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Court**



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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 Redacted Version

**Trust Fund for Victims' Fifth Update Report on the Implementation of the Initial 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**

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I. BACKGROUND

1. On 8 July 2019, Trial Chamber VI (the ‘Trial Chamber’) issued its Judgement, convicting Mr Bosco Ntaganda of five counts of crimes against humanity and thirteen counts of war crime.¹
2. On 15 December 2020, following various submissions made in the context of the reparations proceedings, the Trial Chamber issued a decision ruling on a number of issues raised by the Registry in relation to the scope of the conviction.²
3. On 8 March 2021, the Trial Chamber issued an order for reparations against Mr Ntaganda.³
4. On 8 June 2021, the Trust Fund for Victims (the “Trust Fund” or “TFV”) submitted its initial draft implementation plan⁴ (the “Initial Draft Implementation Plan” or “IDIP”)⁵ and on 23 July 2021, the Trial Chamber issued a decision approving it with amendments, and directing the Trust Fund to report on the IDIP implementation every two months.⁶
5. On 23 September 2021, the Trust Fund submitted its first update report⁷ and on 29 October 2021, the Trial Chamber issued a decision approving the proposals contained therein and directing the Trust Fund to provide clarifications in relation to six issues.⁸

¹ Judgement, [ICC-01/04-02/06-2359](#).

² Decision on issues raised in the Registry’s First Report on Reparations, [ICC-01/04-02/06-2630](#).

³ Reparations Order, [ICC-01/04-02/06-2659](#), paras 249-253 and 257, and disposition.

⁴ The Trial Chamber and the participants used the full title ‘initial draft implementation plan’, hence the acronym ‘IDIP’; therefore, the Trust Fund will adopt this abbreviation in these observations.

⁵ Public redacted version of “Report on Trust Fund’s Preparation for Draft Implementation Plan”, submitted on 8 June 2021, [ICC-01/04-02/06-2676-Red](#), with Annex A, Public redacted version of “Initial Draft Implementation Plan with focus on Priority Victims”, [ICC-01/04-02/06-2676-AnxA-Corr-Red](#).

⁶ Decision on the TFV’s initial draft implementation plan with focus on priority victims, 23 July 2021, [ICC-01/04-02/06-2696](#).

⁷ Trust Fund first progress report on the implementation of the Initial Draft Implementation Plan and Notification of Board of Director’s decision pursuant to regulation 56 of the Regulations of the Trust Fund, [ICC-01/04-02/06-2710-Conf](#). A public redacted version was filed on 7 October 2021: [ICC-01/04-02/06-2710-Red](#).

⁸ Decision on TFV’s first progress report on the implementation of the Initial Draft Implementation Plan and Notification of Board of Director’s decision pursuant to regulation 56 of the Regulations of the Trust Fund, [ICC-01/04-02/06-2718-Conf](#). A public redacted version was notified on 28 October 2021: [ICC-01/04-02/06-2718-Red](#).

6. On 23 November 2021, the Trust Fund submitted its second update report on the IDIP⁹ and on 17 December 2021, having heard the observations of the parties,¹⁰ the Trial Chamber issued a decision thereon.¹¹

7. On 24 January 2022, the Trust Fund submitted its third update report on the IDIP¹² (“Third Update Report”) and on 10 February 2022, having heard the observations of the parties, the Trial Chamber issued a decision thereon (“Decision on Third Update Report”).¹³

8. On 24 March 2022, the Trust Fund submitted its fourth update report on the IDIP¹⁴ (“Fourth Update Report”) and on 12 May 2022, having heard the observations of the parties,¹⁵ the Trial Chamber issued a decision thereon (“Decision on Fourth Update Report”) in which it approved *inter alia* the mechanism for addressing urgent needs of former child soldiers who are not SGBV victims or children born out of rape or sexual slavery.¹⁶

⁹ Trust Fund’s Second Update report on the Implementation of the Initial Draft Implementation Plan, [ICC-01/04-02/06-2723-Conf](#). A public redacted version was filed on 28 December 2021: [ICC-01/04-02/06-2723-Red](#) (“Second Update Report”).

¹⁰ Response of the Common Legal Representative of the Victims of the Attacks to the “Trust Fund’s Second Update report on the Implementation of the Initial Draft Implementation Plan”, 6 December 2021, [ICC-01/04-02/06-2724-Red](#); Response of the Common Legal Representative of the Former Child Soldiers to the Trust Fund’s Second Update report on the Implementation of the Initial Draft Implementation Plan (ICC-01/04-02/06-2723-Conf), 6 December 2021, [ICC-01/04-02/06-2725-Red](#); Defence observations on the TFFV Second Progress Report on the Implementation of the Initial Draft Implementation Plan, 6 December 2021, [ICC-01/04-02/06-2726-Red](#) (“Defence Observations on Second Update Report”).

¹¹ Decision on the TFFV’s Second Progress Report on the implementation of the Initial Draft Implementation Plan, [ICC-01/04-02/06-2730-Conf](#).

¹² Trust Fund for Victims’ Third Update report on the Implementation of the Initial Draft Implementation Plan, ICC-01/04-02/06-2741-Conf. A public redacted version was filed on the same day: [ICC-01/04-02/06-2741-Red](#).

¹³ Decision on the TFFV’s Third Update report on the Implementation of the Initial Draft Implementation Plan, [ICC-01/04-02/06-2745-Corr](#).

¹⁴ Trust Fund for Victims’ Fourth Update Report on the Implementation of the Initial Draft Implementation Plan, 24 April 2022, [ICC-01/04-02/06-2751-Conf](#). With one confidential annex, A public redacted version was filed on 20 May 2022: [ICC-01/04-02/06-2751-Red](#).

¹⁵ Observations of the Common Legal Representative of the Former Child Soldiers on the “Trust Fund for Victims’ Fourth Update Report on the Implementation of the Initial Draft Implementation Plan” (ICC-01/04-02/06-2751-Conf), 7 April 2022, [ICC-01/04-02/06-2754-Conf](#), A public redacted version was filed on 20 May 2022: [ICC-01/04-02/06-2754-Red](#); Defence observations on the Trust Fund for Victims’ Fourth Update Report on the Implementation of the Initial Draft Implementation Plan, 7 April 2022, [ICC-01/04-02/06-2755-Conf](#), A public redacted version was filed on 20 May 2022: [ICC-01/04-02/06-2755-Red](#).

¹⁶ Decision on the TFFV’s Fourth Update Report on the Implementation of the Initial Draft Implementation Plan, 12 May 2022, [ICC-01/04-02/06-2761-Conf](#).

II. UPDATE REPORT OF 24 MAY 2022

9. This update report covers the activities relevant to the implementation of the IDIP conducted between 25 March 2022 and 24 May 2022, as guided primarily by the responses to the Trial Chamber’s directions contained in the Decision on Fourth Update Report of 12 May 2022.

10. The Trial Chamber directed the Trust Fund to provide information in relation to: (i) the exact dates and number of victims that have actually started benefitting from the IDIP and its two programmes during the contractual year ending by 30 April 2022, in addition to having been under assessment for the purposes of eligibility, urgency screening, and project’s intake (“First query”); (ii) whether any surplus related to the projects not having reached their full capacity or not having provided actual services during the entire previous contractual year will be reinvested or used in the future (“Second query”); and (iii) the precise and updated information as to the number of victims assessed in the context of the IDIP’s screening (“Third query”).¹⁷

A. UPDATE ON THE SECURITY SITUATION

11. In its Third Update Report, in response to a Trial Chamber’s query, the Trust Fund had provided the Trial Chamber with an update on the security situation, including its operational impact on the implementation of the IDIP. Since then, the security situation in Ituri has not improved: it remains volatile and unpredictable and is still causing important movements of population within and outside Ituri.

12. This continues to have an impact on the implementation of the IDIP, in particular, on the ability of the Trust Fund through its implementing partners to locate and contact the victims and ultimately to ensure provision of services. However, with the continuous assistance of the CLRs, the Trust Fund through its implementing partners continues its efforts to contact victims identified by the legal representatives of victims (jointly the “CLRs”) as priority victims in urgent need.

¹⁷ Decision on Third Update Report, paras 9 and 11.

B. UPDATE ON THE ELIGIBILITY ASSESSMENT: ANSWER TO THE THIRD QUERY

13. As indicated in the Third Update Report,¹⁸ the Trust Fund has continued to provide the CLRs with information on a rolling basis, in particular, in relation to the assessment of the eligibility of their clients into the IDIP.

14. Regarding the Third query, the Trust Fund wishes to specify that, by the date of submission of its Fourth Update Report, it had conducted an IDIP eligibility assessment of 46 priority victims in total as follows:

- a. Former Child soldiers: (a) of the 32 priority victims belonging to the group of Former Child Soldiers mentioned in the Fourth Update Report,¹⁹ 19 are victims of both *Ntaganda* and *Lubanga* and are thus already beneficiaries in the *Lubanga* case (17 of them were contacted and assessed, one of them could not be reached at the time by the implementing partner, and therefore was not assessed, while another one had already been receiving reparations under the *Lubanga* service-based programme and therefore was not assessed); (b) of this group of 32 victims, the remaining 13 are (exclusively) *Ntaganda* victims, 12 of whom have been positively assessed by the Trust Fund and referred to the [REDACTED] IDIP programme for intake, while one could not be reached²⁰ and therefore has not been assessed yet; (c) as a result, 29 victims in total belonging to the group of Former Child Soldiers have been contacted and assessed for IDIP purposes;
- b. Victims of the Attacks: the Trust Fund had also assessed and found eligible for IDIP measures 17 beneficiaries belonging to the group of Victims of the Attacks, whom were referred to [REDACTED].

15. Since the submission of the Fourth Update Report, two additional priority victims have been assessed, bringing the total number of assessed priority victims to 48. These two victims were

¹⁸ Third Update Report, para. 7.

¹⁹ Fourth Update Report, para. 20.

²⁰ The TFV is in contact with the CLR1 in this regard.

also found eligible for inclusion in the IDIP programme and referred to [REDACTED]. The relevant background is the following: in its Fourth Update Report, the Trust Fund reported that, during the relevant reporting period, [REDACTED] was gathering information concerning two victims from the group of the 24 first priority victims referred to [REDACTED] in December 2021.²¹ On 28 March 2022, [REDACTED] transmitted to the Trust Fund the relevant information;²² the Trust Fund found the two victims eligible for IDIP measures, and referred them to [REDACTED] for intake.²³ Five priority victims of this first group of 24 priority victims remain unreachable to date. The Trust Fund and the CLR2 have been in contact during the reporting period in order to address this situation.²⁴

16. During the reporting period, the Trust Fund continued to address the eligibility of the Victims of the Attacks referred to it by the CLR2 as follows:

- a. The Trust Fund transmitted to [REDACTED] a list of **nine** priority victims for information gathering.²⁵ The Trust Funds wishes to note that, in order to establish contact with a number of them, it requested and kindly received support from the CLR2.²⁶
- b. **Three** additional priority victims, to be referred to [REDACTED] for information gathering, are pending with the Trust Fund, awaiting for a contact with them to be established by the CLR2.
- c. On 20 May 2022, the Trust Fund requested VPRS to be granted access to the applications, and other relevant existing documentation, of **six** additional priority victims.²⁷

17. On 20 May 2022, the Trust Fund also enquired with the CLR1 and CLR2 on whether they could indicate additional victims who would qualify as priority victims with urgent needs and

²¹ Fourth Update Report, para. 25.

²² Email from [REDACTED] to the TFV on 28 March 2022 at 13:37.

²³ Email from TFV to [REDACTED] on 28 March 2022 at 19:21.

²⁴ Email from TFV to CLR2 on 24 March 2022 at 13:09, and CLR2 email to TFV on 24 March 2022 at 13:45.

²⁵ Email from TFV to [REDACTED] on 10 May 2022 at 12:56.

²⁶ Email from TFV to CLR2 on 8 April 2022 at 18:45, on 9 May 2022 at 15:30, and email from CLR2 to TFV on 11 April 2022 at 12:56, and 9 May 2022 at 15:38.

²⁷ Email from TFV to VPRS on 10 May 2022 at 18:51.

have updated contact details, so as to proceed with information gathering and eligibility assessment of additional participating victims under the IDIP programme.²⁸

18. In light of the approval of the mechanism for addressing urgent needs of Former Child Soldiers who are not SGBV victims or children born out of rape or sexual slavery, the Trust Fund requested the CLR1 to provide updated contact information of any of the 33²⁹ out of 65 participating victims she indicated to be priority victims in urgent need. As soon as information is received, the Trust Fund will swiftly proceed to their IDIP eligibility assessment (as including referral to [REDACTED] for information gathering on the urgency of needs).

C. UPDATE ON IMPLEMENTATION OF INITIAL REPARATION MEASURES – ANSWER TO FIRST AND SECOND QUERIES

19. In reference to the First query, the implementing partners have implemented so far initial reparation measures for 24 of 31 referred victims for the purpose of the IDIP: 13 of the 19 Victims of the Attacks³⁰ and 11 of the 12 Former Child Soldier Victims currently benefit from the IDIP implementation.³¹ The beneficiaries have received various forms of initial reparation measures, including physical and psychological rehabilitation as well as socio-economic measures. The Trust Fund and implementing partners' experience is that the various needs are closely interlinked in their nature. Accordingly, so far, no eligible priority victim has revealed themselves urgently needing exclusively urgent socio-economic measures, or urgent psychological measures or urgent physical measures.

²⁸ Emails from TFV to CLR1 on 20 May 2022 at 18:20, and to CLR2 on 20 May 2022 at 18:44.

²⁹ Out of these 33 victims, eight are *Lubanga* beneficiaries.

³⁰ Referred priority victims were taken in from 6 to 11 April 2022. [REDACTED] continues its effort in order to reach the six additional priority victims referred to them for intake.

³¹ Referred priority victims were taken in from 1 March to 27 April 2022. [REDACTED] continues its effort in order to reach the last priority victim referred to them for intake.

20. In addition, 18 of the 19 *Lubanga* and *Ntaganda* Former Child Soldier with urgent needs are currently benefitting from the reparation programme in *Lubanga*.³²

21. In reference to the Second query, the contracts with [REDACTED] and [REDACTED] have been renewed and entered in force on 1 May 2022. The implementing partners will continue to proceed to the intake of further beneficiaries without a financial increase of the initial budget allocated for the first year of implementation. The Trust Fund continues to closely monitor the situation with a view to taking additional measures, as necessary, to enable the partners to take in more victims than originally foreseen.³³

22. The Trust Fund would like to take the opportunity of the renewal of the contracts with the two partners in the context of a programme conducted pursuant to regulation 50(a) of the Regulations of the Trust Fund to underline that these programmes lend themselves adequately for the purpose of addressing categories of harm identified in the *Ntaganda* Reparation Order. Even though the Trust Fund currently refers to them as ‘assistance’ programmes, they provide in their essence non-judicially ordered reparations – especially, but not exclusively, rehabilitation measures and material support – to victims of crimes falling under the jurisdiction of the Court, thereby recognising their victimisation and providing a form of redress for the harm they suffered. In addition, every measure addressing the urgent needs of the victims is already a reparation, providing recognition and initial redress, given the IDIP is part and parcel of the Reparation Order of the Trial Chamber and therefore related to the liability of Mr Ntaganda. As set out in the DIP (v.2.0), the additional relief required will be assessed on a case-by-case basis once the beneficiaries of the IDIP programme are included in either the Former Child Soldiers Programme or the Victims of the Two Attacks Programme.³⁴

³² Five of the 18 *Lubanga* beneficiaries started the intake in [REDACTED] IDIP for programmatic purposes but are being redirected to *Lubanga* without budgetary impact on [REDACTED] IDIP. [REDACTED] continues its effort in order to reach the last *Lubanga* beneficiary of the 19 who has not yet been taken in.

³³ See also Draft Implementation Plan (“DIP”) of the Trust Fund for Victims for the collective reparations awarded to the victims of the crimes for which Mr Bosco Ntaganda has been convicted by the International Criminal Court v.2.0) – 24 March 2022, (DIP (v.2.0), [ICC-01/04-02/06-2759-Anx1-Red-Corr](#), paras. 143, 251.

³⁴ See DIP (v.2.0), para. 253.

D. ADDITIONAL INFORMATION

23. In relation to outreach, radio messages have started to be broadcasted since 9 May 2022 for an initial duration of two months. These radio messages are broadcasted by a radio reaching victims communities with the support of five additional community radio stations particularly listened to by victims communities.

FOR THE FOREGOING REASONS,

24. The Trust Fund respectfully requests that the Trial Chamber take note of the present update report and stands ready to provide further clarifications.



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

Dated this 20th of July 2022
Date of the original: 24 May 2022
At The Hague, The Netherlands