

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: **ICC-01/04-02/06**
Date: **17 December 2021**

TRIAL CHAMBER II

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

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
*THE PROSECUTOR v. BOSCO NTAGANDA***

Public

Order for the submission of observations on the draft implementation plan

To be notified, in accordance with Regulation 31 of the Regulations of the Court, to:

Legal Representatives of Victims

Ms Sarah Pellet
Ms Anna Bonini

Mr Dmytro Suprun
Ms Anne Grabowski

Counsel for Bosco Ntaganda

Mr Stéphane Bourgon

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

The Office of Public Counsel for Victims

Ms Paolina Massidda

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Trust Fund for Victims

Mr Pieter de Baan

Others

Trial Chamber II of the International Criminal Court (the ‘Chamber’), in the case of *The Prosecutor v. Bosco Ntaganda* (the ‘Ntaganda case’), having regard to article 75 of the Rome Statute and Regulations 28 and 35(2) of the Regulations of the Court, issues this Order for the submission of observations on the draft implementation plan (the ‘Order’).

I. PROCEDURAL HISTORY AND SUBMISSIONS

1. On 8 March 2021, Trial Chamber VI, in its former composition, delivered its Reparations Order,¹ *inter alia*, directing the Trust Fund for Victims (‘TFV’) to submit, by 8 September 2021, a Draft Implementation Plan (‘DIP’).²

2. On 23 July 2021, the Chamber granted the TFV an extension of the time limit to submit its DIP until 17 December 2021.³

3. On 15 December 2021, the Defence submitted a request asking for an extension of the time limit to respond to the DIP until 24 January 2022 (‘Request’).⁴ In the Request, the Defence argues that, given the upcoming judicial recess, the applicable 10 day-limit to file its response (i.e. by 30 December 2021) is too short and inappropriate to enable the Defence to provide a meaningful response, as the DIP will be a complex and lengthy document.⁵

4. On 17 December 2021, as instructed by the Chamber,⁶ the Legal Representatives for Victims (‘LRVs’, hereafter the ‘CLR1’⁷, the ‘CLR2’⁸ respectively) filed their joint response supporting the Request (‘Joint Response’).⁹ The LRVs submit that 10 days would be insufficient to analyse and meaningfully respond to the DIP, since the DIP is expected to detail proposals of an unprecedented nature and the time for responses in other reparations proceedings before the Court was longer.¹⁰ Taking into account the security situation in Ituri

¹ Trial Chamber VI, *Prosecutor v. Bosco Ntaganda*, Reparations Order (‘Reparations Order’), 8 March 2021, [ICC-01/04-02/06-2659](#).

² Reparations Order, [ICC-01/04-02/06-2659](#), p. 97.

³ Decision on the Trust Fund for Victims’ Request to Vary the Time Limit to Submit Draft Implementation Plan, 23 July 2021, [ICC-01/04-02/06-2697](#), p. 6.

⁴ Defence request for an extension of the time limit to respond to the Trust Fund for Victims’ Draft Implementation Plan (‘Request’), 15 December 2021, [ICC-01/04-02/06-2728](#).

⁵ Request, [ICC-01/04-02/06-2728](#), paras 6, 9, 13.

⁶ Email from the Chamber’s Legal Officer to the parties, the TFV, and the Registry, 15 December 2021, at 19:49 hrs.

⁷ Common Legal Representative of the former child soldiers.

⁸ Common Legal Representative of the victims of the attacks.

⁹ Joint Response of the Common Legal Representatives of the Victims to the “Defence request for an extension of the time limit to respond to the Trust Fund for Victims’ Draft Implementation Plan” (‘Joint Response’), 17 December 2021, [ICC-01/04-02/06-2729](#).

¹⁰ Joint Response, [ICC-01/04-02/06-2729](#), paras 14-15, 17-18.

and the expected challenges to carry our consultations with their clients, the LRVs reserve their right to seize the Chamber regarding further extensions of time.¹¹

5. The TFV¹² and the Registry¹³ informed the Chamber that they did not have observations.

II. ANALYSIS

6. In the view of the Chamber, prior to approving the draft implementation plan, the parties shall have the opportunity to submit observations to the Chamber regarding those aspects of the plan affecting their interests and rights.¹⁴ In addition, the Chamber recalls that, in line with its general approach to reparations,¹⁵ the TFV was instructed to rely on the Registry and the LRVs in order to ensure that the implementation process and consultations with victims comply with all principles on reparations.¹⁶ In light of the above, the Chamber considers that the Registry shall also have the opportunity to submit observations on the draft implementation plan.

7. The Chamber notes that, pursuant to regulation 35(2) of the Regulations, the Chamber may extend or reduce a time limit if good cause is shown, and, where appropriate, after having given the participants an opportunity to be heard. The Chamber notes the previous practice of other Chambers which allowed the parties and the participants a minimum of 30 days to file their observations on the DIP.¹⁷ In light of the above, and noting the Defence's and the LRV's submissions, the Chamber considers that good cause has been shown to extend the time limits for observations on the DIP.

¹¹ Joint Response, ICC-01/04-02/06-2729, para. 20.

¹² Email to the Chamber's Legal Officer, 17 December 2021, at 11:23 hrs.

¹³ Email to the Chamber's Legal Officer, 17 December 2021, at 12:13 hrs

¹⁴ For a similar approach, see Appeals Chamber, *Prosecutor v. Thomas Lubanga Dyilo*, Judgment on the appeals against the 'Decision establishing the principles and procedures to be applied to reparations' of 7 August 2012 with AMENDED order for reparations (Annex A) and public annexes 1 and 2, 3 March 2015, [ICC-01/04-01/06-3129](#), Annex A, Order for Reparations (amended), [ICC-01/04-01/06-3129-AnxA](#), para. 77.

¹⁵ See, for instance, First Decision on Reparations Process, [ICC-01/04-02/06-2547](#), para. 25.

¹⁶ Reparations Order, [ICC-01/04-02/06-2659](#), para. 251.

¹⁷ See, for instance, Trial Chamber II, *Prosecutor v. Thomas Lubanga Dyilo*, Order fixing the schedule for the submission of observations on the draft implementation plan submitted by the Trust Fund for Victims, 23 November 2015, [ICC-01/04-01/06-3179-ENG](#), p. 5; Trial Chamber VIII, *Prosecutor v. Ahmad Al Faqi Al Mahdi*, 17 August 2017, [ICC-01/12-01/15-236](#), p. 60; Trial Chamber II, *Prosecutor v. Germain Katanga*, Order for Reparations pursuant to Article 75 of the Statute, 24 March 2017, [ICC-01/04-01/07-3728-ENG](#), p. 119.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY,

GRANTS the Request,

DIRECTS the parties and the Registry to file their observations on the DIP, if any, by 24 January 2022.

Done in both English and French, the English version being authoritative.



Judge Chang-ho Chung, Presiding Judge



Judge Péter Kovács



Judge María del Socorro Flores Liera

Dated this Friday, 17 December 2021

At The Hague, The Netherlands