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No.: ICC-01/04-02/06
Date: 6 February 2018

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

Ninth Periodic Report on Victims in the Case and their General Situation

**With one Confidential *EX PARTE* Annex, available only to the Chamber and both
Legal Representatives of Victims**

and

**Twenty-Four Confidential *EX PARTE* Annexes, available only to the Chamber
and the Legal Representative of the Victims of the Attack**

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. The Registry hereby submits the ninth report on victims of the case and their general situation ("Ninth Report") pursuant to Trial Chamber VI's orders ("Chamber") in the first and fourth decision[s] on victims' participation in trial proceedings ("First Victim Participation Decision" and "Fourth Victim Participation Decision").¹
2. The Common Legal Representatives of Victims ("CLR") provided the Victims Participation and Reparations Section ("VPRS") with detailed information relating to their activities with participating victims during the reporting period (7 October 2017 to 6 February 2018) as well as information on the general situation of these victims.
3. During the reporting period, the VPRS has been notified by the Common Legal Representative of the victims of the attacks allegedly committed by the *Union de patriotes congolais* and the *Forces patriotiques pour la libération de Congo* ("CLR2" and "victims of the attacks") of the death of thirty-six (36) victims represented by him and of the requests for resumption of action submitted for each of the deceased victims.² Pending a decision on the status of the resumption of action requests and following the Chamber's decision of 23 November 2017 authorizing the resumption of action for five deceased victims,³ the number of participating victims at the close of the reporting period has been reduced by 36 and is now at 2,100.⁴
4. The present report will cover the following topics:

¹ Trial Chamber VI, "Decision on victims' participation in trial proceedings", 6 February 2015, ICC-01/04-02/06-449, para. 24 (ix); Trial Chamber VI, "Fourth decision on victims' participation in trial proceedings", 1 September 2015, ICC-01/04-02/06-805, para 13(ii)(a).

² Emails from CLR2 to VPRS on 5 January 2018 at 08:12.

³ Trial Chamber VI, "Ninth decision on victims' participation in trial proceedings", 23 November 2017, ICC-01/04-02/06-2126.

⁴ CLR1 represents 283 former child soldiers and CLR2 represents 1,817 victims of the attacks.

- 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 CLR2;
- C. VPRS’ assessment of the resumption of action forms received;⁵ and
- D. Update pertaining to the safety and security of victims and intermediaries.

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* (“Ntaganda case”).⁶
- 6. On 1 September 2015, the Chamber issued its Fourth Victim Participation 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.⁷

III. Classification

⁵ Among the 36 resumptions of action forms that the VPRS received from CLR2 on 5 January 2018, it assessed 23 as complete and 13 as requiring supplementary information. A table containing the VPRS’ *prima facie* legal analysis of the complete forms for resumption of action is appended to the present submission as confidential *ex parte* Annex II. The 23 complete resumption of action forms are submitted as Annexes III to XXV.

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

⁷ Trial Chamber VI, “Fourth decision on victims’ participation in trial proceedings”, 1 September 2015, ICC-01/04-02/06-805, para. 13.

7. In accordance with regulation 23*bis*(1) of the Regulations of the Court ("RoC"), the first annex to this filing is submitted as confidential *ex parte*, only available to the Chamber and both CLRs, and the remaining twenty-four annexes are submitted as confidential *ex parte*, only available to the Chamber and CLR2, because they contain sensitive information that relates to the safety and physical well-being of victims.

IV. Applicable Law

8. This submission is made pursuant to articles 68(1) and (3) of the Rome Statute, rule 16 of the Rules of Procedure and Evidence, regulation 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, CLR1 has provided the VPRS with information relating to her team's activities in interaction with relevant victims.⁸ CLR1 noted that three victims passed away during the reporting period and that the families of the victims were informed about the resumption of action process and are gathering the necessary paperwork. CLR1 indicated that she would provide the complete files as soon as she receives them.

⁸ Email from CLR1 to VPRS on 22 January 2018 at 14:46.

CLR1
Information relating to activities amongst the former child soldier victims
During the reporting period, CLR1 and/or her field counsel travelled to meet with their clients in Ituri and elsewhere in order to keep them informed of the developments of the proceedings and to gather their views and concerns. According to CLR1, they both responded to numerous questions regarding the testimony of the accused, Mr Bosco Ntaganda (“Accused”), which gave rise to a lot of frustration. Moreover, the field counsel had to respond to numerous phone calls by victims who reacted, very strongly, to the abovementioned testimony and wanted to be kept informed of the tentative dates in relation to upcoming missions. CLR 1 added that consultations were also organised to gather the views and concerns of the former child soldiers regarding the possibility to hear closing statements in DRC or elsewhere. The results of this consultation were provided directly to the Chamber on 30 January (No. ICC-01/04-02/06-2199-Conf), as per Trial Chamber VI’s directions (No. ICC-01/04-02/06-2170, para. 17).
General situation of the participating child soldier victims
In relation to the general situation of victims, CLR1 reported that they continue to express complaints about their difficult economic and psychological situation. She noted that they continue to complain about the fact that they are not benefiting from TFV projects or from any other support. CLR1 reports that the situation of the former girl child soldiers continues to be very worrisome. She also noted that victims continue to ask questions about reparations proceedings demonstrating high expectations in this regard. CLR1 also noted that the victims are not always being able to differentiate between the proceedings in the <i>Lubanga</i>

case and the present proceedings.

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 provided the VPRS with information relating to his team's activities with the victims he represents.⁹

CLR2
Information relating to activities amongst the victims of the attacks
CLR2 reported that during the reporting period his team undertook three missions to eight locations in the Ituri region where the victims reside. During the missions, the CLR2 team met with the victims both individually and in groups in order to inform them on the developments in the proceedings and to answer their questions and address their concerns. According to CLR2, many victims expressed their satisfaction about the significant progress in the proceedings and further expressed their hope that the judgment on the responsibility of the Accused will be delivered with no delay. CLR2 also noted that daily contact with the victims continued to be maintained via a telephone line that is available to the victims 24/7. Following the Chamber's decision requesting the parties and participants' submissions on the possibility to hear closing statements in Bunia or nearby locations, the CLR2 team held consultations with the victims residing in different locations in and outside of the Ituri region in order to seek their views on the matter. The victims' views and concerns were conveyed to the Chamber in a CLR2 and CLR1 joint submissions filed on 30 January 2018.

⁹ Email from CLR2 to VPRS on 30 January 2018 at 15:39.

General situation of the participating victims of the attacks

CLR2 reported that the general situation of the victims of the attacks remains unchanged and that most victims continue to raise issues about their precarious living conditions and the fact that no assistance has been provided to them.

Furthermore, many victims expressed concerns about the increased political tensions in the DRC resulting from the delay in holding presidential elections.

According to CLR2, many victims further complained about the degradation of the humanitarian and sanitary situation in the region resulting in a lack of access to even basic levels of medical assistance. In particular, according to CLR2, the HIV and cholera epidemics continued to progress in the Ituri region mostly because of insufficient intervention from humanitarian institutions and health providers.¹⁰ To underscore the point, CLR2 noted that one of the main health provider NGOs, “Médecins sans frontières”, recently ceased all activities in Bunia, Gety and Boga after 14 years of presence in the region.¹¹ According to CLR2, this decision was heavily criticised by many victims.

Regarding the security situation in the Ituri region, CLR2 noted that many victims reported that the situation remained volatile and continued to be one of the main concerns of the victims of the attacks. According to CLR2, many civilians continue to suffer from attacks and criminal activities from various rebel and/or militia groups where the latter are still active, for instance FRPI (Force de résistance patriotique de l’Ituri). Furthermore, it was reported by many victims that the prevailing sense of insecurity in the Ituri region was aggravated by an increased number of land conflicts.

¹⁰ See <https://reliefweb.int/report/democratic-republic-congo/r-publique-d-mocratique-du-congo-ituri-tshopo-haut-uele-et-bas-ue-0>.

¹¹ See <https://www.radiookapi.net/2017/11/26/actualite/sante/ituri-msf-suisse-met-fin-ses-activites-gety-boga-et-bunia>.

In this regard, CLR2 noted that in December 2017, the authorities of Ituri called on FRPI to stop any criminal activities against civilians and to demobilise members of the militia.¹² The authorities further launched an operation “Bunia ville sans armes” (Bunia town without weapons) aimed at identifying and registering all persons wearing uniforms and carrying weapons with the ultimate aim of minimizing weapon circulation and criminality in the region.¹³ However, according to the victims, the measures put in place so far are neither sufficient nor effective in addressing the general insecurity. CLR2 noted that MONUSCO recently announced the closure of its military base in Bogoro, situated 25 km from Bunia – a decision that gave rise to security concerns from the civilian population.¹⁴

C. The VPRS’ assessment on the resumption of action forms received

11. On 5 January 2018, CLR2 formally notified the VPRS of the death of 36 participating victims of the attacks and submitted resumption of action forms on behalf of each of the deceased victims.¹⁵
12. The VPRS has assessed all 36 forms, including the supplementary information attached and considers that 23 have met the requirements set out in paragraph 8 of the Chamber’s Fourth Decision, as detailed in the appended confidential *ex*

¹² See <http://www.congoactuel.com/ituri-le-gouvernement-appelle-la-frpi-a-mettre-fin-aux-exactions-sur-la-population/>.

¹³ See <https://www.radiookapi.net/2017/12/29/actualite/securite/ituri-bras-fer-entre-la-police-et-larmee-sur-lidentification-des>.

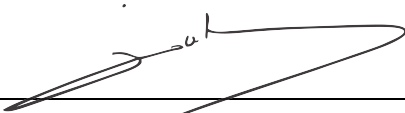
¹⁴ See <https://www.radiookapi.net/2017/12/18/actualite/securite/ituri-la-monusco-annonce-la-fermeture-de-sa-base-de-bogoro>.

¹⁵ a/30319/15, a/30296/15, a/30272/15, a/30270/15, a/30167/15, a/30160/15, a/20187/14, a/01715/13, a/01627/13, a/01580/13, a/01540/13, a/01510/13, a/01491/13, a/01223/13, a/01202/13, a/01184/13, a/01002/13, a/00949/13, a/00925/13, a/00640/13, a/00472/13, a/00428/13, a/00419/13, a/00411/13, a/00396/13, a/00392/13, a/00375/13, a/00371/13, a/00350/13, a/00348/13, a/00206/13, a/00121/13, a/00111/13, a/00095/13, a/00068/13, a/00029/13.

parte Annex II.¹⁶ As per the Chamber's Fourth Decision, the VPRS hereby transmits all relevant information pertaining to the complete resumption of action requests by way of the present periodic report (Annexes III-XXV).

D. Update pertaining to the safety and security of victims and intermediaries.

13. The Registry has provided this information in the appended confidential *ex parte* Annex I.



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

Dated this 6 February 2018

At The Hague, The Netherlands

¹⁶ Fourth Victim Participation 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."