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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

Fourteenth 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, Confidential *ex parte* Annex B only available to the OPCV, the Trust Fund for Victims and the VPRS, Confidential *ex parte* Annex C only available to the LRV02, the Trust Fund for Victims and the VPRS and Confidential *ex parte* Annex D 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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Section

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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 fourteenth 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 on 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

10. On 21 April 2021, the Trust Fund submitted its Thirteenth Progress Report on the implementation of collective reparations (“Thirteenth Progress Report”) annexing to it a list of 70 administrative decisions.¹⁸

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](#).

¹⁸ Thirteenth progress report on the implementation of collective reparations as per Trial Chamber II’s decisions of 21 October 2016 (ICC-01/04-01/06-3251), 6 April 2017 (ICC-01/04-01/06-3289) and 7 February 2019 (ICC-01/04-01/06-3440-Red) 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 OPCV, the Trust Funds for Victims and the VPRS, 21 April 2021, ICC-01/04-01/06-3512-Red.

11. On 5 May 2021, the LRV01 filed its response to the Thirteenth Progress Report.¹⁹
12. On 10 May 2021, Trial Chamber II issued its Fifth Decision on the TFV's administrative decisions on applications for reparations, approving 70 additional administrative decisions issued by the Trust Fund Board of Directors.²⁰
13. On 12 May 2021, the Trust Fund submitted its Second Request for Reclassification.²¹
14. On 28 May 2021, Trial Chamber II issued its "Second Order on the reclassification of documents".²²
15. On 11 June 2021, the LRV02 submitted a consolidated request for reclassification.²³

IV. PROGRESS REPORT

16. 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.

A. Security Situation

17. Early May 2021, the President of the DRC declared a state of siege over the escalating violence in the provinces of Ituri and North Kivu, replacing the civil administration with a military administration with a view to ending the insecurity in the area through military operations.

18. As the Trust Fund was holding consultations during its field mission in May/June 2021, several international organisations and local partners informed the Trust Fund that they had relaunched their activities in the area between Bogoro, Kasenyi and Tchomia, since the security situation in Ituri had significantly improved following the sweeping operations by the Armed Forces of the DRC ("FARDC").

¹⁹ *Réponse au Thirteenth progress report on the implementation of collective reparations (ICC-01/04-01/06-3512) avec annexes du 21 avril 2021*, 05 May 2021, ICC-01/04-01/06-3513-Conf-Exp.

²⁰ Fifth Decision on the TFV's administrative decisions on applications for reparations, 10 May 2021, ICC-01/04-01/06-3514.

²¹ Trust Fund for Victims' Second Request for reclassification, 12 May 2021, ICC-01/04-01/06-3515.

²² Second order on the reclassification of documents, 28 May 2021, ICC-01/04-01/06-3517.

²³ Corrigendum de la Demande consolidée de reclassification de documents comme « publics », en exécution de la deuxième Ordonnance ICC-01/04-01/06-3517 du 28 mai 2021 (ICC-01/04-01/06-3518), 15 June 2021, ICC-01/04-01/06-3518-Corr.

19. Following a request for an *ad hoc* security assessment with a view of relaunching implementation activities for beneficiaries residing outside of Bunia in the *Katanga* case, security staff in Bunia confirmed that the situation in the axis of Bogoro, Kasenyi and Tchomia had improved since the military operations of the FARDC and that they would be able to support all implementation activities taking place in Bunia for beneficiaries residing outside of the city.

20. Consequently, the Trust Fund will discuss the improved security situation with the LRVs on the specific axis Bogoro, Kasenyi, Tchomia so to include any clients residing within the said axis in the rounds of ongoing interviews held in Bunia.

21. As shown in the attached report from the Country Analysis Unit²⁴, the security situation remains serious. The latest JTAG report maintains the suspension of any travel outside Bunia.

B. Public Health Situation

22. The DRC imposed additional restrictions due to the pandemic as of 15 June 2021. In the week of 12 July 2021, the consequence was that the Registry's OHU advised against impending Trust Fund missions to the DRC. It is currently under consideration when the Bunia based Trust Fund staff will return to Bunia after their in-country mission to Kinshasa. Given this situation, it can be expected that identification activities will not take place in the ensuing weeks in addition to those currently ongoing.

C. Identification of New Applicants

23. Restrictions pertaining to field missions remained unchanged since the Trust Fund's Thirteenth Progress Report.²⁵ 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 residing outside of the DRC, and in person for their staff residing in the DRC, who travelled to Bunia. Exceptionally one LRV01 team member and one Counsel of the team LRV02 residing outside the DRC were allowed by the Registrar to travel to Bunia, considering the upcoming cut-off date.

24. Several rounds of interviews were organised during the reporting period with the LRV01, the LRV02 and the OPCV. In total, about 351 applications have been collected during the reporting

²⁴ See Annex D.

²⁵ See Thirteenth Progress Report.

period. A new round of interviews has been organised via WebEx and physically from [REDACTED]. Considering its field staff is not currently present in Bunia, the Trust Fund has not been able to provide support for the beginning of the mission. The Trust Fund got to know only very late that the LRV01 team member travelling from the Hague has managed to travel. It is currently considering which support it can provide from distance.

25. The Trust Fund had scheduled a mission to Mahagi via Uganda for mid-June 2021, but was obliged to cancel it following new COVID measures adopted by the Ugandan Government that led the JTAG to suspend all missions to Uganda until further notice with an exception regime.

26. 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.

D. Admissibility Decisions

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

28. During the reporting period, the Trust Fund received two batches of victims' applications from the VPRS, consisting each of 100 applications.

29. Following verification and adoption of a final list by its Board of Directors, the Trust Fund hereby submits a list of 160 administrative decisions to the Trial Chamber for its approval.²⁶ In order to facilitate the Trial Chamber's access to the complete files of all applicants,²⁷ the Trust Fund will share an Excel table with the VPRS listing all the applicants concerned by this transmission.

30. To date, out of the 963 files received from the VPRS, 119 files are awaiting further processing by the Trust Fund. The Trust Fund expects new transmissions from the VPRS within the next reporting period.

²⁶ See Annexes A, B and C.

²⁷ *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 ; 20 May 2020 Decision, para. 16.

31. 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.²⁸

E. Collective Service-Based Reparations

32. Towards the end of the previous reporting period, the Trust Fund has shared with the implementing partner information related to the location of all beneficiaries so far found eligible, in order for the partner to organize a proper allocation of staffing and other resources and to take all other necessary measures, including with its subcontractors. During the reporting period, the selected implementing partner has managed to finalize the recruitment and on boarding of the full project team based in Bunia including the project manager, the protection specialist, the assistant project manager, the technical agronomist, two head psychologists, two school reintegration specialists, and two income generating activities and small businesses development specialists. The implementing partner has also concluded an evaluation of the technical and operational capacities of the seven local organizations it is in the process of associating to the project; and a monitoring and evaluation coordination plan with these partners, including reporting tools and procedures.

33. Regarding psychological rehabilitation, the implementing partner has developed a partnership protocol to be signed in July 2021 with a local organization; mapped the [REDACTED] existing counselling centres of the local implementation support partner relevant to the programme ([REDCATED]); proceeded to the diagnosis of community intake clinics and centres in the Ituri territory; and consulted with the central and provincial State entities responsible for mental health care. Regarding physical rehabilitation, the implementing partner has signed a partnership protocol with a local organization; and mapped and reviewed the health structures to be involved ([REDACTED]). Regarding socio economic rehabilitation, the implementing partner has *inter alia* exchanged extensively with different State and provincial entities in relation to schooling, remedial schooling, and vocational training; launched a study on economic opportunities in Ituri, elaborated a partnership protocol with two additional local implementation support NGO to be signed in July 2021.

34. On 8 and 9 June 2021, the Trust Fund, the implementing partner and their sub-contractors organized a workshop to address questions related to financial and administrative aspects,

²⁸ 7 February 2019 Decision, para. 47.

monitoring and evaluation, confidentiality, data processing and protection, judicial monitoring, and various other aspects. In the course of this workshop, the participants have had the opportunity to work on multiple potential scenarios that may occur in the course of the implementation and the appropriate procedure and conduct to adapt to unforeseen operational circumstances.

35. On 1 July 2021, the Trust Fund transmitted a list of victims to the implementing partner composed of the 425 applicants determined to be beneficiaries by Trial Chamber II's Decision dated 15 December 2017. At the time the Scope of Work for the programme was revised (at the end of 2018/beginning of 2019), it was discussed with the LRVs that the Trust Fund would ensure that the above-mentioned victims integrate first into the reparations programme, mindful of the time they have been in contact with the Court in relation to reparations and the time expired since they were informed that they are beneficiaries of the reparation programme. This number corresponds to the approximate maximum number of beneficiaries the implementing partner has capacity to integrate in the programme in year 1 of the implementation as laid down in its proposal submitted to Trial Chamber II before its approval of the reparation programme.

36. The implementing partner is currently contacting the beneficiaries whose complete information has been communicated for an initial intake in order to proceed to the first provision of reparations in line with the measures included in the programme.

F. Symbolic Reparations

37. In relation to the collective symbolic reparation award, the Trust Fund submitted to the Procurement Review Committee ("PRC") the result of its evaluation of the project proposals of the applicants. Following the PRC session held on 17 June 2021, the PRC issued on 7 July 2021 the minutes with a recommendation approved by the Registrar upholding the selection of the proposal deemed successful by the Trust Fund's Evaluation Committee.

38. The Trust Fund is to finalize, with the support of the Registry Legal Office the contract related to this award. The Trust Fund hopes to proceed to the signature of the contract before the end of this year.

G. Other Matters

39. As reported in the thirteenth report, upon media solicitation, media interviews, including a radio interview from the Trust Fund's Executive Director were organised in March/April 2021 in

relation to the publication of the case record pertaining to the implementation of the reparations. During the reporting period, the Trust Fund also represented by the Chair of the Board of Directors, Mama Koité Doumbia, met the DRC President, Minister of Justice, Vice-Minister for Foreign Affairs, as well as representatives of multilateral organisation and embassies. These meetings served to provide information ongoing TFV activities, including in *Lubanga*, and to explore cooperation and support. The DRC Government and the Trust Fund agreed to organize a high level joint event, hosted by the DRC President, with the participation of the civil society and diplomatic representation. Due to the current public health situation, this event is being rescheduled. Such event would be an opportunity to further discuss the Trust Fund's achievements and challenges in DRC, but also further explore possibilities of cooperation and fundraising. On 16 July 2021, the Dutch Embassy in Kinshasa invited other DRC-based embassies' representatives to a lunch, at which the Trust Fund officials presented in person and remotely the ongoing activities of the Trust Fund in the DRC, including in relation to 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 29th of July 2021

Date of the original: 21 July 2021

At The Hague, The Netherlands