

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: **ICC-01/04-02/06**
Date of original: **26
September 2022**
Date of redacted version: **25
October 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 Redacted Version

**Trust Fund for Victims' Seventh 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:

Legal Representatives of Victims

Ms Sarah Pellet

Mr Tars Van Litsenborgh

Mr Dmytro Suprun

Ms Cherine Luzaisu

Ms Fiona Lau

Counsel for the Defence

Mr Stéphane Bourgon

Mr Jacopo Ricci

Mr Benjamin Willame

Trust Fund for Victims

Ms Franziska Eckelmans

REGISTRY

Registrar

Mr Peter Lewis

Other

Ms Jelena Vukasinović

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

I. BACKGROUND

1. On 8 July 2019, Trial Chamber VI (the “Trial Chamber”) issued its Judgment, convicting Mr Bosco Ntaganda of five counts of crimes against humanity and thirteen counts of war crimes.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 (“Reparation Order”).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 certain clarifications.⁸

¹ Judgment, [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](#).

9. On 24 May 2022, the Trust Fund submitted its fifth update report on the IDIP¹⁷ (“Fifth Update Report”) and on 6 July 2022, having heard the observations of the parties,¹⁸ the Trial Chamber issued a decision thereon (“Decision on Fifth Update Report”).¹⁹

10. On 25 July 2022, the Trust Fund submitted its sixth update report on the IDIP²⁰ (“Sixth Update Report”). On 5 August 2022, the Defence submitted observations on the Sixth Update Report.²¹

II. UPDATE REPORT OF 25 OCTOBER 2022

11. This update report covers the activities relevant to the implementation of the IDIP conducted between 25 July 2022 and 26 September 2022. It provides updated information regarding the security situation (A), the eligibility assessment (B), the implementation of initial reparations measures (C), and additional information (D).

12. At the outset and by reference to the Appeals Chamber judgment on the appeals against the Reparation Order²² (“Appeals Judgment”) delivered on 12 September 2022, the Trust Fund notes that the Trial Chamber’s determination in the Reparation Order in relation to the IDIP was not overturned on appeal and that the Trial Chamber has since not issued any orders in relation to the

¹⁷ Trust Fund for Victims’ Fifth Update Report on the Implementation of the Initial Draft Implementation Plan, 24 May 2022, [ICC-01/04-02/06-2767-Conf](#). A public redacted version was filed on 20 July 2022: [ICC-01/04-02/06-2767-Red](#).

¹⁸ Observations of the Common Legal Representative of the Former Child Soldiers on the “Trust Fund for Victims’ Fifth Update Report on the Implementation of the Initial Draft Implementation Plan” (ICC-01/04-02/06-2767-Conf), 6 June 2022, [ICC-01/04-02/06-2770-Conf](#). A public redacted version was filed on 8 July 2022: [ICC-01/04-02/06-2770-Red](#); Defence observations on the Trust Fund for Victims’ Fifth Update Report on the Implementation of the Initial Draft Implementation Plan, 6 June 2022, [ICC-01/04-02/06-2769-Conf](#). A public redacted version was filed on 19 July 2022: [ICC-01/04-02/06-2769-Red](#).

¹⁹ Decision on the TFW’s Fifth Update Report on the Implementation of the Initial Draft Implementation Plan, 6 July 2022, [ICC-01/04-02/06-2772-Conf](#).

²⁰ Trust Fund for Victims’ Sixth Update Report on the Implementation of the Initial Draft Implementation Plan, 25 July 2022, [ICC-01/04-02/06-2775-Conf](#). A public redacted version was filed the same day.

²¹ Observations on behalf of the convicted person on the Trust Fund for Victims’ Sixth Update Report on the Implementation of the Initial Draft Implementation Plan, 5 August 2022, [ICC-01/04-02/06-2780-Conf](#). A public redacted version was filed on 26 August 2022.

²² Judgment on the appeals against the decision of Trial Chamber VI of 8 March 2021 entitled “Reparations Order” (“Appeals Judgment”), with two public annexes, 12 September 2022, [ICC-01/04-02/06-2782](#).

IDIP. Accordingly, this report is based on the Trust Fund’s continuous implementation of the IDIP as approved and directed by the Trial Chamber.

A. UPDATE ON THE SECURITY SITUATION

13. In its Third Update Report, in response to the 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 the population within and outside Ituri.

14. The volatile security situation 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 reparative services. However, with the continuous assistance of the legal representatives of victims (jointly the “CLRs”), the Trust Fund through its implementing partners continues its efforts to contact victims identified by the CLRs as priority victims in urgent need.

B. UPDATE ON THE ELIGIBILITY ASSESSMENT:

15. As indicated in the Third Update Report,²³ the Trust Fund has continued to provide the CLRs with information on a rolling basis, in particular, in relation to the process of eligibility to IDIP measures of victims they represent.

16. As a matter of priority, the Trust Fund continued to determine the eligibility of the Former Child Soldiers and the Victims of the Attacks referred to it by CLR1 and CLR2 during the previous reporting period.²⁴ In that respect, it is recalled that the Trust Fund ensures, to the degree possible, that the victims fall within the eligibility criteria and are not yet beneficiaries in *Lubanga* before asking the implementing partner to enter into contact with victims to receive information about the urgency of their needs.

²³ Third Update Report, para. 7.

²⁴ Sixth Update Report, paras 17-25.

Process until 26 September 2022

17. On 25 July 2022, the Trust Fund received from [REDACTED] the results of the interviews with nine priority victims whose names were transmitted for information gathering in the course of previous reporting periods.²⁵ The Trust Fund referred the nine beneficiaries to [REDACTED] for intake.

18. During the previous reporting period, the Trust Fund transmitted a list with the names of 22 priority victims (third list of priority victims) to [REDACTED], and two lists for a total of 16 priority victims to [REDACTED] for gathering information necessary for the IDIP eligibility verification by the Trust Fund. From the lists destined to [REDACTED], two victims started, in the meantime, to benefit from reparations in *Lubanga*.²⁶

19. Upon receipt of the information from [REDACTED] and [REDACTED], the Trust Fund found 29 victims eligible to benefit from the IDIP.²⁷ Accordingly, in the reporting period a total of 38 beneficiaries were referred to [REDACTED] and [REDACTED] for intake, of which nine were referred to [REDACTED] in August, 17 to [REDACTED] in September, and 12 to [REDACTED] in September.

20. The implementing partners have both experienced a variation in the regular conduct of daily business due to the summer break and/or the change in the staff managing the respective projects. This has caused a delay in the transmission of information gathered by the partners to the Trust Fund. The Trust Fund has requested the implementing partners to better anticipate matter of this type in the future and act expeditiously in implementing reparation measures for the new groups of beneficiaries referred for intake.

²⁵ Six of them were transmitted to [REDACTED] for information gathering during the previous reporting period, while three were transmitted with the first transmission of victims of December 2021, but they remained unreachable thus far.

²⁶ This brings now the list of *Lubanga* beneficiaries referred to the TFV via the *Ntaganda* IDIP process to 21.

²⁷ As to the nine remaining victims, information related to two Former Child Soldiers is under assessment; two other Former Child Soldiers are benefitting from *Lubanga* reparations (as mentioned under para.19, above); and three Victims of the Attacks deceased while two other are leaving outside of Ituri.

21. To date, a total of 24 Former Child Soldiers and 45 Victims of the Attacks have been considered eligible and referred for intake.

Next steps

22. The Trust Fund will continue with the eligibility assessment of any additional participating victims referred to it by the CLRs.

23. In the reporting period, the Trust Fund has started to liaise with the Registry, in order to address the situation of non-participating victims who had been interviewed by the Registry in 2021 and to determine a process on how to best identify those with urgent needs with the aim of integrating them into the IDIP programme. The Trust Fund and Registry will continue to engage in this process.

24. The Trust Fund is planning a training for [REDACTED] staff regarding information gathering from potential Victims of the Attacks, taking into account budgetary constraints related to the Trust Fund's travel budget.

25. The Trust Fund wishes to express its appreciation for the cooperation established with the CLRs in the implementation of the IDIP, and for the support received by VPRS in accessing existing applications and documentation concerning priority victims.

C. UPDATE ON IMPLEMENTATION OF INITIAL REPARATION MEASURES

26. Since the previous report, implementation of initial reparation measures was pursued for victims still requiring services. As set out above, nine additional Victims of the Attacks with urgent needs have started to benefit from the IDIP measures.

27. To date [REDACTED] has provided initial reparation measures to 11 beneficiaries. One beneficiary remains unreachable.²⁸ 12 newly referred beneficiaries are in the process of intake.

²⁸ CLR1 has provided updated contact information.

28. [REDACTED] has provided reparation measures to 26 beneficiaries. Two beneficiaries remain unreachable. 17 newly referred beneficiaries are in the process of intake.

29. In addition, 21 *Lubanga* and *Ntaganda* Former Child Soldier with urgent needs are currently benefitting from the reparation programme in *Lubanga*.

D. ADDITIONAL INFORMATION

30. *Communication regarding the Appeals Judgment* – in addition to information provided to participating victims by their respective CLR, the Trust Fund contacted the CLRs and the Country Office to consult with them in the week of 26 September 2022, to the extent possible, on the messages to be provided to the communities and victims in Ituri Province in relation to the effects of the Appeals Judgment on the *Ntaganda* IDIP process.

E. REQUEST TO SUBMIT UPDATE REPORTS EVERY THREE MONTHS

31. The Trust Fund appreciates the opportunity to submit update reports to the Trial Chamber on the implementation of the reparations as provided for in regulation 58 of the Regulations of the Trust Fund. In addition to serving the purpose of informing the Trial Chamber, the parties, participants and the public of the progress of reparations, update reports permit keeping official records and constitute precious material to conduct lessons-learnt exercises.

32. For the reasons set out below, the Trust Fund believes that spacing the submission of update reports every three months would reach the appropriate balance between ensuring the efficient use of the Trust Fund's resources and permitting oversight of the Trial Chamber.

33. In accordance with best programmatic practices, the Trust Fund requires that the implementing partners (as it is the case in every other Trust Fund programme) submit quarterly reports based on the quarters of a calendar year, while monitoring their work and remaining in close contact on a daily basis. Accordingly, aligning the Trust Fund's reporting to the Trial Chamber with the calendar of the implementing partner's reporting to the Trust Fund would permit more efficient reporting.

34. Spacing the submissions would not have any adverse impact on the proper implementation of the IDIP or on the possibility for the Trial Chamber to properly monitor the IDIP implementation. Spacing the submissions would also allow for a proper transition with the reporting regarding the implementation of the overall Reparation Order.

35. The Trust Fund considers that reporting on the last day of the months of February, May, August and November of each calendar year, would permit including in the update reports to the Trial Chamber more up to date and substantial information on the progress achieved. Therefore, the Trust Fund requests to submit its update reports every three months in the manner described above and below.

36. In order to align the current reporting with these dates, the Trust Fund proposes that the first report of 2023 is submitted on 28 February 2023. In the meantime, the Trust Fund would submit its next progress report on 28 November 2022.

FOR THE FOREGOING REASONS,

37. The Trust Fund respectfully requests that the Trial Chamber take note of the present update report, grant its request to submit update reports every three months, and stands ready to provide further clarifications.



Franziska Eckelmans
Acting Executive Director of the Trust Fund for Victims,

Dated this 25th Day of October 2022
At The Hague, The Netherlands