

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 30 January 2023

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***

**Confidential
With one Confidential Annex**

**Transmission of Appointed Expert Sunneva Gilmore's views on the Defence
Request to disclose material relied upon in her Report (ICC-01/04-02/06-2812-Conf)**

Source: Registry

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

The Office of the Prosecutor

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Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

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

States' Representatives

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**Victims Participation and Reparations
Section**

Philipp Ambach

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Appointed Expert, Dr Sunneva Gilmore

I. Introduction

1. On 17 January 2023, Trial Chamber II ("Chamber") instructed the Registry to seek the views of Dr. Sunneva Gilmore, one of the four appointed experts ("Expert") in the case of *The Prosecutor v. Bosco Ntaganda* ("Case"), on a request from the Defence to disclose, with necessary redactions, certain material relied upon in her report to reach conclusions in relation to the health centre in Sayo ("Request"),¹ and to report the Expert's views to the Chamber ("Instruction").² The Registry hereby transmits the Expert's views as an annex to the present document.

II. Procedural History

2. On 14 May 2020, the former Trial Chamber in charge of the Case (Trial Chamber VI) appointed four experts for the reparations proceedings in the Case and instructed them to submit their reports by 28 August 2020.³ This deadline was later extended to 30 October 2020.⁴
3. On 30 October 2020, the Registry transmitted the Expert report to the Chamber, in its original version.⁵
4. On 2 and 3 November 2020, the Registry transmitted, respectively, a confidential redacted⁶ and a public redacted⁷ version of the Expert report.

¹ Defence, "Request on behalf of Mr Ntaganda for disclosure of material relied upon in the Gilmore Expert Report", ICC-01/04-02/06-2812-Conf, 16 January 2023.

² Email from the Chamber to the Registry, 17 January 2023, at 12:40. The Registry notes that the Chamber requested specifically the Expert to provide her views in relation to: (i) Victim Interview 37, (ii) Information collected by an intermediary, (iii) Victim Interview 5, (iv) Victim Interview 7, and (v) an interview with a local healthcare provider. The Registry also notes a clarification from the Chamber that the Expert's views are to be transmitted as well to the parties (Defence and Legal Representatives of Victims) (email from Chamber to VPRS, 27 January 2023, at 11:15).

³ Trial Chamber VI, "Decision appointing experts on reparations", 14 May 2020, ICC-01/04-02/06-2528-Conf, paras 9 and 18 and Disposition, p. 10. A public redacted version was notified on the same day (ICC-01/04-02/06-2528-Red).

⁴ Trial Chamber VI, "Decision on Request for an Extension of Time for Filling Experts' Report", 20 July 2020, ICC-01/04-02/06-2553.

⁵ Registry, Annex II to "Registry Transmission of Appointed Experts' Reports", dated 30 October 2020 and notified on 2 November 2020, ICC-01/04-02/06-2623-Conf-Exp-Anx2.

⁶ *Id.*, ICC-01/04-02/06-2623-Conf-Anx2-Red.

⁷ *Id.*, ICC-01/04-02/06-2623-Anx2-Red2.

5. On 25 October 2022, the Chamber issued an order (“Order”) in which it *inter alia* instructed the four appointed reparations experts (“Appointed Experts”), if available, to review the redactions to their respective reports on reparations, or to otherwise justify the need to maintain their current classification, within sixty days of the notification of the Order. In the same Order, the Chamber instructed all parties and participants, including the Office of the Prosecutor, the DRC Government and, if available, the Appointed Experts, to provide further submissions and possible evidence on the issues relevant to the assessment of the actual damage and harm caused to the health centre in Sayo, within the same timeframe as above.⁸
6. On 21 December 2022, the Registry transmitted a confidential lesser redacted and a public lesser redacted version of the Expert report.⁹
7. On 16 January 2023, the Defence submitted the Request.¹⁰
8. On 17 January 2023, the Chamber issued the Instruction.¹¹
9. On 23 January 2023, the Legal Representative of Victims of the Attacks (“CLR2”) submitted a response to the Request.¹²
10. On 24 January 2023, the Expert sent her views on the Request to the VPRS.

III. Classification

⁸ Trial Chamber II, “Order for the implementation of the Judgment on the appeals against the decision of Trial Chamber VI of 8 March 2021 entitled ‘Reparations Order’”, 25 October 2022, ICC-01/04-02/06-2786, para. 43 and Disposition, p. 21.

⁹ Registry, “Registry Transmission of Confidential Lesser Redacted Version and Public Lesser Redacted Version of Two Reparation Experts’ Reports”, 21 December 2022, ICC-01/04-02/06-2806 (transmitting Annex II to “Registry Transmission of Appointed Experts’ Reports” in confidential lesser redacted version ICC-01/04-02/06-2623-Conf-Anx2-Red3 and in public lesser redacted version ICC-01/04-02/06-2623-Anx2-Red4).

¹⁰ See *supra* footnote 1.

¹¹ See *supra* footnote 2. After having sought the views of the Defence, the Chamber authorized the Registry’s Victims Participation and Reparations Section (“VPRS”) to transmit confidentially the Request to the Expert (email from Chamber to VPRS, 20 January 2023 at 08:57). On the same day, the Registry notified the Request to the Expert, and the VPRS informed her of the Instruction (email from VPRS to Expert, 20 January 2023, 12:27).

¹² CLR2, “Response of the Common Legal Representative of the Victims of the Attacks to the “Request on behalf of Mr Ntaganda for disclosure of material relied upon in the Gilmore Expert Report”, 23 January 2023, ICC-01/04-02/06-2815-Conf.

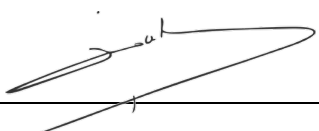
11. Pursuant to regulation 23*bis*(1) of the Regulations of the Court, the annex to this document is notified confidential, in accordance with the Instruction.

IV. Applicable Law

12. The present transmission is submitted in accordance with the Instruction.

V. Submission

13. The Registry hereby submits in the annex to the present document the Expert's views.

A handwritten signature in black ink, appearing to read 'M. Dubuisson', is written over a horizontal line.

Marc Dubuisson
Director Division of Judicial Services
on behalf of Peter Lewis, Registrar

Dated this 30 January 2023

At The Hague, the Netherlands