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TRIAL CHAMBER II

Before: Judge Marc Perrin de Brichambaut, Presiding
Judge Olga Herrera Carbuccion
Judge Péter Kovács

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

THE PROSECUTOR v. THOMAS LUBANGA DYILO

Public document

**Observations on the “Requête afin de solliciter des lignes directrices de la Chambre
suite à l’Ordonnance émise le 15 juillet 2016”**

Source:

The 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. Introduction

1. The Trust Fund for Victims (hereinafter “Trust Fund”) recalls and incorporates the procedural history in the present proceedings as set out in its request for reconsideration¹ of the Trial Chamber’s “Order instructing the Trust Fund for Victims to supplement the draft implementation plan” of 9 February 2016² (hereinafter “Request for Reconsideration” and “Order of 9 February 2016”, respectively).

2. On 1 July 2016, the Office of Public Counsel for Victims (hereinafter “OPCV”) filed a response to the two filings in which the Trust Fund had set out its Request for Reconsideration (hereinafter “1 July 2016 OPCV Response”).³ As noted by the Trial Chamber, in that filing, OPCV also made certain proposals relevant to how the victim identification process laid out in the Order of 9 February 2016 could be implemented with its assistance in place of the Trust Fund.⁴

3. On 15 July 2016, the Trial Chamber issued, *inter alia*, an order⁵ instructing the Registrar to provide aid and assistance to the Trust Fund and the legal representatives (inclusive of OPCV) in the case (hereinafter “Order of 15 July 2016”). The Trial Chamber stated that “the search for victims potentially eligible for reparations in the instant case should continue”,⁶ footnoting that determination to a then pending request by OPCV for funding from the contingency budget of the Registry⁷ and recalling the deadline for the transmission of individual victim dossiers to it by 31 December 2016.⁸

¹ First submission of victim dossiers with twelve confidential, ex parte annexes to the Registrar, and the legal representatives of VO1 only, 31 May 2016, ICC-01/04-01/06-3208, paras 1-6.

² ICC-01/04-01/06-3198-tENG.

³ Réponse consolidée aux soumissions déposées le 31 mai et le 7 juin 2016 par le Fonds au profit des victimes, ICC-01/04-01/06-3212.

⁴ See *infra* Order for Observations, para. 5, wherein the Trial Chamber observes that “[d]ans ses observations [de 1 juillet 2016], le BCPV a, notamment, fait des propositions relatives à la mise en œuvre de l’Ordonnance du 9 février 2016 et a demandé à la Chambre ‘de bien vouloir prendre en considération [ses] observations [...]’”.

⁵ Order instructing the Registry to provide aid and assistance to the Legal Representatives and the Trust Fund for Victims to identify victims potentially eligible for reparations, ICC-01/04-01/06-3218.

⁶ Order of 15 July 2016, para. 8.

⁷ See Order of 15 July 2016, footnote 19, referring to 1 July 2016 OPCV Response, para. 47.

⁸ Order of 15 July 2016, para. 8.

4. On 16 September 2016, the OPCV filed a request, providing the Trial Chamber with information relevant to steps it had undertaken in response to the Order of 15 July 2016 and requesting further instructions from the Trial Chamber (hereinafter “OPCV Request”).⁹

5. On 20 September 2016, the Trial Chamber issued an order for observations on the OPCV Request,¹⁰ setting the deadline for the Trust Fund to 26 September 2016, which, upon the request of the Trust Fund, was subsequently extended to 3 October 2016.¹¹

6. The Trust Fund hereby submits the requested observations on the OPCV Request.

7. Prior to making its substantive observations on the OPCV Request, the Trust Fund would like to briefly comment upon one particular point arising from the OPCV Request. The Trust Fund notes that the OPCV suggests that the public hearing, scheduled for 11, 13 and 14 October 2016, could be an opportunity to clarify the modalities of identification of potential victims.¹² In the Trust Fund’s understanding, this hearing is not meant to provide a forum for discussing these matters or the Trust Fund’s Request for Reconsideration more generally. Rather, according to the Trust Fund’s reading of the Trial Chamber’s order, the Trial Chamber has invited organisations with past or current experience in implementing projects for the benefit of former child soldiers to submit written observations providing details regarding those projects. The Trust Fund understands that the Trial Chamber will then invite certain of those organisations to further discuss, along with the parties and participants, the specifics of these projects at the public hearing. The Trust Fund has understood that it is invited and should be prepared to address these written submissions at the public hearing, as well as to engage in a further discussion regarding how these submissions may be relevant to the service-based aspects of the programmatic framework set out in its draft implementation plan. In light of this divergence of understanding and in order to ensure that the parties and participants are appropriately prepared to ensure that the hearing accomplishes the goals

⁹ Requête afin de solliciter des lignes directrices de la Chambre suite à l’Ordonnance émise le 15 juillet 2016, ICC-01/04-01/06-3222.

¹⁰ Ordonnance fixant un calendrier pour le dépôt des observations sur la requête du Bureau du conseil public pour les victimes du 16 septembre 2016, ICC-01/04-01/06-3224 (hereinafter “Order for Observations”).

¹¹ Decision accordant une prorogation de délai pour le dépôt des observations sur la requête du Bureau du conseil public pour les victimes du 16 septembre 2016, ICC-01/04-01/06-3228.

¹² OPCV Request, para. 15.

envisioned by the Trial Chamber, the Trust Fund would respectfully request that the Trial Chamber clarify the scope of issues to be discussed at the public hearing.

II. Observations on the OPCV Request

8. At the outset, the Trust Fund has taken note of the fact that the Trial Chamber set “relatively short deadlines” for these observations in light of the fact that much of OPCV Request reiterates points already made in its 1 July 2016 Response,¹³ a point which the Trust Fund notes was again mentioned (as a potential reason for not granting the extension) when the Trial Chamber granted an extension of time on other grounds. The Trust Fund understands from this that the Trial Chamber does not wish for the Trust Fund to also repeat arguments that it has already made in its Request for Reconsideration.

9. As such, the Trust Fund would simply state in brief that it fully maintains all of the positions, particularly in relation to the applicable legal framework for collective reparations as set out in the Statute and its instruments and as further clarified by the Appeals Chamber, which it has already submitted in its Request for Reconsideration. At the same time, the Trust Fund considers that it is beyond question that all actors in these proceedings are motivated by a desire to resolve the present situation in a manner that results in the reparations ordered in this case being actually implemented for the benefit of the victims. It is with this in mind that the Trust Fund submits the present observations which are aimed at clarifying certain points that the Trust Fund considers may require further explanation from it and which may have been subject to misinterpretation or misunderstanding, with the ultimate goal of moving the implementation process forward in a manner that is legally sound, operationally and financially feasible, as well as mindful of the well-being of victims.

10. Below, the Trust Fund addresses three topics arising from the OPCV Request: 1) the role of the convicted person; 2) the procedures put in place by the Trust Fund to carry out the Trial Chamber’s victim identification and harm assessment process, as well as the purpose of this process; and 3) the Trial Chamber’s role in monitoring and overseeing that the Trust Fund is properly applying the legal criteria with regard to reparations beneficiaries as set out in the Appeals Chamber’s amendments to the original Trial Chamber’s order for reparations.

¹³ See Order for Observations, para. 9.

1. The role of the convicted person post-issuance of the order for reparations

11. The Trust Fund observes that the OPCV's proposed way forward adopts the Trust Fund's position that the convicted person should not be able to review the individual victim dossiers and challenge the eligibility of reparations beneficiaries.¹⁴ However, the Trust Fund notes that, in making its submissions, the OPCV does not in any way address how it would implement the individual victim identification and harm assessment process, including the preparation of dossiers, under the *current applicable procedures* established by the Trial Chamber in its Order of 9 February 2016. Indeed, it is noteworthy that the OPCV fails to discuss how it would undertake this process prior to a decision by the Trial Chamber on the Trust Fund's Request for Reconsideration. This is noteworthy precisely because, until and unless reconsidered, the Order of 9 February 2016 remains in effect and thus binding, including on the OPCV. The Trust Fund notes the OPCV's submission that it shares the Trust Fund's motivation for requesting that this fundamental aspect of the process be reconsidered, i.e. the well-being of victims. However, the OPCV does not explain how it would accomplish this under the current applicable process, which it is recalled requires that the convicted person be given access to the victim dossiers so that the convicted person can challenge the eligibility of these individuals. Indeed, the Trust Fund observes that it is not entirely clear that the OPCV would be willing to take over and continue this process without a change being ordered with respect to Mr Lubanga's involvement therein.

12. Following from the above observations, the Trust Fund considers it important to restate its position that is currently misrepresented by the OPCV. Contrary to the stated rationale for why the OPCV suggests that it should take over the victim eligibility process,¹⁵ the Trust Fund did not "discontinue" the victim identification and harm assessment missions. The Trust Fund *suspended* its involvement *until* the Request for Reconsideration was decided upon. The Trust Fund considers that a determination of the Trial Chamber on this aspect of its Request for Reconsideration is absolutely necessary for fundamental procedural reasons, and primarily in the interest of the well-being of victims, before there can be any meaningful evaluation of the OPCV's proposal regarding how it would differently undertake the process of victim

¹⁴ See 1 July 2016 OPCV Response, paras 48-49.

¹⁵ See 1 July 2016 OPCV Response, paras 2, 47.

identification and eligibility assessment. Finally, the Trust Fund would also point out that there is also a request from the Legal Representatives of Victims V01 for the Trial Chamber to hear it *ex parte* regarding the security and safety concerns of the victims he represents in relation to the current required disclosure of their information to the convicted person, a request which to the Trust Fund's knowledge has not yet been ruled upon. The Trust Fund respectfully submits that this request should be granted and the Legal Representative heard on this important matter prior to considering whether the current process should continue.

13. Accordingly, the Trust Fund would request that the Trial Chamber decide upon its Request for Reconsideration before deciding whether to order that the individual victim identification and eligibility process continue, particularly given that the OPCV's proposal appears to be premised on the current process first being changed by the Trial Chamber, in other words "reconsidered". In the case that the Trial Chamber does first rule on the Request for Reconsideration, the Trust Fund would also request that the OPCV proposal contained in its 1 July 2016 Response and repeated in its Request be considered moot and dismissed accordingly and that the Trust Fund be invited to make submissions regarding how it intends to proceed in light of the Trial Chamber's determinations on the Request for Reconsideration.

2. The procedure put in place by the Trust Fund for the compilation of the individual victim dossiers and the purpose of the dossiers

14. The involvement of the convicted person in the victim eligibility determination process is also an important aspect of the second matter that the Trust Fund would like to address. The Trust Fund notes that the OPCV proposes that the victim identification and harm assessment procedures can be simplified.¹⁶ The Trust Fund acknowledges that it did not explain the reasoning behind the procedures that were put in place for the first victim identification and harm assessment missions and considers that this may have led to misunderstandings. The Trust Fund considers that this may particularly be the case with regard to its use of independent experts to conduct the harm assessments. The Trust Fund would therefore like to take the opportunity to explain why it put in place the procedures that it did.

15. First, the Trust Fund reiterates that its core guiding principle is "do no harm" in all of its interactions with victims. The issue of utmost concern to the Trust Fund in this regard was

¹⁶ See 1 July 2016 OPCV Response, para. 29.

and remains the requirement that the convicted person be provided with not only the names and identifying information of the individual victims, but also the harms that they allege to have suffered, for purposes of the convicted person having the opportunity to challenge their eligibility. The Trust Fund therefore put in place a harm assessment procedure that would not rest solely on statements from individual victims, but rather included an assessment (based on an interview and examination) by an objective third party expert that the harms alleged by the victims indeed appeared to have been suffered. In this sense, the Trust Fund was motivated by a desire to avoid a situation whereby potential challenges would focus on the credibility and reliability of the individual victims or their emotional ability to clearly articulate in a statement the harms that they have suffered. In the circumstances of the *Lubanga* case, particularly the assertion that former child soldiers are “false victims” and the continued denial that the crimes for which Mr Lubanga was convicted in fact occurred and caused harm, the Trust Fund considered that objective, expert third party documentation confirming the alleged harms was an important and necessary protective measure and form of documentation to include in any victim dossier that would be given to the convicted person to challenge.

16. Second, the Trust Fund notes that the Trial Chamber required harm assessments for all potential collective reparations beneficiaries and did not exclude from this the victims who had already participated in the case or (as suggested by the Trust Fund) indicate that there was a presumption of harm suffered, despite these individuals having already completed participation forms, which contain information about the harms suffered from the crimes. It is not clear to the Trust Fund in what manner the information contained in these forms was considered deficient for purposes of the alleged harms suffered, as this was not addressed in the Order of 9 February 2016.

17. Due to the lack of certainty regarding what degree of information would be considered sufficient to the Trial Chamber for purposes of eligibility, the Trust Fund also carefully considered the issue of whether informing a victim that his or her eligibility had been successfully called into question (particularly if by the convicted person) and that further information or documentation was required would be harmful or potentially re-traumatize the victim. The Trust Fund also considered that engaging in a protracted back and forth would also potentially result in further prolonging the process of determining eligibility. In conclusion and again recalling the precarious situation of victims in this case, the Trust Fund

considered that it was particularly important in the context of this case to take all measures possible to ensure that the dossiers would be able to withstand any challenge from the convicted person and satisfy the Trial Chamber on one, and only one, review.¹⁷

18. Further, in light of the OPCV's submission in July of this year that the process can be simplified, the Trust Fund feels compelled to point out that the procedures it put in place were fully discussed in advance and developed in consultation with the participants in the case, including OPCV, as well the relevant sections of the Registry.

19. Finally, the Trust Fund would like to take this opportunity to clarify the scope of the contract entered into with its implementing partner, AMAB, in relation to the victim identification and harm assessment process. AMAB was awarded a contract of USD 111,380 for the entire period 1 April to 31 December 2016, which included expected necessary expenditures such as hiring the services of the experts and the logistical cost of facilitating the interviews and assessments (for example, the provision of food and refreshments for victims, transportation and lodging for those victims who live outside Bunia, and the rental of the venue for the interview and harm assessments). At the same time that the Trust Fund suspended its involvement in the victim identification and harm assessment process pending a decision on its Request for Reconsideration, it also suspended future payments on the contract. Accordingly, the remaining 63% of the budget is available and may be re-purposed for service-based reparations activities.

20. A separate point that arises from the 1 July 2016 OPCV Response for which the Trust Fund considers clarification is needed relates to the purpose of the individual victim dossiers. The Trust Fund notes that the OPCV characterizes the present process as one of "gather[ing] reparations requests", with the purpose of *inter alia* permitting the Trial Chamber to understand "the nature" of the harms suffered in order to decide which projects proposed by the Trust Fund respond to these harms.¹⁸ The Trust Fund does not share this understanding of

¹⁷ Indeed, the Trust fund notes that, when the dossiers were reviewed by the participants prior to submission, concern was raised regarding supporting documents that had the names of victims in, for example, a different order or where a first name was not listed on some documents (i.e. containing only middle and last names) with other documents containing only the first and last names (i.e. omitting the middle name). This concern was raised with regard to how Mr Lubanga might challenge the dossiers, based on experience in the trial proceedings.

¹⁸ See 1 July 2016 OPCV Response, para. 30.

the purpose of the victim identification and harm assessment process based on the clear and unambiguous language of the Order of 9 February 2016, which states in relevant part:

14. However, the Chamber will not be able to rule on the monetary amount of Mr Lubanga's liability until the potential victims have been identified and it has examined both their status as victims eligible to benefit from the reparations and the extent of the harm they have suffered. In this context, the Chamber recalls that it is responsible for deciding on the status of eligible victims once the Defence has had the opportunity to submit its observations on the eligibility of each victim.

[...]

18. The Chamber instructs the TFCV to provide it with the first batch of files of potential victims, via the Registry if necessary, by 31 March 2016, the second batch by 15 July 2016 and the third batch by 31 December 2016 ("the three Batches"). In this context, the Chamber will issue decisions regarding the status of the victims eligible to benefit from the reparations based on the batches of files received and the observations of the Defence.¹⁹

21. The Trust Fund has already submitted its views in relation to the individual victim dossiers being required for the purpose of establishing Mr Lubanga's liability and will not repeat those arguments herein. However, the Trust Fund would like to briefly address this alternative purpose proposed by OPCV. At the outset, the Trust Fund considers it important to reiterate its disagreement with the notion that an individual reparations request-based procedure (akin to the pre-reparations order rule 94 procedure) may be imposed at the implementation stage in the current proceedings. The Trust Fund refers to the Appeals Chamber's judgment on the reparations appeals in this case where the Appeals Chamber ruled on this matter in the context of grounds of appeal raised by both the victims and Mr Lubanga. In the Trust Fund's submission, this issue has already been finally decided. Beyond what it has already submitted on this point, the Trust Fund would also highlight paragraphs 185 and 186 of the Appeals Chamber judgment,²⁰ which the Trust Fund submits makes clear that the

¹⁹ Order of 9 February 2016, para. 14.

²⁰ Judgment on the appeals against the "Decision establishing the principles and procedures to be applied to reparations" of 7 August 2012, 3 March 2015, ICC-01/04-01/06- 3129. The Trust Fund notes that in the paragraphs

Appeals Chamber itself determined “the nature” of the harms suffered by victims in the present case and more importantly also makes clear that, while harms for purposes of a reparations order may potentially be derived from submitted rule 94 reparations requests, this scenario can only take place *prior to the issuance of a reparations order* and accordingly was excluded in the present case as a basis for determining “the nature” of the harms suffered.

22. However and notwithstanding the language of the Order of 9 February 2016, the Trust Fund notes that the Order of 15 July 2016 states the following:

In this regard, the Chamber recalls the deadline set in the Order of 9 February for transmitting to the Chamber the files of potential victims, i.e. 31 December 2016. *The Chamber will then be able to supplement the sample already available and to better assess to what extent the list of victims identified is representative of all potential victims.*²¹ [Emphasis added, footnote omitted.]

23. In the Trust Fund’s view, there appears to be a potential inconsistency between the stated purpose of the individual victim dossiers in the Order of 9 February 2016 and that of the Order of 15 July 2016. The Trust Fund submits that it is not possible to make meaningful submissions on the OPCV’s proposed procedure for carrying out the victim identification and harm assessment process, or whether there is a need for such a process at all, without a definitive statement of its intended purpose. The Trust Fund would therefore respectfully request that the Trial Chamber first clarify which understanding of the purpose of this process is in fact correct and also requests that the parties and participants be given the opportunity to make submissions on whether the victim identification and harm assessment process is the most appropriate approach in which to meet that purpose, bearing in mind issues of feasibility, the applicable legal framework, and most importantly the well-being of victims and their right to receive collective reparations in this case. The Trust Fund respectfully submits that it is contrary to the rights of victims that they be subjected to a process while its purpose remains unclear and would therefore repeat its request that the Trial Chamber first rule on the Trust Fund’s pending Request for Reconsideration, wherein this matter is raised

following these, the Appeals Chamber also went on to consider harms found in the sentencing decision for purposes of defining the nature of the harms suffered in the present case as set out in the amended order for reparations.

²¹ Order of 15 July 2016, para. 8.

and can accordingly be clarified. For these same reasons, the Trust Fund would also request that the Trial Chamber not adopt the OPCV's proposal in the interim.

3. The Trial Chamber's role in monitoring and overseeing the implementation of the Trust Fund's victim screening process

24. The Trust Fund recalls that it has consistently argued²² that the implementation phase of reparations proceedings following an order for reparations should be guided by a system-wide concern for proportionality, thus to ensure that the costs of the process are not disproportionate to or outweigh the value of the eventual benefit to eligible victims.

25. The Trust Fund reiterates its view that the screening of potential beneficiaries at the implementation stage is an administrative function that falls under the purview of the Trust Fund. The Trust Fund submits that the Assembly of States Parties made the administrative nature of this process, as well as that it is to be carried out by the Trust Fund, unambiguously clear by promulgating regulations 60-65 of the Regulations of the Trust Fund, provisions that fall under Chapter III, "Individual awards to victims pursuant to rule 98 (2), Section II" "Where the Court does not identify the beneficiaries". The Trust Fund reiterates its view that it is contrary to the intent of the States Parties in adopting the Regulations of the Trust Fund and the holdings of the Appeals Chamber that *collective* reparations awards would have a more stringent, judicially-based individual eligibility determination process than that applicable for individual reparations awards, particularly given that the number of victims is a factor for awarding collective reparations in place of individual awards.

26. The Trust Fund equally acknowledges that regulation 69 of the Regulations of the Trust Fund, under the Chapter "Collective awards to victims pursuant to rule 98 (3)", also provides that determinations related to the method of implementation of the awards are to be approved by the Court and that the Trial Chamber has a monitoring and oversight role in order to ensure that the awards are implemented in line with the applicable legal criteria set out in the order for reparations. In this regard, the Trust Fund notes that the Appeals Chamber's judgment contains legal criteria for the eligibility of beneficiaries in service-based collective awards. Thus, the Trust Fund considers that the Trial Chamber's role necessarily includes

²² See e.g. ICC-01/04-01/06-2803-Conf-Exp, paras 269-270.

monitoring that the Trust Fund is properly applying the legal criteria of victim eligibility set out in the amended order.

27. It may be helpful to expand in some detail upon how the Trust Fund envisions this administrative process in order to hopefully give confidence to the Trial Chamber in the Trust Fund's full commitment and ability to carry it out, as well as to clarify how the Trust Fund intends to keep the Trial Chamber apprised of this process so that it may exercise its monitoring and oversight functions.

28. The Trust Fund recalls that, under its assistance mandate, it has ample experience in ensuring, through on-site monitoring of project implementation, that its partners are in compliance with the legal criteria of the Trust Fund's mandate(s), such as the temporal limits of a "situation" under the jurisdiction of the Court and the scope of specific activities approved by the Pre-Trial Chamber. The Trust Fund's practice of ensuring compliance shall be applied *a fortiori* in its engagement with implementing partners within the specific legal and operational parameters of Court-ordered reparations awards.

29. In regard of the administrative screening process for potential beneficiaries of collective reparations awards in the present case, the Trust Fund wishes to stress to the Trial Chamber that it will carry out an exhaustive training on the applicable legal criteria with all of its implementing partners and that the Trust Fund retains complete oversight and ultimate responsibility over its implementing partners for this process. In this regard, the Trust Fund confirms that there will be no potential beneficiary screening without the presence of Trust Fund Secretariat staff.

30. Regarding the Trial Chamber's role of monitoring and oversight, the Trust Fund wishes to assure the Trial Chamber of its commitment to transparency in this process. The Trust Fund will provide the Trial Chamber with regular reports so that it can monitor and exercise oversight to ensure that the Trust Fund and its partners are properly applying the criteria set out in the amended order. The Trust Fund stands ready to consult with the Trial Chamber on the specific information to be included in these reports.

31. Furthermore, the Trust Fund will also promptly revert to the Trial Chamber for guidance regarding any potentially unclear aspect of the legal criteria for eligibility that it may encounter in this process. In this regard, the Trust Fund already notes that there may be

questions about certain specific localities, given the lack of an exhaustive list in the Trial Chamber's judgment pursuant to article 74 and its use of the general term "Bunia" in place of the names of villages surrounding Bunia, for which the Trial Chamber's guidance and clarification would be needed.

32. In brief, the Trust Fund envisions an administrative screening process for collective reparations awards that is modeled, with certain modifications, on the procedure laid out in regulations 60-65 of the Regulations of the Trust Fund pertaining to individual awards. In this regard, the Trust Fund submits that a verification process of each individual beneficiary by its Board of Directors (as provided for under regulations 63 and 64 for individual reparations awards) is not appropriate or operationally feasible for collective reparations awards. Furthermore, the Trust Fund notes that the administrative procedure adopted by the States Parties does not include the involvement of legal support to potential beneficiaries at the implementation stage of reparations. While noting this absence, the Trust Fund nevertheless considers that there may be a need for legal advice and support to any potential beneficiaries, concerning their general right to reparations and in particular to those who do not pass the Trust Fund's administrative screening. The Trust Fund proposes that this could be achieved through a less cumbersome and time intensive, but still robust administrative appeals process whereby the Trust Fund Board of Directors shall establish and be advised by an independent review panel regarding these cases. The Trust Fund would keep the Trial Chamber fully apprised of this review process and its outcomes as part of the regular implementation reports it will be submitting.

33. The Trust Fund respectfully submits that the above process is fully in line with the applicable legal framework for reparations awards where individual victims are not identified in the order for reparations (such as for collective reparations awards), and operationally and financially feasible, while also fully respecting the rights of victims and ensuring that the limiting criteria of the amended order are fully respected in the implementation of collective reparations awards in this case. Furthermore, as held by the Appeals Chamber, the processes laid out in the Regulations of the Trust Fund are not contrary to the rights of the convicted person, in that this administrative process: (i) is subject to review and comment by the convicted person at the process level and (ii) fully respects the monitoring and oversight role of the Trial Chamber.

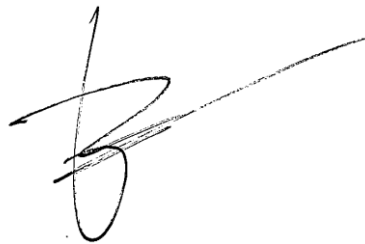
III. Conclusion

34. The Trust Fund reiterates that it is fully committed to closely working with all parties and participants of these proceedings to resolve the current impasse and to arrive at a point when meaningful reparation awards can finally be implemented. The Trust Fund hopes that the Trial Chamber sees its recent submission on symbolic reparations as a constructive first step in this direction and views the present submission as being made in this regard.

35. The Trust Fund also wishes to inform the Trial Chamber of its willingness and commitment to provide any further information in relation to this submission that the Trial Chamber deems necessary.

FOR THE FOREGOING REASONS

The Board of Directors respectfully submits these observations on the OPCV's Request of 16 September 2016 and respectfully requests that the Trial Chamber take them into account in deciding upon the Request.



Pieter W.I. de Baan
Executive Director of the Secretariat of the Trust Fund for Victims,
on behalf of the Board of Directors of the Trust Fund for Victims

Dated this 3 October 2016

At The Hague, The Netherlands