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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

**Fifteenth 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 only available to the LRV01, 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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**Victims Participation and Reparations
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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 fifteenth 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 the annex to this report as confidential *ex parte*.

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 21 January 2021,¹⁰ 21 April 2021,¹¹ and 21 July 2021 (“Fourteenth Progress Report”).¹²

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 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](#).

¹² 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 OPCV, the Trust Fund for Victims and the VPRS, 21 July 2021, [ICC-01/04-01/06-3519-Red](#).

4. On 2, 3, and 4 August 2021, the Legal Representative for Victims V01 (“LRV01”), the Office of the Public Counsel for Victims (“OPCV”), and the Legal Representative for Victims V02 (“LRV02”) respectively submitted their responses to the Fourteenth Progress Report.¹³

5. On 23 August 2021, the Trial Chamber issued the “Sixth Decision on the TFV’s administrative decisions on applications for reparations and other related matters” (“23 August 2021 Decision”).¹⁴ Therein, the Trial Chamber endorsed and approved the Trust Fund’s Board of Director’s administrative decisions regarding 160 applicants for reparations, rejected the LRV01’s request for an extension of the cut-off date of 1 October 2021 and requested the Trust Fund “to disseminate relevant information and/or carry out appropriate awareness-raising campaigns” together with its implementing partner and to include in the present quarterly report information requested by the OPCV in its response to the Fourteenth Progress Report.

IV. PROGRESS REPORT

6. The Trust Fund hereby submits its fifteenth 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, thereby addressing the OPCV’s requests for information in the information provided in this report.

A. Security Situation

7. Based on the Court’s security assessment shared with the Trust Fund, the security situation in Ituri province in general has not improved. The killings and attacks on the local population have not stopped despite the presence of the Armed Forces of the DRC (“FARDC”) since the declaration of the state of siege on 6 May 2021, which has been prolonged on a regular basis. Attacks by various armed groups against positions of the FARDC continue, and the armed groups are getting gradually closer to the town of Bunia.

¹³ *Réponse au Fourteenth progress report on the implementation of collective reparations (ICC-01/04-01/06-3519) avec annexes du 21 juillet 2021*, 2 August 2021, [ICC-01/04-01/06-3520-Red](#); *Réponse du BCPV au Quatorzième Rapport sur le progrès de la mise en oeuvre des réparations collectives déposé par le Fonds au profit des victimes le 21 juillet 2021*, 3 August 2021, ICC-01/04-01/06-3521-Conf-Exp ; *Réponse de l’équipe V02 au Quatorzième Rapport sur le progrès de la mise en oeuvre des réparations collectives déposé par le Fonds au profit des victimes le 21 juillet 2021 (ICC-01/04-01/06-3519 avec annexes)*, 4 August 2021, ICC-01/04-01/06-3522-Conf-Exp.

¹⁴ Sixth Decision on the TFV’s administrative decisions on applications for reparations and other related matters, 23 August 2021, [ICC-01/04-01/06-3523](#).

8. In some territories, for instance in Djugu, the situation has worsened with several people fleeing their homes and settling in displacement camps. The Trust Fund has been advised to remain vigilant and to always check with the Security Officer when planning activities to avoid exposing victims and staff to security risks.

B. Public Health Situation

9. With the improvement of the public health situation in Ituri,¹⁵ the Bunia-based Trust Fund staff was able to return to Bunia on 10 September 2021. Preventive measures put in place by the Congolese government, the UN and the Registry's Occupational Health Unit are still in force and are respected during all implementation activities.

C. Identification of New Applicants

10. Restrictions pertaining to field missions remained unchanged since the Trust Fund's Fourteenth Progress Report.¹⁶ The security situation has not improved. In this context, only interviews with new applicants from Bunia and Kisangani remained possible, via video and in person for the LRV team members who were allowed to travel on an exceptional basis to Bunia, considering the cut-off date.

11. Several rounds of interviews were organised during the reporting period by LRV01 and LRV02. In total, over 400 applications have been collected by the LRVs during the reporting period with the logistical support of the Trust Fund in the field.

12. Before the cut-off date, the LRVs, the Trust Fund and the VPRS met to discuss the details relevant to the submission of applications to the VPRS before the cut-off date.

13. The Trust Fund expresses its sincere appreciation to the LRVs as well as to the members of their teams, in particular those in the field, the Country Office, the interpreters and other departments of the Registry involved in conducting the numerous interviews with potential new beneficiaries and in handling the applications and supporting documents.

¹⁵ There have been no new cases of COVID-19 in Ituri in the past 40 days, according to daily updates from the United Nations Organization Stabilization Mission in the DRC (MONUSCO).

¹⁶ See Fourteenth Progress Report.

D. Admissibility Decisions

14. The Trust Fund hereby provides information regarding the seventh transmission of decisions on admissibility as verified by the Board of Directors.

15. During the reporting period, the Trust Fund received two batches of victims' applications from the VPRS, consisting of 193 applications in total.

16. Following verification and adoption of a final list by its Board of Directors, the Trust Fund hereby submits a list of 100 administrative decisions to the Trial Chamber for its approval.¹⁷ In order to facilitate the Trial Chamber's access to the complete files of all applicants,¹⁸ the Trust Fund will share an Excel table with the VPRS listing all the applicants included in this transmission.

17. To date, out of the 1156 files received from the VPRS since 2019, 214 files are awaiting further processing by the Trust Fund.¹⁹ The Trust Fund issued 930 eligibility decisions (830 approved by the Trial Chamber and the 100 hereby submitted), all positive. To date, the total number of beneficiaries stands therefore at 1255²⁰.

18. The Trust Fund reiterates its commitment, in accordance with the Decision of 7 February 2019, to submit the Board of Director's positive and negative decisions on eligibility in its quarterly reports to the Trial Chamber for its approval.²¹

E. Collective Service-Based Reparations

19. To date, the implementing partner has reached 155 beneficiaries. From those 155, the implementing partner received information about the passing of two beneficiaries. 270 beneficiaries could not yet be reached. The Trust Fund has been in contact about this with the LRVs and will meet with them shortly to agree on the use of their intermediaries to allow the implementing partner to reach out to those beneficiaries. The Trust Fund is committed to keeping the LRVs informed in relation to difficulties encountered in reaching beneficiaries and to finding

¹⁷ See Annex.

¹⁸ *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.

¹⁹ 12 additional applications collected and transmitted relate to victims that Trial Chamber II had already recognized as beneficiaries.

²⁰ This includes the 425 applications directly assessed positively by the Trial Chamber and excludes the current batch of 100 administrative decisions pending approval.

²¹ 7 February 2019 Decision, para. 47.

an expeditious solution to this problem. Should that prove difficult, the Trust Fund will consult without delay with the LRVs as to the next group of beneficiaries to be contacted for intake.

20. In relation to the two deceased beneficiaries, the Trust Fund will ensure, with the help of its implementing partner and the LRVs, if necessary, that a proof of death certificate is presented and that their heirs can benefit from measures that are transferable to them.

21. An initial intake screening was conducted to identify the present needs of 153 beneficiaries. Based on this screening, 60 beneficiaries have started to benefit from physical rehabilitation while 123 beneficiaries are currently benefitting from psychological support. Once the beneficiaries' needs and wishes for socio-economic rehabilitation measures have been updated, the implementing partner will take the appropriate measures for their implementation.

22. As per the scope of work and the implementing partner's proposal, in each territory where beneficiaries were considered present based on the information received from the LRVs and the VPRS, the implementing partner and its partners are operational. To date, 6% of the 153 beneficiaries currently reside in the Djugu territory, 56% in the Irumu territory, and 35% in the Mahagi territory. Four beneficiaries reside currently outside Ituri province.

23. The Trust Fund closely follows all reports it receives relevant to possible irregularities in the implementation of the reparation awards and takes those extremely seriously. None of the alleged incidents has, to date, been confirmed. If that is the case, the Trust Fund will include a confidential report in relation thereto to the Trial Chamber. The Trust Fund has reassured itself that the implementing partner, as previously required by the Trust Fund:

- a. informs beneficiaries that all services are provided for free (including by sending messages (sms) in local languages to the confirmed mobile phones of each beneficiary);
- b. has put in place a secure computerised system, which allows internal checks to be carried out in relation to each beneficiary and the services received and contacts had at each stage;
- c. has a "zero tolerance" policy in relation to potential fraud and an anti-fraud policy is signed by all sub-contractors providing services in the project;
- d. reports to the Trust Fund on such matters and investigates any reports and potential allegations received; and

- e. has shared with the beneficiaries two telephone numbers, available 24 hours a day, to register any complaints, abuses or breach of confidentiality.

24. The Trust Fund will also re-emphasise the *Lubanga* reparations status when starting its outreach campaign in relation to the *Ntaganda* initial implementation plan in the coming weeks. The Trust Fund plans to continue disseminating information and conducting awareness-raising campaigns within the beneficiaries' communities, explaining the approach of the gradual integration of beneficiaries into the reparations programme by the implementing partner and the free-of-charge nature of the intake for beneficiaries.²² The Trust Fund is currently reflecting about such campaigns with the implementing partner and will keep the LRVs apprised, for them to provide any relevant input they may have.

F. Symbolic Reparations

25. Certain legal issues had to be resolved by the Registry and the Trust Fund in relation to this contract. Currently, it is expected that the contract be signed shortly. Once the contract is signed and enters into force, the implementing partner will need to submit without delay an implementation plan to the Trust Fund with a specific timeline. The Trust Fund will, in turn, inform the LRVs and the Trial Chamber of such timeline.

G. Request for information by the OPCV

26. The Trust Fund considers it has addressed the questions by the OPCV in this report, except for the status of preparation of implementation for the search of the disappeared victims. In this respect, the Trust Fund has set out in previous reports, in particular earlier this year, challenges related to this modality. The process of determining how and with whom to partner has not yet concluded and may possibly extend to the *Ntaganda* case.

²² As per the 23 August 2021 Decision, para. 16.

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 21st of October 2021

At The Hague, The Netherlands