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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**

Sixth periodic report on victims in the case 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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I. Introduction

1. This is the sixth 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 (“CLRs”) have provided the Victims Participation and Reparations Section (“VPRS”) with detailed information relating to the activities with the victims during the reporting period (7 October 2016 – 6 February 2017) as well as information on the general situation of the victims whom the CLRs met.
3. The VPRS notes that during the reporting period, the Chamber authorised 24 applicants to resume the actions initiated before the Court by their respective deceased relatives.² Therefore, the number of participating victims at the close of the reporting period has been increased by 24 and is now at 2,144.³
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 (“CLR1”);
 - B. Update on the general situation of the victims of the attacks and the activities of their Legal Representative in the field (“CLR2”);

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

² Trial Chamber VI, “Eighth decision on victims’ participation in trial proceedings”, 27 October 2016, ICC-01/04-02/06-1597, whereby the applicants in respect of the following victims of the attacks: a/20186/14, a/20169/14, a/30113/15, a/30270/15, a/20056/14, 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 and a/01593/13, were authorised to resume the action initiated by the respective deceased victims.

³ The number of participating victims at the close of the previous reporting period was 2, 120. See Registry’s “Fifth Periodic report on the victims and their general situation”, 6 October 2016, ICC-01/04-02/06-1567.

C. Update pertaining to the safety and security of victims and intermediaries.⁴

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 CLRs, a detailed report about the victims admitted to participate in the proceedings and the general situation of participating victims in the case of *The Prosecutor v. Bosco Ntaganda* (“Case”).⁵
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 to it any applications to resume the action of a deceased victim, through its periodic reports as appropriate.⁶

III. Classification

7. Pursuant to regulation 23bis(1) of the Regulations of the Court (“Regulations”), the annex to this filing is submitted as “confidential *ex parte*, only available to the Registry and both CLRs” because it contains sensitive information that relates to the safety and physical well-being of victims and intermediaries.

⁴ The Registry has provided this information in the appended confidential *ex parte* annex.

⁵ Trial Chamber VI, Decision on victims’ participation in trial proceedings, 6 February 2015, ICC-01/04-02/06-449, para. 24 (ix).

⁶ Trial Chamber VI, Fourth decision on victims’ participation in trial proceedings, 1 September 2015, ICC-01/04-02/06-805, para. 13.

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 86 of the Regulations 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, CLR1, has provided the VPRS with information relating to her teams' activities in interaction with the victims.⁷ CLR1 indicated that no resumption of action form was gathered during the reporting period as she was not made aware of any victim having passed away during the relevant period.

CLR1
Information relating to activities amongst the former child soldier victims
During the reporting period, CLR1 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. CLR1 indicated that emphasis was given to victims never met by CLR1 despite numerous attempts to do so.

⁷ Email communication between CLR1 and VPRS, 19 January 2017.

CLR 1 reported that as at 6 February 2017, she met with all her clients, except 16 of them. CLR1 indicated that the 16 remaining victims were not met because they were not present in their usual place of residence on the numerous missions undertaken by CLR1 and/or her field counsel. The vast majority of the victims were met on several occasions.

In addition, CLR1 indicated that, during the reporting period, her field counsel responded to numerous phone calls by victims, related to developments in the proceedings and the tentative dates for upcoming missions. The victims' phone calls were also related to the consequences of the hunger strike undertaken by the accused, Mr Ntaganda ("Accused"), which, according to CLR1, was largely covered by the local medias at the beginning of the reporting period.

Furthermore, CLR1 reported that her field counsel received less phone calls than usual in relation to the victims' or their children's medical conditions.

General situation of the participating child soldier victims

CLR1 reported that the general situation of the participating former child soldier victims remains unchanged. According to CLR1, 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. CLR1 also indicated that the situation of the former girl child soldiers continues to be very worrisome.

CLR1 further indicated that the victims met during the reporting period have very high expectations with regard to reparations due to confusion created between the reparations proceedings in the case of the *Prosecutor v. Thomas Lubanga Dyilo* ("Lubanga case") and the present Case. CLR1 reported that she and/or her field counsel had to answer a lot of questions on reparations triggered by the proceedings in the *Lubanga* case. Accordingly, CLR1 indicated that she continues to call for outreach activities, and any other activities linked with the reparations proceedings in the *Lubanga* case, to take this aspect into

consideration. CLR1 highlighted that given the level of the victims' expectations, so far CLR1's message in this regard seems not to have been implemented, or at least did not have any positive effects on the victims.

Finally, CLR1 reported that following the hunger strike undertaken by the Accused in the Case and his family visit which took place in its immediate aftermath, she continued to monitor closely the security of her clients. According to CLR1, to date, no incident has been reported by victims which can be directly linked to this event.⁸

B. Update on the general situation of the victims of the attacks and the activities of their legal representative in the field

10. In accordance with the First Participation Decision, CLR2 also provided the VPRS with information relating to his team's activities in interaction with victims.⁹ Detailed information relating to his activities and to the general situation of victims is presented in the table below.

CLR2
Information relating to activities amongst the victims of the attacks
CLR2 reported that during the reporting period he, together with his team, undertook two missions in the field during which individual meetings were held with the victims in order to address their concerns, in particular in relation to their security and well-being as well as to identify the victims who may be

⁸ The Registry notes that CLR1 also indicated that should the Chamber request to be provided with more detailed information concerning her activities that are covered by the attorney-client privilege, such information would only be provided to the Chamber on an *ex parte* basis, available only to the Chamber and to the CLR concerned.

⁹ Email communication between CLR2 and VPRS, 23 January 2017.

sought to appear in person before the Court in order to present evidence or views and concerns.

CLR2 further indicated that during the reporting period, his field counsel spent an average of 3-4 hours per day calling victims as well as focal persons designated by the victims in relevant locations and answering their calls. CLR2 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 addition, CLR2 mentioned that his 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.

General situation of the participating victims of the attacks

Regarding the general situation of the victims of the attacks, CLR2 reported that most victims continued complaining about their very difficult life conditions, as well as about their lack of support or assistance since the events of 2002-2003.

Finally, as regards the security situation in the Ituri region, the CLR2 noted that many victims reported that the security situation remains volatile and continues to be one of their main concerns. According to CLR2, 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 in the Djugu territory.

CLR2 further reported that in the Irumu territory, many victims were pushed to leave their villages because of hostilities between FRPI's elements and FARDC (*Forces Armées de la République Démocratique du Congo*) troops, in particular in Nyakunde. CLR2 indicated that international NGOs such as *Oxfam* and *Solidarité Internationale* deployed their efforts to help displaced persons.

Furthermore, CLR2 indicated that several victims reported to his team that numerous elements of ADF-NALU rebels group (*Alliance of Democratic Forces*) who had usually operated in North Kivu, arrived to Ituri in view of attacking civilians, killing and pillaging. CLR2 stressed that the presence and activities of several rebels groups in the region is one of the major concerns of the victims who feel unsecure and unprotected. According to CLR2, those activities pushed numerous civilians to move to more secure areas.

Finally, CLR2 reported that, according to the victims, those activities along with the lack of any effective public administration have resulted in aggravating the poverty in the affected communities.

C. Registry's activities in the field

11. During the reporting period, the Registry through its field office in DRC conducted 20 outreach activities throughout Ituri.



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

Dated this 6 February 2017

At The Hague, The Netherlands