

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date of original: **30**

January 2023

Date of public redacted

version: **30 March 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 Redacted Version of

**Trust Fund for Victims' Ninth Update Report on the Implementation of the Initial Draft
Implementation Plan, dated 30 January 2023, ICC-01/04-02/06-2817-Conf**

**With Confidential *ex parte* Annex A only available to the CLR1 and the Trust Fund for
Victims and Confidential Annex B**

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 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 (“Reparations 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 directed 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, 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 Victim’s 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

11. On 12 September 2022, the Appeals Chamber issued its judgment on the Reparations Order (“Appeals Judgment”).²²

12. On 26 September 2022, the Trust Fund submitted its seventh update report on the IDIP²³ (“Seventh Update Report”). On 7 October 2022, the Defence submitted observations on the Seventh Update Report.²⁴

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 TFV’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 appeal against the decision of Trial Chamber VI of 8 March 2021 entitled “Reparations Order”, 12 September 2022, [ICC-01/04-02/06-2782](#) (“Appeals Judgment”).

²³ Trust Fund for Victims’ Seventh Update Report on the Implementation of the Initial Draft Implementation Plan, 26 September 2022, [ICC-01/04-02/06-2783-Conf](#). A public redacted version was filed on 25 October 2022: [ICC-01/04-02/06-2783-Red](#).

²⁴ Observations on behalf of the convicted person on the Trust Fund for Victims’ Seventh Update Report on the Implementation of the Initial Draft Implementation Plan, 7 October 2022, [ICC-01/04-02/06-2785](#).

13. On 25 October 2022, Trial Chamber II (the “Trial Chamber”) issued its Order for the implementation of the Judgment on the appeals against the Reparations Order (“Order on the Appeals Judgment’s Implementation”).²⁵

14. On 16 November 2022, the Trial Chamber issued its Decision on the TFV’s Sixth and Seventh Update Reports on the Implementation of the IDIP (“Decision on the Sixth and Seventh Update Reports”).²⁶

15. On 25 November 2022, the Trial Chamber issued its Decision on the Registry submission in compliance with 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’” (“Decision on Sample”).²⁷

16. On 28 November 2022, the Trust Fund submitted its eighth update report on the IDIP²⁸ (“Eighth Update Report”). On 9 December 2022, the Defence submitted observations thereon.²⁹ On 13 January 2023, the Trial Chamber issued its Decision on the TFV’s Eighth Update Report on the Implementation of the IDIP (“Decision on Eighth Update Report”).³⁰

²⁵ 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](#), (“Order on the Appeals Judgment Implementation”).

²⁶ Decision on the TFV’s Sixth and Seventh Update Reports on the Implementation of the Initial Draft Implementation Plan, 16 November 2022, [ICC-01/04-02/06-2792-Conf](#).

²⁷ Decision on the Registry submission in compliance with 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’”, 25 November 2022, [ICC-01/04-02/06-2794](#).

²⁸ Trust Fund for Victims’ Eighth Update Report on the Implementation of the Initial Draft Implementation Plan, 28 November 2022, [ICC-01/04-02/06-2796-Conf](#). A public redacted version was filed on the same day: [ICC-01/04-02/06-2796-Red](#) (“Eighth Update Report”).

²⁹ Observations on behalf of the convicted person on the Trust Fund for Victims’ Eighth Update Report on the Implementation of the Initial Draft Implementation Plan, 9 December 2022, [ICC-01/04-02/06-2802-Conf](#). A public redacted version was filed on 19 January 2023: [ICC-01/04-02/06-2802-Red](#).

³⁰ Decision on the TFV’s Eighth Update Report on the Implementation of the Initial Draft Implementation Plan, 13 January 2023, [ICC-01/04-02/06-2811-Conf](#) (“Decision on Eighth Update Report”).

17. On 22 December 2022, the Trust Fund submitted information on certain victims selected in Trial Chamber II's approved sample.³¹ On 9 January 2023, the Trial Chamber issued a decision thereon.³²

II. UPDATE REPORT OF 30 JANUARY 2023

18. This update report covers the activities relevant to the implementation of the IDIP conducted between 28 November 2022 and 30 January 2023. It provides updated information regarding the security situation (A), the eligibility assessment (B), and the implementation of initial reparations measures (C). In addition, it addresses the issues raised in the Trial Chamber's Decision on the Eighth Update Report (D).

A. UPDATE ON THE SECURITY SITUATION

19. Based on the Court's security assessment shared with the Trust Fund, the security situation in Ituri remains volatile and unpredictable. On 13 January 2023, the DRC Government authorised the extension of the state of siege in the provinces of Ituri and North-Kivu. According to the government, this decision will allow the Armed Forces of the DRC ("FARDC") to consolidate the achievements of previous operations and to continue actions to restore peace and security in Eastern DRC.³³ During the reporting period armed groups continued to carry out deadly attacks against the Armed Forces of the DRC ("FARDC") and the civilian population. An increase in the number of attacks was noted, in particular in the Djugu territory where both *Coopérative pour le développement du Congo* (CODECO) and *milice d'autodéfense Zaïre* are active. They are also engaged in fierce battles with each other, including over control of the mining areas around Mongbwalu, amongst others. Their attacks against the civilian population continue to take place on a regular basis. A newly composed armed group has emerged: *Mouvement d'auto-défense*

³¹ Trust fund for Victims' Submission of information on certain victims selected in Trial Chamber II's approved sample, 22 December 2022, [ICC-01/04-02/06-2807](#).

³² Decision on the Trust Fund for Victims' submission of information on certain victims selected in Trial Chamber II's approved sample, 9 January 2023, [ICC-01/04-02/06-2808](#).

³³ "RDC: le gouvernement adopte le projet d'ordonnance loi autorisant la prorogation de l'état de siège en Ituri et au Nord-Kivu" accessible at <<https://actualite.cd/2023/01/15/rdc-le-gouvernement-adopte-le-projet-dordonnance-loi-autorisant-la-prorogation-de-letat>>

Populaire de l'Ituri (“MAPI”)³⁴ whose objective is said to be to support the FARDC. Last week, the Trust Fund was informed that several bombs were disarmed in and around Bunia.

20. It was reported to the Trust Fund, during the implementation of activities, that the *Force de résistance patriotique de l'Ituri* (“FRPI”) has deployed around Bogoro, on the Liri hill, at only four kilometres from Bogoro, and in Mitego and Kapuru. The sporadic shooting of the militiamen installed in Liri can be heard in Bogoro. Militiamen are visible and move around Bogoro armed. They have set up a barrier in Lagabo. Anyone going to Boga or Mitego has to pay an illegal tax of USD 2.5 or risk physical attack. It was also reported that CODECO and *Force patriotique et intégrationniste du Congo* (“FPIC”) militias are also positioned in such way that Bogoro is surrounded in an eight kilometre pocket between FRPI, CODECO, and FPIC.

21. In North Kivu province, the previous reporting period was marked by the serious progress made by the *Mouvement du 23 mars* (“M23”) movement, who have managed to tighten their presence in several territories, cutting Goma off from a major part of the province. Battles have reached close to Goma, leading to high numbers of casualties and making the population of Goma, as well as the displaced population, very anxious. During the last few days, withdrawal movements of the M23 from some localities have been observed in accordance with the Luanda cease-fire agreement.³⁵ Regardless, such withdrawal movements are still not considered to have met the Luanda cease-fire agreement.³⁶

B. UPDATE ON THE ELIGIBILITY ASSESSMENT

Process until 30 January 2023

³⁴ “Sécurité: un nouveau groupe armé dénommé « MAPI » surgit en Ituri” accessible at <<https://www.politico.cd/encontinu/2023/01/08/securite-un-nouveau-groupe-arme-denomme-mapi-surgit-en-ituri.html/125661/>>

³⁵ “Nord-Kivu : le M23 se retire de plusieurs localités de Rutshuru” <<https://www.radiookapi.net/2023/01/16/actualite/securite/nord-kivu-le-m23-se-retire-de-plusieurs-localites-de-rutshuru>>

³⁶ “Kinshasa prend acte du refus du M23 d’exécuter les recommandations de Luanda”, <<https://www.radiookapi.net/2023/01/19/actualite/politique/kinshasa-prend-acte-du-refus-du-m23-dexecuter-les-recommandations-de>>

22. During the reporting period, the Common Legal Representative of the Victims of the Attacks (“CLR2”) has referred twelve victims; half were transmitted one week before the present report. By the day of filing the present report, the Trust Fund transmitted to [REDACTED] a list of ten priority victims for gathering information about their urgent needs. Upon receipt of said information, the Trust Fund will assess their eligibility to benefit from IDIP measures.

23. As to the Former Child Soldiers, the Trust Fund hereby submits to the Trial Chamber the information regarding one victim eligible to benefit from the IDIP,³⁷ for a final decision approving the Trust Fund’s determination, in accordance with the Decision on the Sixth and Seventh Update Reports.³⁸

24. The Trust Fund did not receive any additional transmissions of priority victims from the Common Legal Representative of the Former Child Soldiers (“CLR1”).

25. In the interest of expeditiousness, the Trust Fund will submit to the Trial Chamber, as an addendum to the present report, information regarding the outcome of the eligibility verification of the twelve applications being currently processed as soon as the Trust Fund will have determined it upon receipt of the information gathered by [REDACTED].

26. To date, a total of 25 Former Child Soldiers and 45 Victims of the Attacks have been considered eligible by the Trust Fund while 24 Former Child Soldiers and 45 Victims of the Attacks have been referred for intake.

Next steps

27. Upon receipt of information from [REDACTED], the Trust Fund will carry out the eligibility assessment of the priority victims referred to it by CLR2 and proceed as presented in paragraph 25 above.

³⁷ See annex A.

³⁸ Decision on the Sixth and Seventh Update Reports, para. 23.

28. The Trust Fund stands ready to receive new transmissions from the Common Legal Representatives and the Registry (if any), and to subsequently continue with their eligibility assessment.

29. The Trust Fund wishes to express its appreciation for the cooperation established with the Common Legal Representatives in the implementation of the IDIP, and for the support received from VPRS in providing access to victims' applications.

C. UPDATE ON IMPLEMENTATION OF INITIAL REPARATION MEASURES

30. The Trust Fund's implementing partners did not include any new beneficiaries into the IDIP programme during the current reporting period.

31. To date, [REDACTED] is providing initial reparation measures to 24 beneficiaries. As victims [REDACTED] and [REDACTED] have been recognised as *Lubanga* victims, they are transferred to the *Lubanga* reparations programme.

32. [REDACTED] has provided initial reparation measures to 45 beneficiaries.

33. Implementation of initial measures is to continue for a number of beneficiaries whose situation requires it.

D. ADDITIONAL INFORMATION

34. The Trust Fund notes that the Trial Chamber, in its Decision on Eighth Update Report, invited the Trust Fund to provide it with the list of answers that are provided in the outreach messages.³⁹ This list, which is a working document of the Trust Fund, is submitted as an annex to this Update Report.⁴⁰

35. [REDACTED]⁴¹ [REDACTED]⁴²

³⁹ Decision on Eighth Update Report, para. 25.

⁴⁰ See Annex B.

⁴¹ Eighth Update Report, para. 30.

⁴² Decision on Eighth Update Report, para. 26.

36. [REDACTED].

FOR THE FOREGOING REASONS,

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



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

Dated this 30th Day of March 2023
(Date of original 30 January 2023)
At The Hague, The Netherlands