



Original: English

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

Date: 6 October 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 one Confidential *EX PARTE* annex, available only to the Registry and both
Legal Representatives of Victims**

and

**24 Confidential *EX PARTE* annexes, available only to the Registry and the Legal
Representative of the Victims of the Attacks**

Fifth 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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Ntaganda

Mr Stéphane Bourgon

Legal Representatives of Victims

Ms Sarah Pellet

Mr Dmytro Suprun

Legal Representatives of Applicants

**Unrepresented Applicants for
Participation/Reparation**

Unrepresented Victims

**The Office of Public Counsel for
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REGISTRY

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Mr Nigel Verrill

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**Victims Participation and Reparations
Section**

Ms Isabelle Guibal

Other

Mr Jean-Claude Aubert

I. Introduction

1. This is the fifth report submitted pursuant to the direction of Trial Chamber VI (“Chamber”) in its Decision on victims’ participation in trial proceedings (“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 (“LRVs”) have provided the Victims Participation and Reparations Section (“VPRS”) with detailed information relating to the activities amongst the victims during the reporting period (7 June 2016 – 6 October 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 24 Victims of the Attacks and has received resumption of action forms for each. Therefore, pending a decision on the status of these resumption of action forms and following the Chamber’s Seventh decision on victims’ participation in trial proceedings,² whereby the family members of seven deceased victims were authorized to resume the action initiated before the Court by their respective deceased relatives, the number of participating victims at the close of the reporting period has been reduced by 24 and is now 2, 120.
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 (“LRV1”);
 - B. Update on the general situation of the victims of the attacks and the activities of their Legal Representative in the field (“LRV2”);
 - C. The VPRS’ assessment on the resumption of action forms received;

¹ Trial Chamber VI, “Decision on victims’ participation in trial proceedings”, dated 6 February 2015, ICC-01/04-02/06-449, para. 24 (ix).

² Trial Chamber VI, “Seventh decision on victims’ participation in trial proceedings”, dated 1 July 2016, ICC-01/04-02/06-1427.

- D. Updated information pertaining to the safety and security of victims and intermediaries.³

II. Procedural History

5. On 6 February 2015, 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 ("Case").⁴
6. On 1 September 2015, the Chamber issued its Fourth decision on victims' participation in trial proceedings ("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.⁵

III. Classification

7. Pursuant to regulation 23bis(1) of the Regulations of the Court ("RoC"), Annex 1 is submitted as "confidential *ex parte*, only available to the Registry and both LRVs" because it contains sensitive information that relates to the safety and physical well-being of victims or intermediaries; Annexes 2 to 25 are submitted as "confidential *ex parte*, only available to the Registry and

³ The Registry has provided this information in Annex 1.

⁴ Trial Chamber VI, "Decision on victims' participation in trial proceedings", dated 6 February 2015, ICC-01/04-02/06-449, para. 24 (ix).

⁵ Trial Chamber VI, "Fourth decision on victims' participation in trial proceedings", dated 1st September 2015, ICC-01/04-02/06-805, para. 13.

LRV2” because they contain identifying information pertaining to LRV2’s clients.

IV. Applicable Law

8. 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, regulation and 86 of the RoC and regulations 97-99 and 109 of the Regulations of the Registry.

V. Submissions

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

9. As per paragraph 24(ix) of the First Participation Decision, Ms. Pellet, LRV1, has provided the VPRS with information relating to her teams’ activities amongst the victims.⁶

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 her clients in Ituri in order to keep them informed of the developments of the proceedings and gather their views and concerns. In addition, LRV1 indicated that her field counsel responded to numerous phone calls by victims, related to developments in the proceedings and the tentative

⁶ Email communication between LRV1 and VPRS, 23 September 2016.

dates for upcoming missions. Furthermore, LRV1 reported that her field counsel received numerous phone calls pertaining to the victims' or their children's medical conditions.

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 complain about their difficult economic and psychological situation, and about the fact that they are not benefiting from the Trust Fund for Victims ("TFV") projects or from any other support. The LRV1 also indicated that the situation of the former girl child soldiers continues to be very worrisome.

The LRV1 added that, as reported in the Registry's Fourth Periodic Report on the Victims and their General Situation,⁷ the start of the TFV missions in Ituri seemed to have raised the expectations of the participating victims in the Case with regard to reparations and that this is even more the case during the present reporting period. According to LRV1, victims are asking many questions in relation to reparations which are triggered by the proceedings in the case of the *Prosecutor v. Thomas Lubanga Dyilo* ("Lubanga case"). Since victims' expectations continue to rise, LRV1 considers that it is of paramount importance that outreach activities in relation to the Lubanga reparations proceedings take this aspect into consideration.

Finally, LRV1 reported that following the announcement of a voluntary protest fast ("VPF") undertaken by the accused in the Case, the situation of the victims was closely monitored, including in relation to their security. The LRV1 noted that as of 23 September 2016, there has been no major issue to report upon in terms of security. However, according to LRV1, victims have expressed their shock when they learned the reasons put forward by the accused in relation to

⁷ Registry, "Fourth Periodic Report on the Victims and their General Situation", dated 6 June 2016, ICC-01/04-02/06-1369, p. 6.

his VPF. Given that the Accused's family visit took place recently, the LRV1 indicated that she will continue to closely monitor the security of her clients.

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

10. At the close of the reporting period, Mr. Suprun, LRV2, also provided the VPRS with information relating to his team's activities amongst the victims, in accordance with the First Participation Decision.⁸ The detailed information relating to his activities and to the general situation of victims is presented in the table below.

LRV2
Information Relating to Activities Amongst the Victims of the Attacks
The LRV2 reported that during the reporting period he, together with his field counsel, undertook one mission in the field during which they held mostly individual meetings with the victims in order to address their concerns, in particular in relation to their security and well-being. The LRV2 further reported that he and his field counsel 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 relevant documents. The LRV2 further indicated that during the reporting period, his 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

⁸ Email communication between LRV2 and VPRS, 28 September 2016.

LRV2 moreover indicated that his 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, to address the victims' needs and inquiries, and to collect their views and concerns. In particular, LRV2 reported to have consulted the victims to seek their views regarding the recent decision of the accused not to attend hearings. In addition, LRV2 mentioned that the field counsel facilitated interactions and meetings between the Office of the Prosecutor and dual status victims, particularly those who were scheduled to travel to The Hague to testify during the reporting period.

Lastly, LRV2 recalled that he has transmitted during the reporting period to the VPRS 24 resumption of action forms together with the relevant documents. The LRV2 also noted that he has recently been informed of the death of a number of other victims of the attacks, and is currently in the process of verifying that information. The LRV2 has indicated that, if confirmed, he will transmit the relevant resumption of action forms to the VPRS in due course.

General Situation of the Participating Victims of the Attacks

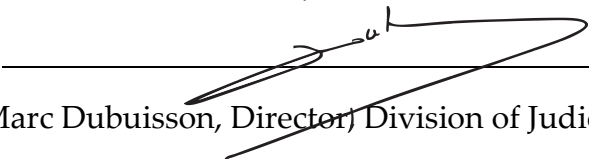
Regarding the general situation of the victims of the attacks, LRV2 reported that most victims continued to raise issues about their very difficult life conditions, as well as about their lack of support or assistance since the events of 2002-2003. In particular, a large number of victims contacted the LRV2's field counsel in order to seek assistance to cover their children's school expenses.

Finally, as regards the security situation in the Ituri region, the LRV2 noted that many victims reported that the security situation remains volatile and continues to be one of their main concerns. According to LRV2, the general political situation in the country constitutes an additional factor creating tensions in the affected communities in Ituri. More specifically, he reported that many victims complained about 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 operate in the region and to commit numerous crimes against civilians, particularly in the Irumu territory. Furthermore, LRV2 reported that elements of *Mai Mai* militia attacked civilians in certain villages in the Irumu territory. According to LRV2, those activities pushed numerous civilians to move to more secure areas. In addition, a number of civilians were attacked in Bunia and surrounding villages, in particular on the road Kilo-Kobu. The LRV2 also noted that, given the political tensions in the country, several peaceful protests in Ituri were repressed by the authorities and a number of human rights activists were arrested in Bunia and the Mahagi territory.

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

11. On 13 July 2016, the LRV2 formally notified the VPRS of the death of 24 participating Victims of the Attacks and submitted resumption of action forms on behalf of each of the deceased victims.⁹ The VPRS has assessed all 24 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.¹⁰ 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 2-25).



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

Dated this 6 October 2016

At The Hague, The Netherlands

⁹ a/20186/14; a/20169/14; a/30113/15; a/30270/15; a/20056/15; a/20157/14; a/01687/13; a/20044/14; a/00648/13; a/00050/13; a/00057/13; a/00197/13; a/01331/13; a/01332/13; a/01532/13; a/01202/13; a/00641/13; a/01113/13; a/01166/13; a/00979/13; a/01643/13; a/01657/13; a/01675/13; a/01593/13.

¹⁰ 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."