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No.: **ICC-01/04-02/06**

Date: **6 June 2016**

TRIAL CHAMBER VI

Before: Judge Robert Fremr, Presiding Judge
Judge Kuniko Ozaki
Judge Chang-ho Chung

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
THE PROSECUTOR *v.* BOSCO NTAGANDA**

Public

**With eight Confidential *EX PARTE* annexes, available only to the Registry and the
Legal Representatives of Victims**

Fourth Periodic Report on the Victims and their General Situation

Source: Registry

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

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Legal Representatives of Applicants

**Unrepresented Applicants for
Participation/Reparation**

Unrepresented Victims

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Section**

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I. Introduction

1. This is the fourth report submitted pursuant to the direction of Trial Chamber VI in its Decision on victims' participation in trial proceedings (the "First Victim Participation Decision"), to provide, every four months, a report about the victims admitted to participate in the proceedings and the general situation of participating victims.¹
2. The Legal Representatives of Victims (the "LRVs") have provided the Victims Participation and Reparations Section (the "VPRS") with detailed information relating to the activities amongst the victims during the reporting period (8 February 2016 – 6 June 2016) as well as information on the general situation of the victims who have been met.
3. During the reporting period, the VPRS notes that it has been formally notified of the death of seven Victims of the Attacks and has received resumption of action forms for each.² The VPRS also notes that one duplicate application has been identified in relation to the Former Child Soldiers.³ In light of the above, and pending a decision on the status of the resumption of action forms, the number of participating victims at the close of the reporting period has been reduced by eight and is now 2, 137.
4. The present report will cover the following topics:
 - A. Update on the General Situation of the Former Child Soldiers and the Activities of their Legal Representative in the Field;
 - B. Update on the General Situation of the Victims of the Attacks and the Activities of their Legal Representative in the Field;
 - C. The VPRS' Assessment on the Resumption of Action Forms Received;

¹ ICC-01/04-02/06-449, para. 24(ix).

² a/00020/13 ; a/00089/13 ; a/00351/13 ; a/00479/13 ; a/00972/13 ; a/01042/13 ; a/01498/13.

³ ICC-01/04-02/06-1321-Conf-Exp. The VPRS notes that the information contained in the two duplicate forms has been merged into a single application file, according to Trial Chamber VI's order conveyed by email of 1 June 2016.

D. Updated Information Pertaining to the Safety and Security of Victims and Intermediaries.⁴

II. Procedural History

5. On 6 February 2015, Trial Chamber VI (the “Chamber”) issued its First Victim Participation Decision directing the VPRS to file every four months, in cooperation with the LRVs, a detailed report about the victims admitted to participate in the proceedings and the general situation of participating victims in *The Prosecutor v. Bosco Ntaganda* Case (the “Case”).⁵
6. On 1 September 2015, the Chamber issued its Fourth decision on victims’ participation in trial proceedings (the “Fourth Decision”) adopting a new procedure for the resumption of action by family members or closely-connected individuals of deceased victims and ordering *inter alia* the Registry to transmit any applications to resume the action of a deceased victim through its periodic reports if possible.⁶
7. On 16 November 2015 and 17 December 2015, the Chamber issued its Fifth⁷ and Sixth⁸ decisions on victims’ participation in proceedings.

III. Classification

8. Pursuant to regulation 23*bis*(1) of the Regulations of the Court (“RoC”), annexes 1 to 8 are submitted as “confidential *ex parte*, only available to the Registry and the LRVs” because they contain sensitive information that relates to the safety and physical well-being of victims or intermediaries.

⁴ The Registry has provided this information in Annex 1.

⁵ ICC-01/04-02/06-449, para. 24 (ix).

⁶ ICC-01/04-02/06-805, para. 13.

⁷ ICC-01/04-02/06-449, para. 24 (ix).

⁸ ICC-01/04-02/06-805, para. 13.

IV. Applicable Law

9. The Registry submits the present report in accordance with articles 68(1) and (3) of the Rome Statute, rule 16 of the Rules of Procedure and Evidence and regulation and 86 of the RoC.

V. Submissions

A. Update on the General Situation of the Former Child Soldiers and the Activities of their Legal Representative in the Field

10. As per paragraph 24(ix) of the First Participation Decision, Ms. Pellet, the Legal Representative of Former Child Soldier Victims (the “LRV1”), has provided the VPRS with information relating to her teams’ activities amongst the victims.⁹

LRV1
Information Relating to Activities Amongst the Former Child Soldier Victims
During the reporting period, LRV1 reported that she and/or her field counsel travelled to meet with clients, in Ituri or elsewhere. According to the LRV1 these missions were aimed mostly at meeting clients the LRV1 was never able to meet before in person; therefore focusing on the victims admitted to participate at trial. To date, the LRV1 reports having been able to meet with 90% of her clients; most of whom she and/or her field counsel met several times. Notwithstanding, LRV1 reports that all her clients were, and continue to be, kept informed of the developments in the <i>Ntaganda</i> case through contacts with contact persons and over the phone. During the reporting period, the LRV1 field counsel also responded to numerous phone calls by victims, related to developments in the proceedings and the dates of the next mission.

⁹ Email communication between LRV1 and VPRS, 20 May 2016.

General Situation of the Participating Child Soldier Victims

The LRV1 reported that the general situation of the participating former child soldier victims remains unchanged. According to LRV1, victims continue to express complaints about their difficult economic and psychological situation, about the fact that they are not benefiting from the Trust Fund for Victims (“TFV”) projects or from any other support. The LRV1 also reported that the situation of the former girl child soldiers continues to be very worrisome and that more victims complain about medical conditions.

LRV1 noted, however, that the start of the TFV missions in Ituri relating to the *Lubanga* reparations proceedings seems to have raised the expectations of the participating victims in the present case with regard to reparations. LRV1 added that, although efforts have been made to thoroughly explain the differences between the two cases and the proceedings, it seems that people in Ituri do not always understand the difference between the present case and the *Lubanga* case. Finally, according to the LRV1 the raising of expectations was foreseeable given the precarious economic situation of many of the victims, and this should be taken into consideration during future outreach and TFV missions in the field.

B. Update on the General Situation of the Victims of the Attacks and the Activities of their Legal Representative in the Field

11. At the close of the reporting period, Mr. Suprun, the Legal Representative of the Victims of the Attacks (the “LRV2”), also provided the VPRS with information relating to his team’s activities amongst the victims, in accordance with the First Participation Decision.¹⁰ The detailed information relating to his activities and to the general situation of victims is presented in the table below.

¹⁰ Email communication between LRV2 and VPRS, 30 May 2016.

LRV2

Information Relating to Activities Amongst the Victims of the Attacks

In March and May 2016, the LRV2 reported that he, together with his field counsel, conducted two missions to eight of the main villages within Ituri where the victims of the present case reside. According to the LRV2, the team held group and individual meetings with the victims in order to: inform them on the developments in the proceedings; discuss or follow-up on the security and well-being of certain victims and; gather their views and concerns on various issues pending before the Chamber.

In addition, the LRV2 team met with relatives of a number of deceased victims in order to clarify their intention to resume the action on behalf of their deceased relatives and to collect the relevant documentation. During the reporting period, about 1,300 victims were met either in groups or individually.

In April 2016, the LRV2's field counsel undertook another mission in the DRC to meet with dual status victims in order to discuss or follow-up on the security and well-being of the victims concerned. In May 2016, the LRV2's field counsel was also present at the seat of the Court in The Hague to assist one of the victims who was giving testimony as a dual status Prosecution witness.

During the reporting period, the LRV2's field counsel spent an average of 3-4 hours per day calling victims or focal persons (designated by the victims in relevant locations) and answering their calls. The LRV2's field counsel also interacted with an average of 15 victims per day in order to: consult the victims and to keep them informed on the developments in the proceedings; address the victims' needs and inquiries, and; collect their views and concerns. In addition, the field counsel facilitated meetings between the OTP and dual status victims, particularly those who were scheduled to travel to The Hague to testify during the reporting period.

Lastly, during the reporting period, the LRV2 has been informed about the death of a number of other victims of the attacks and is currently in the process of verifying that information. If verified, the LRV2 noted that efforts will be made to transmit the relevant resumption of action forms to the VPRS during the next reporting period.

General Situation of the Participating Victims of the Attacks

Regarding the general situation of the victims of the attacks, the LRV2 noted that most victims continued to raise issues concerning their difficult life conditions and their lack of support since the events of 2002-2003. In particular, in the most affected villages outside of Bunia, the victims reported concerns to the LRV2 about the lack of access to health services and schooling for their children. Moreover, according to LRV2, there is confusion amongst the victims regarding the role of the ICC in relation to assistance with many victims viewing the Court as a humanitarian organisation rather than a Tribunal. Some victims are reportedly aware about the existence of the TFV but wonder why they have yet to hear about any of the Fund's assistance projects being implemented in Ituri. According to LRV2, although most victims are hoping to receive individual benefits, many of the victims also expressed their wish to receive communal assistance such as access to medical care or the construction of churches and schools.

In this regard, the LRV2 considers that enhanced outreach activities in the most affected communities in Ituri by the Registry, or together with the TFV, would greatly assist the work of the LRV. The LRV2 notes that an outreach campaign would serve to better inform the victims about what the TFV is planning to do in the region and may also serve to address the victims' misperceptions about the Court's mandate. The LRV2 considers that this may in turn help manage their expectations which is of particular importance given the fact that the victims in the present case have been waiting for 13 years to receive justice and assistance.

Lastly, the LRV2 noted that many victims reported that the security situation remains volatile and continues to be one of their main concerns. Many victims reported continuous criminal activities by FRPI (*Forces de Résistance Patriotique d'Ituri*) elements that, despite FARDC (*Forces Armées de la République Démocratique du Congo*) efforts, continue to actively commit crimes against civilians, particularly in the Irumu territory. Those activities have forced numerous civilians, particularly in the *Groupements* of Walendu Bindi and Mambassa, to move to more secure areas. Many victims also reported that major insecurity remains in *Komanda* where ADF elements (Allied Democratic Forces)

have allegedly been killing numerous civilians. According to the LRV2, these factors have contributed to the displacement of thousands of civilians.¹¹

C. The VPRS' Assessment on the Resumption of Action Forms Received

12. On 30 May 2016, the LRV2 formally notified the VPRS of the death of seven of the participating Victims of the Attacks and submitted resumption of action forms on behalf of each of the deceased victims.¹² The VPRS has assessed all seven of the resumption of action forms, including the supplementary information attached, and considers that each have met the requirements set out in paragraph 8 of the Chamber's Fourth Decision.¹³ As per the Chamber's Fourth Decision, the VPRS has transmitted all of the relevant information pertaining to the resumption of action requests by way of the present periodic report (annexes 2-8).



Marc Dubuisson, Director, Division of Judicial Services
per delegation of Herman von Hebel, Registrar

Dated this 6 June 2016

At The Hague, The Netherlands

¹¹ UN Office for the Coordination of Humanitarian Affairs (OCHA), March 2016, available online at <http://reliefweb.int/map/democratic-republic-congo/r-publique-d-mocratique-du-congo-personnes-d-plac-es-internes-et-1>.

¹² a/00020/13 (annex 2); a/00089/13 (annex 3); a/00351/13 (annex 4); a/00479/13 (annex 5); a/00972/13 (annex 6); a/01042/13 (annex 7); a/01498/13 (annex 8).

¹³ The Chamber's Fourth Decision, paragraph 8. In order to be authorised to resume the action on behalf of a deceased victim, "the Chamber considers that an applicant must provide evidence: i) of the death of the victim; ii) of his or her relationship to the victim; and iii) where the applicant cannot easily be presumed to be entitled to continue the action or represent the family, he or she must demonstrate his or her appointment by the deceased victim's family members."