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TRIAL CHAMBER II

Before: Judge Chang-ho Chung, Presiding
Judge Péter Kovács
Judge María del Socorro Flores Liera

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

THE PROSECUTOR v. THOMAS LUBANGA DYILO

Public Redacted Version

Thirteenth progress report on the implementation of collective reparations as per Trial Chamber II's decisions of 21 October 2016, 6 April 2017 and 7 February 2019

With Confidential *ex parte* Annex A only available to the LRV01, the Trust Fund for Victims and the VPRS, and Confidential *ex parte* Annex B only available to the LRV01, the LRV02, the OCPV, the Trust Fund for Victims and the VPRS

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. BACKGROUND

1. Following Trial Chamber II's ("Trial Chamber") Decisions of 21 October 2016, 6 April 2017 and 7 February 2019, approving, respectively, the programmatic framework for collective symbolic reparations as submitted by the Trust Fund for Victims ("Trust Fund"),¹ the programmatic framework for the service-based collective reparations as submitted by the Trust Fund,² and the Trust Fund's proposal in relation to the process for locating new applicants and determining their eligibility,³ and recalling its previous progress reports in this regard, the Trust Fund hereby submits its thirteenth progress report.

II. CLASSIFICATION OF THE PRESENT SUBMISSION

2. Pursuant to regulation 23 *bis* (1) of the Regulations of the Court, the Trust Fund has classified this report as confidential *ex parte*. A public redacted version of the report will be filed shortly.

III. RELEVANT PROCEDURAL HISTORY

3. The Trust Fund recalls the procedural history set out in the update reports on the progress of the implementation of collective reparations submitted on 19 July 2019,⁴ 21 October 2019,⁵ 21

¹ Order approving the proposed plan of the Trust Fund for Victims in relation to symbolic collective reparation, 21 October 2016, ICC-01/04-01/06-3251.

² Order approving the proposed programmatic framework for collective service-based reparations submitted by the Trust Fund for Victims, 6 April 2017, ICC-01/04-01/06-3289.

³ Decision Approving the Proposals of the Trust Fund for Victims on the Process for Locating New Applicants and Determining their Eligibility for Reparations, 7 February 2019, ICC-01/04-01/06-3440-Red-tENG.

⁴ *Sixième rapport sur le progrès de la mise en œuvre des réparations collectives conformément aux ordonnances de la Chambre de première instance II des 21 octobre 2016 (ICC-01/04-01/06-3251) et 6 avril 2017 (ICC-01/04-01/06-3289) et la Décision du 7 février 2019 (ICC-01/04-01/06-3440-Red)*, 19 July 2019, [ICC-01/04-01/06-3467](#), (Avec douze annexes confidentielles *ex parte* A, B, C, D, E, F, G, H, I, J, K, L uniquement accessibles aux Représentants légaux des groupes de victimes V01 et V02, au BCPV, au FPV et à la SPVR, trois annexes confidentielles *ex parte* N, P et Q uniquement accessibles aux Représentants légaux des groupes de victimes V01 et V02, au BCPV et au FPV, deux annexes M et O uniquement accessibles au FPV).

⁵ *Septième rapport sur le progrès de la mise en œuvre des réparations collectives conformément aux ordonnances de la Chambre de première instance II des 21 octobre 2016 (ICC-01/04-01/06-3251) et 6 avril 2017 (ICC-01/04-01/06-3289) et la Décision du 7 février 2019 (ICC-01/04-01/06-3440-Red) (avec une annexe A confidentielle ex parte réservée aux Représentants légaux des victimes V01 et V02, le BCPV, la SPVR et le Fonds)*, 21 October 2019, [ICC-01/04-01/06-3468](#).

January 2020,⁶ 21 April 2020,⁷ 21 July 2020,⁸ 21 October 2020,⁹ and 21 January 2021¹⁰ (“Twelfth Progress Report”).

4. On 3 February 2021, the Legal Representative for Victims V01 (“LRV01”) submitted a response to the Trust Fund’s Twelfth Progress Report (“LRV01 Submission”), wherein it requested that the extension of the cut-off date for the submissions of applications for reparations remains open.¹¹

5. On 19 February 2021, the Trial Chamber, in its prior composition, issued an order directing the Trust Fund, the Legal Representative for Victims V02 (“LRV02”), the Victims and Witnesses

⁶ *Huitième rapport sur le progrès de la mise en œuvre des réparations collectives conformément aux ordonnances de la Chambre de première instance II des 21 octobre 2016 (ICC-01/04-01/06-3251) et 6 avril 2017 (ICC-01/04-01/06-3289) et la Décision du 7 février 2019 (ICC-01/04-01/06-3440-Red) (Avec une annexe A confidentielle ex parte uniquement accessible aux Représentants légaux des victimes V01 et V02, au BCPV, à la SPVR et au Fonds)*, 21 January 2020, [ICC-01/04-01/06-3471](#); *Addendum au Huitième rapport sur le progrès de la mise en œuvre des réparations collectives conformément aux ordonnances de la Chambre de première instance II des 21 octobre 2016 (ICC-01/04-01/06-3251) et 6 avril 2017 (ICC-01/04-01/06-3289) et la Décision du 7 février 2019 (ICC-01/04-01/06-3440-Red) (Avec une annexe A confidentielle ex parte uniquement accessible aux Représentants légaux des victimes V01 et V02, au BCPV, à la SPVR et au Fonds)*, 25 February 2020, [ICC-01/04-01/06-3473](#).

⁷ *Neuvième rapport sur le progrès de la mise en œuvre des réparations collectives conformément aux ordonnances de la Chambre de première instance II des 21 octobre 2016 (ICC-01/04-01/06-3251) et 6 avril 2017 (ICC-01/04-01/06-3289) et la Décision du 7 février 2019 (ICC-01/04-01/06-3440-Red) (Avec deux annexes A et D confidentielles ex parte uniquement accessibles aux Représentants légaux des groupes de victimes V01 et V02, au BCPV, au FPV et à la SPVR, une annexe B confidentielle ex parte uniquement accessible au BCPV, au FPV et à la SPVR, et une annexe C confidentielle ex parte uniquement accessible aux Représentants légaux des groupes de victimes V01, au FPV et à la SPVR)*, 21 April 2020, [ICC-01/04-01/06-3474](#).

⁸ *Dixième rapport sur le progrès de la mise en œuvre des réparations collectives conformément aux ordonnances de la Chambre de première instance II des 21 octobre 2016 (ICC-01/04-01/06-3251) et 6 avril 2017 (ICC-01/04-01/06-3289) et la Décision du 7 février 2019 (ICC-01/04-01/06-3440-Red) (Avec deux annexes A et D confidentielles ex parte uniquement accessibles aux Représentants légaux des groupes de victimes V01 et V02, au BCPV, au FPV et à la SPVR, une annexe B confidentielle ex parte uniquement accessible au BCPV, au FPV et à la SPVR, et une annexe C confidentielle ex parte uniquement accessible aux Représentants légaux des groupes de victimes V01, au FPV et à la SPVR)*, 21 July 2020, [ICC-01/04-01/06-3478](#).

⁹ *Onzième rapport sur le progrès de la mise en œuvre des réparations collectives conformément aux ordonnances de la Chambre de première instance II des 21 octobre 2016 (ICC-01/04-01/06-3251) et 6 avril 2017 (ICC-01/04-01/06-3289) et la Décision du 7 février 2019 (ICC-01/04-01/06-3440-Red) (Avec deux annexes A et D confidentielles ex parte uniquement accessibles aux Représentants légaux des groupes de victimes V01 et V02, au BCPV, au FPV et à la SPVR, une annexe B confidentielle ex parte uniquement accessible au BCPV, au FPV et à la SPVR, et une annexe C confidentielle ex parte uniquement accessible aux Représentants légaux des groupes de victimes V01, au FPV et à la SPVR)*, 21 October 2020, [ICC-01/04-01/06-3491](#).

¹⁰ *Douzième rapport sur le progrès de la mise en œuvre des réparations collectives conformément aux ordonnances de la Chambre de première instance II des 21 octobre 2016 (ICC-01/04-01/06-3251) et 6 avril 2017 (ICC-01/04-01/06-3289) et la Décision du 7 février 2019 (ICC-01/04-01/06-3440-Red) (Avec deux annexes A et D confidentielles ex parte uniquement accessibles aux Représentants légaux des groupes de victimes V01 et V02, au BCPV, au FPV et à la SPVR, une annexe B confidentielle ex parte uniquement accessible au BCPV, au FPV et à la SPVR, et une annexe C confidentielle ex parte uniquement accessible aux Représentants légaux des groupes de victimes V01, au FPV et à la SPVR)*, 21 January 2021, [ICC-01/04-01/06-3497](#).

¹¹ *Réponse au Douzième rapport sur le progrès de la mise en œuvre des réparations collectives (ICC-01/04-01/06-3497) avec annexes du 21 janvier 2021, 3 February 2021, ICC-01/04-01/06-3500-Conf-Exp.*

Unit (“VWU”), and the Office of the Public Counsel for Victims (“OPCV”) to submit observations on the LRV01 Submission.¹²

6. On 26 February 2021, the Trust Fund filed its observations on the appropriateness of filing a public redacted version of the Decision of 14 December 2020 (ICC-01/04-01/06-3495-Conf-Exp).¹³ The same day, the legal representatives of victims (“LRVs”) submitted their joint observations on the issue.¹⁴

7. On 5 March 2021, the Trust Fund together with the LRV01, the LRV02, the VWU, and the OPCV submitted observations on the LRV01 Submission, supporting the suggested extension of the cut-off date, and noting the impossibility to ensure the transmission of the dossiers of all identified victims the 31 March 2021.¹⁵

8. On 16 March 2021, the Presidency issued a decision assigning Judges to divisions and recomposing Chambers, including Trial Chamber II.¹⁶

9. On 26 March 2021, the Trial Chamber, in its current composition, set the final cut-off date for the submission of the last complete dossiers for reparations to the Victims Participation and Reparations Section (“VPRS”) at 1 October 2021 (“Decision of 26 March 2021”).¹⁷

IV. PROGRESS REPORT

10. The Trust Fund hereby submits its thirteenth progress report, with information on the implementation of the collective reparations awards, on the identification of victims as well as on the status of admissibility decisions.

¹² *Ordonnance relative à la décision du 14 décembre 2020 et au douzième rapport du Fonds au profit des victimes sur la mise en œuvre des réparations*, 19 February 2021, ICC-01/04-01/06-3501-Conf-Exp, p. 9.

¹³ *Observations sur le caractère approprié de déposer une version publique expurgée de la Décision du 14 décembre 2020 (ICC-01/0401/06-3495-Conf-Exp)*, 26 February 2021, ICC-01/04-01/06-3503-Conf-Exp.

¹⁴ *Observations conjointes des Représentants légaux sur le caractère approprié de déposer une version publique expurgée de la Décision approuvant la mise en œuvre des réparations collectives*, 26 February 2021, [ICC-01/04-01/06-3502](#).

¹⁵ *Observations conjointes sur l'état d'avancement des échanges concernant le besoin de soutien psychologique pour certaines victimes lors des entretiens menés à distance ainsi que le délai aux fins de déposer les demandes en réparation et les propositions des Représentants légaux V01*, 5 March 2021, [ICC-01/04-01/06-3505](#).

¹⁶ Decision assigning judges to divisions and recomposing Chambers, 16 March 2021, [ICC-01/04-01/06-3506](#), p. 7.

¹⁷ Decision on the submission by the Legal Representative of Victims V01 in its Response to the Twelfth Report of the Trust fund for Victims on the implementation of collective reparations, filing ICC-01/04-01/06-3500-Conf-Exp, 26 March 2021, [ICC-01/04-01/06/3508](#).

A. Security Situation

11. The Trust Fund has been closely following security developments bearing in mind the necessity of holding interviews with new applicants who reside outside of Bunia.

12. At the time of filing, the security situation has not improved¹⁸, with militia groups still targeting civilians and the Armed Forces of the Democratic Republic of the Congo in eastern DRC.

13. As a result, the Joint Threat Assessment Group (“JTAG”) maintained its security recommendations for the DRC, stating that “[i]n light of the military operations against armed groups operating in eastern DRC, [...] additional security and safety restrictions may be put in place by the Country Office at short notice”.¹⁹

14. The Country Office maintained its security restrictions, which are suspending all activities except those in Bunia centre and only for victims or beneficiaries residing in the city. In and after the week of 12 April 2021, the Country Office temporarily prohibited staff from leaving the compound due to the worsening security situation in Bunia itself.

B. Identification of New Applicants

15. At the outset, the Trust Fund notes the Trial Chamber’s Decision of 26 March 2021 setting the final cut-off date for the submission of the last complete dossiers for reparations to the VPRS at 1 October 2021.

16. Restrictions pertaining to field missions remained unchanged since the Trust Fund’s Twelfth Progress Report.²⁰ The security situation has not improved as shown in the report by the Country Analysis Unit. In this context, only interviews with new applicants from Bunia remained possible, *via* video for the LRVs and Trust Fund staff residing outside of the DRC, and in person for their staff residing in the DRC, who travelled to Bunia.

17. Three rounds of interviews were organised during the reporting period at the following dates: [REDACTED]. The OPCV field counsel was scheduled to participate in all three of them but was not able to board a plane in a timely manner for reasons outside of her and the Country Office’s control. The LRV01 team, partly together with the Trust Fund’s staff, participated in all

¹⁸ See Report by the Country Analysis Unit, Annex A.

¹⁹ Email from the JTAG to the Trust Fund on 7 April 2021 at 15.34.

²⁰ See Twelfth Progress Report.

three rounds and interviewed [REDACTED] new applicants. A Counsel of the LRV02 team, together with the Trust Fund's and Country Office's staff, participated in the last round in person, meeting [REDACTED] victims in Bunia and [REDACTED] in Kisangani. All interviews were supported technically by the Trust Fund's programme staff and the Country Office.

18. Following these rounds of interviews, the Trust Fund shared a questionnaire with the LRVs. The OPCV, being unable to proceed to the planned mission, referred the Trust Fund to their former answers to the questionnaire, shared with the Trial Chamber in its Twelfth Progress Report. The LRV01 team provided updated information, expressing, in particular, their satisfaction with the collaboration with the Trust Fund, and stressing the fact that technical issues (such as the internet connection and flight cancellations) made it harder to meet all new applicants scheduled. The LRV01 team also pointed out how straining the video interviews are for the victims, the interviewers and the interpreters. The LRV01 team provided feedback on the interpretation, and indicated that it is still too early to do so in relation to the psychologists' intervention. So far, the LRV01 team requested the intervention of the psychologist for seven new applicants during the interviews and for another seven after the interviews for a follow-up.

19. The Trust Fund notes the Trial Chamber's invitation to explore the possibility of having the psychologists, hired by its implementing partner, intervene already at the stage of the interviews. Its implementing partner is still in the process of recruiting these psychologists and the Trust Fund is studying the feasibility of such intervention with its implementing partner. For the ongoing mission, the same team of psychologists as available at the previous round of interviews will assist new applicants when needed.

20. A new round of interviews has been organised via WebEx and physically from [REDACTED]. Due to the current political and security context, and following the advice of the Country Office's Associate Field Security Officer, activities will not start before [REDACTED]. The Trust Fund is currently exploring again the possibility to reach the Mahagi territory *via* Uganda as a way to further mitigate the consequences of the current restrictions.

21. The Trust Fund expresses its sincere appreciation to the LRVs as well as to the members of their teams in the field, the Country Office, the interpreters and other departments of the Registry involved in the achievements listed above.

C. Admissibility Decisions

22. In this section, the Trust Fund provides information regarding the fifth transmission of decisions on admissibility as verified by the Board of Directors.

23. During the reporting period, the Trust Fund received two batches of victims' applications from the VPRS, consisting of respectively 70 and 64 applications.

24. Following verification and adoption of a final list by its Board of Directors, the Trust Fund hereby submits a list of 70 administrative decisions to the Trial Chamber for its approval.²¹ In order to facilitate the Trial Chamber's access to the complete files of all applicants,²² the Trust Fund will share an Excel table with the VPRS listing all the applicants concerned by this transmission.

25. The 70 applications were submitted by close relatives of applicants who have already been recognised by the Board of Directors and the Trial Chamber as direct victims admitted to benefit from the reparations in the present case. Therefore, the Board of Directors' assessment was limited to the verification of a close personal relationship between a direct victim recognised as such by the Trial Chamber for the purpose of reparations and the new applicant (indirect victim).

26. To date, out of the 763 files received from the VPRS, 79 files are awaiting further processing by the Trust Fund. The Trust Fund should receive a new transmission from the VPRS shortly.

27. The Trust Fund reiterates its commitment, in accordance with the Decision of 7 February 2019, to submit its positive and negative decisions on eligibility in its quarterly reports to the Trial Chamber for its approval.²³

D. Collective Service-Based Reparations

28. On 15 March 2021, the contract between the Trust Fund and its implementing partner for the implementation of the collective service-based reparations entered into force. Several work sessions have been organised between the Trust Fund and its implementing partner, in particular in order to allow the implementing partner to start mapping the beneficiaries places of residence.

²¹ See Annex A.

²² *Ordonnance enjoignant au Fonds au profit des victimes et à la Section de la participation des victimes et des réparations de donner accès à la Chambre aux nouvelles demandes en réparation*, 30 April 2020, ICC-01/04-01/06-3475-Conf.

²³ 7 February 2019 Decision, para. 47.

On 16 April 2021, the LRVs and the implementing partner met for the first time, allowing the LRVs to address some questions to the implementing partner. In particular, the LRVs proposed to simplify victims' prioritisation and contacting by providing the Trust Fund and the implementing partner with all relevant information that would allow doing so.

29. The implementing partner has recruited a project manager and launched the recruitment of additional staff. They informed the Trust Fund and the LRVs that they believe to be able to provide the Trust Fund with an operational implementation plan by the end of May 2021, which is a pre-requisite to starting the actual activities with the beneficiaries.

30. In relation to the activities regarding missing persons, more information will be provided in the Trust Fund's next progress report.

E. Symbolic Reparations

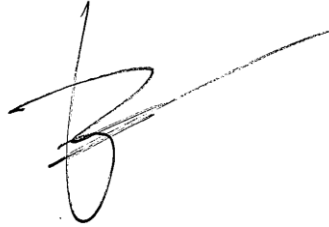
31. In relation to the collective symbolic reparations, the Trust Fund received three project proposals from [REDACTED] bidders as part of the procurement process. The Trust Fund's Evaluation Committee is currently assessing these project proposals.

F. Other Matters

32. The publication of the case record in relation to the implementation of the collective service-based reparations has allowed the Trust Fund and the Court to communicate on the status of the Lubanga reparations both at the headquarters and in the DRC. The Trust Fund has issued a press release to this effect and liaised with the Country Office's staff working on communication and outreach. With their support, questions of the media and the public are directly addressed in the field. Upon media solicitation, media interviews, including a radio interview from the Trust Fund's Executive Director were organised. At the meeting of 16 April 2021, the Trust Fund proposed to involve the LRVs in the outreach activities and to share the general lines of communication with them. So far, the Trust Fund's programme staff has received no negative feedback following the publicity of the case record. Together with Country Office's staff, they continue to monitor the public opinion on matters related to the implementation of collective reparations in the Lubanga case.

FOR THE FOREGOING REASONS

The Trust Fund respectfully requests the Trial Chamber to take note of the present report.



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

Dated this 21 April 2021

At The Hague, The Netherlands