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**19 December 2024**

**TRIAL CHAMBER II**

**Before:** Judge Chang-ho Chung, Presiding  
Judge Péter Kovács  
Judge María del Socorro Flores Liera

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO  
IN THE CASE OF**

***THE PROSECUTOR v. THOMAS LUBANGA DYILO***

**Public Redacted Version of**

**“Twenty-third 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”, submitted on 6 December 2023, ICC-01/04-01/06-3560-Conf**

**Source:** The Trust Fund for Victims

**Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:****Legal Representatives of Victims V01**

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## I. BACKGROUND

1. The Trust Fund for Victims (“TFV”) hereby submits its Twenty-third progress report following Trial Chamber II’s (“Trial Chamber”) decision of 21 October 2016 approving the programmatic framework for collective symbolic reparations as submitted by the TFV,<sup>1</sup> Trial Chamber II’s decision of 6 April 2017 approving the programmatic framework for service-based collective reparations as submitted by the TFV,<sup>2</sup> 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.<sup>3</sup>

2. Upon the issuance of the Trial Chamber II’s twelfth decision on the TFV’s administrative decisions on applications for reparations and additional matters (“Twelfth Decision”)<sup>4</sup> on 30 August 2023, the TFV filed the Twenty-second progress report on the implementation of collective reparations (“Twenty-second progress report”) on 6 September 2023.<sup>5</sup>

## II. CLASSIFICATION OF THE PRESENT SUBMISSION

3. Pursuant to regulation 23 *bis* (1) of the Regulations of the Court, the TFV has classified the report as confidential insofar as it contains detailed information related to operational aspects of the ongoing implementation of reparations. A public redacted version of the report will be filed in due course.

## III. REGULATION 58 PROGRESS REPORT

4. The TFV hereby submits its Twenty-third progress report, with information on the implementation of the collective reparations award. It provides updated information regarding the

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<sup>1</sup> 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](#).

<sup>2</sup> 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](#).

<sup>3</sup> 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](#).

<sup>4</sup> Twelfth Decision on the TFV’s administrative decisions on applications for reparations and additional matters, 30 August 2023, ICC-01/04-01/06-3558-Conf. A public redacted version was filed on 10 October 2023, [ICC-01/04-01/06-3558-Red](#) (Twelfth Decision).

<sup>5</sup> Twenty-second 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, 6 September 2023, ICC-01/04-01/06-3919-Conf. A public redacted version was filed on 8 September 2023, [ICC-01/04-01/06-3559-Red](#) (Twenty-second progress report).

A) external challenges, B) update on implementation of collective service-based reparations, C) symbolic reparations, and D) evaluation.

5. The reporting period for the purposes of the present progress report covers from 7 September 2023 to 6 December 2023.

### **A. External Challenges**

6. During the reporting period, the continued highly volatile security situation in the areas in which the TFV is currently operating has not posed added challenges to the programme implementation.

7. The cyber-attack against the Court resulted in delays in the processing of administrative, legal and financial tasks related to the oversight of the implementing partner.

8. [REDACTED] Implementation will continue and the situation will be closely monitored to ensure the implementation of proper precautionary measures or reactions.

### **B. Update on the Implementation of Collective Service-Based Reparations**

#### **1) Overview of collective service-based reparations programme**

9. 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 rehabilitation, as well as the preferences of the victim. This phase is essential to ensure the satisfaction of the victims with the measures received. Following the assessment, the beneficiary may start immediately receiving tailored psychological or physical treatment depending on the level of harm or urgency.

10. Enrolment takes place on an ongoing basis based on the availability of updated contact information of the victims and the capacity of the implementing partner to give attention. As soon as the implementing partner receives the updated contact information regarding a batch of beneficiaries, they contact them all without delay to schedule a meeting to provide them information about the intake and a schedule.

11. While receiving medical and psychological treatment, beneficiaries may also receive financial support to meet immediate needs 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, 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.

12. 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 fit physically and mentally. Once socio-economic activities are concluded, the service is considered completed.

13. Throughout the process, the Trust Fund for Victims and the implementing partner monitor the effectiveness of the rehabilitative activities and adopt, where needed, remedial measures.

## **2) Progress concerning enrolment and intake of beneficiaries during the reporting period**

14. To date, 1,052 out of the 2,471 victims, which is the final number of direct and indirect victims approved by the Trial Chamber in the Twelfth Decision, have been enrolled in the *Lubanga* reparations programme.

15. During the reporting period, 54 new beneficiaries were enrolled in the programme. The beneficiaries were part of the list of the 209 unreachable victims, thus bringing the total number of victims who cannot be reached to 155, by the end of this period.

16. The implementing partner continues efforts to establish contact with the remaining 155 unreachable victims, notably by intensifying the follow-up calls, which are now carried out weekly.

## **3) Start of the third contractual year with the implementing partner**

17. The ICC/TFV's contract with the implementing partner commenced on 15 February 2021 and provides for a contract duration of five years requiring annual renewals subject to certain conditions. The contract was renewed for a second contractual year with effect on 1 December 2022. The second contractual year ended on 31 August 2023.

18. For the past two renewals, the contract renewals had required the positive recommendation of the ICC's Procurement Review Committee ("PRC") to the ICC Registrar. On 20 December 2022, as part of its positive recommendation to renew for a second contractual year, the PRC recommended that, for the subsequent three years, a new PRC should take place with a more granular and explicit annual breakdown of budgetary figures including the exact period envisaged,

to be presented before the PRC prior to the engagement of the additional funds and/or further extension.

19. The PRC meeting dedicated to consider the renewal of the contract into a third year of implementation took place on 4 September 2023. On 2 October 2023, the PRC recommended to the Registrar the renewal of contract for a third year of implementation. The PRC also raised that a new recommendation by the PRC for the subsequent two years is not required prior to the engagement of the additional funds and/or further renewals. By 26 October 2023, the implementing partner, the Executive Director and the Registrar have signed the contract amendment. The first instalment for the third contractual year has been transferred to the implementing partner in the course of the month of November 2023.

#### **a. Impact**

20. Payments to the implementing partner could not be disbursed until the contract was renewed. This entailed a reduction of capacity of services for victims between September and November 2023, which impacted in particular the payment of school fees. This resulted in complaints and small scale demonstrations at the local headquarters of the implementing partner. In addition, some of the victims intensified the protests because of their disagreement with the decision that school fees only be paid for two years and not for a third year.

#### **b. Mitigating measures**

21. In response to the challenges stemming from the cyber-security incident and the time the contract renewal process has taken, the TFV has adopted various measures to ensure that activities would not be hampered and/or implementing partners and victims are on notice of the duration for the resolution of contractual matters. The TFV at the level of Country Office provided updates to the implementing partners on the progress and has informed and reassured victims by communicating information to all current beneficiaries *via* SMS. In addition, they have provided direct access of beneficiaries to TFV staff to ensure personalised attention and direct information from the TFV to victims. At headquarters, the TFV has initiated a planning process to ensure that contract amendment and disbursement will occur as expeditiously as feasible.

22. Following the disbursement in November 2023, the implementing partner proceeded to finalising the planning for the third contractual year, and took measures to inform beneficiaries individually of their schedule of services, thus providing certainty to the beneficiaries.

#### **4) Progress concerning mental health and physical care**

##### **a) Mental health care**

23. During the reporting period, 72 new beneficiaries were enrolled into and began to receive psychological care, bringing the total number of victims cared for since the start of the project to 1,030. In-depth psychological care was provided to 26 of the 72 new beneficiaries, with 20 of them benefiting from an ambulatory service and the remaining 6 receiving residential care.

##### **b) Physical health care**

24. During the reporting period, 219 beneficiaries were enrolled into physical care and started receiving at least one physical health service, including medical diagnosis. 42 new beneficiaries are currently receiving primary health care, 25 beneficiaries are receiving secondary health care and 3 are receiving tertiary health care. The total number of victims cared for since the start of the project now reaches 1,018.

#### **5) Progress concerning socio-economic rehabilitation**

25. 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 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) schooling, ii) university support, iii) vocational training, and iv) income-generating activities.

##### **a) Schooling**

26. Payment of school fees resumed in December 2023 following the disbursement of funds by the end of November 2023. The TFV will report on this measure in its next progress report.

##### **b) University support**

27. During the reporting period, university support measures have concentrated on the monitoring of beneficiaries' academic progress and on the renewal of university support for the upcoming academic year. Further support to beneficiaries and their dependents for the upcoming academic year starting in January 2024 will be provided during the first quarter of 2024.

### **c) Vocational training**

28. During the reporting period, 17 beneficiaries benefitted from short and long training courses. In total, 715 beneficiaries have benefitted from training between the start of the project and the end of the reporting period.

29. In light of the disbursement of funds by the end of November 2023, the implementing partner worked on rescheduling the training of the victims, which will start in the second half of December 2023.

### **d) Income-generating activities**

30. During the reporting period, 42 beneficiaries 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. More than a hundred beneficiaries are scheduled to receive a cash grant in the first quarter of 2024.

31. This brings the total number of beneficiaries having benefitted from the cash grant to set up their income generating activities to date to 677 beneficiaries.

## **6) End of service**

32. The implementing partner has submitted to the TFV a list of 203 beneficiaries, for whom the partner finalised the provision of services.

33. To mark the end of treatment and service, the TFV, in collaboration with the implementing partner, envisages to meet each victim to formally inform them of the finalisation of the process, answer their questions and present a certificate of participation.

34. The end of service process is expected to start in the first quarter of 2024 and will be subject to reporting in the next progress report.

## **7) End of legal representation and transition**

35. Further to the Trial Chamber’s Twelfth decision setting out the role of Legal Representatives at this late stage of the proceedings,<sup>6</sup> the TFV, the Office of Public Counsel for Victims (“OPCV”), the Legal Representatives of Victims V01 (“LRV01”) and V02 (“LRV02”) (together the “LRVs”) held two meetings to discuss the way forward. It is the TFV’s understanding that LRVs are currently informing their clients of the Trial Chamber’s decision. The TFV has requested the LRVs to provide it with the updated contact information in their possession, including from this last contact. The TFV is currently planning how the contact with victims and intake will be organised in the absence of the LRVs.

### 8) Indirect victims

36. During the reporting period, the TFV has been designing with the implementing partner the ways to finetune services for indirect victims, based on the harm recognised by the Trial Chamber. The plan will be submitted to the Trial Chamber in the next progress report.

### 9) Progress of performance and forecast

37. The table below provides an overview of performance for this reporting period in comparison to the previous reporting period, demonstrating an increase in performance during this period.

| INDICATORS                                                   | Total end of previous reporting period | Total end of reporting period | Difference |
|--------------------------------------------------------------|----------------------------------------|-------------------------------|------------|
|                                                              | Total sum                              |                               |            |
| Number of victims referred by the TFV                        | 1207                                   | 1207                          | 00         |
| Number of victims taken in                                   | 998                                    | 1052                          | +54        |
| Number of victims who could not be reached                   | 209                                    | 155                           | -54        |
| Number of victims diagnosed as part of psychological support | 958                                    | 1030                          | +72        |
| Number of victims diagnosed as part of physical support      | 799                                    | 1018                          | +219       |
| Number of victims who completed basic training               | 697                                    | 714                           | +17        |
| Number of victims who received IGA cash                      | 635                                    | 677                           | +42        |

<sup>6</sup> Twelfth Decision, para. 19.

38. The table below compares the performance during the current reporting period against the forecasted performance. The forecast was done before the cyber-attack and did not compute the final timing of the contract renewal and disbursement of funds.

| INDICATORS                                                   | Performed reporting period | Forecast reporting period | Difference |
|--------------------------------------------------------------|----------------------------|---------------------------|------------|
|                                                              | Total sum                  |                           |            |
| Number of victims referred by the TFV                        | 1207                       | 1355                      | -148       |
| Number of victims taken in                                   | 1052                       | 1355                      | -303       |
| Number of victims diagnosed as part of psychological support | 1030                       | 1355                      | -325       |
| Number of victims diagnosed as part of physical support      | 1018                       | 1355                      | -337       |
| Number of victims who completed basic training               | 715                        | 907                       | -192       |
| Number of victims who received IGA cash                      | 677                        | 865                       | -188       |

#### **10) Measures taken to address issues in the implementation of collective service-based reparations and to improve the quality of services**

##### **a) Attention to victims**

39. In its Twenty-second progress report, the TFV informed the Chamber that it was exploring ways to improve its capacity to provide information and engage directly with the beneficiaries.<sup>7</sup> The following steps were considered: firstly, the TFV provided direct access to the person responsible for each component of the reparations programme (*i.e.* physical rehabilitation, psychological rehabilitation, socio-economic measures), thus enabling beneficiaries to access the information they need directly. Secondly, the TFV provided direct access to TFV staff, in case victims required to approach the TFV itself. Thirdly, the TFV is making progress on the exploration of the enhancing of its standing capacity to reinforce the quality of the information provided to beneficiaries and ensure that they have access to channel their concerns.

40. In addition, the capacity building for TFV staff and the implementing partner in conflict-sensitive communication, facilitated by MONUSCO has been scheduled for the first quarter of 2024.

##### **b) Individual follow-up of victims**

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<sup>7</sup> Twenty-second progress report, para. 29.

41. During the previous reporting period, an individual planning tool was put in place by the implementing partner to enable planning and follow-up for each beneficiary. Going forward, each beneficiary will receive, as soon they are admitted in the programme, an individualised schedule of the services to be received as part of the reparations. During the reporting period, this tool has been updated and reorganised for each beneficiary by the implementing partner, due to the late availability of funds delaying the initial planning of the schedules.

42. In addition to that, the TFV has directed the implementing partner to set up new, more secure and more confidential individual physical files for beneficiaries, including an individualised development plan and all documents relating to the services received. The individual development plan will include individual service planning and individual service objectives for the beneficiary. It will be updated as the services are implemented and will make it possible to assess the achievement of objectives and individual changes at the end of the programme, compared with the initial state of each beneficiary at the time of admission.

### **C. Symbolic Reparations**

43. The contract with the implementing partner that had started in October 2021 was extended beyond October 2023 until April 2024 to enable the implementing partner to continue with the building of the symbolic structure. The disbursement of the second instalment to the implementing partner took place in October 2023; an essential precondition for finalising the symbolic structures. The extension process was preceded by an in-depth review of readiness and contractual compliance, which resulted in a preliminary halt of construction work, which also required communicating closely with the affected communities.

44. As soon as the contract renewal was confirmed, activities for the construction of the symbolic structures in the four sites of [REDACTED] were resumed.

45. The construction of the buildings progressed further in [REDACTED]. On the [REDACTED] site, construction work is underway, including on the elevation walls, the rubble stone, concrete false paving and the lintel. As for the [REDACTED] site, after the foundation has been completed, work is underway to build the walls.

46. Construction has started in December 2023 for other two sites. Concerning the [REDACTED] site, after obtaining the land documents, the official launch and the laying of the first stone took place on Tuesday, 5 December 2023. Further work is currently carried out to

demarcate the plot and excavate the land. As for the [REDACTED] site, work on demarcating the land is underway, with the launch and laying of the first stone scheduled for the second half of December 2023.

#### **D. Evaluation**

47. As previously reported,<sup>8</sup> the independent team of evaluators engaged by the TFV is running its evaluation of the programme. The purpose of this mid-term evaluation is to assess the relevance, effectiveness, efficiency, sustainability and quality of services, including victim satisfaction, in order to put in place corrective measures to improve the implementation of the project. The results are expected in the first quarter of 2024.

#### **IV. FOR THE FOREGOING REASONS**

The Trust Fund for Victims respectfully requests the Trial Chamber to take note of the present report.




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Deborah Ruiz Verduzco  
Executive Director of the Trust Fund for Victims,

Dated this 19<sup>th</sup> of December 2024

The Hague, The Netherlands

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<sup>8</sup> Twenty-first progress report, para. 36; Twenty-second progress report, para. 38.