. The TFV hereby submits its first update report pursuant to Regulation 58 of the Regulations of the Trust Fund for Victims. It is submitted pursuant to: (i) in the *Lubanga* case, the decision of 21 October 2016 approving the programmatic framework for collective symbolic reparations as submitted by the TFV,⁸ Trial Chamber II’s decision of 6 April 2017 approving the programmatic framework for service-based collective reparations as submitted by the TFV,⁹ and Trial Chamber II’s decision of 7 February 2019 approving the TFV’s proposal in relation to the process for locating new applicants and determining their eligibility,¹⁰ and the Decision on Amended Reporting Schedule;¹¹ and (ii) in the *Ntaganda* case, the decision approving the Initial Draft Implementation Plan (“IDIP”)¹² and the Second Decision on the DIP.¹³

IV. IMPLEMENTATION OF REPARATIONS FOR FORMER CHILD SOLDIERS

10. The reparations for former child soldiers, as developed in the *Lubanga* case and as made available for this category of victims identified in the context of the *Ntaganda* case consist of two main programmes: (i) collective service-based reparations; and (ii) symbolic reparations.

⁷ Thirteenth Decision on the Trust Fund for Victims’ administrative decisions on applications for reparations and additional matters, 5 April 2024, [ICC-01/04-01/06-3567](#).

⁸ Order approving the proposed plan of the Trust Fund for Victims in relation to symbolic collective reparation, 21 October 2016, [ICC-01/04-01/06-3251](#).

⁹ Order approving the proposed programmatic framework for collective service-based reparations submitted by the Trust Fund for Victims, 6 April 2017, [ICC-01/04-01/06-3289](#).

¹⁰ Decision Approving the Proposals of the Trust Fund for Victims on the Process for Locating New Applicants and Determining their Eligibility for Reparations, 7 February 2019, [ICC-01/04-01/06-3440-Red-tENG](#).

¹¹ Thirteenth Decision on the Trust Fund for Victims’ administrative decisions on applications for reparations and additional matters, 5 April 2024, [ICC-01/04-01/06-3567](#).

¹² Decision on the TFV’s initial draft implementation plan with focus on priority victims, 23 July 2021, [ICC-01/04-02/06-2696](#).

¹³ Ntaganda Second Decision on the DIP, para 145.

11. Of the USD 10 million of liability of Mr Lubanga, USD 500,000 were allocated to the symbolic reparations, while the rest is dedicated to collective service-based reparations.¹⁴

A. Background

12. Pursuant to the reparations proceedings in the *Lubanga* and in the *Ntaganda* cases, former child soldiers and their relatives as well as other categories of indirect victims are entitled to the same reparations, regardless of the case – *Lubanga* or *Ntaganda* – in which they were identified. Indeed, in the Reparations Order issued in the *Ntaganda* case, the Trial Chamber found that, in light of the overlap between the two cases,¹⁵ “[t]he reparation programmes implemented in the *Lubanga* case, which comprehensively repair the harm caused to the overlapping direct and indirect victims of both cases, should be understood to repair the victims’ harm on behalf of both, Mr Lubanga and Mr Ntaganda”.¹⁶

13. Two additional aspects were added to the scope of reparations in the *Lubanga* case through the *Ntaganda* case, insofar as former child soldiers are concerned. First, Mr Ntaganda was additionally convicted of rape and sexual slavery against female UPC/FPLC members under the age of 15 years old. Specific measures shall be tailored to address the specificity of the harm they suffered,¹⁷ and of that of the children born out of rape or sexual slavery who were recognized as

¹⁴ These amounts do not include programme support costs. Programme support costs do not come from the amount of liability and are raised separately by the TFV in the *Lubanga* case. See *Notification en vertu de la règle 56 concernant la requête de complément*, 2 October 2018, ICC-01/04-01/06-3422, *Notification additionnelle en vertu de la règle 56 concernant la requête de complément*, 12 December 2018, ICC-01/04-01/06-3432 and Seventeenth 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, 4 May 2022, [ICC-01/04-01/06-3533](#). Since this submission more funds were raised and allocated. A detailed submission on this topic will be made in due course.

¹⁵ It is recalled that in the *Lubanga* case, Trial Chamber II found that Mr Lubanga was liable for reparations at the sum of USD 10,000,000 for the harm caused to former child soldiers conscripted, enlisted and used within the UPC/FPLC on the territory of Ituri between 1 September 2002 and 13 August 2003. The Chamber ordered a combination of collective reparations with individualized components as well as symbolic reparations. In the *Ntaganda* case, Trial Chamber II found that Mr Ntaganda was liable for reparations of the total sum of USD 31, 229 905 for the crimes committed against so-called victims of the attacks (discussed in greater details below) and for the former child soldiers conscripted and enlisted between 1 September 2002 and 13 August 2003 and used between approximately 6 August 2002 and 30 May 2003, within the UPC/FPLC on the territory of Ituri.

¹⁶ Reparations Order, 8 March 2021, [ICC-01/04-02/06-2659](#), paras 220-212 (“*Ntaganda* Reparations Order”). This ruling was not affected by the appeal.

¹⁷ *Ntaganda* Reparations Order, par. 119. This ruling was not affected by the appeal.

direct victims.¹⁸ Second, the Trial Chamber recognized transgenerational harm for all children of direct victims, provided that they can establish the existence of such harm.¹⁹

1. Overview of the collective service-based reparations programme

14. Collective service-based reparations are implemented with the support of Ituri-based TFV partner [REDACTED]. While the TFV sometimes implements directly the measures ordered by the Trial Chamber (for instance in the case of *The Prosecutor v. Germain Katanga* or the individual reparations in the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi*), in the present case the TFV has elected to work with partners. This decision is based on a number of factors, in particular the wide geographic scope of action (the entirety of the territory of Ituri) as well as the fact that some of the areas are not accessible to Court's staff members and the high degree of specialisation required to provide certain measures (such as medical and psychiatric treatment).

15. Collective service-based reparations are implemented with the support of Ituri-based TFV partner [REDACTED]. The TFV however remains involved on a daily basis in the implementation process. The TFV works with the partners in ensuring that services with reparative value are delivered to the victims.²⁰

16. The collective service-based reparations programme started in 2021 and is scheduled to finish by 2026. It consists of a holistic care system awarded to victims found eligible, covering medical support, psychological support, as well socio-economic support. [REDACTED] and the TFV are providing those services to any victims residing in any of the five territories of the Ituri Province, by relying on a network of partners such as hospitals, *centres de santé*, training centres, etc.

17. To receive reparations, victims undergo an intake/enrolment phase which encompasses an initial in-depth individualised assessment to determine the needs of the beneficiary in terms of

¹⁸ *Ntaganda* Reparations Order, para. 129 This ruling was not affected by the appeal.

¹⁹ *Ntaganda* Reparations Order, para. 73. This aspect was contested on appeal but the Trial Chamber maintained its ruling in the *Ntaganda* Addendum to the Reparations Order (See, *Ntaganda* Addendum, paras. 196-197).

²⁰ See in this regard, in the *Lubanga* case, the *Rapport final des Représentants légaux des victimes V01* ("*Lubanga* V01 Final Report"), 27 March 2024, [ICC-01/04-01/06-3566](#), paras 40-43.

rehabilitation, as well as the preferences of the beneficiary.²¹ This phase is essential to ensuring the satisfaction of the victims with the measures received. During the intake a personal plan is drawn with the victims, with the services they will receive as well as the dates they will benefit from it. They are also provided with a phone so that they can remain reachable and telephone numbers that they can reach for any questions concerning the programme are shared with them. Two telephone numbers can be used to reach TFV.²² Following the assessment, the beneficiary may start immediately receiving tailored psychological or physical treatment depending on the level of harm or urgency.

18. Enrolment takes place on a rolling basis depending on the availability of updated contact information of the victims and the capacity of the implementing partner. As soon as the implementing partner receives the updated contact information regarding a new batch of beneficiaries, they contact them without delay to schedule a meeting to provide them information about the intake. Upon intake, victims receive a schedule for the upcoming meetings and treatments.²³

19. While receiving medical and psychological treatment or attending training, beneficiaries may also receive financial support to meet immediate needs and as a way to compensate transportation costs and the caused loss of earnings. Treatment is organised as closely as feasible to victims' locations. More complicated treatment may require transfer to facilities within or outside of Ituri Province, DRC. In cases requiring treatment limiting the ability of beneficiaries to care for themselves, transfers to suitable care facilities are arranged with adequate financial support, as required. During the entire duration of the treatments, regular coordination meetings take place between the various professionals to ensure the proper roll-out and holistic nature of the care provided. Before the closure of a case, the professionals involved in the treatment of the

²¹ Until 2023, prior to being referred to the partner, beneficiaries were informed of this upcoming contact with the implementing partner by their LRV. With the amendment to the role of the LRV (Twelfth decision on the TFV's administrative decisions on applications for reparations and additional matters, [ICC-01/04-02/06-3558](#), para. 19), updated contact information has been provided by the LRV and the TFV is now tasked with ensuring this first contact with the implementing partner.

²² See in this regard, *Lubanga* V01 Final Report, paras 15-18 and 19-20.

²³ See *Lubanga* V01 Final Report, paras 19-20 and paras 34-35 and 39.

patient meet to ensure that the case can be closed. In some complex cases, or when the victim has complained, second opinions are sought before closing the cases.²⁴

20. Support for education (schooling and university) starts in parallel to medical and psychological treatment. Other socio-economic measures commence only as soon as medical practitioners determine that the beneficiary is physically and mentally fit. Once socio-economic activities conclude, the service is considered completed. However, beneficiaries are met periodically for a period of three months to monitor the use of the income generating activities and provide them with support when required. After the third month, support is provided for the length of the project based on requests made by the beneficiary to the project team. Beneficiaries are always provided information on the possibility to make use of the *mutuelles de solidarité* (“MUSO”) but experience have shown that they often elect not to participate therein.²⁵ The TFV ultimately always respects the choice made by the victim.

21. Throughout the process, the TFV and the implementing partner monitor the effectiveness of the rehabilitative activities and adopt, where needed, remedial measures.

22. The same services are to be implemented for former child soldiers found eligible in the *Ntaganda* case, with the additional consideration of harm suffered as a result of the SGBV crimes and transgenerational harm, as well as certain additional measures as proposed in the DIP and approved by the Trial Chamber, set out below in section D.

2. Overview of symbolic reparations

23. Symbolic reparations are implemented by the TFV together with its Ituri-based partners [REDACTED] and [REDACTED] since October 2021, and are currently set to conclude by September 2024. They are organised around two pillars: (i) the construction of symbolic structures, in the form of memorialisation centres aimed at hosting various communal activities of symbolic nature; and (ii) the development of mobile memorialisation initiatives in

²⁴ See *Lubanga* V01 Final Report, paras 23-26.

²⁵ See *Lubanga* V01 Final Report, paras 30-31.

communities that will promote awareness raising of the crimes and resulting harms, reintegration, reconciliation, and memorialisation.

24. The location of the commemorative community centres was determined through four rounds of community consultations, taking into account various criteria, such as whether the community was particularly affected by the conscription, enlistment and use of child soldiers. Ultimately, it was decided that four centres would be built in respectively Katoto, Mahagi, Rwampara, and Tchomia.

25. The construction of the centres started in 2023 and is set to conclude shortly. In order to ensure the sustainability of the measures, as well as ownership by the communities, local committees were set up to ensure oversight on the construction and to ultimately manage the centres upon completion of the construction.

26. In parallel, the programme includes awareness raising activities in Bunia and throughout the Irumu territory (in particular in Rwampara and Bogoro), Djugu territory (in particular in Katoto, Mandro and Tchomia) and the Mahagi territory. These activities aim at raising awareness and address the existence of stigmatisation on former child soldiers. They also consist in thematic workshops on the consolidation of peace, social cohesion and non-repetition of the recruitment of children under 15 years and their use in armed hostilities.

27. So far, 37 sessions of community mediation took place throughout the territories to promote the peaceful resolution of conflict arising out of the stigmatisation of former child soldiers by their families and communities. 105 community therapy sessions were rolled out towards victims, their families and their communities, as well as 58 sessions of community dialogues. Lastly, over the years, various educational messages on peace, living together, peaceful cohabitation etc. were broadcast in Ituri by five community radio stations.

B. Update report on implementation of collective service-based reparations for former child soldiers

28. The present update covers activities that took place since 7 March 2024.²⁶

29. To date, 1,324 out of the 2,471 victims found eligible by the Trial Chamber in the *Lubanga* case, have been enrolled in the Former Child Soldiers Programme.

30. During the reporting period, 171 new beneficiaries were enrolled in the programme.

31. The implementing partner continues efforts to establish contact with victims who remained unreachable over the past reporting period(s), notably by intensifying the follow-up calls, which are now carried out weekly.

1. Progress concerning mental health and physical care

1. Mental health care

32. During the reporting period, 150 new beneficiaries were enrolled into and began to receive psychological care, bringing the total number of victims cared for since the start of the programme to 1,305. Mental healthcare is provided by professionals (psychologists or psychiatrist depending on the type of treatment required) and can take various forms, including mediation, depending on the diagnosis.²⁷ Five beneficiaries were found eligible to benefit from additional services of family mediation.

2. Physical health care

33. During the reporting period, 125 beneficiaries were enrolled into physical care and started receiving at least one kind of physical health service, including medical diagnosis, bringing the total number of victims cared for since the start of the project to 1,290. In total so far, 644 victims benefitted from primary care, while 201 benefitted from secondary care and 111 benefitted from

²⁶ As anticipated in the *Lubanga* Twenty-fourth Update Report, para. 30, the next report will only cover activities implemented during quarter two of 2024.

²⁷ See *Lubanga* V01 Final Report, paras 21-22.

both. A total of 40 individuals benefitted from specialist care (prosthesis and surgery). 264 beneficiaries are receiving treatment for chronic diseases that arose out of what they endured in the militia including referrals to functioning government supported health programmes for specific chronic diseases like HIV/AIDS.²⁸

2. Progress concerning socio-economic rehabilitation

34. The component of socio-economic rehabilitation starts with the provision of a lump sum that allows the beneficiaries the necessary financial support to attend a vocational training and literacy course, as applicable. A kit for the training is made available to the victim. Once the training ends and beneficiaries are ready to develop a business plan and receive advice, they are guided through the start of their income generating activities and receive a kit and a cash grant for the first year of implementation. The cash grant is the same for all beneficiaries. The direct guidance of the implementing partner continues for a minimum of three months. The advice and support of the implementing partner remains accessible to the beneficiaries thereafter for the duration of the programme. Progress is reported in relation to i) vocational training, ii) income-generating activities; and iii) educational support.

a) Trainings offered (basic training and vocational training): results and new methodological approach

35. Beneficiaries are free to choose between two types of training: (i) a basic training, which lasts only 10 days and that provides them with basic skills such as book-keeping and accounting and is recommended only for victims who already exercise an income generating activity and do not wish to undergo a vocational training; or (ii) a full-fledged vocational training, which lasts between two to four months and that enables them to develop a new specific skill (for instance tailoring, cooking, carpentry etc). Prior to making a choice, each beneficiary benefits from personalised counselling, taking into account their ambitions, current situation, ability and results from the market research conducted by the implementing partner.²⁹

²⁸ See *Lubanga* V01 Final Report, paras 23-26. Chronic diseases such as high blood pressure or else are addressed.

²⁹ See *Lubanga* V01 Final Report, paras 27-29.

36. During the reporting period, 320 beneficiaries benefitted from either the basic training or the more developed one. In total, 1178 benefitted from training between the start of the project and the end of the reporting period.

37. As already indicated in the previous update report in the case *Lubanga*, the TFV and its implementing partner are now using a new methodology (GERME) developed by the International Labour Organisation³⁰ to reinforce the capacities of the beneficiaries in ensuring the sustainability of the business they develop.

ii) Income-generating activities

38. During the reporting period, 139 beneficiaries, who were ready to develop a business plan and receive advice, were guided through the start of their income-generating activities and received a cash grant to help them set up a business.

39. This brings the total number of beneficiaries having benefitted from the cash grant to set up their income generating activities to date to 949 beneficiaries.

iii) Educational support

40. So far, 1285 beneficiaries benefitted from educational support for two children each (in total 2572 children) and 265 beneficiaries or their close family members (spouse or biological child) are benefitting from support for three-years of university studies.

3. Indirect victims

41. In the *Lubanga* and the *Ntaganda* case, the chambers recognised the harm suffered by indirect victims. In the *Lubanga* case that became the basis for the relevant reparations principles, individuals belonging to one of the following four categories were recognised as indirect victims: (i) family members of direct victims, (ii) anyone who attempted to prevent the commission of one or more of the crimes under consideration, (iii) individuals who suffered harm when helping

³⁰ For more information, on GERME (SYIB in English), see for instance, this [guide](#) (last consulted on 24 June 2024).

or intervening on behalf of direct victims, and (iv) other persons who suffered personal harm as a result of these offences.³¹

42. So far, the TFV has prioritised providing reparations to the direct victims. In the next phase of implementation, indirect victims will start receiving their reparations as well. The TFV will provide reparations to indirect victims in the following way through its implementing partner [REDACTED].³²

43. Parents who lost their child before the child could be found eligible by the Court; victims who attempted to prevent the commission of the crime; and intervening victims will receive the same reparations and be subject to the same process as direct victims. Where both parents were found eligible, only one of the parents will be treated in the same way as the direct victim, the other parent (and potential siblings) as indirect victims.³³

44. All other indirect victims, *i.e.* foremost family members of direct victims who returned after spending time in the militia, will benefit from a personalised intake and will thereafter get access to appropriate and tailored psychological support.

4. Contact with new beneficiaries

45. The TFV is contacting new victims, primarily based on the updated contact information provided by the different teams of legal representatives before ending their mandate in line with the Trial Chamber's instruction. During the reporting period, the Office of Public Counsel for Victims handed over a list of 209 direct and indirect victims found eligible in the Lubanga case. The TFV is in the process of ensuring their intake in the programme, which should be completed shortly. During this contact, beneficiaries are explained the next steps and provided with a timeline for their first contact and intake with the partner.³⁴

³¹ *Lubanga* Amended Reparation Order, Annex A, 3 March 2015, ICC-01/04-01/06-3129 A1, A2, A3, para. 6. See also *Ntaganda* Reparations Order, *paras* 124-128. These findings were not affected by the appeal.

³² See *Lubanga* V01 Report, para. 33.

³³ This is different from the process of succession described in *Ntaganda* DIP, para. 399.

³⁴ See also *Lubanga* V01 Final Report, paras 15-17.

C. Update report on implementation of symbolic reparations for former child soldiers

46. In relation to the first component of the symbolic reparations, i.e. the construction of the centres, the building in Rwampara, is nearly fully constructed (80% complete), as the roofing, tiling, and painting are being finalized. In Mahagi and Tchomia, the works are 65% complete, with roofing, tiling, and painting remaining. Lastly, in Katoto, the works are 45% complete. The wall construction is finished, and the roofing structure is in progress. All centres should be fully built by 31 August 2024, after which handover ceremonies to the communities will take place.

47. The second component of the symbolic reparations, i.e. awareness-raising activities, intensified during the reporting period, in order to reach the maximum audience. To this end, 45 programmes and 18 radio spots were produced and broadcast in French and local languages by three radio stations, including two in Bunia ([REDACTED]), which cover the Irumu territory (Bunia, Rwampara, Kotoni, and Bogoro) as well as some sites in Djugu including Katoto and Mandro. A magazine to raise awareness on the impact of stigmatisation on former child soldiers and to inform about the purpose and intended use of commemorative community centres was produced and disseminated broadly. It is expected that the creation of some of the community centres provides employment opportunity for former child soldiers, in particular in Rwampara and Mahagi.

48. Additionally, during the reporting period, the TFV and its partners organised thematic workshops on the consolidation of peace, social cohesion and the non-repetition of the recruitment of children under 15 years and their use in armed hostilities. These activities were organised with the support of the local committees established to monitor and provide advice in relation to the constructions and reached an estimated audience of 4,253 people. The support of the local committees has proven critical in ensuring that remote locations surrounding the localities in which the project is being carried out are reached as well, which is essential to promoting understanding, participation and ownership of the commemorative community centres by the whole community.

D. Update report on implementation of measures specific to the *Ntaganda* case

49. *Development of specific reparations measures to address specific forms of harm arising out of sexual and gender-based crimes* – as Mr Ntaganda was also convicted of rape and sexual slavery against female UPC/FPLC members under the age of 15 years old, the existing reparations programme must be enhanced to ensure that this specific harm is properly considered and addressed when providing reparations to victims.

50. To that end, the TFV is in the process of including expert inputs on this matter³⁵ in order to: (i) evaluate the services by the victims who already benefitted from part of all the reparations measures to identify potential gaps and additional measures to be developed; and (ii) advise the TFV and its partners on the development of specific measures.

51. *Apology* – The common legal representative of the former child soldiers and the common legal representative of the victims of the attacks consulted their clients on the issue of an apology. [REDACTED]

52. In light of the positions expressed, the TFV will ensure that the modalities of the apology are explored, including with Mr Ntaganda, developed and reported on, at an appropriate point in time. The TFV considers, based on the concerns expressed by the victims, that the conditions for new consultations will exist only after the programmes are in place for both groups of victims, i.e. the former child soldiers and the victims of the attacks.

53. *Socio-economic starter sum* – in relation to the socio-economic starter sum, the Trial Chamber ruled that, “unless the TFV is prepared to provide the same socio-economic starter sum to all *Lubanga* victims, the proposal should be rejected”.³⁶ In fact, it is and has been the TFV’s intention to provide the same starter-sum to all victims, including victims identified through the *Lubanga* case.³⁷ For the sake of clarity, the TFV envisages to deliver a starter sum for all victims found eligible, whether they are a former child soldier or a victim of the attack and whether they were

³⁵ In compliance with the ruling of the Chamber, see *Ntaganda* Second Decision on the DIP, para. 37.

³⁶ *Ntaganda* Second Decision on the DIP, paras 24-25.

³⁷ This is in line with the TFV’s prior submissions on the topic: See *Ntaganda* DIP, paras 182-185; *Ntaganda* Additional Submissions to DIP, paras. 40-42.

identified and found eligible through the *Lubanga* case or *through* the *Ntaganda* case. The TFV refers to its prior submissions on the appropriateness and added value of the socio-economic starter sum³⁸ and clarifies once more that all victims found eligible through the *Lubanga* case would benefit from it. The TFV has already worked on the appropriate methodology to roll-out such measure and will report to the Trial Chamber in its next update report about progress made..

54. *Lump sum in lieu* – the TFV has initiated internal consultations on the determination of the appropriate lump sum to pay *in lieu* of receiving services for victims outside of Ituri. Such payment will be carried out with the support of the implementing partner and will start being processed during the fourth contractual year starting as of September 2024.

55. *Transgenerational harm* – in the *Ntaganda* case, the Trial Chamber recognised that children of direct victims who claim to have suffered transgenerational harm will be eligible if they can prove that they suffered of such harm .³⁹ Accordingly, should a victim be found eligible on this account, the TFV will provide them with reparative measures, to address their harm through psychological and/or or psycho-social support.

56. It is recalled that children of direct victims who were born out of rape or sexual slavery are considered direct victims. Accordingly, they will not only benefit from psychological support but also from the other components of the programme available to the direct victims.

E. Steps to be taken and expected timeline⁴⁰

57. As set out above, the programmes with [REDACTED] and [REDACTED]/[REDACTED] in the context of the *Lubanga* case, which is now encompassing the Former Child Soldiers Programme relevant to both the *Lubanga* and the *Ntaganda* cases, started providing reparations measures in 2021.

³⁸ *Ntaganda* DIP, paras 182-185; TFV Additional Submissions, *Ntaganda* Additional Submissions to DIP, 40-42.

³⁹ *Ntaganda* Reparations Order, paras; 71-72 and 183(d)(iv); *Ntaganda* Addendum to the Reparations Order, paras 196-197.

⁴⁰ *Ntaganda* Second Decision on the DIP, para. 65.

58. The contract in place with [REDACTED] currently foresees that the Former Child Soldiers Programme will end in August 2026. Extension of the implementation period (and other amendments to the contract) can be sought insofar as consonant with the legal framework applicable, in particular the Court's Financial Rules and Regulations. In September 2024, the contract will enter its fourth year of implementation.

59. By September 2024, all direct victims identified through the *Lubanga* case will have been contacted and would have gone through the intake process so that services can be rolled out for them in the ensuing fourth contractual year. Accordingly, victims identified in the *Ntaganda* case will ideally be contacted for intake in the last quarter of 2024 with a priority on direct victims, given the duration of some of the services, of which direct victims can benefit.

60. In relation to the additional services to be provided to victims of sexual and gender-based crimes, victims identified through the *Ntaganda* case and victims identified through the *Lubanga* case who will only be enrolled in the coming weeks will immediately benefit from them, while beneficiaries of the *Lubanga* case will be contacted on a rolling basis to ensure that the reparations received has been comprehensive and has been addressing this specific harm.

61. This process of integrating victims identified through the *Ntaganda* case, increasing the level of services for sexual- and gender based violence and monitoring such services, providing support to transgenerational harm victims, and ensuring payment of the socio-economic starter sum as well as *in lieu* payment for victims outside of Ituri Province, will raise the costs of the programme beyond the contract value currently foreseen and may require a limited extension in time of the contract duration.

62. In sum, the TFV assesses that the Former Child Soldiers Programme will likely come to a close by the end of 2026, with residual measures likely continuing beyond that to ensure that any remaining newly identified victims and victims who could not be contacted during the contractual period but who were found to be eligible, will be included in the programme.

63. As reported above, the symbolic reparations are carried out with partner [REDACTED]/[REDACTED] and are intended to address communities where (represented and

unrepresented) former child soldiers have been extensively recruited in 2002/2003 to raise awareness and address the stigmatisation suffered by former child soldiers. The programme is currently set to end by September 2024. Any measures taken since 2021 in this programme therefore form part of the Former Child Soldiers Programme.

64. Concerning the budget, the TFV is currently in a position to continue providing all services planned for the entire duration of the fourth contractual year (until August 2025).

65. In order to ensure provision of reparations to all victims as currently estimated to be found eligible and conclude the Former Child Soldiers Programme, the TFV is yet to raise more than USD 2 million. In this regard, the TFV recalls the cost assessments made to ensure the proper roll-out of the Former Child Soldiers Programme for all victims identified through the *Lubanga* case and the *Ntaganda* case, including the additional services to be provided as a result of the *Ntaganda* case (measures to address the specific harm arising of sexual and gender-based violence and socio-economic starter sum). The TFV had estimated that around USD 11.8 to 12.5 million would be required to repair all direct and indirect victims falling within the Former Child Soldiers Programme.

V. IMPLEMENTATION OF REPARATIONS FOR VICTIMS OF THE ATTACKS

66. The second group of victims in the case *Ntaganda* concerns the group of victims of the attacks by the UPC/FPLC, which is estimated by the Trial Chamber to consist of about 7,500 victims, including indirect victims.⁴¹

A. Background

67. Unlike former child soldiers whose harm was already recognised in the *Lubanga* proceedings, the *Ntaganda* case marks the first time that the harm suffered by predominantly Lendu victims of the attacks is recognised by the Court. So far, no reparation had been ordered for them and therefore no programme is readily available to provide them with reparations. As

⁴¹ *Ntaganda* Addendum to the Reparations Order, para. 343.

described below, at this stage, only victims of the attacks in urgent needs benefit from initial reparations.

68. Pursuant to the Reparations Order and the Addendum to the Reparations Order victims of the attacks are to be awarded reparations similar to those already ordered for former child soldiers in the *Lubanga* case, to promote “equal reparations to avoid jealousy, animosity or stigmatisation among affected communities and different groups of victims”.⁴² The Trial Chamber found it therefore appropriate, on the basis of the *Lubanga* reparation implementation, that all victims be provided “with service-based collective reparations with individualised components directed at their physical, mental, and socio-economic rehabilitation, together with other collective modalities of reparations, which include symbolic and community measures”.⁴³

69. The Trial Chamber accordingly approved the TFV’s proposal to develop a programme providing the same services to the victims of the attacks as it does to the former child soldiers.⁴⁴ As additional features to the programme conducted in the case *Lubanga*, the TFV had proposed and the Trial Chamber approved, under the condition that this would be applicable to all different categories of victims, that (i) a lump sum *in lieu* should apply to victims outside of Ituri Province and (ii) a socio-economic support starter sum for all victims, including those who already received reparations as part of the *Lubanga* programme.

70. Additionally, the Trial Chamber ordered symbolic and satisfaction measures in relation the death of Abbé Bwanalunga and to the destruction of the the Sayo Health Centre and the apology of Mr Ntaganda.

B. Update report on implementation of reparations for victims of the attacks

71. During the reporting period, the TFV worked on various scenarios to ensure that victims of the attacks can benefit from reparations measures comparable to that of former child soldiers, taking into account a number of parameters: (i) the identification of victims of the attacks lies

⁴² *Ntaganda* Addendum to the Reparations Order, para. 20.

⁴³ *Ntaganda* Addendum to the Reparations Order, para. 20.

⁴⁴ See *Ntaganda* First Decision on the DIP; *Ntaganda* Second Decision on the DIP.

with the Registry and mechanisms need to be developed to ensure that the TFV is planning its programme in accordance with the progresses made in the identification of new victims; (ii) while it has not deteriorated recently, the security situation remains volatile; and (iii) [REDACTED]. These assessments are a continuous and dynamic exercise and the TFV will inform the Trial Chamber of any relevant developments.

72. The TFV prepared a comprehensive expression of interests in order to select a suitable partner(s) to roll out the measures as approved by the Trial Chamber. Separately, the TFV team in Bunia is broadly sharing information about this selection process in order to ensure that as many as possible suitable organisations apply. A previous expression of interests has been discontinued based on the limited number of suitable applicants and the decision to put more emphasis on cash payments due to the downsizing of the country office.

73. *Sayo Health Centre* –Compliant with the Trial Chamber’s instruction to that effect,⁴⁵ the TFV organised a first round of consultations concerning the implementation of appropriate reparations measures for the harm caused to the Sayo Health Centre. These consultations took place on 18 June 2024 in Bunia and were well attended, in particular by the victims referred by the common legal representative of victims of the attacks, staff members then and now of the health centre, community and religious leaders, as well as healthcare professionals who provided a complete overview of the organisation of the healthcare system in Ituri, as well as the specific needs of the health centre. A series of proposals emanated from these consultations. However, the TFV considers that further consultations will be required to fine-tune the proposals.

74. *Apology and starter sum* – the TFV refers to its submissions above concerning these two matters.

C. Steps to be taken and expected timeline –⁴⁶

75. The Victims of the Attacks Programme faces a number of important challenges, which have been set out in the DIP and require an ongoing assessment of the feasibility of the programme.

⁴⁵ *Ntaganda* Second Decision on the DIP, para. 29.

⁴⁶ *Ntaganda* Second Decision on the DIP, para. 65.

They are primarily linked to the security situation in the DRC as well as to the availability of funding for victims of a conflict that took place in 2002/2003, considering the international community's immediate concern over the emergency response to the ongoing violence in in Eastern DRC.

76. [REDACTED]

77. In light of the specific nature of the work of the TFV, which requires daily engagements with victims, communities and at least, bi-weekly (twice a week) meetings with its partners, the TFV will assess throughout 2025 the [REDACTED] operational model. The TFV will keep the Trial Chamber abreast of any impact or adaptation required due to the [REDACTED] operational context.

78. Given the current status of the procurement process, the TFV expects to contract the partner(s) for the Victims of the Attacks Programme in the first half of 2025. As set out in the roadmap of steps to be taken submitted as Annex to the DIP, the first months of the contractual period with the partner(s) will be a set up and training period before the actual provision of rehabilitation services can start.

79. In the meantime, the TFV plans to continue the IDIP programme for victims of the attacks who are priority victims and in urgent need. As this programme is linked to the TFV assistance programme, which is in its final (fifth year) of contracting, the IDIP programme will end at the same time as the assistance programme, i.e. in April 2025.

80. The length of the Victims of the Attacks Programme will be determined, in the first place, on the amount of voluntary contributions raised for the programme per year. The TFV recalls that it has set out in the DIP two different scenarios as to the availability of funding and the timeline linked to it. The TFV notes that the Trial Chamber considers that the programme should take five years, which, to achieve a full complement for both programmes within this timeline, would require at least USD 5 million annual funding for the Ntaganda programme alone. This amount is comparable to the total funds raised by the TFV in 2023 for all its programmes.

81. The Former Child Soldiers Programme is likely taking a minimum of six years, as set out above, and has less eligible victims than the Victims of the Attacks Programme. The TFV is currently planning its activities for the Victims of the Attacks Programme on the basis of the assessed number of victims by the Trial Chamber in the Addendum, i.e. around 7,500 direct and indirect victims. If this number changes, the TFV considers that this will affect the length of the programme and will require the TFV to take substantial prioritization measures to address the entire victim population in a foreseeable, transparent and equal manner.
82. The TFV has been reinforcing its call for voluntary contributions to the Victims of the Attacks Programme, which has a volume of about USD 19 to 20 million. The TFV has, in the context of the final closing ceremony in the reparation implementation of the case *Prosecutor v. Germain Katanga*, engaged with Ambassadors from Embassies of key donor states in the DRC. The TFV maintains these contacts with a view of raising funds for the *Ntaganda* programme. Furthermore, the TFV has engaged in various ways with the European Union, including for the purpose of raising funds for the *Ntaganda* programme.

VI. IMPLEMENTATION OF REPARATIONS FOR VICTIMS IN URGENT NEEDS

83. In the Reparations Order, Trial Chamber VI directed the TFV to propose reparations measures for priority victims in urgent needs.⁴⁷ Accordingly, on 8 June 2021, the TFV submitted an initial draft implementation plan (“IDIP”)⁴⁸ and, on 23 July 2021, the Trial Chamber partly approved it.⁴⁹

84. In 2021, priority victims with urgent needs started receiving services. Former Child Soldiers and Victims of the Attacks in urgent needs were referred to the TFV by their respective legal

⁴⁷ *Ntaganda* Reparations Order, p.97. This ruling was unaffected by the appeal proceedings.

⁴⁸ 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. A public redacted version is available: [ICC-01/04-02/06-2676-Red](#) with Annex: [ICC-01/04-02/06-2676-AnxA-Corr-Red](#).

⁴⁹ 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](#).

representative and received services from the TFV, supported by [REDACTED] and [REDACTED] respectively.

85. Eligible victims benefit from services personalised according to their urgent needs and organised around three pillars: psychological support, medical support and socio-economic support. Following intake into the programme, beneficiaries are provided with psychological support in the form of a basic intervention at a *centre d'écoute*, psychological support with a specialist or treatment within a specialised structure. In parallel, medical needs are addressed with interventions ranging from a simple treatment to surgery for the most severe cases. Lastly, socio-economic reparations are awarded through attendance to a basic training entrepreneurship, and the financing of an income generating activity, if any. Follow-up sessions and capacity strengthening activities are organised after the beneficiaries have started their income generating activities. Eligible victims start benefitting from the programme once their priority status and the urgency of their needs has been established and approved by the Trial Chamber. All victims' costs associated with their participation in the programme, such as transportation costs from their place of residence to a medical structure, are covered.

86. Reparations measure provided to priority victims in urgent needs are similar to reparations measures provided to Former Child Soldiers benefitting from the main programme, albeit a bit more limited (for instance, concerning socio-economic rehabilitation measures, the sum received to support an income-generating activity as well as the choice of training are more limited than that received through the Former Child Soldiers Programme. As discussed below, the IDIP measures will therefore be complemented to ensure that all victims are treated equally and receive the same measures.

87. On 2 February 2024, VPRS submitted its analysis of the urgency as part of its "First Registry Report on VPRS Determinations of Victims' Most Urgent Needs".⁵⁰ In the Second Decision on the DIP, the Trial Chamber endorsed the TFV and VPRS eligibility determinations.

⁵⁰ First Registry Report on VPRS Determinations of Victim' Most Urgent Needs, 2 February 2024, ICC-01/04-02/06-2891.

A. Former child soldiers in urgent needs

88. Of the 55 victims in urgent needs whose eligibility was approved in the Second Decision on the DIP, one was a former child soldier. Pursuant to the First Decision on the DIP, the TFV contacted her within 30 days of a Trial Chamber's decision on her eligibility⁵¹ to inform her of the upcoming steps.

89. It is recalled that initial reparations measures were designed so that priority victims in urgent needs can benefit from reparations measures pending the availability of the full programme. Accordingly, pending completion of the appeals proceedings, the TFV maintained a contract in place with its partner to ensure that, if any former child soldier with urgent needs was referred to it, it could readily access direct measures. However, since 2022, no former child soldier in urgent needs was referred to the TFV.⁵²

90. With the issuance of the addendum to the reparations order and the Second Decision on the DIP, the TFV can operationalize the Former Child Soldiers Programme and will in practice take in victims found eligible pursuant to the *Ntaganda* case as of September 2024, as described above. That way the victims will be able to access directly the totality of services available.

91. Accordingly, this victim, as well as any other victim to be found eligible going forward, will benefit directly from the Former Child Soldiers Programme. Given the urgency of the needs of this victim, the TFV will ensure that this victim will be taken in with priority.

B. Victims of the attacks in urgent needs

92. Of the 32 victims in urgent needs whose eligibility was approved in the Second Decision on the DIP, 31 were victims of the attacks. Pursuant to the First Decision on the DIP, the TFV contacted them within 30 days of a Trial Chamber's decision on their eligibility.⁵³ A number

⁵¹ *Ntaganda* First Decision on the DIP, para. 170.

⁵² Trust Fund for Victims' Ninth Update Report on the Implementation of the Initial Draft Implementation Plan, 30 January 2023, [ICC-01/04-02/06-2817-Conf](#). A public redacted version is available: [ICC-01/04-02/06-2817-Red](#).

⁵³ *Ntaganda* First Decision on the DIP, para. 170.

remained unavailable, but the TFV is attempting to establish contact regularly – at least once a week – by way of phone calls and messages.

93. As described above, the TFV is currently working on developing the fully fledged programme for victims of the attacks, which is not yet available. Accordingly, the TFV is maintaining its programme for victims in urgent needs. The programme will be able to accommodate a maximum of 200 victims with urgent needs in the course of approximately 12 months, insofar as referred on a rolling basis.

94. As the provision of services takes a number of months (so that the medical support can be provided, as well as psychological support, training and income generating activities), it is important that victims are referred to the TFV at the latest during the last quarter of 2024, so that services can be rolled out for them in the first half of 2025.

95. All victims found eligible and who the TFV managed to contact went through intake and started receiving services.

96. For the reporting period, 50 new victims were admitted in the programme. In total, 93 victims have benefitted from at least one service provided by the implementing partner. 73 victims have received a lump sum for an income generating activity after completing a training while 20 other victims are still in training. 44 victims have completed medical treatment for harm suffered during the attacks while 49 continue to receive treatment. 41 victims have completed their psychological rehabilitation treatment while 52 continue to receive psychological support.

C. Complementing urgent measures

97. As indicated above, urgent reparations measures have been designed in a holistic manner, similarly to reparations awarded to Former Child Soldiers benefitting from the main programme. However, in light of the urgent nature of the measures and the swift delivery expected, certain aspects of the measures received were more limited.

98. During the reporting period, the TFV mapped out the differences in treatment received by victims in urgent need. Concerning former child soldiers in urgent need, the TFV is currently working with the partner of the main programme ([REDACTED]) on a methodology that will permit to engage with these victims in order to evaluate how to best complement the measures to ensure that they ultimately all receive the same reparations. Victims of the attacks who received urgent measures will ultimately go through this additional engagement once implementing partners will be operational.

VII. OVERARCHING PROGRAMMATIC ACTIVITIES

99. *Consultations with DRC authorities* —⁵⁴ The TFV has continued to consult and inform the DRC national authorities at diverse levels of its activities including the status of the implementation of the Lubanga and Ntaganda reparations in the field. The TFV holds regular meetings with the focal point of the Court at the Presidency of the DRC to inform him of the activities of the TFV including appreciation for support received from the Congolese authorities in the implementation of its mandate. The TFV also informs the local government of its activities through regular engagement with the governor of Ituri and the national government through the Ministers of Justice and Human Rights.

100. The TFV has also engaged with other state actors like FONAREV, the newly established national reparations fund in DRC tasked with designing reparations measures and mechanisms for victims of sexual violence as a weapon of war and other victims of “crimes against peace”. FONAREV reached out to the TFV requesting its expertise to strengthen its capacity as it develops its operational and implementation plans for its pilot phase. As a result, the TFV in collaboration with the [REDACTED] organized [REDACTED] a multi-day training workshop aimed at sharing the TFV’s experience in the DRC, lessons learnt over the years and best practices in victim identification processes and the implementation of reparations. These shared experiences and lessons learnt will be integrated in the reparations operations and implementation plans of FONAREV.

⁵⁴ *Ntaganda* Second Decision on DIP, para. 68.

101. *Collaboration with ICC's sections* – as the implementation of the reparations measures by the TFV is contingent upon the work of PIOS⁵⁵ in terms of outreach and that of VPRS in terms of identification of eligible victims, the TFV endeavors to inform them of the progress made and challenges encountered on a regular basis, in particular through a monthly coordination meeting instituted.

102. In this regard, the TFV wishes to inform the Trial Chamber that the current topical priority of coordination with VPRS is on the most appropriate methodology to inform victims on their eligibility once the VPRS assessments are endorsed by the Trial Chamber, in a manner that is at the same time efficient, consonant with the Trial Chamber's decision,⁵⁶ and compliant with the do no harm principle.

CONCLUSION

103. The TFV respectfully requests that the Trial Chamber take note of the present update report.



Deborah Ruiz Verduzco
Executive Director of the Trust Fund for Victims

Dated this 2nd Day of September 2024
The Hague, The Netherlands

⁵⁵ In this respect (see in particular Second Decision on DIP, para. 104 on consultations and para. 142), the TFV reports that details of activities conducted by the TFV, as well as messages disseminated have been shared with PIOS.

⁵⁶ *Ntaganda* First Decision on the DIP, para. 185(g). See also, *The Prosecutor v. Dominic Ongwen*, Reparations Order, 28 February 2024, [ICC-02/04-01/15-2074](#), para. 810(f). While there is no issue concerning priority victims in urgent needs (who are contacted shortly before the submission of the eligibility assessment to determine the urgency of their situation), or with victims whom VPRS will newly identify (who will necessarily have contact with the Court for that purpose), the matter pertains to participating victims whose dossiers are currently assessed by VPRS.