

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/04-02/06**

Date: **20 January 2022**

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

**Trust Fund for Victims' Observations in relation to CLR1's Request for Extension of
Time to Respond to the Draft Implementation Plan**

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
Section**

Mr Philipp Ambach

I. BACKGROUND

1. On 8 March 2021, Trial Chamber VI (the ‘Trial Chamber’) issued an order for reparations against Mr Ntaganda (the ‘Reparations Order’).¹
2. On 17 December 2021, the Trust Fund for Victims (‘Trust Fund’) submitted its draft implementation plan (‘DIP’).²
3. On 18 January 2022, the Common Legal Representative for Former Child Soldiers (CLR1) requested an extension of three months to submit her response to the DIP (‘Request’). In the Request, the CLR1 requests that the Trial Chamber orders the Trust Fund to supplement its DIP at the latest within one month of the submission of the Request, that is by 18 February 2022 (‘Supplement Request’).³
4. On the same day, by way of email, the Trial Chamber directed the parties and participants to submit their response, if any, by 20 January 2022.⁴

II. OBSERVATIONS

5. The Trust Fund notes that the extension of time sought is premised, *inter alia*, on the challenging conditions prevailing in the field and the difficulty to consult with victims.⁵ The Trust Fund recalls that this is the very reason why it sought and obtained a 3-months extension of time to submit its DIP.⁶ The Trust Fund has taken the risks arising from this situation for the implementation of the DIP fully into account and set out its approach to these circumstances in

¹ [Reparations Order](#), ICC-01/04-02/06-2659, paras 249-253 and 257, and disposition.

² Trust Fund for Victims’ submission of Draft Implementation Plan, ICC-01/04-02/06-2732 with one confidential annex (ICC-01/04-02/06-2732-Conf-AnxA).

³ URGENT Request of the Common Legal Representative of the Former Child Soldiers for an extension of the time limit to respond to the Trust Fund for Victims’ Draft Implementation Plan, ICC-01/04-02/06-2735-Conf-Exp. A public redacted version was filed on the same day (ICC-01/04-02/06-2735-Red).

⁴ Email from Trial Chamber to parties and participants on 18 January 2022 at 17:31.

⁵ Request, paras 15-19.

⁶ 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.

the DIP.⁷ As such, the Trust Fund does not oppose an extension of time and leaves this to the discretion of the Trial Chamber.

6. The Trust Fund appreciates that the CLR1 raises without delay certain matters requiring clarifications in her view and takes the opportunity to make some limited observations.

7. The Trust Fund observes that the Trial Chamber directed the Trust Fund to develop a plan that sets out “**the reparation projects the TFV intends to develop**” and the “methods of implementation, including the “expected timeline necessary for the project’s **development** and implementation” [emphasis added].⁸ Accordingly, the DIP is a plan, not yet a fully detailed set of reparation projects or programme. Their development will take place at the procurement stage, through the scope of work, developed by the TFV on the basis of the approved DIP, and the proposals subsequently received from the implementing partners, which will be subject to review and approval by the TFV and annexed to the contract with such an implementing partner.

8. While a different approach may in theory be possible (for instance that the Trial Chamber orders the Trust Fund to present a fully-fledged project including all details of costs and available services at the completion of the procurement process, with an accordingly amended time period required for this purpose), the Trust Fund has scrupulously respected the instruction of the Trial Chamber in developing the DIP. In that respect, the Trust Fund underlines that, in the Reparations Order, the Trial Chamber *did not* direct the Trust Fund to provide a finalised project proposal ready to be implemented. Obtaining and agreeing on a project proposal would have required a much longer period as this is only possible as a result of a procurement process. In addition, to proceed in such a way would leave little room for the Trial Chamber or parties to comment on the approach taken by the Trust Fund, given that time and resource intensive processes would have already started or be underway at the time the Trial Chamber’s approval would be sought. Therefore, at issue in any draft implementation are the approach taken, the projects that will be developed based on this approach and a plan how to achieve this.

⁷ DIP, para. 133.

⁸ Decision on the IDIP, para. 10.

9. As to the approach taken and projects proposed, the Trust Fund would like to underline that the proposed collective awards intend to put the victim at the centre of the rehabilitation programme and therefore offer the victims a wide variety of services to address their physical, psychological and socio-economic needs on an individual basis with a view to rehabilitate them. Different from programmes that themselves clearly determine the boundaries of the services provided and specialise and focus on certain treatments or services, the two programmes envisaged intend to offer comprehensive treatments required by the victims and comprehensive socio-economic measures requested by the victims in specific relation to the harm they suffered from the convicted crimes.

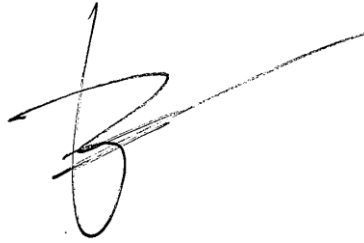
10. The Trust Fund notes that the CLR1 is also one of the legal teams representing victims in the case of *Lubanga* and therefore has the advantage of being privy to the fully developed programme for the service-based reparations (the proposal as annexed to the contract with the implementing partner) as submitted to the Trial Chamber in 2021 and of the developments in this case. The Trust Fund notes that it is in close contact with the legal representatives of this case in relation to the programme.

11. The Trust Fund underlines that, also after the approval of the DIP, the Trust Fund is not opposed to – and in fact intends to – involving the CLR1 and CLR2 in the discussions as to the required amendments to the current *Lubanga* reparation programmes and the selection of the partner in charge of reparations for victims of the attacks, respectively. The Trust Fund believes that such consultative approach would permit addressing the concerns of the CLRs.

12. That being said, the Trust Fund reiterates that, should the Trial Chamber deem it appropriate to obtain more clarifications prior to issuing a decision on the DIP, the Trust Fund stands ready to provide any clarifications available at this stage.

FOR THE FOREGOING REASONS,

13. The Trust Fund requests the Trial Chamber to take its observations into account in determining the request for extension of time.



Pieter W.I. de Baan
Executive Director, Trust Fund for Victims

Dated this 20th Day of January 2022
At The Hague, The Netherlands