

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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Date: 18 November 2020

TRIAL CHAMBER VI

Before: Judge Chang-ho Chung, Single Judge

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
*THE PROSECUTOR v. BOSCO NTAGANDA***

Public

Registry's Observations on the "Request of the Common Legal Representative of the Victims of the Attacks for an Order to the Registry to collect information pertaining to reparations" of 9 November 2020, ICC-01/04-02/06-2624

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. In accordance with Trial Chamber VI's order conveyed by email of 10 November 2020 ("Chamber and "Order" respectively),¹ the Registry hereby submits its observations on the issues raised by the Common Legal Representative of the Victims of the Attacks ("LRV") in his request for an order to the Registry to collect information pertaining to reparations, notified on 9 November 2020 ("LRV Request").²

II. Procedural History

2. On 8 July 2019, the Chamber issued its Judgment in the case of the *Prosecutor v. Bosco Ntaganda* ("Case"), convicting Mr Ntaganda of war crimes and crimes against humanity.³
3. On 25 July 2019, the Single Judge issued an Order for preliminary information on reparations, requesting the Registry to provide, *inter alia*, information on, and any proposed methodology for, the identification of victims not yet participating in the Case ("25 July 2019 Order").⁴
4. On 5 September 2019, the Registry submitted its preliminary observations on reparations pursuant to the 25 July 2019 Order setting out, *inter alia* the Registry's proposal for the identification and registration of potential beneficiaries in the Case.⁵

¹ Email from Trial Chamber VI to the Registry of 10 November 2020, at 09:29h.

² LRV, "Request of the Common Legal Representative of the Victims of the Attacks for an Order to the Registry to collect information pertaining to reparations", 9 November 2020, ICC-01/04-02/06-2624.

³ Trial Chamber VI, "Judgment", 8 July 2019, ICC-01/04-02/06-2359.

⁴ Trial Chamber VI, "Order for preliminary information on reparations", 25 July 2019, ICC-01/04-02/06-2366, para. 4.

⁵ Registry, "Registry's observations, pursuant to the Single Judge's "Order for preliminary information on reparations" of 25 July 2019, ICC-01/04-02/06-2366", 6 September 2019, ICC-01/04-02/06-2391.

5. On 3 October 2019, the Prosecution,⁶ Defence,⁷ Legal Representatives of Victims⁸ (“LRVs”) and Trust Fund for Victims⁹ (“TFV”) each filed their responses to the Registry’s Preliminary Observations.
6. On 5 December 2019, the Single Judge issued the Order setting deadlines in relation to reparations.¹⁰
7. On 28 February 2020, the Registry filed its observations on reparations in the Case (“Registry Observations”),¹¹ as well as the Defence,¹² Prosecution,¹³ LRVs¹⁴ and TFV.¹⁵
8. On 9 April 2020, the Single Judge instructed the Registry, the LRVs, the Defence and the TFV to provide information on the impact of COVID-19 measures on their operational capacity in the Case.¹⁶
9. On 21 April 2020, the Registry,¹⁷ the LRVs,¹⁸ the Defence¹⁹ and the TFV²⁰ filed their submissions on the impact of the COVID-19 measures.

⁶ Office of the Prosecutor, “Prosecution’s response to the Registry’s observations, pursuant to the Single Judge’s ‘Order for preliminary information on reparations’ (ICC-01/04-02/06-2391-Anx1)”, 3 October 2019, ICC-01/04-02/06-2429.

⁷ Defence, “Response on behalf of Mr. Ntaganda to Registry’s preliminary observations on reparations”, 3 October 2019, ICC-01/04-02/06-2431 (“Defence Request”).

⁸ Legal Representatives of Victims, “Joint Response of the Legal Representatives of Victims to the Registry’s Observations on Reparations”, 3 October 2019, ICC-01/04-02/06-2430.

⁹ Trust Fund for Victims, “Trust Fund for Victims’ response to the Registry’s Preliminary Observations pursuant to the Order for Preliminary Information on Reparations”, 3 October 2019, ICC-01/04-02/06-2428.

¹⁰ Trial Chamber VI, “Order setting deadlines in relation to reparations”, 5 December 2019, ICC-01/04-02/06-2447, para. 9(a).

¹¹ Registry, “Registry Observations on Reparations”, 28 February 2020, ICC-01/04-02/06-2475.

¹² Defence, “Defence Submissions on Reparations”, 28 February 2020 (a public redacted version was filed on 6 March 2020), ICC-01/04-02/06-2479-Red.

¹³ Office of the Prosecutor, “Prosecution’s Observations on Reparations”, 28 February 2020, ICC-01/04-02/06-2478.

¹⁴ LRV 1, “Submissions on Reparations on behalf of the Former Child Soldiers”, 28 February 2020, ICC-01/04-02/06-2474; LRV2, “Submissions by the Common Legal Representative of the Victims of the Attacks on Reparations”, 28 February 2020, ICC-01/-04-02/06-2477-Red.

¹⁵ TFV, “Trust Fund for Victims’ observations relevant to reparations”, 28 February 2020, ICC-01/04-02/06-2476.

¹⁶ Trial Chamber VI, “Order to provide information on the impact of COVID-19 measures on operational capacity”, 9 April 2020, ICC-01/04-02/06-2507.

¹⁷ Registry, “Registry Submissions pursuant to the ‘Order to provide information on the impact of COVID-19 measures on operational capacity’, ICC-01/-04-02/06-2507”, 21 April 2020 (a public redacted version was published on the same date), ICC-01/04-02/06-2519-Red.

¹⁸ LRVs, “Submissions by the Common Legal Representative of the Victims of the Attacks pursuant to the ‘Order to provide information on the impact of COVID-19 measures on operational capacity’”,

10. On 14 May 2020, the Chamber, in the Decision appointing experts on reparations²¹ appointed four experts (“Appointed Experts”) and ordered them to submit their report to the Chamber, notifying “the parties, the TFV, the VPRS [Victims Participation and Reparations Section], and the Prosecution” by 28 August 2020.²²
11. On 26 June 2020, the Chamber issued its “First Decision on Reparations Process” (“First Decision”).²³
12. On 20 July 2020, the Chamber issued the Decision on request for an extension of time for filing of experts’ report, extending the Appointed Experts’ deadline to 30 October 2020.²⁴
13. On 30 October 2020, the Registry transmitted the reports of the Appointed Experts.²⁵
14. On 9 November 2020, the LRV submitted his Request for an order to the Registry to collect data on: (i) the number of inhabitants of the villages of Mongbwalu, Sayo, Nzebi and Kilo and their surrounding areas as of November 2002, and (ii) the number of inhabitants of the villages of the Walendu Djatsi *collectivité*, namely Kobu, Sangi, Jitchu, Buli, Bambu, Lipri, Tsili, Gola and Nyangaray and the respective surrounding areas, as of February 2003.²⁶

submitted on 21 April 2020 and notified on 23 April 2020, (a public redacted version was filed on the same date), ICC-01/04-02/06-2518-Red.

¹⁹ Defence, “Defence observations pursuant to ‘Order to provide information on the impact of COVID-19 measures on operational capacity’”, 21 April 2020, ICC-01/04-02/06-2515.

²⁰ TFV, “Trust Fund for Victims’ observations on the impact of COVID-19 on operational capacity”, 21 April 2020, ICC-01/04-02/06-2517.

²¹ Trial Chamber VI, “Decision appointing experts on reparations”, 14 May 2020 (a public redacted version was filed on the same day), ICC-01/04-02/06-2528-Red.

²² Decision, para. 18 and page 10.

²³ Trial Chamber VI, “First Decision on Reparations Process”, 26 June 2020, ICC-01/04-02/06-2547.

²⁴ Trial Chamber VI, “Decision on Request for an Extension of Time for Filing of Experts’ Report”, 20 July 2020, ICC-01/-4-02/06-2553.

²⁵ Registry, “Registry Transmission of Appointed Experts’ Reports”, submitted on 30 October 2020 and notified on 2 November 2020, ICC-01/04-02/06-2623. The two Expert Reports were filed in confidential *ex parte*, confidential redacted and public redacted versions.

²⁶ LRV Request, para. 30.

15. On 10 November 2020, the Chamber instructed the Registry to file observations on the issues raised by the LRV in his Request, within 10 days of notification of said Request.²⁷

III. Applicable Law

16. The Registry submits the present observations pursuant to the Chamber's Order.

IV. Submissions

17. The Registry recalls that, following its mapping exercise, it estimated that there may be at least approximately 1,100 new potential applicants - victims of the attacks.²⁸ The Registry further noted that it stands ready to supplement this information with any further data that the LRV of the victims of the attacks may have at his disposal.²⁹ This figure thus represents only an estimate of the minimum number of individuals for which the Registry was fairly confident, based on data collected thus far as part of its mapping exercise, to be able to establish a link between the harm suffered and the crimes for which Mr Ntaganda was convicted.

18. In the course of its mapping exercise, the Registry sought to obtain approximate figures and basic information regarding the pre-war population in the Case locations as well as linkage between relevant individuals and groups to the crimes for which Mr Ntaganda was convicted. However, the authorities consulted during this exercise at the time³⁰ were not in a position to link any more individuals to the crimes for which Mr Ntaganda was convicted based on the information available to them then, nor did they have

²⁷See *supra*, footnote 1.

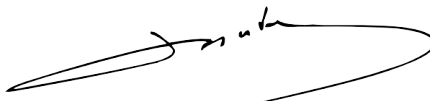
²⁸ Registry Observations, Annex I, para. 25.

²⁹ *Id.*, footnote 79.

³⁰ Registry Observations, Annex II, para. 2.

information as to the current situation and whereabouts of any individuals or groups beyond those included in the Registry mapping exercise. As requested by the Chamber in its First Decision,³¹ the Registry is currently focusing its efforts *inter alia* on registering (a representative group of) the approximately 1,100 new potential applicants.³² This, in the context of the COVID-19 and security related restrictions, presents many challenges. The Registry considers that there may be more potential applicants coming forward during the registration process. However it does not anticipate the number to be exponentially higher than the one established thus far during the mapping exercise.

19. If the Chamber were to grant the LRV Request, the Registry would redouble its efforts in the field to ascertain the information sought in the LRV Request. Considering the time needed to obtain this type of information from the DRC authorities, particularly in light of the Covid-19 and security related restrictions, the Registry would expect to be in a position to present first results of its inquiries and efforts in response to the LRV Request at the earliest in its third report on reparations due on 30 March 2020.³³



Marc Dubuisson
Director Division of Judicial Services
on behalf of Peter Lewis, Registrar

Dated this 18 November 2020

At The Hague, the Netherlands.

³¹ First Decision, para. 33.

³² *Id.*, paras. 33, 34, 38, 40 *et seq.*

³³ Should any relevant results and/or information be obtained prior to the deadline for the Registry's second report on reparations (due on 30 December 2020), the Registry would stand ready to provide relevant data at this earlier juncture, too, if the LRV Request were to be granted.