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

Date: **14 April 2022**

TRIAL CHAMBER II

Before: Judge Chang-ho Chung, Presiding Judge
Judge Péter Kovacs
Judge Maria del Socorro Flores Liera

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
*THE PROSECUTOR V. BOSCO NTAGANDA***

Public

Request on behalf of Mr Ntaganda seeking a limited extension of the page limit to respond to the Second Draft Implementation Plan of the Trust Fund for Victims

Source: Defence Team of Mr Bosco Ntaganda

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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Further to Trust Fund for Victims' ("TFV") second submission of Draft Implementation Plan ("Second DIP") on 24 March 2022,¹ Counsel for Mr Ntaganda ("Defence") hereby submits this:

Request on behalf of Mr Ntaganda seeking a limited extension of the page limit to respond to the Second Draft Implementation Plan of the Trust Fund for Victims

"Defence Request for Extension of the Page Limit"

INTRODUCTION

1. The Defence hereby moves Trial Chamber II ("Chamber") to grant a limited extension of the applicable page limit to respond to the Second DIP submitted by the TFV on 24 March 2022.²

2. Further to the Chamber's decision of 18 January 2022,³ in which it granted the Parties an extension of the page limit to 30 pages to respond to the first Draft Implementation Plan ("First DIP"),⁴ the Defence respectfully submits that the additional information included in the Second DIP, as well as the observations that will be filed by the authorities of the Democratic Republic of the Congo ("DRC"), constitute exceptional circumstances that justify a further extension of the applicable page limit, pursuant to Regulation 37(2) of the Regulations of the Court ("RoC").

3. Leave is sought to submit a response/observations comprising no more than 40 pages.

¹ Trust Fund for Victims' second submission of Draft Implementation Plan, 24 March 2022, ICC-01/04-02/06-2750, with Annex 1. The document was notified on 25 March 2022.

² The DIP was notified to the Parties on 20 December 2021.

³ E-mail from TCII to the Parties dated 18 January 2022, 12h49.

⁴ Trust Fund of Victims' submission of Draft Implementation Plan, 17 December 2021, ICC-01/04-02/06-2732, with Annex A.

PROCEDURAL BACKGROUND

4. On 17 December 2021, the TFV submitted its First DIP.⁵
5. On 14 January 2022, the Defence submitted a request for a limited extension of the applicable page limit to 30 pages to respond to the First DIP.⁶
6. On 18 January 2022, the Common Legal Representatives for Victims (“CLRs”) submitted a joint response to the Defence request, asking the Chamber to grant them the same extension of the page limit granted to the Defence.⁷
7. On 18 January 2022, the Chamber granted the Defence Request for an extension of the page limit.⁸
8. On the same day, 18 January 2022, the Common Legal Representatives of the Former Child Soldiers (“CLR1”) submitted an urgent request for an extension of time to respond to the First DIP (“CLR1 Urgent Request”).⁹ In the request, the CLR1 identified nine issues for which information was missing in the First DIP.¹⁰
9. In his response dated 20 January 2022, the Common Legal Representatives of the Victims of the Attacks (“CLR2”) identified 18 additional issues for which further information was required.¹¹

⁵ Trust Fund of Victims’ submission of Draft Implementation Plan, 17 December 2021, ICC-01/04-02/06-2732, with Annex A.

⁶ Request on behalf of Mr Ntaganda seeking an extension of the page limit to respond to the Draft Implementation Plan of the Trust Fund for Victims, 14 January 2022, ICC-01/04-02/06-2733.

⁷ Joint Response of the Common Legal Representatives of the Victims to the “Request on behalf of Mr Ntaganda seeking an extension of the page limit to respond to the Draft Implementation Plan of the Trust Fund for Victims”, 18 January 2022, ICC-01/04-02/06-2734.

⁸ E-mail from TCII to the Parties dated 18 January 2022, 12h49.

⁹ Public Redacted version of the “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), 18 January 2022, ICC-01/04-02/06-2735-Red.

¹⁰ *Idem*, para.22.

¹¹ Response of the Common Legal Representative of the Victims of the Attacks to the “Public Redacted version of the ‘URGENT Request of the Common Legal Representative of the Former Child Soldiers for

10. On 24 January 2022, further to the Chamber's 21 January 2022 decision on the CLR1 Urgent Request,¹² the Defence identified 22 additional matters to be addressed by the TFV.¹³

11. On 24 March 2022, the TFV submitted its Second DIP,¹⁴ providing additional information and addressing, at least in part, the issues identified by the Parties.

12. On 8 April 2022, the Chamber granted the Registry's request for an extension of time on behalf of the authorities of the DRC, setting 4 May 2022 as the new time-limit for the DRC authorities to file observations on the Second DIP.¹⁵ In the same decision, the Chamber directed the Parties to file observations, by 18 May 2022, on both the Second DIP and the observations filed by the DRC authorities.

SUBMISSIONS

13. Pursuant to Regulation 37(2) RoC, the Chamber may grant an extension of the page limit upon a showing of exceptional circumstances.

14. The First DIP and its attachments, filed on 17 December 2021, comprised almost 120 pages. In accordance with the Chamber's instructions, the Defence set out to draft its response/observations on the First DIP, subject to the 30-page limit set by the Chamber, addressing some of the main issues arising from the TFV's proposal and approach to the whole reparations process. While the Defence then struggled to meet

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)", 20 January 2022, ICC-01/04-02/06-2737-Conf.

¹² Decision on the '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' and additional request by the TFV, 21 January 2022, ICC-01/04-02/06-2739 ("Trial Chamber II Decision on Extension of Time"), para.11 and Disposition.

¹³ Additional matters identified by the Defence in the Draft Implementation Plan that should be addressed by the Trust Fund for Victims, 24 January 2022, ICC-01/04-02/06-2740-Conf ("Defence additional matters").

¹⁴ Second DIP.

¹⁵ E-mail from the Chamber to the Parties dated 8 April 2022, 10h54.

the page limit, its submissions were not filed following the Trial Chamber II Decision on Extension of Time.¹⁶

15. In addition to the issues already contained in the First DIP, the Defence must now address a number of additional matters arising from the Second DIP. Notably, the Parties had identified no less than 49 distinct issues requiring additional information to be provided by the TFV in the Second DIP. Although some of these issues remain unaddressed,¹⁷ the TFV did provide additional information and/or explanations, which need to be discussed by the Defence in its observations. Moreover, the TFV declined to address certain issues raised by the Defence, providing a purported justification.¹⁸ These specific issues also need to be addressed by the Defence.

16. Amongst the additional information provided by the TFV in its Second DIP, some touch upon important aspects of the reparations process. To provide but a few examples, the TFV included some explanations regarding its approach to existing estimates for the number of victims and their location,¹⁹ as well as additional information concerning the socio-economic measures proposed,²⁰ various financial aspects,²¹ and the eligibility assessment.²² These constitute matters of relevance to the Defence and the overall fairness of the reparations process and thus deserve to be discussed in full.

17. Furthermore, in its 18 May submissions, the Defence intends to respond to the observations that will be filed by the DRC authorities on 4 May 2022. Although it is

¹⁶ Trial Chamber II Decision on Extension of Time, para.11 and Disposition.

¹⁷ Trust Fund for Victims' second submission of Draft Implementation Plan, 24 March 2022, ICC-01/04-02/06-2750, para.24. Various issues raised by the Defence are unaddressed or only partially addressed in the Second DIP. *See, for instance*, Defence additional matters, paras. 8(viii),8(x),8(xi),8(xiv),8(v) and 8(xvi).

¹⁸ *Ibidem*. *See also* footnote 42.

¹⁹ Second DIP, para.96.

²⁰ *See, for instance*, Second DIP, paras.182,202.

²¹ Second DIP, paras.267-283.

²² Second DIP, paras.346-347,368.

not possible to predict the content nor the extent of these observations at this time, the Defence anticipates that they will address important matters deserving consideration.

18. In light of the above, the Defence respectfully submits that an extension of the applicable page limit to 40 pages is necessary, reasonable and appropriate in these exceptional circumstances. Indeed, it would allow the Defence to provide meaningful submissions on all the important issues arising from both the Second DIP and the observations of the DRC authorities, which in turn will assist the Chamber in adjudicating these matters before the commencement of the implementation phase of the *Ntaganda* reparations. Such extension will neither delay the proceedings nor prejudice anyone involved in the reparations proceedings, including the potential beneficiaries. In this regard, the Defence takes this opportunity to inform the Chamber that, should the present request be granted, it does not oppose the same page limit being accorded to other Parties and participants.

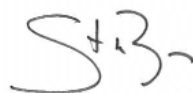
RELIEF SOUGHT

19. In light of the foregoing, the Defence respectfully requests the Chamber to:

GRANT this Defence Request for an Extension of the Page Limit; and

AUTHORISE the Defence, Parties and participants to submit their response/observations on the Second DIP and the observations by the DRC authorities comprising no more than 40 pages.

RESPECTFULLY SUBMITTED ON THIS 14th DAY OF APRIL 2022



Me Stéphane Bourgon *Ad.E.*, Counsel for Bosco Ntaganda

The Hague, The Netherlands