

**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**



*Original: English*

*No.: ICC-01/04-02/06*  
*Date: 13 February 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***

**Public  
With confidential Annexes I-IV**

**Transmission of the observations of the Democratic Republic of Congo on the  
issues relevant to the assessment of the actual damage and harm  
caused to the health centre in Sayo**

**Source:** The Registry

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

**The Office of the Prosecutor**

Mr Karim A. Khan  
Ms Nicole Samson

**Counsel for the Defence**

Mr Stéphane Bourgon  
Mr Benjamin Willame  
Mr Jacopo Ricci

**Legal Representatives of the Victims**

Ms Sarah Pellet  
Mr Tars van Litsenborgh  
Ms Ana Peña  
Mr Dmytro Suprun  
Ms Fiona Lau  
Mr Patrick Tchidimbo

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

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

**States' Representatives**

Democratic Republic of Congo

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## I. Introduction

1. The Registry hereby transmits to Trial Chamber II (“Chamber”) in accordance with rule 13 (1) of the Rules of Procedure and Evidence, observations from the competent authorities of the Democratic Republic of Congo (“DRC”), pursuant to the “Order for the implementation of the Judgment on the appeals against the decision of Trial Chamber VI of 8 March 2021 entitled “Reparations Order”” (“Order”), issued by the Chamber on 25 October 2022.<sup>1</sup>

## II. Procedural History

2. On 28 October 2022, the Registry notified the English original version of the Order to the DRC authorities.<sup>2</sup>
3. On 14 November 2022, the Registry notified the French translation of the Order to the DRC authorities, requesting the DRC authorities to provide further submissions and possible evidence, on the issues relevant to the assessment of the actual damage and harm caused to the health center in Sayo, as detailed to in paragraph 42 of the Order, within sixty days of the notification of the Order.<sup>3</sup>
4. On 6 February 2023, the Registry received a Note Verbale from the competent authorities of the DRC<sup>4</sup> to be transmitted to the Chamber. On the same day, the Chamber issued the “Decision on Request on behalf of Mr Ntaganda for disclosure of material relied upon in the Gilmore Expert Report” (“Decision”) <sup>5</sup>which *inter alia* directed the DRC Government to provide further submissions and evidence on the issues relevant to the assessment of the actual damage and harm caused to the health center in Sayo, within 15 days from the notification.

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<sup>1</sup> 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.

<sup>2</sup> Annex I.

<sup>3</sup> Annex II.

<sup>4</sup> Annex III.

<sup>5</sup> Trial Chamber II, “Decision on Request on behalf of Mr Ntaganda for disclosure of material relied upon in the Gilmore Expert Report”, 6 February 2023, ICC-01/04-02/06-2824-Conf .

5. On 8 February 2023, in response to the Registry's request for clarification, the Chamber instructed the Registry, by e-mail<sup>6</sup>, to communicate to the DRC authorities that it is not necessary for them to respond to the latest Decision, since the DRC authorities already responded to the original Order.

### III. Classification

6. Pursuant to regulation 23 *bis*(2) of the Regulations of the Court ("RoC"), the Registry submits Annexes I to IV as confidential as Annex I and II concern the communication between the Registry and the State. Concerning Annex III, the DRC authorities indicated that their submission should be classified confidential in order to avoid criticism and keep the neutrality of the DRC authorities as communicated in the Note Verbale dated 11 February 2023.<sup>7</sup>

### IV. Submission

7. The Registry hereby transmits, as Annex III, the observations submitted by the competent authorities of the DRC.



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

Dated this 13 February 2023

At The Hague, the Netherlands

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<sup>6</sup> Email from Trial Chamber II to Registry on 8 February 2023 at 15:40.

<sup>7</sup> Annex IV.