

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: **ICC-02/04-01/15**
Date: **3 September 2024**

TRIAL CHAMBER II

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

SITUATION IN UGANDA

IN THE CASE OF

THE PROSECUTOR v. DOMINIC ONGWEN

**Public
With 1 public annex**

Trust Fund for Victims' submission of Draft Implementation Plan

Source: Trust Fund for Victims

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

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I. BACKGROUND

1. On 28 February 2024, Trial Chamber IX issued an order for reparations (“Reparations Order” or “Order”) against Mr Ongwen, ordering collective community-based reparations focused on rehabilitation, and symbolic and satisfaction measures to the direct and indirect victims of the crimes for which he was convicted, through the Trust Fund for Victims (“TFV”). The Trial Chamber set Mr Ongwen’s liability at EUR 52,429,000, and instructed the TFV to develop a draft implementation plan (“DIP”) for reparations.¹

2. The Reparations Order seized the TFV pursuant to rule 98(3) of the Rules of Procedure and Evidence and regulations 50(b) and 54 of the Regulations of the Trust Fund for Victims (“TFV Regulations”).

3. Pursuant to regulations 54 to 57 and 69 to 72 of the TFV Regulations, and in line with the Trial Chamber’s instruction,² the TFV hereby submits its DIP as an Annex to the present submission.

II. SUBMISSION

4. *Chamber’s instructions on the content and format of the DIP* – In the Reparations Order, the Trial Chamber instructed the TFV to “prepare a DIP with the details of the rehabilitation and symbolic measures to be included within the collective community-based reparations awarded” within six months of delivery of the Order.³

5. The Chamber indicated that “to expedite the DIP approval process, and for clarity and efficiency purposes”, it instructed the TFV to present the DIP in the form of a chart attached as Annex III to the Reparations Order (hereinafter “DIP Chart Form”).⁴ The Chamber emphasised that all information related to three required elements of the DIP must be “**contained solely in the Annex III chart**” [emphasis added].⁵ Additionally, the Chamber stated that the TFV may

¹ Reparations Order, 28 February 2024, [ICC-02/04-01/15-2074](#) (“Reparations Order”).

² *Ibid.*, disposition.

³ *Ibid.*, para. 797.

⁴ *Idem.*

⁵ *Idem.*

submit a cover filing of not more than 20 pages pursuant to regulation 37 of the Regulations “if the TFV considers it strictly necessary”.⁶ It is the TFV’s understanding that the Chamber expects the DIP and any related concise observations to be submitted respectively by the TFV, the Parties and the Registry in the appropriate column of the DIP Chart Form submitted as an Annex to the present submission.

6. *TFV’s implementation of the instructions on the content and format of the DIP* – In line with the Chamber’s instructions, the DIP is thus attached as an Annex to the present submission, in a PDF version of the DIP Chart Form. As instructed, it therefore contains the three required elements of the DIP: “(i) the reparation projects and measures that the TFV intends to develop under each modality; (ii) the corresponding harm that each project intends to remedy (physical, moral, material, community, and or transgenerational harm); and (iii) a brief overview of the steps required for implementation of each project, including an estimated timeline for the implementation of each project and measure”.⁷ In order to facilitate the Parties’ and the Registry’s submissions of any concise observations in the relevant rows of the table devised by the Chamber to that effect, the TFV will share with them the Excel version of the DIP Chart Form.

7. *Approach to developing the DIP* – In order to comply with the instructions of the Trial Chamber and in line with the principles on reparations, the TFV has designed a programme that implements the measures included in the DIP Chart Form. The design of this proposed implementation plan required (i) analysis of the Reparations Order as well as the Parties’, Registry’s and *amici curiae*’s submissions in the reparations proceedings, (ii) analysis of the context, (iii) analysis of the harm suffered by victims as documented by the Chamber in the Reparations Order, and (iv) consideration of the views of the potential beneficiaries. Based on its analysis and those views, the TFV (v) identified the specific measures appropriate to redress harm, guided by the principles on reparations. Further, (vi) measures were developed into activities and treatment options taking into consideration impact value, risks and feasibility. Finally, (vii) the steps necessary to implement the measures were developed together with

⁶ *Idem*.

⁷ *Ibid.*, para. 798.

timeframes necessary for conducting those steps, on the basis of the applicable legal and administrative framework and best practices.

8. *Structure of this submission* – Mindful of the Trial Chamber’s instruction that any submissions in the cover filing be limited in length and unrelated to the substance of the DIP, the TFV submits the present cover filing limiting it exclusively to (a) report on the activities leading to submission of the DIP, as well as other activities undertaken by the TFV following the Reparations Order; (b) consultations with victims; (c) report on the consultations with victims in particular (d) communicate the position of the TFV Board of Directors concerning the complement of financial resources pursuant to regulation 56 of the TFV Regulations; and (e) propose a reporting calendar for the TFV on the implementation of reparations following the approval of the DIP.

a) Report on activities leading to the DIP development

9. *Initial activities* – Following the issuance of the Reparations Order on 29 February 2024, the TFV Board of Directors was informed by the TFV Secretariat thereof. The TFV Secretariat also held a 40-hour retreat between 4 and 8 March 2024 involving field and HQ staff across various functional teams to study the Order and plan for the development of the DIP. In parallel to the retreat, the TFV met in separate sessions with the Legal Representatives of Victims (“Legal Representatives” or “LRVs”), the Defence Counsel, the Victims Participation and Reparations Section (“VPRS”), and the Public Information and Outreach Section (“PIOS”) to exchange on views and issues identified. At these meetings, the TFV shared a general outline of the envisaged timeline for the DIP preparation.

10. *Preparation of victims’ consultations* – Based on the Chamber’s instructions to “consult with the victims on the nature of the collective community-based awards and the methods of implementation [...] and take into account the victims’ views and proposals when designing the proposed projects,”⁸ from 11 March 2024 the TFV resumed planning to hold consultations with potential beneficiaries, which had been initiated in November 2023 following the approval of

⁸ *Ibid.*, para. 799.

two grants to secure the necessary resources for consultations with victims. Planning continued throughout April 2024 and included developing a consultation methodology and taking the necessary preparatory steps in Uganda for conducting successful consultations, including by hiring support personnel and informing local and district leaders at the case locations and in Gulu through in-person meetings of the upcoming consultations. Intermediaries and local victim organisations and associations were engaged to assist in making the consultations accessible to a wide range of potentially eligible victims. The main lines of the consultation methodology were shared with the Legal Representatives and Registry by the beginning of May 2024. The consultations with victims were held from 30 April to 26 June 2024.⁹

11. *LRVs interaction* – The consultations were conducted with the support of the Legal Representatives and their teams in Northern Uganda to ensure the mobilisation of participating victims, who formed 60% of the consulted population. Upon request from the Common Legal Representative (“CLR”), a team member participated in consultations with the victims she represents. On 2 September 2024, the Legal Representatives were briefed on the outcome of the consultations and the approaches taken in relation to the format of the DIP in line with the instructions of the Trial Chamber.

12. *Registry interaction* – From March 2024 onwards, until the submission of the DIP, the TFV engaged closely with the Registry, in particular the VPRS and PIOS. The TFV, VPRS and PIOS developed common lines of information with victims. The TFV exchanged with the VPRS and PIOS the numerous questions and concerns expressed by the victims and other stakeholders arising from the consultations and pertaining *inter alia* to the identification and eligibility process. Regular meetings with the Registry have taken place. It is the TFV’s endeavour to co-operate with VPRS and PIOS throughout the implementation of the reparations.

13. *TFV Board of Directors* – From the time of the issuance of the Reparations Order, the TFV Board of Directors was seized, and remained informed of the activities. The TFV Board of Directors held an in-person Board meeting in June 2024 with dedicated sessions to the *Ongwen* reparations. As an outcome to this meeting, the TFV Board of Directors issued its first urgent

⁹ See *infra*, paras 18-28.

funding appeal for the *Ongwen* reparations on 27 June 2024, and decided on the process of supervision and involvement leading to the approval of the DIP and its submission to the Trial Chamber by 3 September 2024.

14. *July Retreat* – In July 2024, the TFV held a week-long in-person retreat meeting with its staff from various Country offices and The Hague, to systematise and analyse the outcome of the consultations with victims and stakeholders to develop the measures and activities of the DIP. Staff of the Registry (VPRS and PIOS) were invited to participate actively in the meetings to promote a common understanding of the design process of the final DIP. Gender-sensitivity and conflict-sensitivity consultants participated in the analysis process.

15. *Stakeholders in Uganda* – Between April 2024 onwards, the TFV conducted more than 20 meetings with other key stakeholders in Uganda, including with national, district, and local government, community leaders, cultural leaders, religious leaders, donors, and civil society organisations in sessions that took place in Abok, Odek, Lukodi, Pajule, and Gulu as well as in Kampala. The meetings aimed at informing these stakeholders about the process to prepare the DIP, including the consultations held with victims and hearing their views and concerns, thereby enabling the TFV to better understand the wider context within which the reparations are to be implemented, and ways in which the stakeholders may contribute to the implementation of reparations. As a whole, there is a high level of interest in the implementation of reparations and stakeholders in general expect to play a role, to varying degrees and forms, in the design and conduct of the programme.

16. *Other stakeholders* – The TFV has also engaged in enhancing understanding and support from various groups of stakeholders for the implementation of the Reparations Order. Upon the suggestion of the TFV, the Hague Working Group considered the Reparations Order in its 12 June 2024 session at which the TFV Executive Director and the Director of Judicial Services of the Registry provided a briefing on the plans and issues surrounding implementation. On 26 June 2024, at the session on the Uganda situation held in the context of the annual civil society meeting organised by the Coalition for the ICC (CICC) at the ICC, the TFV briefed civil society about the consultations with victims and the preparation of the DIP. A panel discussion about the

Reparations Order, co-hosted by the Embassy of the United Kingdom in The Hague and the Trust Fund for Victims, to which the diplomatic community of The Hague, Legal Representatives and civil society have been invited, is scheduled to take place on 5 September 2024. Additional activities to be held in Kampala to support engagement of stakeholders and fund mobilisation efforts are under preparation.

17. *Publication of Request for Expressions of Interest* – The TFV had published in 2021 a generic Request for Expression of Interest (EoI) for the *Ongwen* reparations programme. The EoI is a step in the procurement process that announces the intention of the ICC-TFV to contract organisations and invites them to submit their profiles for eligibility. Once a DIP is approved, organisations that respond to the EoI and meet the requirements for contracting are then invited to respond to the TFV’s request for proposals. To ensure that the EoI would be in line with the Reparations Order, the TFV annulled the original EoI thus closing the first procurement process and then published on 11 June 2024 an adapted Request for Expression of Interest, which has been widely distributed within Uganda, including through newspaper insertions. The current closing date for expressing interest is 1 October 2024.

b) Consultations with victims

18. Pursuant to regulation 70 of the TFV Regulations and as instructed by the Chamber,¹⁰ the TFV has consulted with the victims on the nature of the collective community-based awards and the methods of implementation, and the DIP integrates them in full.

19. In developing its consultation methodology and composing the groups of victims, the TFV, in line with the instructions of the Trial Chamber, aimed at acting in compliance with the Principles on Reparations, in particular the ‘*do no harm*’ principle, guaranteeing accessibility and meaningful participation of victims, respecting their diversity as to their particular needs and interests, including gender-specific considerations, and taking into account any obstacles victims may face in coming forward and expressing their views.¹¹

¹⁰ Reparations Order, para. 799.

¹¹ *Idem*.

20. Consultations with potentially eligible victims of the crimes for which Mr Ongwen was convicted were conducted by the TFV from 30 April to 26 June 2024. Both potentially eligible participating and non-participating victims were included in the consultations to guarantee that views of participating victims as well as those who were not participating in proceedings were considered in the development of the reparations programme, and to minimise tensions within the community.

21. In a five-week period, a sample of 2,715 potentially eligible victims (Female: 1,448 (53%), Male: 1,267 (47%)) located in Abok (438 participants), Lukodi (421 participants), Odek (423 participants), and Pajule (1,182 participants), as well as in Gulu (251 participants) were consulted directly by the TFV on the nature and implementation of reparations. Those consulted comprised 2,464 former IDP location victims and 251 thematic victims.

22. The consultations lasted over 24 days and were held across 5 districts, 29 parishes, and included participants from 276 villages. The locations of the consultations were chosen in locations as accessible as possible to the attendees. Usually, two consultation meetings were held per day in parallel. The composition of the groups aligned with the affectations from type of crimes, location of victims, gender, and age-specificities. Groups with female and male participants were led respectively by female and male TFV staff to encourage trust and participation.

23. The TFV consultations, which totalled 47 meetings with potentially eligible victims, had an average attendance of 58 participants per consultation meeting, allowing for meaningful participation of all those present during meetings of approximately four hours. The meetings included a lunch break, where participants and facilitators shared a local meal cooked together and served by members of the respective communities. The costs associated with the holding of consultations were borne by the TFV, including *inter alia* the facilitation of transportation of victims to the consultation location, accommodation of thematic crimes victims in the central location where they were met and facilitation costs.

24. According to the preferences of community members at each location, meetings often opened and closed with a prayer of their choosing, and included periodic breaks for traditional

dancing and singing. Meetings were conducted in Acholi and English with high quality Acholi interpretation and translation services, which was provided by the Registry. In addition, the team member of the CLR present at the meetings with her clients contributed to a good communication with the participants. Consultation participants were afforded ample time to express their views and offer input on the nature and implementation of the ordered reparation measures, following a presentation of the content of the Reparations Order.

25. A wide variety of views and concerns were expressed during the consultations. The TFV considers that some opinions were expressed repeatedly and has summarised them in the next paragraph for the Trial Chamber's information. This is by no means exhaustive. The variety of views expressed have all informed the design of the DIP.

26. During the consultations, victims showed an understanding of the intention of the Reparations Order and of the prioritisation set out therein, which were both explained to them at the start of each consultation meeting. A number of victims expressed support and understanding about the Chamber's prioritisation decision and seemed in general agreeable to beneficiaries in dire need receiving reparations first. Consultation participants also understood that the implementation will depend on the financing available to the TFV and that, accordingly, it could take a considerable amount of time until reparations are implemented and may reach them.

27. Consulted victims communicated concrete ideas of the ways in which physical and psychological rehabilitation activities should be conducted based on their prior experience, and how socio-economic activities should best be supported by the TFV. With respect to healthcare, victims spoke of injuries as well as chronic conditions. They also explained that they would benefit from improved communications between healthcare providers and patients. With respect to the socio-economic activities, the aspect of supporting groups formed by victims themselves, *e.g.* for loan associations or agricultural groups, was very important. Victims also had very concrete ideas on how to best support their socio-economic activities. With respect to trainings, victims underlined the need to be supported following the training in the start-up of their vocational activities, *e.g.* with starter kits. The participants spoke about memorialisation and commemoration initiatives already in place at some case locations and suggested the different

categories of potential future symbolic and satisfaction measures by reference thereto as well as based on their cultural backgrounds. It was expressed that any symbolic measures should best be put in place at the end of the reparations implementation.

28. Based on the input gathered in the consultations, the TFV shared with the Registry that the victims who did not participate in the proceedings, in particular, expressed their eagerness to be identified and recognised as victims through the eligibility process, without delay.

c) Intention to complement the liability of the convicted person

29. Trial Chamber IX ordered the award for reparations against Mr Ongwen to be made through the TFV in accordance with rule 98 (3) of the Rules of Procedure and Evidence, and found Mr Ongwen to be indigent for the purposes of reparations at the time of the Order.

30. As there are presently no resources available from the convicted person, regulation 56 of the TFV Regulations provides for the TFV Board of Directors may decide whether to complement towards the “resources collected through awards for reparations with ‘other resources of the Trust Fund’” and to “advise the Court accordingly”.¹² In the Reparations Order, the Trial Chamber encouraged the TFV Board of Directors to complement the payment of the reparations awarded. At the same time, the Trial Chamber underlined that the TFV will require significant additional funding and that the reparation implementation will accordingly take time.

31. The TFV Board of Directors is committed to mobilise resources to complement in full or to the maximum extent possible the Reparations Order. The fund mobilisation strategy for the *Ongwen* Reparation programme includes as targets the voluntary resources that will be required to match the liability order and associated costs of implementation of the measures. Requests have been made to the Assembly of States Parties in the proposed programme and budget for 2025, to enhance the fund mobilisation capacity of the TFV Secretariat, allowing it to execute the actions that can secure, progressively, such resources. In addition, as anticipated in the Proposed Programme and Budget for the TFV for 2025, efforts will be undertaken to continuously

¹² Regulations 56, TFV Regulations.

identify efficiencies. Sound management practices within the Secretariat will also be extended to programme implementation to reduce to the maximum extent the costs associated with the implementation of the programme, while delivering high-quality activities with the maximum reparative impact.

32. While the Order and associated costs are sizeable, the TFV Board of Directors is convinced that it is possible to mobilise the resources needed. Through this submission, the Board of Directors of the TFV underscores the common responsibility of the TFV, the Court and the States Parties in ensuring the integral, timely and high quality implementation of the Reparations Order, and therefore recognises the importance of the call made by the Trial Chamber in the Reparations Order, on states and other donors for voluntary contributions to complement the payment of the reparations award.

33. The engagement of the TFV with potential donors over the past six months, and in particular the urgent call for EUR 5 million launched by the TFV Board of Directors on 27 June 2024 has been issued to enable the TFV to start implementation without delays soon after the first eligibility determinations by VPRS and the related prioritisations will be shared. The TFV hereby informs the Trial Chamber that while it has initiated exchanges with potential donors, at the date of the submission of the DIP, the TFV has not yet secured voluntary contributions for the purposes of the *Ongwen* implementation.

34. The TFV underscores the generous voluntary contributions of Ireland and the Netherlands of December 2023. The Netherlands' contribution enabled the consultations held with the victims and other activities of the TFV in the DIP development and for the preparatory phase of the implementation of reparations. These contributions also made it possible to continue the TFV's five-year assistance programme into a sixth year of implementation and to integrate, at least until April 2025 and in line with the Trial Chamber's guidance in the Reparations Order, participating victims in dire need into this programme.

35. The TFV Board of Directors is cognisant that the concrete timeline for start and continuous implementation of the DIP will depend on the timing and size of voluntary contributions received by the TFV for the purposes of the *Ongwen* case, and undertakes to initiate and collaborate in the

activities that will need to be put in place to maintain the community of victims, many of whom are in dire need, informed and aware of the timeframe of implementation.

d) Update Reports on the implementation of reparation

36. Recognising the oversight function of the Trial Chamber, upon issuance of a decision on the proposed DIP, the TFCV stands ready to appraise the Trial Chamber on the progress made on the implementation by way of update reports, in accordance with regulation 58 of the TFCV Regulations. Accordingly, and in accordance with the latest practice adopted by Trial Chamber II in the *Lubanga* and *Ntaganda* cases,¹³ the TFCV proposes to report on the progress of the implementation of reparations every four months following the approval of the proposed DIP. In the event that an issue requiring immediate resolution appears in the course of implementation, the TFCV will inform the Trial Chamber forthwith, regardless of the deadline for the submission of its update report. In the TFCV's view this approach allows, as in other programmes, to align the TFCV's reporting to the Trial Chamber with the calendar of the future implementing partner's reporting, thus creating a continuous, efficient, consolidated, timely and comprehensive reporting.

37. The TFCV requests that the page limit for the update reports be set to 30 pages. Given the scope of the programme, the TFCV expects to submit the necessary information as concisely as possible within a page limit not exceeding 30 pages. Setting such a page limit from the start is in accordance with administrative and judicial economies.

FOR THE FOREGOING REASONS,

The TFCV requests that the Trial Chamber:

- receives the information submitted by the TFCV in the present cover filing;
- approves the DIP as submitted as an Annex to the present submission; and

¹³ Trial Chamber II, *The Prosecutor v. Bosco Ntaganda*, Second Decision on the Trust Fund for Victims' Draft Implementation Plan for Reparations, 27 February 2024, [ICC-01/04-02/06-2894-Red](#), para. 145; Trial Chamber II, *The Prosecutor v. Thomas Lubanga Dyilo*, 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](#), para. 8.

- authorizes the Trust Fund to submit update reports on the progress made with the implementation of the DIP in accordance with paragraphs 36-37 above.



Deborah Ruiz Verduzco
Executive Director of the Trust Fund for Victims,
On behalf of the Board of Directors of the Trust Fund for Victims

Dated this 3rd Day of September 2024

At The Hague, The Netherlands