

1 International Criminal Court
2 Trial Chamber II
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Thomas Lubanga
5 ICC-01/04-01/06
6 Presiding Judge Marc Perrin de Brichambaut,
7 Judge Olga Herrera-Carbuccia and Judge Péter Kovács
8 Hearing on Reparations - Courtroom 1
9 Tuesday, 11 October 2016
10 (The hearing starts in open session at 9.50 a.m.)
11 THE COURT USHER: [9:50:49] All rise. The International Criminal Court is now
12 in session.
13 Please be seated.
14 THE COURT OFFICER: [9:51:13] The International Criminal Court is sitting in open
15 session in the indication of The Prosecutor versus Thomas Lubanga Dyilo,
16 Reparations Case, case number ICC-01/04-01/06
17 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [9:51:29](Interpretation) Good
18 morning all. I notice the presence of the photographers. I thank you very much for
19 your interest in the matter. Courtroom officer, could you please call the case. We
20 are in open session.
21 I would like the request of counsel for Mr Lubanga, the LRVs 1 and 2 for the Trust
22 Fund for Victims and for the Office of Public Counsel for Victims to present
23 themselves for the purposes of the record.
24 I will start with counsel for Mr Lubanga.
25 MS MABILLE: [9:52:09] Thank you, Mr President. The team today is made up of

1 Virginie Lefebvre, who is in charge of the dossier, Jean Marie Biju-Duval, who is to
2 my left, and myself, Catherine Mabilille.

3 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [9:52:28](Interpretation) Thank
4 you very much. LRVs group 01, please. Please introduce yourselves.

5 MR WALLEYN: (Microphone not activated)

6 THE INTERPRETER: [9:52:40] Microphone, please, counsel.

7 MR WALLEYN: (Interpretation) I do apologise.

8 Mr President, this is the first time that I am appearing before you. My name is
9 Luc Walley. I am representing the V01 group of victims and I am assisted here
10 today by our case manager, Evelyne Ombeni, Mr Franck Mulenda, who is by my
11 side -- who should have been by my side and who is working on the dossier with me
12 has apologised for his absence because he had a problem getting hold of a visa and
13 this meant that he was not able to obtain his visa between a field trip mission last
14 week and the flight that he was due to catch yesterday. Thank you.

15 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [9:53:29](Interpretation) Thank
16 you, Counsel. The Legal Representative for the victims group number 2, please
17 introduce yourself.

18 MR KETA: (Interpretation) Yes, thank you for allowing me to address the Court,
19 Mr President. My name is Joseph Keta Orwinyo from the Kisangani bar and the
20 Kinshasa Gombe bar in the DRC and I am representing in today's hearings the V02
21 group of victims, and Mr Paul Kabongo and Maître Bapita Buyangandu are both
22 present from the bar, and also in the company of our case manager, Sylviane
23 Glodjinon, who is residing here in The Hague. Thank you.

24 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [9:54:30](Interpretation) Thank
25 you, counsel. Thank you.

1 Now Trust Fund for Victims, could you please introduce yourselves.

2 MR DE BAAN: Your Honour, I am joined by Moureen Lamonge, assistant at the
3 Trust Fund for Victims, by Mr Scott Bartel, who is the legal adviser at the Trust
4 Fund for Victims, and I am Mr Pieter de Baan. Thank you.

5 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [9:54:52](Interpretation) I do
6 apologise to the LRVs, but please - we do of course know you - but please introduce
7 yourself.

8 MS MASSIDDA: [9:55:03] (Interpretation) Good morning, your Honours. The
9 OPCV is made up this morning of Maître Bibiane Bakento from the DRC bar and
10 counsel out in the field. In addition to Caroline Walter, and Sarah Pellet will be
11 joining us this afternoon because she has commitments in the Bosco Ntaganda case;
12 and myself, I am lead counsel, Paolina Massidda, and the OPC in these proceedings is
13 representing the potential beneficiaries and also some participants who have filed
14 a request for participation before the Chamber.

15 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [9:55:49](Interpretation) I note
16 the presence of the two NGOs who intend to intervene this morning presenting their
17 presentations, notably, Women's Initiatives for Gender Justice. Please introduce
18 yourselves.

19 MS INDER: [9:56:05] Thank you. Good morning, your Honour. My name is
20 Brigid Inder. I am the executive director of the Women's Initiatives for Gender Justice,
21 and I am joined here this morning by the chair of our board, Gabrielle McIntyre.

22 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [9:56:21](Interpretation) Thank
23 you very much. The organisation Child Soldiers International, please introduce
24 yourselves.

25 MR MEHIGAN: Good morning. My name is James Mehigan and I am legal

1 counsel to Child Soldiers International, and we are accompanied by the director of
2 programmes, Isabelle Guitard.

3 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [9:56:46](Interpretation) Thank
4 you, thank you all.

5 I would like to start by providing a brief procedural overview of the proceedings that
6 brings us together.

7 Trial Chamber II issued an order on 15 July 2016 in a majority, with

8 Judge Herrera Carbuccion dissenting. In this order Trial Chamber II recalled the

9 mandate that was bestowed upon it in the judgment of the Appeals Chamber of

10 3 March 2015, notably, to determine Mr Lubanga's responsibility in monetary terms,

11 and secondly, to approve the draft implementation plan to be presented by the TFV.

12 Trial Chamber II was of the view that in the light of the information provided by the

13 TFV in its draft implementation plan dated 3 November 2016 and in its document of

14 7 June 2016, the Chamber did not yet have any collective reparations projects in

15 favour of Mr Lubanga's victims that would enable it to fulfil its mandate. Trial

16 Chamber II noted the observation submitted by the parties on 1 July 2016 with regard

17 to the necessity for it to validate, at least in a preliminary manner, the types of

18 collective projects that might subsequently be implemented.

19 In application of Rule 103, first paragraph of the Rules of Procedure and Evidence,

20 Trial Chamber II invited the States concerned, as well as the organisations interested,

21 to present to it observations on collective projects that were developed for former

22 child soldiers in the eastern part of the DRC, as well as proposals for collective

23 projects, with a view to contributing to the establishment of a combination of projects

24 for the collective reparations for the benefit of former child soldiers, victims of

25 Mr Lubanga.

1 Trial Chamber II has also planned for a hearing to be held in which the States
2 concerned, the organisations interested, the parties to the proceedings and the TFV
3 will be able to submit orally their observations on the information submitted to them.
4 Between 30 September and 5 October 2016 amici curiae filed their observations.
5 On 6 October 2016 Trial Chamber II issued the order setting out the schedule for this
6 hearing. In this order the Chamber namely authorised Women's Initiatives for
7 Gender Justice and Child Soldiers International to present their observations during
8 the hearing.

9 May I remind the parties to the proceedings, the TFV and the organisations present
10 here today that this hearing will only focus on collective reparations. I would also
11 like to remind the parties to the proceedings, the TFV and the organisations present
12 today to not disclose any information regarding the names and contact details of the
13 amici curiae staff or details of the collective reparations projects presented, which may
14 have an adverse affect on the safety of the victims or other individuals.

15 The Chamber will address questions to the amici curiae subsequent to each of the
16 presentations. In accordance with the provisions of Rule 130, paragraph 2,
17 of the Rules of Procedure and Evidence, the parties will be able to present their
18 observations on the presentations made by the amici curiae. The Chamber has also
19 invited the TFV to present contributions with regard to the questions raised
20 subsequent to which the Chamber and the parties will be able to put questions to the
21 TFV.

22 Now, before giving the floor to the representatives of Women's Initiatives for Gender
23 Justice, I would like to remind that on the one hand the Chamber indicated in its
24 order dated 15 July that it would respond in a timely manner to the requests of the
25 Legal Representatives and the BCPV, who were requesting ex parte hearings. In

1 addition, I would remind you that in a request dated 10 October, the Defence for
2 Mr Lubanga requested the authorisation to appeal the decision on the subject of the
3 request filed by the Defence of Mr Thomas Lubanga requesting his appearance
4 during the hearings of today and 13 October via video link. The Defence's request is
5 hereby rejected.

6 The Chamber will provide a reasoned decision in a brief time span.

7 I would like now to request that the Women's Initiatives for Gender Justice present
8 their observations. You have 30 minutes, if you so wish. The floor is yours.

9 MS INDER: [10:02:24] Honourable Judges, counsel for Defence, Victims

10 Representatives and Trust Fund for Victims, I would like to begin by thanking the
11 Chamber for the invitation extended to the Women's Initiatives to present our
12 observations on reparations in the case against Thomas Lubanga. We are honoured
13 to participate in this historic hearing, the first on reparations before the ICC, and we
14 are cognisant of this moment and its importance. We congratulate the Chamber for
15 your foresight in deciding to invite observations at this stage of proceedings and to
16 further complement this opportunity with a public hearing.

17 Your leadership on these issues provides very positive indications of the value you
18 place on ensuring access to the justice process for victimised communities and for
19 those who may not have had the opportunity to previously provide their views to
20 Chambers. We note in this respect the relatively high number of submissions
21 presented to the Trial Chamber, including the significant number of observations
22 provided by local NGOs, whose views on this process are of particular significance.
23 The response by the local community is an indication of how highly they value this
24 opportunity, their critical role as partners in the reparative process and the dire and
25 urgent needs of victims of the crimes of enlistment, conscription and use of children

1 to participate actively in hostilities for which Mr Lubanga has been convicted.

2 As noted in our recent observations, the Women's Initiatives has monitored all of the
3 filings and decisions in this case from the moment of Mr Lubanga's arrest and transfer
4 to the ICC in March of 2006. We have previously sought leave on two occasions in
5 this case, initially, in the pre-trial proceedings, and secondly, at an earlier stage of the
6 reparations process, when we were granted leave to address the Trial Chamber on
7 harm caused to female child soldiers of the UPC/FPLC and the gender aspects of
8 reparations in this case. The suggestions therefore included in our current
9 submission draws on this experience, as well as our work in Eastern DRC since 2006
10 and, in particular, our work victim survivors of conflict-related sexual and gender
11 based crimes, our documentation programme, including interviews with victims of
12 the conflict in Ituri, inclusive of the 2002-2003 period most relevant to this case.

13 Our community based advocacy programmes for gender justice and our programmes
14 providing almost 1,000 victims of sexual violence annually with support and access to
15 medical and psychosocial services of whom 85 per cent require and receive reparative
16 surgeries for rape-related injuries. Former child soldiers, predominantly females, are
17 integrated within each of these programmes.

18 There are numerous aspects of the context which have already been considered in the
19 filings and decisions on reparations, and in our observations, we highlighted five
20 additional contextual factors that we wish to recap and expand upon today. These
21 factors address the specificity of the context and the convicted person at this point in
22 the proceedings on the cusp of reparations. They are, firstly, Mr Lubanga is
23 currently completing his sentence within the DRC and his return to the country has
24 been highly disturbing for victims of his crimes and presents an additional element
25 with respect to actual or perceived security risks in Ituri and other locations to which

1 victims of his crimes have relocated.

2 Secondly, Mr Lubanga will be released at the latest by 2019, which will coincide with
3 the implementation phase of the reparations programme. Victims have already
4 expressed serious security and safety concerns regarding his release and their
5 potential participation in reparations programmes linked to his conviction.

6 Thirdly, the presence of Mr Lubanga in the country combined with years of armed
7 conflict in Ituri and in several of the near or neighbouring provinces in Eastern DRC
8 creates a vortex of actual or perceived threats to security both at individual and
9 communal levels.

10 Fourth, Mr Lubanga continues to enjoy support from the Hema community and the
11 UPC remains an active political force within Ituri, including within the areas in which
12 reparations programmes will likely be implemented. The UPC exerts considerable
13 influence amongst the Hema population and we note that in recent weeks the UPC
14 has been more visible, with marches and public displays, asserting its presence within
15 Bunia. Lastly, the limited safety the DRC government has been and is able to afford
16 its citizens in Ituri and other eastern provinces further underscores the vulnerability
17 of the population at large, including in areas within which the reparations
18 programmes will likely be implemented. We believe these conditions are pivotal
19 indicators for the consideration of reparations. These factors provide a sound basis
20 for victims to have reason to feel concerned and fearful with respect to accessing
21 reparative programmes. It is clear that victims believe there is a strong likelihood of
22 retaliations and threats.

23 It is bearing in mind the specific set of factors with respect to victims' safety and
24 security and the Appeals Chamber order for reparations that the Women's Initiatives
25 proposes that Mr Lubanga's financial responsibility should not be attached to

1 reparative responses which require individual eligibility and harm assessment
2 processes.

3 We appreciate that this hearing is not intended to address the eligibility mechanism,
4 assessments of harm, or the basis for determining Mr Lubanga's financial
5 responsibility. But as these issues are intrinsically related to victims' safety, their
6 confidence in the reparations process and their willingness to participate in the
7 reparative modalities and programmes which we later propose in this presentation
8 and as outlined in our observations, we believe it is relevant to touch upon these
9 issues in the context of describing appropriate reparative responses for victims in this
10 case and in support of achieving the goal of the reparations process, which is to
11 restore and repair victims. This can hardly be achieved if victims fear reprisals and
12 are reluctant to participate in the comparative programmes.

13 The Women's Initiatives and our partners are of the view that the high volume of
14 security concerns expressed by victims and local organisations with respect to the
15 reparations programme are compelling, and in preparing our observations and this
16 presentation, the overwhelming message from our partners was the issue of safety.

17 To briefly summarise our observations, we propose that reparations programmes that
18 require individual eligibility and harm assessments should not be included in
19 Mr Lubanga's financial responsibility with respect to reparations. Programmes
20 requiring individualised assessments would mostly fall within the modalities
21 described in the Appeals Chamber order as restitution, compensation and
22 rehabilitation. They are also largely the kinds of programmes outlined within the
23 Trust Fund for Victims draft implementation plan.

24 Detaching Mr Lubanga's financial responsibility from these forms of reparations does
25 not alter his liability for the harms caused to victims of his crimes, but rather directly

1 in response to the safety and security concerns of victims, it focuses his financial
2 responsibility away from requiring access to review individual eligibility forms,
3 a source of concern to the victims, and towards areas which don't require individual
4 assessments such as symbolic preventive and transformative reparations.

5 Under the current requirement for assessing eligibility for victims to access reparative
6 programmes, Mr Lubanga will have the opportunity to review the individual
7 assessments and applications. Even if heavily redacted, this possibility is highly
8 concerning for victims and many have already indicated that they fear reprisals. By
9 detaching rehabilitation, restitution and compensation forms of reparations from
10 Mr Lubanga's financial responsibility, the individual harm and eligibility assessments
11 would not need to be transmitted to the Defence and Mr Lubanga would not need to
12 be consulted or even informed about the screening or eligibility process, the harm
13 assessments, the number of beneficiaries, the locations of programmes or how much
14 these programmes cost.

15 Being able to reassure victims that Mr Lubanga would not receive or have access to
16 any of this information would likely generate greater confidence in, and engagement
17 with, the reparative programmes, reduce fears of reprisals and assist the reparations
18 programme to achieve its goal of restoring and repairing the harm done the victims.

19 As mentioned earlier, this will hardly be achieved if victims are reluctant or decline to
20 engage with the programmes for fear of further violence from the person found to be
21 responsible for the original crimes or his supporters who helped create the enabling
22 environment within which the crimes occurred.

23 I would like to elaborate on the security concerns. We note the large number of
24 redactions in all of the observations submitted by Congolese NGOs and other
25 submissions, including our own, primarily due to safety and security concerns. We

1 withdrew our initial request to bring a partner here to the Hague to speak at this
2 public hearing precisely for security reasons, for even in this secure environment,
3 exposure to the Defence and, by association, to the convicted person was considered
4 by the individual too high a risk.

5 If the safety issues are this concerning for a hearing in The Hague, one can easily
6 imagine the level of vulnerability victims and communities feel within Ituri knowing
7 Mr Lubanga, even if he serves his full sentence, will be released within the DRC
8 during the reparations phase and that the UPC is active and continues to be an
9 influential political force amongst the Hema community in areas in which reparations
10 programmes are likely to be implemented.

11 We have been informed that individuals believed by the local population to be loyal
12 to Mr Lubanga have been approaching NGOs and victims in and around Bunia,
13 specifically asking them about the ICC and this hearing. This has been perceived as
14 a threat and as a way of sending the messages that human rights organisations
15 supporting or even simply following ICC proceedings are being watched and
16 monitored by those loyal to Mr Lubanga.

17 Even if the alternative eligibility and harm assessment process proposed by the Trust
18 Fund is adopted by the Trial Chamber in which Mr Lubanga would have the
19 opportunity to review the screening process but not the individual victims'
20 assessments, communicating to victims that Mr Lubanga would be involved in
21 aspects of the screening process, even if in a limited role, would still create concern
22 and distrust towards the reparations programme.

23 In addition, as noted in our observations, we have doubts that such a review by
24 Mr Lubanga would be conducted with the best interests of the victims in mind, given
25 he has yesterday to acknowledge the crimes for which he has been convicted or

1 offered an apology to victims.

2 We propose that the Trust Fund provide the resources for the restitution,
3 rehabilitation and compensation programmes, along with a contribution from the
4 DRC government. We believe that it would be appropriate and in keeping with
5 international standards for the Trial Chamber to consider assigning a role and an
6 amount to the DRC government to contribute to the restitution, rehabilitation and
7 compensation of its citizens harmed by the crimes for which Mr Lubanga was
8 convicted, recognising the failure of the State to protect its population from these
9 violent crimes and the lack of responsiveness to date by the government to establish a
10 reparations programme within the DRC, an obligation noted in the basic principles on
11 the right to a remedy and reparation for victims of gross human rights violations.

12 We believe there is scope within the order for selecting the forms of reparations
13 within the parameter set by the Appeals Chamber to which Mr Lubanga's financial
14 responsibility is to be calculated and quantified. In addition, we note the importance
15 given by the Appeals Chamber to implementing appropriate measures to ensure
16 safety, physical and psychological well-being of victims.

17 Within the amended order there are in fact several references to safety-related issues
18 for victims, suggesting that this is recognised as a critical concern. In our view,
19 given the time frame and context within which reparations will be implemented, we
20 propose that victims' safety is the issue upon which the design implementation and
21 determination of Mr Lubanga's financial responsibility turns.

22 The release of Mr Lubanga within the DRC in the implementation phase of
23 reparations, the presence of the UPC in areas in which the reparative programmes are
24 likely to be implemented, along with the demonstrable limitations of the DRC
25 government to protect its citizens in the east, including within Ituri, creates an

1 environment in which victims have a sound basis to fear treats, violence and reprisals.
2 With respect to the rehabilitation, restitution and compensation forms of reparations,
3 we find the programmes outlined in the Trust Fund's draft implementation plan to be
4 well designed and responsive to the kinds of priorities and issues the Women's
5 Initiatives and our partners have noted in our work with former child soldiers. Our
6 partners are insistent on these forms of reparations because they are seen to assist the
7 individual lives of victims and they stress the need for the reparative programmes to
8 have an impact at this level.

9 We have wish to highlight that access to learning and education is a high priority for
10 both former child soldiers, as well as for their children, children conceived as a result
11 of their enlistment and conscription into the FPLC. These children, given the lapse
12 of time since the crime period of 2002/2003, the children born to female former child
13 soldiers are of school age and some are young teenagers. They are also experiencing
14 stigma, discrimination and marginalisation by the community and their peers.

15 We also note and agree with the sound practitioner related proposals included within
16 Annex 9, the proposals put forward by Child Soldiers International, as well as those
17 by COOPI, and several of the proposals included within the observation submitted by
18 MONUSCO. Unfortunately, the observations from the local NGOs were heavily
19 redacted and it was not always possible to see the specific proposals.

20 In light of the very specific security issues in this case, we propose that Mr Lubanga's
21 financial responsibility should be attached solely to symbolic preventative and
22 transformative reparations, and it's on these programmes I would now like to focus.

23 Symbolic preventative and transformative representations do not require
24 individualised needs assessment or a screening process to determine individual
25 eligibility, as these programmes are not oriented towards addressing the specific

1 harm caused to individual victims, rather, they address the harm to direct and
2 indirect victims at the community and societal level. These reparations are
3 intrinsically collective and, as such, they can be effective responses to the widespread
4 and large-scale nature of the crimes for which Mr Lubanga was convicted. Symbolic
5 preventative and transformative reparations focus on the harm done to the
6 relationship between victims and their families and communities. They are
7 communal responses to collective harm. Importantly, these programmes can be
8 designed to address the ongoing harm experienced by victims, including
9 discrimination, stigma, community rejection, and marginalisation.

10 In our work with young women formerly associated with militia groups in the DRC
11 and Uganda, we can confirm the powerful and debilitating effects of stigma,
12 marginalisation and discrimination experienced by returnees. They often feel
13 powerless to address these issues. The experience of familial, tribal or community
14 rejection exacerbates their sense of shame, adding to anxiety, depression and
15 hopelessness. Many of those we work with share a similar narrative of experiencing
16 disillusionment at some point following their return from the militia. They consider
17 the possibility of going back to life in the bush, and many have contemplated suicide
18 directly as a result of the rejection they experience by their families and community.
19 There is little doubt that the marginalisation of former child soldiers is a significant
20 obstacle to their recovery, these issues are compounded for female former child
21 soldiers, especially if they return from the militia, as many have, with children.
22 The loss of virginity and evidence of sexual activity outside of marriage, regardless of
23 the non-consensual nature of the acts, adds to the social and cultural stigma
24 experienced by females with long-term consequences.

25 Symbolic, preventative and transformative reparations are highly visible to the

1 community at large and can be designed to address the underlying attitudes, cultural
2 beliefs and practices which enabled the enlistment, conscription and use of children
3 and which fuelled the narrative of ethnic conflict, justifying the formation of the FPLC
4 militia without which the crimes committed against children in this case would not
5 have occurred.

6 In keeping with the order, the Trust Fund could provide Mr Lubanga with the
7 opportunity to review the specific programmes designed as symbolic, preventive and
8 transformative reparations. This could include detailed programmes of education
9 campaigns, the collective benefits of these programmes, the proposed number and
10 locations of the memorial sites, the proposed dates of commemoration days, the
11 purpose of community-based reconciliation campaigns, amongst other aspects as
12 determined by the Trial Chamber.

13 I would now like to turn to some specific proposals with respect to each area of
14 symbolic, preventive and transformative reparations.

15 Symbolic reparations could include memorials in locations meaningful to the
16 community, both within Ituri and outside in locations where victims have relocated.
17 Commemoration days, an apology from Mr Lubanga and/or the UPC, an apology
18 from the DRC government for its failure to protect the children of Ituri, and the
19 apology should be both in written form and accompanied by public ceremonies.

20 In addition, symbolic reparations could also include culturally responsive initiatives
21 that restore and strengthen the reunification of individuals with their communities.

22 And we note that in other observations others also indicated the importance of
23 cultural activities, including within the submissions provided by MONUSCO and the
24 League for Peace, Human Rights and Justice.

25 An example we would like to offer comes from northern Uganda where young

1 women formally associated with the LRA are using traditional music and dance to
2 reconnect and reconcile with their clans. Many returnees are rejected by their
3 families and clans for being the cause of violence and suffering to the community.
4 Many are blamed and ostracised as LRA combatants or LRA supporters. The young
5 women are considered a source of shame for their families, especially if they returned
6 with children, which almost all of them did.

7 To foster reconciliation and to remind their clan that they don't belong to the LRA but,
8 rather, they are a part of this clan. Clan members are their parents, their elders,
9 childhood friends. They perform traditional dance to signify clan affiliation. This
10 strategy is helping to reduce barriers, remove stigma and foster reconciliation. The
11 use of culturally responsive forms of symbolic reparations allows victims to reclaim
12 their cultural identity and to prove that communal affiliations can triumph over
13 breaches of trust and violence and heal individual and collective harm.

14 Preventative reparation programmes could include anti-violence education,
15 promoting the rights of children and nonviolent forms of communication in parenting.
16 The focus on good parenting is an issue which has been raised with us by many
17 female former child soldiers. They express concerns at the violence and anger they
18 express towards their children and they are aware that they do not have the skills or
19 the parental responses they see their peers demonstrating.

20 Other preventative programmes could include education campaigns, informing
21 cultural, traditional, civic and religious leaders of the convention on the rights of the
22 child, including its optional protocol on the involvement of children in armed conflict.

23 One of the issues the Women's Initiatives outlined in our earlier reparations filing is
24 the principle of non-repetition and the prevention of the future commission of acts of
25 violence against children, including girls.

1 The outrage expressed in response to reports of the scale and brutality of violence
2 committed against children in armed conflict is right and clear, but the pervasive and
3 preexisting forms of violence against children, including girls, whether committed by
4 militias, family members, strangers or neighbours, laid the groundwork for the latter
5 large-scale forms of violence, specifically enlistment, conscription and use.

6 Preventative reparations responses should therefore promote the non-repetition of all
7 forms of violence against children in line with the convention on the rights of the
8 child. They should also contribute to the non-repetition of violence against those
9 who were already enlisted and conscripted, meaning the ongoing violence and
10 discrimination for which child soldiers are targeted.

11 The last area is transformative reparations programmes. These could include
12 community based reconciliation dialogues, addressing the social marginalisation and
13 discrimination of former child soldiers, including the additional stigma experienced
14 by young women who returned from the FPLC with children.

15 These reparative programmes acknowledge victims as members of their communities
16 and recognise that successful reintegration cannot occur without the respect and
17 acceptance of victims collectively by the community and its leaders.

18 Other transformative programmes include peace-building campaigns, promoting
19 tolerance, human rights and equality, and we support the proposal by the League of
20 Peace, Human Rights and Justice for both intra and intercommunity peace projects.

21 We propose that the Trust Fund for Victims advance its resources in order to enable
22 the implementation for these forms of reparations, which in compliance with
23 the Appeals Chamber order the Trust Fund can later claim from Mr Lubanga.

24 The Trust Fund has indicated that its draft implementation plan is for three years.

25 Given the start-up time required, even once the programmes have been designed,

1 partners selected, agreements approved and funds provided, we believe the
2 reparations implementation period should be extended to five years with
3 a mid-programme assessment in the third year, allowing for adjustments, if needed,
4 and inclusive of a transition plan for the staggered withdrawal of the Trust Fund
5 during the fourth and fifth years of programmatic operations.

6 The last issue I would like to briefly address is the amount of funding set aside by the
7 Trust Fund for reparations in this case. According to the draft implementation plan,
8 the board of the Trust Fund has decided to complement one million euros for
9 collective reparations in the Lubanga case. This is one million in total to be
10 dispersed over three years.

11 Such an amount is manifestly insufficient. We note that the Trust Fund board has
12 indicated that this amount is merely an initial indication at this stage and is not yet
13 a final figure. We hope that in reviewing this amount the Trust Fund significantly
14 increases this figure and that it sets itself a fundraising goal with respect to
15 reparations and greatly enhances its efforts in this area. It would be truly regrettable
16 if the Trust Fund was found to not have the resources necessary to implement its own
17 plan.

18 In closing, practical, legal and conceptual issues such as harm assessment,
19 establishing criteria to assess eligibility, determining the financial responsibility of
20 Mr Lubanga, the form and scale of the reparative responses are right now being
21 harmonised by the Trial Chamber into a framework which is legally sound,
22 sufficiently transparent and able to be operationalised. It is a tall order, but that is
23 the challenge within the Court's mandate and it is certainly not less than the victims
24 and survivors of the crimes of enlistment, conscription and use deserve.

25 The confidence of victims in the reparations process, including their confidence in

1 being able to safely access reparative programmes is essential for the success of
2 reparations and may ultimately be the benchmark by which effective communities
3 assess the value of international justice.

4 Thank you very much.

5 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [10:31:30] (Interpretation) Thank
6 you very much. We will now take some questions from the members of
7 the Chamber, and I would like to give this opportunity to my colleagues to inform
8 you of their questions. We will ask a couple of questions at a time so that you can
9 respond immediately and then we can have an exchange.

10 Judge Herrera, no questions?

11 JUDGE KOVÁCS: [10:32:11] (Interpretation) As regards your experience, what do
12 you think would be the best solution? In other words, would it be best to treat one
13 particular segment of society, that is victims as such, or rehabilitation, joint pedagogy
14 programmes with boys, for example, in schools with boys and girls or in separate
15 institutions for girls?

16 In other words, I have the same question regarding the psychological aspects in
17 hospitals: Are you thinking in terms of separate hospitals for women who were
18 victims of abuse because they have been child soldiers in the past, or are you talking
19 about ordinary hospitals where these former victims happen to have come in?

20 And do you have any information as regards the care provided and the treatment
21 provided? Can you perhaps give us some further details on that? Thank you.

22 MS INDER: [10:33:55] Thank you very much for your questions.

23 We think the best response is a multipronged and multilevel response, so
24 programmes that both address individual needs, as well as the community
25 reconciliation imperatives.

1 We don't see a value in addressing only victims in one location or one type of victim.
2 We think that would further breed a sense of alienation by those outside of the
3 programme and also tension and possibly violence against those who are perceived to
4 benefit from reparations.

5 The Trust Fund's plan and I would say annex 9 include a number of quite concrete
6 and very good, I think, proposals with respect to psychosocial and psychological
7 responses. I think the presumption of the need for psychosocial support is clear, and
8 certainly our own work in eastern DRC confirms that.

9 In our work providing support and assistance to victim survivors or conflict,
10 including of sexual violence, we have found that there are so few medical centres
11 with the kind of facilities required for advanced or secondary types of medical
12 support, there are a number of very local, usually poorly resourced health centres.

13 So there is some level of infrastructure, but depending on the complexity of the
14 victims' needs, those localised health centres might not be sufficient. So
15 strengthening the existing infrastructure to be able to provide more care, to
16 supporting and collaborating with local hospitals who do have a level of secondary
17 care capacity I think would be strategic uses of resources.

18 Ideally a women's hospital, which is common in many of our countries, to deal with
19 certain issues would be highly desirable. On balance of resources it might not be the
20 highest priority, but having said that, there could be established within existing
21 hospitals expertise and care with respect to women's health clinics and particularly
22 clinics that will address the repercussions of sexual activity, whether consensual or
23 non-consensual, in association with the child soldiers in the context of their enlistment
24 and conscription within the FPLC.

25 I hope I have addressed your questions.

1 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [10:37:19] (Interpretation) Thank
2 you. And thank you Judge Kovács.

3 I myself have a question: Has there been a census taken of the various programmes
4 that have been implemented to help former child soldiers in the region where the
5 UPC was active and does that include state players, international organisations,
6 NGOs, international NGOs and Congolese NGOs? And do you think it's possible
7 amongst those various programmes to identify those that the UPC victims and
8 Mr Lubanga's victims have already benefited from?

9 My second question: And here I'm particularly interested in the activities of your
10 own organisation on the ground, in particular, you work with women, in particular
11 those women who served with child soldiers, whether or not they were members of
12 the forces that used child soldiers. How exactly did you proceed in order to organise
13 your own programmes? What kind of programmes -- rather, what kind of partners
14 did you have on the ground? Were any of those partners -- have they published
15 anything? Have they participated in the court case or perhaps you have other
16 partners in different regions from the region that we're interested in today?

17 And to be more precise, have you been able to evaluate the average cost of medical
18 assistance or psychological assistance which has been provided to each of the women
19 that you have had an opportunity to work with, to help? I think it might be of value
20 to examine this aspect because if we want to have an impact on the greatest number
21 possible of victims, the economics of the exercise is an important aspect, in particular,
22 the support being provided in the longer term that you have requested, because you
23 stated that you thought programmes should extend over a period of five years and
24 not just a period of three years, as the Trust Fund for Victims had referred to. Thank
25 you very much.

1 MS INDER: [10:40:35] Thank you for these very probing questions. Unfortunately,
2 we haven't published anything and nor have our partners with respect to the details
3 of these programmes, in part because of our own resource issues, in part because of
4 security. So we haven't broken down the cost of the programmes against the
5 number of beneficiaries, although that is something we could look at and we would
6 be happy to share that with the Chamber if that would be of interest.
7 Some of our partners have been involved in this case at a much earlier stage, but as
8 the case proceeded they chose to take a more background role, again because of fears
9 of security and safety issues.
10 We developed our work in eastern DRC through conducting an initial needs
11 assessment, through a needs assessment process, in identifying local partners and that
12 identification process is I think very critical to the success of our programmes and
13 also for the success of reparations programmes. And the one thing we would advise
14 there is the selection of trusted, credible and accountable local partners. And by
15 "trusted" I mean that they are trusted by the local community.
16 It is difficult for an outside organisation and certainly an institution like the Court to
17 create relationships of trust and credibility, but you have local organisations who
18 already have that, and so the best thing we did was we partnered well with trusted,
19 credible, accountable local organisations, womens' rights organisations.
20 We are proposing the programme to be implemented over five years because I think
21 the first three years will be a substantive period of its implementation and that the
22 fourth and fifth year, with gradually decreasing resources provided during those
23 years, also allows for the local partners or others, international partners to fully take
24 over the programmes so that there is a sustainable continuity to this after the Trust
25 Fund has completed implementing this reparations plan.

1 In our view, as examples, we would -- we would project the costs of the symbolic,
2 preventative and transformative programmes to be in the range of 200,000 to €300,000
3 a year for the next three to five years. And for the restitution, rehabilitation and
4 compensation programme, of course these programmes can be as large as we want
5 them to be, but looking realistically, balanced with the resources, we would estimate
6 the resources needed to implement those programmes to be in the vicinity of a million
7 to 1.3 or €1.5 million a year. Significantly different from the one million complement
8 to be dispersed over three years.

9 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [10:44:18] (Interpretation) Thank
10 you. You did not answer my question regarding the census, so to speak, of the
11 various programmes. Perhaps that's because there hasn't been one. I would like to
12 allow you to answer that, if you can.

13 I also have a question regarding security: You referred to the security problems and
14 mentioned a number of conclusions saying that the anonymity of victims must be
15 protected, especially those who would receive individual reparations. Do you have
16 any particular recommendations regarding the protection as regards symbolic
17 reparations? Even though they are of a collective nature, they would nonetheless be
18 fairly visible. Should they be grouped together in certain places? Should there be
19 specific security measures taken, in particular to protect buildings or events?

20 In light of your experience, do you have any recommendations to make or any lessons
21 learned that you can share? Thank you.

22 MS INDER: [10:45:32] I'm sorry, I overlooked the consensus question, and you are
23 right, it's because we are not aware of one that has been done.

24 Child Soldiers International may have more knowledge about that. We are not
25 aware of one. We think it would be feasible to do such a thing. We note those we

1 work with having little confidence in the figures sometimes presented by the
2 government of the DRC, so a census of a particular programme or programmes in
3 specific areas conducted by an independent actor would be highly valuable and more
4 credible than if it's perhaps done solely by the DRC government.

5 We, as an NGO, our visibility is quite different from that of the ICC and we greatly
6 benefit from being able to be under the radar a lot of the time and we deliberately
7 pursue that kind of presence. We support our local partners to have a strong
8 presence, but we try to be very discreet so as not to draw unwanted attention. It's
9 difficult for an ICC-related project to do that. It's already a very visible institution.

10 And for communities in Ituri it's a very -- it's an institution with a history with respect
11 to this case.

12 So we haven't had experiences of, of threats to our events or to -- but our partners
13 have had threats with respect to their offices and locations, so I think one could
14 imagine the need for some kind of security measures around permanent memorials
15 and certainly around events which may involve apologies, I would imagine those to
16 be quite sensitive moments.

17 I think that's all we can provide today. Thank you.

18 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [10:47:55] (Interpretation) Thank
19 you very much. We have no further questions, but I would like to make the
20 following suggestion: We're running a little bit late, but given the importance of
21 these matters, I suggest that we continue and now hear from
22 Child Soldiers International and then we shall take stock of the situation in terms of
23 timing to decide whether we take the break before questions or not.
24 I would like to give the floor now to Child Soldiers International to take the floor.
25 You have the floor, sir.

1 MR MEHIGAN: [10:48:32] I would like to open by thanking the Court for allowing
2 us to make these amicus curiae presentations today and also to say that
3 Child Soldiers International concurs with the submissions made by the Women's
4 Initiatives that you've just heard today and that you've had on paper as the annex to
5 the submissions -- or, sorry, as the annex to the papers in the order setting out why
6 we are here today.

7 I would like to start by giving the Court a small piece of background about
8 Child Soldiers International which was established in 1998 as the coalition to stop the
9 use of child soldiers. It was established by a group of leading human rights and
10 humanitarian organisations, and their original purpose was to lobby for adoption of a
11 human rights treaty banning the military recruitment of children in their use in
12 hostilities. That treaty, the optional protocol to the convention on the rights of the
13 child on the involvement of children in armed conflict, OPAC, was adopted by the
14 UN General Assembly in 2000 and entered into force in 2002.

15 In the years that followed, we lobbied for its widespread ratification and
16 implementation. Today, 165 out of 197 States have ratified the treaty.

17 Since 2011 Child Soldiers International has been an independent human rights
18 organisation based in London with research, advocacy and capacity-building
19 programmes in Europe, Africa, Asia and the Middle East. Our goal is to end all
20 recruitment and use of children by which we consider those under the age of 18 to be
21 used by armed forces and armed groups and to promote the sustainable reintegration
22 of former child soldiers into civilian life.

23 In the Democratic Republic of Congo we are currently conducting a unique research
24 and advocacy project to improve the reintegration of girls formerly associated with
25 armed groups in the eastern provinces of the country. So that begs the question:

1 What do we mean by reintegration when we talk about child soldiers?

2 For Child Soldiers International reintegration refers to the process through which
3 a child formerly associated with an armed group for an armed force transits into
4 civilian life until they find a meaningful and valued role within their family and
5 community, one that is comparable to that of young people of the same age and
6 gender who did not experience unlawful military recruitment and did not suffer its
7 consequences.

8 This definition is particularly helpful in the present case as it allows for the
9 assessment of the success of reintegration by providing a comparator, a child of the
10 same age and gender who was not associated with an armed group. This is of use
11 when considering reparations for the victims of Mr Lubanga, because so many of
12 them were children when recruited but are, of course, now adults.

13 The reintegration process typically includes the following main and overlapping
14 stages: The first is family tracing and reunification, then physical and psychosocial
15 recovery, access to school or alternative learning opportunities, and also livelihood
16 support through skills training.

17 States Parties to OPAC have an obligation to provide such reintegration assistance to
18 former child soldiers, and that comes from OPAC Article 6.3.

19 Best practice standards on the reintegration of former child soldiers are provided by
20 the Paris Principles and Guidelines on Children Associated with Armed Forces or
21 Armed Groups, and this is referred to in some details in the annex provided by the
22 expert group, which is I believe Annex number 9.

23 The Paris Principles were adopted in February 2007, and they hold that sustainability
24 reintegration is achieved when the political, legal, economic, and social conditions
25 needed for children to maintain life, livelihood and dignity have been secured. This

1 process aims to ensure that children can access their rights, including formal and
2 non-formal education, family unity, dignified livelihoods and safety from harm.
3 It is submitted that reintegration is an inessential component of reparations as defined
4 in the UN Basic Principles on Reparations, which outline five forms of reparations
5 that the victims of serious violations are entitled to. Those five forms are restitution,
6 compensation, rehabilitation, satisfaction and guarantees of non-repetition, and they
7 are set out in the basic principles, principles 19 to 23.
8 We therefore hope that some of the findings of Child Soldiers International's study on
9 girls' reintegration can be of assistance to the Chamber in understanding the
10 practicalities of such rehabilitation and reintegration.
11 The study conducted by Child Soldiers International as part of a research and
12 advocacy project designed to ameliorate the reintegration of girls formerly associated
13 with armed groups in Eastern DRC, a draft of the findings has been submitted to
14 the Court, excuse me, to the Chamber for the purposes of this hearing; however, it is
15 in very early stages of preparation for publication and for that reason it has not yet
16 been disseminated publicly. The findings will be fully available early in 2017.
17 It is a three-year project, which began in 2015 following extensive consultations with
18 a range of child protection actors, including the DRC government and Congolese civil
19 society as well as UN agencies and international organisations working in Eastern
20 DRC. All of these actors consistently expressed concern that a large proportion of
21 girls formerly associated with armed groups received little to no reintegration
22 assistance and that this assistance was often not appropriate.
23 Therefore, the objects of Child Soldiers International's project were or are to
24 contribute to improving reintegration programmes for girls, including through
25 initiatives to reduce stigma and address gender discrimination and to promote

1 government engagement on this issue, including through the adoption and
2 implementation of a comprehensive national strategy to ensure that returning girl
3 soldiers are able to access effective reintegration assistance.

4 It may be useful at this point to briefly state that Child Soldiers International takes a
5 child rights-based approach to its work, including its work on the reintegration of
6 former child soldiers. And this means that we consider that the government has
7 primary responsibility for the protection of children on its territory and should
8 therefore be taking the lead in ensuring that former child soldiers, including girls, are
9 provided with appropriate assistance for their recovery and reintegration as required
10 under OPAC article 6.

11 However, assistance to reintegration in DRC has historically solely been conducted by
12 UN and NGOs. Yet with regard to girls' reintegration, in February 2012, the UN
13 Committee on the Rights of the Child urged the Congolese government to, as a matter
14 of priority, develop and implement a strategy to identify and provide effective
15 reintegration assistance to current and former child soldiers and their children which
16 meet their complex medical, economic and psychosocial needs and does not increase
17 stigmatise -- does not increase the stigma and exclusion faced by former girl soldiers.

18 We therefore strongly support the recommendations of the Women's Initiates for
19 Gender Justice to the effect that the Trial Chamber should consider assigning a role to
20 the DRC government to contribute to the rehabilitation of Mr Lubanga's victims.

21 This would also ensure sustainability of the reintegration projects and contribute to
22 the strengthening of the rule of law in DRC.

23 Returning to the Child Soldiers International research project, in January and
24 February 2016, our research team spent six weeks travelling through provinces of the
25 Eastern DRC and interviewing 150 girls about their experiences of being a child

1 soldier as well as the difficulties they faced upon returning to their families and
2 communities.

3 Interviewees were aged 12 to 19 years and had been recruited by various armed
4 groups as children. Their opinions and experiences provided a unique and crucial
5 insight into the social and economic and emotional difficulties that continue to be
6 faced by girls formerly associated with arms groups in DRC, including years after
7 their recruitment.

8 They also conveyed essential information on actions needed for more effective
9 reintegration assistance for girls. Our researchers also consulted actors involved in
10 the delivery of reintegration assistance to girls. We interviewed 84 members of the
11 child protection community networks which operate at the community level, 46 UN
12 and NGO actors working on child soldier reintegration, and 14 local government
13 officials.

14 We are aware that the girls we spoke to were not victims of Mr Lubanga because they
15 are too young and do not live in the Ituri province. However, since the findings
16 reveal many of the problems faced by girls who have been associated with armed
17 groups, including years after their recruitment and use, we believe that our research
18 findings are likely to apply to victims of the same crime and with similar
19 backgrounds in the neighbouring Ituri region.

20 So what did we learn from the girls? The girls we interviewed in DRC described the
21 horrific physical and emotional abuse they experienced inside armed groups, being
22 raped every day by different men, being forced to carry heavy loads for days on end,
23 being made to witness and commit acts of violence, being unable to talk or socialise
24 with any other child in the group. They experienced indescribable hardships,
25 loneliness and terror, including daily threats of death, which is highly likely to cause

1 long term, long-lasting physical, psychological, developmental and emotional issues.
2 Girls with children or those who have disabilities often as a result of their association
3 with an armed group face an additional layer of suffering. Yet for the majority of
4 girls we were struck to find out that a major source of distress came from the
5 stigmatisation, if not outright rejection they faced when they finally returned home
6 because, in their words, they had known men in the bush.

7 The girls spoke of their experiences of having their families, friends, neighbours,
8 teachers and classmates turn their backs on them or even actively humiliate, insult,
9 blame or bully them. One girl told us that every girl from the bush, the community
10 points to her and says, "Watch out, HIV."

11 Another girl said, "At school the others discriminate against me. They say they are
12 afraid of me. Some don't talk to me."

13 This rejection is the source of their social isolation and their deepest ongoing
14 emotional suffering.

15 For many it is also the cause of their ongoing economic predicament as many were
16 denied a home, as well as marriage, educational and professional opportunities as a
17 result of this rejection.

18 Many of the girls we talked to had several home -- sorry, had returned home several
19 years prior to the interview. For some the situation had improved slightly, but
20 others continued to be victimised to the point that one girl said it is better to die there
21 than come home and be rejected; while another girl said, "Life is so hard now, I
22 wonder if it would be better to go back to the bush?"

23 Yet we know from academic research that the sine qua non of psychosocial recovery
24 is the child's acceptance and forgiveness by their family and community. This is the
25 foundation upon which other components of reintegration rest, because without

1 acceptance and forgiveness, former child soldiers will not be able to reintegrate family
2 and community life, go to school, play with other children or even go to church and
3 socialise on the most basic level.

4 Many girls formerly associated with armed groups therefore face a double loss of
5 socioeconomic opportunities. The first disadvantage arises from the time spent
6 away from their family and community environment, while the second layer of
7 disadvantage is caused by the stigmatisation and ensuing rejection by members of
8 their community upon return. The sooner this can be addressed for the girls the
9 better, but some girls suffer this stigma for many years.

10 Community acceptance is a key factor in the child's ability to find their place in
11 society and therefore recover their psychosocial well-being. It has even been shown
12 that the level of acceptance of the child in the environment of reintegration is more
13 important for psychosocial recovery than experiences from the time within the armed
14 group, however horrific they are. Indeed, the positive psychosocial impact of the
15 community fully accepting the child has been shown to significantly reduce
16 depression and improve confidence in former child soldiers. This has important
17 implications for reintegration programmes, particularly girls, who are those most
18 affected by social stigma.

19 Unfortunately, our research in DRC confirmed that what previous studies and
20 experiences in other contexts have discovered, that often despite encouraging
21 exceptions, reintegration programmes do not sufficiently or adequately address the
22 fundamental issue of family and community rejection.

23 In addition, more than a third of the 150 girls we interviewed said that they had never
24 received any form of reintegration assistance to alleviate their psychological suffering
25 and social isolation. As a result, many still live in the same poverty and isolation

1 they faced when they came home. In some cases this was a few years after they had
2 left the armed group.

3 So what can promote community acceptance of girls returning from armed groups?

4 Based on the advice of the girls themselves from our interviews,

5 Child Soldiers International has identified several types of interventions, which could

6 greatly improve their psychosocial well-being and at the same time their acceptance

7 within the community. Crucially, these interventions do not require vast amounts of

8 funding. What is interesting about the girls' recommendations is that they perfectly

9 echo existing best practice recommendations and the standards set out in the Paris

10 Principles and other international standards.

11 In January 2016, the girls told us that they longed to have someone to talk to about

12 their past and present experiences and to have their suffering acknowledged.

13 In 2007, the Paris Principles had recommended that children should be allowed the

14 opportunity to talk individually or in a group about their future or other past

15 experiences if they wish to do so.

16 In 2016, the girls told us that their greatest wish was to go back to school, to learn and

17 thus regain their self-esteem and the respect of their community.

18 In 2007, the Paris Principles have stated that education activities are essential

19 elements for reintegration and should take into account the children's lost educational

20 opportunities, their age and stage of development, their experience with

21 Armed Forces or armed groups and the potential to promote psychosocial well-being,

22 including a sense of self-worth.

23 We cannot stress enough the inherent link between education or learning and

24 psychosocial recovery. Most of the girls we talked to said that school was important,

25 not only to receive an academic education and to ensure a better professional future,

1 but also as a means to socialise and, in their words, be like other girls, to erase their
2 past and form a positive identity in the eyes of their community. One girl told us, "If
3 we could go to school, the community would be nicer to us, we would get some
4 consideration. That would help a lot."

5 In our research in 2016, the girls told us that mediation in their families and
6 communities would make a difference to their social acceptance. One of them
7 directly entreated us, "Can you talk to my parents? If you do, perhaps they will
8 understand."

9 In 2007 the Paris Principles had stated that extensive community dialogue and
10 mediation is needed to support girls' reintegration. Key messages are that girls,
11 especially those who are pregnant or girl mothers, need the support of their family
12 and community. Strategies should enable girls' acceptance through steps such as
13 conducting traditional rituals, making reparations, providing health care and
14 livelihood support and developing links with women's groups.

15 In 2016 we learned from the girls that ongoing and efficient psychological support can
16 be provided through participation in social, cultural and religious activities in the
17 community, activities that socialise children while providing learning and
18 recreational opportunities. Schools, church choirs, traditional dance groups, youth
19 clubs, sports clubs and so forth present many opportunities to mitigate their
20 emotional distress, and the girls were desperate to have access to them.

21 In 2007 the Paris Principles said that social activities reduce the girls' isolation and
22 promote their well-being. The list goes on, but these findings demonstrate the
23 continuing relevance of the Paris Principles to the lives of girls who have been
24 recently been associated with armed groups in Eastern DRC. Not only do they
25 provide the most comprehensive internationally agreed guidance on the reintegration

1 of former child soldiers, but they are exactly what girls formerly associated with
2 armed groups in Eastern DRC ask for themselves. Child Soldiers International
3 submits that the Paris Principles, with their specific guidance on girls and their focus
4 on community based and inclusive approaches to reintegration, should be firmly at
5 the core of any rehabilitative or restitutive forms of reparation provided to the victims
6 of Mr Lubanga.

7 Our findings also demonstrate that in order to achieve effective re-integration,
8 practitioners must take on board the Paris Principles' directions to focus on
9 strengthening existing capacity, structures and services at the community level. In
10 many cases in Eastern DRC, these structures are weak or non-existent. And by these
11 structures we would include schools, peer support networks and social, cultural and
12 religious institutions.

13 For this reason, and as mentioned in our written submissions, we strongly advocate
14 rural-based approaches to income generating activities for former child soldiers and
15 their communities. The vast majority of the girls we met lived in rural areas and had
16 experience in farming and/or animal husbandry. Reintegration actors should build
17 on this existing capacity. Rural environments in regions as fertile as Eastern DRC
18 offer vast opportunities for expanded and improved agricultural and life stock
19 farming. Much is needed to rehabilitate agriculture and animal raising in areas that
20 have been devastated by armed conflicts, where fields have been neglected, animals
21 stolen and agricultural tools pillaged.

22 All the girls we met, regardless of whether they were in school, told us that they were
23 working in the fields, but many complained that they lacked farming tools and seeds.
24 They also wanted animals, sheep and goats mostly. Hiring professional
25 agriculturalists and offering farming and animal raising training to girls formerly

1 associated with armed groups would provide them with sustainable economic
2 opportunities and raise the quality of agricultural and livestock production, thus
3 benefiting the entire community. Such interventions also offer more realistic and
4 sustainable livelihood opportunities than many of the vocational trainings in specific
5 trades routinely offered to former child soldiers in conflict-affected regions with poor
6 market opportunities.

7 So, based on our findings, what do we think is likely to work as collective reparation
8 projects for the former child soldier victims of Mr Lubanga? Some projects already
9 implemented in DRC and mentioned in the United Nations Joint Submissions,
10 particularly those in Annex 15, paragraphs 31 to 42, appear to be congruent with the
11 recommendations we have been discussing above. These projects involving the food
12 and agriculture organisation appear on the face of it to get to the heart of some of the
13 reintegration challenges faced by the girls we spoke to. We are not in a position to
14 comment on all the proposed projects mentioned in the annexes, but the FAO
15 interventions on the farmer field schools, the Dimitra clubs and the school gardens
16 appear to be laudable and likely to be effective. This is due to their capacity to offer
17 former child soldiers realistic and sustainable income-generating opportunities in
18 rural environments while stimulating learning and social interaction and therefore
19 enhance their self-esteem and reduce their isolation.

20 These interventions also have a potential to strengthen social cohesion and revitalise
21 rural communities. As mentioned in our written submissions, acting on research
22 findings and the girls' wishes, Child Soldiers International and its partners in Eastern
23 DRC have started implementing projects providing educational support to former girl
24 soldiers and other vulnerable girls in their communities in North and South Kivu.
25 In September 2016 we launched a series of small-scale projects to support 24 of the

1 most vulnerable girls, 24 of the most vulnerable girls who participated in our research,
2 so that they could return to school or attend literacy and numeracy classes if they
3 were unable to go back to school. The classes are also benefiting an additional
4 24 vulnerable girls in their communities, thus avoiding singling out and further
5 stigmatising former girl soldiers.

6 This week our research team is in Eastern DRC to visit these girls and assess the
7 progress they are making. Yesterday they visited a group of girls in South Kivu who
8 are benefiting from this project. Some of them are attending school, others are
9 attending literacy and numeracy classes. After only six weeks, three of them happy
10 reported that the level of stigmatisation had significantly reduced and they were
11 proud to tell us that people in the community were starting to ask for their opinions
12 on community matters. This was something that had never happened to them.

13 One said she had finally been invited to join the youth group at the village church.

14 The education projects will continue until at least June 2017, with further research
15 scheduled to assess their success and impact.

16 It is our submission that these interventions have clearly made a significant impact on
17 the girls' well-being over a really short period of time. They have done this by
18 tackling the stigma and rejection they faced and they have done this in a manner
19 which is not particularly costly. For those girls attending school, an average annual
20 budget of €360 per individual will cover school fees, transport, a uniform, schools and
21 books, as well as cover coordination and monitoring from local child protection actors.

22 For girls attending literacy and numeracy classes, a budget of €2600 provides the
23 classes including transport for a group of ten girls from the same village for a period
24 of one year, as well as coordination and monitoring from local child protection actors.

25 In conclusion, we submit that our findings may be of help to the Chamber in

1 considering the types of projects which could be implemented in support of an often
2 forgotten but highly vulnerable group of victims in Eastern DRC, namely, girls who
3 have been associated with armed groups for a period of time and suffered the lifelong
4 consequences of stigma and loss of socio-economic opportunities.

5 Our study shows first and foremost that it is imperative that reintegration
6 interventions and, by extension, any reparations project, pay attention to community
7 acceptance of girls returning from armed groups and that it is never too late to do that.
8 Secondly, our findings point out that in order to provide effective reintegration
9 assistance to former child soldiers, practical and relatively inexpensive interventions
10 in the areas of psycho-social support, education and livelihood support, and these are
11 interventions that build on existing capacity, interventions that are collective and
12 interventions that benefit the entire community, that these types of interventions are
13 most effective and sustainable.

14 Finally, Child Soldiers International would like to thank the girls who agreed to speak
15 to us during our research. We hope their insights will help the Chamber navigate
16 the difficult waters of deciding on the provision of effective reparations to the victims
17 in this case and future cases before the Court. Those are our submissions. I'm
18 grateful to the Court.

19 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [11:18:03] I'd like to thank you
20 very much and I'd like to thank Child Soldiers International for having shared with
21 the Chamber the works that they are conducting which are extremely relevant to our
22 case.

23 We are now going to be moving on to a few questions. Judge Herrera has no
24 questions. Mr Kovács.

25 JUDGE KOVÁCS: Representative, you just underscored, rightly so, in your

1 contribution, your written contribution, that you talked about the needs of the girl
2 and you mentioned the child soldiers. However, regarding the boys who are now
3 young people, does your organisation have any experience acquired on the field
4 already? That was my first question.

5 Now, regarding your experiences on the ground, there was an allusion made to the
6 broadening of services in the area of infrastructure and the vision, the current vision.

7 So, based on your experience, are we talking about sedentary establishments or
8 institutions that have been completed and which are possibly mobile and that can be
9 used to reach children in remote areas, such as hospitals and the other centres? And
10 we are talking here about budgetary and security aspects. I will ask for your opinion
11 on this.

12 Thirdly, regarding the phasing of programmes, pedagogic or psychological, so are
13 these programmes that focus on specific substances or repetitive programmes or
14 a single catch-up programme? In the area of psychology, is it a single programme
15 for collective treatment or individual assistance that are more appropriate to assist the
16 victims? Or is it a treatment that would be spread over the long term, infinitely, or
17 do you think repetitive programmes are more appropriate in this area?

18 These are my questions, thank you.

19 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [11:21:29] (Interpretation) Please,
20 you can answer.

21 MR MEHIGAN: [11:21:32] In answer to your first question,

22 Child Soldiers International does not have direct experience of working with boys in
23 the way that it has experience in working with girls.

24 What we can say briefly is what we have been told by our partners working on the
25 ground in DRC, and we are told that it is less difficult to reintegrate boys than it is

1 girls. And that is one of the main reasons that we focussed on studies and research
2 on the girls associated with armed forces -- or armed groups, excuse me.

3 In regard to the second question, we have not documented the impact of mobile
4 services, but we would imagine that they would be welcome and there are obvious
5 advantages to their use in covering the large areas of the Ituri province -- or, sorry, the
6 large area covered by the Ituri province.

7 However, we would want to see long-lasting changes and sustainable effect at
8 a community level, and we fear that a mobile intervention may disappear due to wear
9 and tear or not, perhaps, be as sustainable as something a little bit more concrete.

10 And finally, in terms of the phasing of the programmes, the pedagogic and
11 psychological programmes, we don't have an easy answer and we would suggest that
12 that answer to the question about whether it would be a one-off intervention or an
13 ongoing intervention is something that needs to be left to the practitioner on the
14 ground. We can imagine circumstances where one girl would benefit from a sort
15 period of literacy training and, in her particular circumstances, find reintegration
16 straightforward, whereas a similar girl in a different location or in a different family
17 grouping may need much more support. So, unfortunately, I cannot give you
18 a direct and simple answer to that question.

19 Both our individual and collective talks with girls proved to be beneficial; so some
20 girls did like to speak individually, some did like to speak collectively, and they told
21 us that they were so relieved talking to us, but of course this can increase the stigma
22 and you have to be very careful and consult local communities and girls themselves
23 as to whether they prefer individual or group therapy and as to how long it lasts, and
24 whether it needs to be ongoing or individual, or single intervention.

25 Does that answer your question? I am grateful.

1 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [11:24:31] (Interpretation)

2 I have a few questions. One of the difficulties that we are facing in the reparations
3 proceedings is the time that has elapsed ever since Mr Lubanga ceased being the
4 leader of the UPC. Many child soldiers have returned to civilian life for a long time
5 now. This implies that programmes benefiting them have to take into account that
6 lapse of time and the experience that have been gained. I am sure you are talking
7 about people who were subjected to the recent DDR programmes, so you do not
8 necessarily have an experience of that long lapse of time.

9 But based on your knowledge of the field and your familiarity with the
10 documentations, are you able to amend some of the recommendations that you have
11 in your proposals? What type of education programmes, what type of psychological
12 support would be most appropriate to people who are no longer adolescents and who
13 have had a longer existential experience ever since they were child soldiers.

14 Now the second question: We have insisted a lot about the importance of returning
15 and integration in their communities of origin. Do you think it would be possible to
16 prepare or conceive programmes that target community leaders so as to persuade
17 them to welcome back directly or indirectly members of the families of their
18 community who are returning to that community so that we should have
19 a comprehensive programme for the return and welcome of those victims?

20 Do you know whether such a programme has been tried in the past? Thank you.

21 MR MEHIGAN: [11:27:14] I am grateful for your question.

22 In relation to the first question, some of the girls that we spoke to were as old as 19
23 and some of them had left their association with armed forces as much as two years
24 previously. And in view of the fact that those types of girls or young women are not
25 in a position to re-enter the school system, we were of the view that literacy and

1 numeracy classes can help to bridge the gap or to fill in the educational gap that was
2 caused by their time in the bush.

3 We would highly recommend these literacy classes and, which we have seen from
4 our feedback yesterday, enhanced self-esteem and acceptance. And in some senses
5 it's a little bit like the old maxim that the best time to plant a tree is 20 years ago and
6 the second best time to plant a tree is today. And so we would say that in fact you
7 can intervene and it's never too late to begin the process of intervening and helping
8 reintegrate people, and in our experience girls, into their communities.

9 In relation to the second question, we completely agree that engaging with
10 community leaders and trying to help them understand the perspectives of the girls
11 or other returnees, whatever age they are, the young men and young women that
12 they would be in this case, is of great value to the reintegration process. Girls
13 repeatedly said to us in the interviews that they wanted to be understood and to be
14 accepted by their community leaders. And, indeed, one of the quotes I gave you
15 earlier was asking for us to speak to their parents for them to explain to them what
16 was going on. We would suggest that any outreach to the community, to
17 community leaders, and community leaders are a broad-based bunch of people, as
18 you are well aware, in the Ituri province. Any effort to help them understand the
19 experience of those returning from association with an armed group would be of
20 great assistance to the process.

21 Can I be of any further assistance?

22 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [11:29:40] (Interpretation) Thank
23 you very much. I believe that you have really enlightened the Chamber and we are
24 appreciative of the amicus curiae for your contributions, which were very
25 comprehensive and helpful.

1 We will now break for 20 minutes and resume at 10 to 12 for the presentations of the
2 LRVs.

3 Thank you.

4 (Recess taken at 11.30 a.m.)

5 (Upon resuming in open session at 11.57 a.m.)

6 THE COURT USHER: [11:57:26] All rise. Please be seated.

7 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [11:57:42] (Interpretation) Thank
8 you very much. We are going to resume our discussions with the Legal
9 Representatives, and we shall start with the Representatives of the Group of
10 Victims 01.

11 You have 30 minutes, Counsel. And over to you, we are all ears.

12 MR WALLEYN: [11:58:07] (Interpretation)

13 Thank you, Mr President, your Honours, for allowing me to address the Court and to
14 express today the wishes and concerns of approximately 20 victims that
15 Maître Mulendu and myself have the honour to represent and have done so for the
16 last 10 years or more.

17 Our first victims were recognised by the Court in the month of May 2006. And these
18 last 10 years for us, and even more so for our clients, has been or have been
19 a succession of hope and deception, and fears and joy.

20 And Maître Mulendu, who met with them only two days ago now, during the week
21 that he spent in Bunia, has transmitted to me their sentiment with regard to the
22 hearing of today, which they find of capital importance, because it has now been
23 a very long period since the report of the Trust Fund for Victims was filed, now a year
24 ago.

25 And once again, they are now in a feeling, feeling once again a feeling of great despair.

1 But this is the word that generally comes back. And also they say that they are
2 extremely tired of this struggle. And indeed they have also had to make
3 considerable efforts, efforts on a personal level, if just only to meet up with counsel.
4 You know, if you live in a small village close to Lake Albert it's no easy, thing, it's not
5 just taking the bus. In fact, sometimes they need to make a journey over a number of
6 days and they need to stay in certain places in difficult conditions if the weather is
7 unfavourable. So they are constantly listening out for news or rumours of what is
8 being said within the community and they have to, or they are constantly making an
9 opinion.

10 And right from the outset, their hope was that after having lost the major part of their
11 youth in the militia, they would then have access to some form of reparations. And
12 they were not very exacting, or they did not put the bar very high in terms of
13 requirements. They said, "You know, if we are given a thousand dollars we will be
14 able to buy a motorbike, we will be able to set ourselves up as a freelance, rather than
15 renting a bike on a daily basis at a high price. And even if we do not have any
16 clients, we will be in a position to buy a little bit of livestock."

17 They had to accept the decisions that were taken by the Court and they did accept
18 them.

19 And when the first decision, or the first reparations order was handed down, and
20 immediately sidelined the requests for reparations that they had made, saying that
21 they would only be collective reparations that would be organised by the fund that
22 would decide, the TFV, and that Mr Lubanga would not be intervening on a financial
23 basis, of course they were disappointed. They appealed this decision and they were
24 heard by the Appeals Chamber with regard to the responsibility of Mr Lubanga.

25 And also with the new order that does not entirely close the door to the idea of

1 individual reparations, but which does give an orientation for the collective
2 reparation programme to those individuals who truly suffered from this crime.
3 Now, the board of the TFV decided that there would not be any compensation in
4 monetary terms paid out to the victims, and this had to also be explained to them and
5 they accepted the fact. When the Trust Fund for Victims produced their report, the
6 victims thought to themselves that, despite everything, this concept of reparations in
7 the report did provide possibilities for a good number of them, notably those who are
8 still suffering today from the consequences of that period of war, physically, and also
9 possibly mentally.
10 Those who even refused to acknowledge that for -- that they receive any form of
11 psychological help, claiming that they were not mentally ill, and they have also
12 started to think about this. And you will have seen in the report by the TFV experts
13 that a majority of our clients indeed, according to the expert, do truly require
14 psychological assistance.
15 If they are able to have some form of assistance in their daily lives in order to find
16 a better job or to reintegrate in society, of course they will accept this with joy. But
17 they are now at a stage, and I will not hide this from you, that they are saying, "Well,
18 tell us what you want to give us, and tell us fast, so that we can turn the page."
19 And of course the current situation for them is a new form of frustration. The fact
20 that this TFV report has existed for a year now, the fact that the TFV, after the first
21 discussions, then suspended the entire process, the fact, in reality, that we are
22 currently in a complete -- at a complete dead end. And of course it is not their fault,
23 because despite the fact that they were opposed to some form of reparations that were
24 suggested to them, despite the fact that they showed some resistance to the idea of
25 once again, for the umpteenth time, after their counsel, after the VRS, after a decision

1 from the Chamber saying and acknowledging that they were indeed victims, once
2 and once again they had to recount what had happened to them for the umpteenth
3 time. And I must tell you that for some of them it is difficult, it's hard.
4 Indeed, there are some men for whom this is a memory of childhood but they are in
5 tears when they talk about it. They were disappointed, because they were placed in
6 a situation that characterised them, or, you know, they asked themselves the question
7 whether it was truly their trial. You know, whether, whether they had been
8 questioned, their victim status had been questioned, because of course this will be
9 transmitted to the Defence and then they will make the distinction between the liars,
10 the true victims and the people who have been passing themselves off as victims.
11 And even to those who are not asking for anything, because most of our clients have
12 never made a claim for reparations, and those who have made a claim for reparation
13 and who wanted reparations on an individual basis have accepted now that this
14 reparations request individually not be processed, because we are now before
15 a collective reparations situation.
16 But even in order to go to see a doctor or to explain to a psychologist that they do not
17 sleep at night because of what they lived through during their childhood, they need
18 to spend half a day answering questions. And even maybe at a later stage they
19 might have to face a trial when their dossier is discussed before a court and then they
20 say, "Well, no thank you. No thank you." Not only because of the security
21 concerns and the issues that might arise for some of them, and these are true issues,
22 but also because they are not people who are living in a closed environment.
23 A victim of a traffic incident in Europe has nothing to fear when requesting
24 reparation. Even a victim of an accident in the workplace or a victim of a crime can
25 hope to receive some form of compensation that will place them in a better situation

1 than they were before the trial.

2 However, if we had offered, and this was what they had hoped for, if these victims

3 had been offered the possibility of being given something that would enable them to

4 start anew, that they would no longer need their family environment, that they would

5 be provided with network, a new network or contacts with individuals who will help

6 you if you have an accident, if you are sick, if your child needs to be buried, and that

7 they would have enough money to be able to live their life in the town, elsewhere,

8 that they would be able to study, that they would be able to obtain some kind of

9 diploma and that they could become somebody then, yes, they would have accepted

10 to explain to the Defence what their situation truly is in detail.

11 But if they are told that they have to explain everything, that then they will be judged

12 and that they do not know what will happen subsequently, then of course only

13 1 million will be spent. And only the fact that they are listened to over a one-week

14 period and the other team listened to over another week period, then already 250,000

15 has been earmarked. Apologies, but that's what was written in the report. And

16 indeed, yes, there can be hope, as the Women's Initiative for Gender just said, one

17 might hope that the fund might obtain more than 1 million, that there might be 3, 4 or

18 5 million available and that there be many sponsors there to assist these young people.

19 But in the meantime they are asking you what guarantees there are, what guarantees

20 can be provided to them if they have to take the risk of being sidelined from their

21 communities.

22 The reparations, as the Appeals Chamber says in its judgment, the success of the

23 Court is associated, directly associated with the success of its reparations and is

24 associated directly with the success of this system, but this system is now out of order.

25 It's a very disagreeable truth, but it is the truth. And the credibility of the Court is in

1 play here, not only by virtue of the situation, but it is also in play or at stake because
2 the African elite had modified their attitude towards the Court.

3 But the populations who were victimised, who were the victims of this mass crime,
4 did have confidence in the Court and maintained this level of confidence, but this
5 confidence is now being put to the test. And I only have my small group of victims
6 to judge by, to judge by what they say, and also from what I read with regard to the
7 local associations.

8 And the risk exist that the Court loses not only the confidence of the African elites,
9 but also the African victims. And that would be the worst possible thing, to my
10 mind, that could happen to the Court.

11 So how, how can we get ourselves out of this situation?

12 And I would like to thank you, your Honours, for having organised this hearing,
13 because indeed without this hearing I do not see how we would have been able to get
14 out of this situation. This is a situation that is difficult, that is complex in nature, and
15 that requires goodwill on the part of all parties involved. And I am addressing
16 the Defence here when I say all the parties involved.

17 This is a situation that is new, that is complex, and requests solutions to be found,
18 creative solutions and subtle solutions.

19 Mr President, I am also in the habit, professionally speaking, when hearing about
20 reparations I'm in the habit of hearing about victims. I'm in the habit about hearing
21 about a request put by a victim and the victim will then prove the merits of their
22 request by expert reports, by invoices, and then there will be a determination of
23 a figure for this person to be compensated. I did not have any experience with
24 collective reparations, which is quite an entirely new thing for me.

25 However, what did strike me when we met with the experts which were invited to

1 Belfast by the TFV was that all these experts who have an experience with the large
2 mass compensation or reparations campaigns over the last decades, they all say one
3 and the same thing, namely, that a collective reparations campaign can only be
4 successful if it is based on an offer and not on demand. So you see what you can
5 offer, now you need to see what you can do that is useful with the money here that
6 will, as it is, be insufficient. But you need to optimise upon those meagre means that
7 you have at your disposal and then, as a result, you will automatically attract those
8 beneficiaries who will then say that they are aware of the programme, or the various
9 aspects of the programme that are of interest to them that they would like to support.
10 And for our victims it would not be of interest to them. If they do not have medical
11 problems, they are not going to go to the doctor, for example. If they do not have
12 psychological issues you cannot oblige somebody to go and see a psychologist.
13 But the risk that this person goes to a psychologist pretending that they were a child
14 soldier, whereas in reality they were never a child soldier and they had a happy
15 childhood and, in reality, have no psychological problems at all, does that risk truly
16 exist? The TFV's project is not perfect and can certainly be improved upon. We
17 have made a number of recommendations in our submissions.
18 And probably the hearings today and the efforts of some NGOs will assist in
19 completing this operation. However, if we base ourselves on the idea that all
20 reparation projects must consist of reparations of harm suffered as a result of a crime
21 and not a situation that it was already in existence, if we base ourselves on the idea
22 that the beneficiaries must -- of these reparations must be those who suffered the most,
23 then we need to really examine what the needs of those victims are and not examine
24 initially the needs of the communities, independently of the fact that we find
25 ourselves in an extremely complex situation where, in many international dossiers,

1 a community that came under attack from the outside was at stake. This is an
2 intra-community concern, that of child communities. It was the people from the
3 communities themselves that organised the crimes and, on occasion, it was the uncle
4 or the father of our client or clients who obliged them to join the UPC and, on
5 occasion for some of them, it was they themselves who presented themselves after
6 their loved ones were assassinated.

7 I have a client who enlisted in the, enrolled in the UPC after, in front of his very eyes,
8 he saw the others, the Lendus assassinating his brother, cutting him into pieces and
9 obliging the people of the village to eat his flesh. Yes, he did bring himself willingly
10 and enlisted and yes, might on occasion with regard to his own community when he
11 had to go and get supplies in a Hema village, for example, those young people with
12 their Kalashnikovs did not go there and say, "I apologise, sir, could you possibly give
13 us a chicken?" No, of course. They find themselves in a situation that is
14 problematic within that very community and we cannot say that reparations for
15 victims is reparations to their community, because that is not as the situation presents
16 itself.

17 We will have to, and we should resolve this conflict sooner or later, but it will not be
18 an easy task.

19 Symbolic reparations? Now, can that resolve the problem?

20 First and foremost, our clients say that something has to be done for them. And it is
21 not that proposals are few and far between; there are proposals for vocational training,
22 for adults, this is not some little, tiny form of request for medical assistance or
23 psychological assistance, because generally speaking that is what they are requesting.
24 Because we should know that these are no longer projects for demobilised child
25 soldiers, these are people who were demobilised 13, 14 years ago, and these soldiers

1 who were 14 years of age at the time are now approaching 30 years of age, and
2 sometimes even have children who are of a school-going age. They are no longer
3 children.

4 And we also need to make that switch in our minds. And this complicates things
5 further, because those individuals who suffered are still there today, but the group
6 that we were talking about at the outset, the group of demobilised child soldiers as
7 such no longer exists in that form. There are no longer any organisations of former
8 combatants or former child soldiers and until very recently they could not identify
9 each other. We had to approach them on an individual basis due to security
10 concerns.

11 Reparations is another problem within this case. The reparations of the Court
12 give -- or have an ethnic side to them. Mr Lubanga recruited his forces principally
13 from within his Hema community and the majority of these former child soldiers are
14 Hemas, not the majority of the participating victims, and this also says a lot because it
15 was more difficult for a young Hema to take part in the proceedings against the
16 leader than it was for the young Alur. And chance would have it that amongst those
17 leaders, some of those Lendu leaders who were convicted by the Court were not
18 convicted for the recruitment of child soldiers. And once again, these victims are
19 Hema victims and these are very, very delicate issues that we need to deal with.

20 In the proposals that we received from the various NGOs, these proposals in
21 themselves are very valid and they are certainly very useful for the communities, they
22 are certainly very useful for reconciliation within the region for the development, the
23 economic development of the region. However, we talked about this with our
24 clients and there are very few proposals that they respond to, saying that it's a very
25 good thing to plant trees, to replant trees, to -- no, not all of these proposals are good

1 and not all of these proposals repair the suffering or harm that they endured. And
2 on occasion some of these proposals are -- or mainly stem from those who have
3 responsibility. When I read that an NGO is proposing as a measure of reparation to
4 better equip the offices of those village leaders, whereas those village leaders are the
5 very people who recruited those child soldiers, that is problematic. When we read
6 that the locations at which reparations are to be conducted, then sometimes the, the
7 word "Hema" returns 10 times in the same sentence when the location is described.
8 And with regard to those young or former young child soldiers, I was shocked to read
9 that it was suggested as a reintegration project not only for the former child soldiers
10 but also for young delinquents, that they should go and pave the roads, that they
11 should go and make roads.
12 Would that not rather be measures that would be imposed upon young offenders,
13 those who should be conducting some kind of community service because it is after
14 all the community that needs the road?
15 And what happens on the other side? What is there -- "What is in it for us?" say the
16 victims. The victims say: "Are we going to be paid something for working on those
17 roads, because I will be paid by my leader or by my boss?"
18 Now, in terms of the security concerns that come up again and again in these various
19 reports and that were underscored by Brigid Inder at an earlier stage, these security
20 concerns are real. We have a number of clients who have for years now found
21 themselves in the protection programmes by virtue of their participation as a witness
22 but also because they made a request for reparations.
23 And we should be under no illusion that within this protection programme, this
24 means that you are then withdrawn from your environment, from your family, from
25 your village; you are placed in an entirely strange and closed environment, which will

1 or can often be compared to a situation of somebody who is under house arrest
2 because they are suspected of having committed a crime.

3 Now, we do not want any problems of reintegration in a protection programme, but
4 what is more, the risks are not that they will only come under threat, it is also that
5 they will find themselves stigmatised and excluded from the community, that they
6 will be seen as somebody who has broken the solidarity of the community, who has
7 attacked their leader, and they need that community.

8 The solution suggested would be to say: Listen, all those reparations that are
9 individual in nature and that will benefit the individual will no longer be

10 Mr Lubanga's responsibility, he will only be required to intervene in a community
11 sense in terms of reparations.

12 Now, Mr President, your Honours, as far as I'm concerned, this is paramount to
13 abandoning the struggle and the principles. It is giving a bonus, if you like, to those
14 convicted individuals who refuse to work with the reparations and who say to their
15 representatives: "well, it will be without me and without our group."

16 There are other solutions that can be adopted. In reality the order by the Chamber of
17 Appeals on reparations provided a good idea for this as a solution. We cannot
18 calculate what a presence in a militia is worth in terms of euros. Even in France or in
19 Belgium where we have jurisprudence in the matter and tables that are published on
20 a yearly basis, there is harm that cannot be calculated.

21 How can one calculate the price of lost youth? Is it worth a million, half a million,
22 €100,000, €200,000 or €1,000? The Chamber says, the Chamber of Appeals that is,
23 that the fund will have to make a proposal as to the monetary value of the
24 responsibility of Mr Lubanga according to it on the basis of studies that will be
25 conducted, not on the basis of an individual assessment of each victim, but on

1 a global assessment. And once that responsibility has been determined, the rest will
2 no longer be of any importance to the Defence.

3 Now we are ready to negotiate because our clients, whether that responsibility be set
4 at a figure of €100,000, at 1 million or €10 million, it would probably not change much,
5 neither for the convicted person, nor for the victims themselves. It might change
6 things for the experts and for counsel who make a living out of this, and for me, but
7 this is not the aim of these reparations.

8 The experts, and I shall finish on this point, I personally am of the view that the report
9 produced by the four experts is of an extraordinary quality. And these are not any
10 old experts, just any old experts, these are people who have not only an academic CV
11 but who have been contributing to reparations over the last few decades, and they
12 suggest a specific approach. They say that we should not stop identifying the
13 victims, but that it should be done in a different way, that it should be done in
14 a lighter way.

15 A first interview will not tell you what that person has suffered because there is
16 denial, there are things that people hide, there might be things that people exaggerate.
17 It is during the treatment itself that you will truly discover what the person endured.
18 Yes, somebody who lost their leg, it is easy to ascertain what they went through, but
19 somebody who has PTSD, it's a much easier thing. And I asked my clients before
20 this who thought that they had psychological trauma and nobody put their hands up,
21 but there are many of them, there are many of them.

22 Is it truly necessary for the Defence to monitor, file by file, what is going on where
23 there is no reason why the monetary value of this global compensation be assessed by
24 virtue of a harm that cannot be calculated in itself? The Defence does have the right
25 to overview the process, but we would have had -- we would have preferred to have

1 Lubanga opposite us or even via video link, we would have preferred to hear him
2 express himself and to say how he intends to approach this reparations process and
3 what instructions he intends to give to his community within which he still has an
4 important role.

5 But his role in the process is the role of a leader who has to resume his responsibility
6 and his role is not to conduct a trial of the victims.

7 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [12:32:46] (Interpretation) Could
8 I call upon you to wrap up, please, Counsel.

9 MR WALLEYN: [12:32:52] I am finishing, I am finishing, your Honour.

10 And the only conclusion that we can draw from all of this is that it is high time that
11 we move forward with this process of reparations and we need to give it direction
12 towards the victims. We need to direct it towards those who suffered. They need
13 to be integrated within their community, yes, if possible. If possible, if it makes it
14 possible for the various links within the community to be restored.

15 Our clients say that it can work if at least the local leaders, and preferably the leaders
16 of the entire community, support the process. If there is, however, a boycott of the
17 process, then there is no point building -- putting up buildings in memory of all of
18 this or some other form of memory of what went on.

19 Now, one last thing that we would request, your Honours, is a bid to avoid any
20 further trauma caused by the whole process. And I thank you.

21 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [12:34:11] (Interpretation) Thank
22 you, Counsel. We appreciate the comprehensive nature and rigour of your
23 observations.

24 We are now going to give the floor to the group V02, the V02 group of victims, the
25 Legal Representatives, you have the floor.

1 MR KETA: [12:35:01] (Interpretation) Mr President, your Honours, the representative
2 of the Trust Fund for Victims, learned friends of the Defence, distinguished colleagues,
3 representatives or Legal Representatives of the V01 team of victims and the
4 Office of Public Counsel for Victims, ladies and gentlemen, the instant case started
5 with the arrest of the suspect in March 2006 and his transfer to the ICC detention
6 centre. The pretrial phase ended with the decision ICC-01/04-803, that is the
7 confirmation of charges handed down by Pre-Trial Chamber on 2 February 2007.
8 The trial started on 23 January 2009 and finally ended by judgments 3121 and 3122 of
9 the Appeals Chamber confirming judgment 28-42 handed down on 14 March 2012,
10 and the sentence, decision number 2901, handed down on 10 July 2012 by the
11 Trial Chamber. This was a decision on guilt, according to Article 74 of the Statute,
12 and another on the sentence, according to Article 76 of the Statute. These decisions
13 were happily done by the Trial Chamber; the accused was found guilty and sentenced
14 to 14 years.

15 The Rome Statute in its Article 25 provides for a reparation phase in favour of the
16 victims. For those victims, the acts did not begin in 2006 but in 2002. These are
17 children of less than 15 years who voluntarily enlisted or were forcibly conscripted in
18 the armed groups, FPLC, UPC, led by the accused.

19 It was from this process or from this phase of the proceedings that two Legal
20 Representation teams were set up, V01 and V02. Out of a total of 150 victims
21 participating in the proceedings, the V02 team of which I am a member represent
22 about 104 of these victims, and alongside the V01 and V02 teams, the OPC was
23 authorised by Trial Chamber I to represent potential victims who had not selected
24 a Legal Representative.

25 The Trial Chamber issued on 7 August 2012 its decision setting out the principles

1 applicable to the reparation phase in its decision number 2905.

2 The Appeals Chamber handed down on 3 March 2015 its decision 06-3129 in which it
3 enshrined the principle of collective reparation in favour of the victims on the basis of
4 which the TFV would subsequently present its reparations plan, and this was done by
5 filing ICC-31-76.

6 Through their various filings, the parties and other actors made observations to -- on
7 this reparation plan of the TFV. Trial Chamber II, and that is your Chamber, handed
8 down an order on 15 July 2016 calling on the concerned States, as well as the
9 organisations that wished to file observations on the collective current or past projects
10 in favour of former ex-soldiers in the east of the DRC and to present to it collective
11 proposals so as to contribute to the establishment of a basket of collective reparation
12 projects to the benefit of former trial victims of Thomas Lubanga.

13 In accordance with point 4 of the order for the conduct of the hearings of 11 and
14 13 October 2016, the purpose of this hearing focuses exclusively on the two following
15 points: Collective projects, current or past, in favour of former child soldiers in the
16 east of the DRC as carried out by public or private stakeholders, and secondly, the
17 proposals for collective projects for the future. The LRVs of the V02 group of victims
18 focused their submissions on the observations of certain organisations that have
19 worked in Ituri and whose observations corroborate the concerns of the victims that
20 we represent, and these are specifically AFDDHO, as well as LIPADHO and others.
21 It should be pointed out that the LRVs of the V0 group of victims represent victims
22 residing in the territories of Djugu, Irumu, Mahagi and Aru.

23 Our submissions will be based on two aspects: The identification and eligibility of
24 victims and, secondly, the forms and modalities of collective reparations.

25 Regarding the identification and eligibility of victims, in its filings ICC-31-77,

1 paragraph 23 of the annex, the TFV recognises that the victims can be direct, indirect,
2 as well as institutional.

3 The LRVs of the V02 group of victims represented three categories of victims, and the
4 only institutional victim retained by the Chamber is Victim a/0188/06.

5 In paragraphs 24 and 27 of their filings, the TFV points out that taking into account its
6 limited resources, priority should be given to the victims and they should be
7 classified in orders of priority, beginning with vulnerable victims.

8 With regard to the NGO AFDDHO, in filing 3240, annex 5, that organisation points
9 out that within the framework of its assistance mandate, the Trust Fund for Victims
10 has already worked on the field with its partners, APEC, Oxfam and ACIAR, for the
11 purpose of providing assistance to 600 former ex-soldiers and vulnerable children.

12 The NGO proposes that the scope be broadened to identify other child soldiers as
13 well as the locations, especially Mukambo, Djugu, Nyalebe, and so on. Regarding
14 proposals for future projects, the NGO proposes that we should take into
15 consideration certain domains of activity as part of collective reparation. They
16 mention tailoring, rearing of goats, motorcycle repairs, meals, reparation of tires,
17 bakeries, hairdressing, bricklaying and carpentry. The Legal Representatives of the
18 V02 group of victims are of the opinion that by taking into consideration these
19 domains, we can achieve collective reparation with individual impact by organising
20 victims into categories.

21 In the case of the second NGO, LIPADHO, that is the League for Peace and Human
22 Rights, filing 3240, annex 8, this NGO focuses on the case of institutional victims in
23 addition to direct victims, and these are schools that were destroyed by the forces of
24 the FPLC/UPC, Ulokire de Gbir institute, the Uceng institute of Wira, the Liby centre,
25 the Nioka health centre, and so on and so forth. The NGO proposes within the

1 framework of community reparation the rehabilitation of all the destroyed buildings.

2 And now coming to the NGO RADHIT, Network of Human Rights Associations of

3 Ituri, and this is still filing 3240, annex 3, on page 6 the NGO points out, and I quote:

4 "For the known direct victims, the individual reparation principle should be applied

5 to relieve, even to a little extent, the harm that they were subjected to by the crimes

6 perpetrated by Mr Lubanga. Regarding the unidentified victims and the persons

7 affected by the crime, the principle of collective reparation should be applicable.

8 Individual reparations should be done in a manner that is just and fair."

9 The V02 Legal Representatives are of the opinion that individual reparations stricto

10 sensu was not retained by the Appeals Chamber and that collective reparation should

11 be applicable with individual impact. On page 8 the NGO proposes a framework for

12 community reparation, and I quote: "Especially the building of playgrounds,

13 gymnasias, to instill peaceful cohabitation amongst the young people of the

14 communities."

15 The second points relates to the forms and modalities of collective reparations. In its

16 filing number 3177, the TFV points out the absence of the definition of collective

17 reparation in international law. According to them, collective reparation can result

18 in individual benefits or collective benefits, and the involvement of communities and

19 other parties does not make those communities beneficiaries but they are necessary

20 for reconciliation. From the foregoing, we have the notions of collective reparation,

21 individual reparation and community reparation.

22 At paragraph 181 of its filing, the fund specifies the modalities of reparation and they

23 talk of restitution, compensation, rehabilitation and other forms of reparation,

24 including, more specifically, symbolic reparation.

25 The NGO that we listened to this morning, Child Soldiers International, in its -- in the

1 filing 3240, annex 10, deals exclusively with the cases of young girls who are former
2 child soldiers, who enlisted voluntarily or were conscripted forcibly. It underscores
3 the causes of voluntary enlistment, and this includes interruption of schooling, the
4 need for protection, revenge, poverty, and on the other hand, the causes for forcible
5 conscriptions. They state that girls were abducted against their will during the
6 attacks on villages or when they went to fetch water at the river or to fetch firewood.
7 Ituri had experienced a similar situation in 2002 and 2003.

8 In its recommendations the NGO presents certain principles, including some of the
9 most important ones, according to us, which are, when it comes to the interruption of
10 schooling, the NGOs proposes that access to schooling should be promoted for these
11 girls. In the case of protection and revenge, the NGO talks of ensuring sincere
12 reconciliation between the various communities, and when it comes to the fight
13 against poverty, the NGO suggests the promotion of access to community projects
14 such as credit Unions, co-operatives, and so on. And when it comes to trauma, the
15 NGO proposes individual rehabilitation.

16 Now, the NGO Women's Initiatives for Gender Justice on Reparations, well, we
17 listened to them this morning. Annex 14 dealt with collective reparation, together
18 within the context of the liability of Lubanga. And I will quote in English, I
19 apologise.

20 (Speaks English) "The second model is that of recognising Mr Lubanga's liability
21 based on the general and overall extent of the damage and harm caused to victims
22 that forms the basis of his conviction and sentence. This approach utilises
23 a screening process to determine eligibility based on a collective assessment."

24 (Interpretation) And on page 13 the NGO suggests rehabilitation as a modality of
25 reparation. And this (Speaks English) "... the individual harm and eligibility

1 assessments of direct or indirect victims who may potentially access programmes
2 provided for individual victims would not need to be transmitted to the Defence."

3 (Interpretation) The NGO raises the problem of the symbolic responsibility of
4 Lubanga on page 16, points 29, 30 and 33. We listened to them this morning and I
5 will not come back to that.

6 Lastly, the NGO talks about the participation of the government of the DRC in the
7 collective reparation process. And that is page 15, point 27, it is very important.

8 And they say the following, (Speaks English) "In addition to the TFV providing the
9 financial resources for the implementation of the programmes requiring

10 individualised harm assessments, we also propose that the DRC Government should
11 be required to contribute, even if a proportionately small amount ..."

12 (Speaks French) The V02 Legal Representatives are in agreement with this position
13 that the government should be able to contribute because the convicted person,
14 through a Chamber's order, was recognised as indigent and he is a Congolese citizen,
15 so it is logical that the Congolese state should contribute or compensate the victims.

16 Some points raised by the speakers corroborate the observations of our V02 team of
17 February 2016 in response to the draft reparations plan of the TFV of
18 3 November 2016.

19 Regarding the identification and eligibility of victims, paragraphs 24, 25, 26 of the
20 annex to the filings ICC-3177 of the Fund, the TFV recalls and quite correctly so that
21 the victims can be direct, indirect or institutional.

22 The LRVs of the V02 groups point out that they represent all the three categories of
23 victims, direct, indirect and institutional, particularly the school that we talked about,
24 which is a/188/06, which is a school that was destroyed by an FPLC/UPC attack.

25 The Legal Representatives of the V02 group are of the opinion that the priority

1 victims are the 150 participants in the proceedings and there should be a classification
2 by order of priority, beginning with vulnerable children, and these are traumatised
3 children, girls who were raped and which led to unwanted births and so on. We
4 have precise cases that we could present to the Chamber in due course.

5 We should also point out that we represent a significant number of applicants who
6 are potential victims of the situation in the DRC. The TFV recalls the fact that the
7 Appeals Chamber pointed out that collective reparations went beyond the victims
8 having filed participation forms. It follows that the TFV and its partners would
9 consider the cases of direct victims in order to ensure their eligibility. The victims, if
10 they wish, could have interviews with the TFV and their Legal Representatives. The
11 V02 team are of the opinion that given the specificities of the harm caused, files of
12 their clients should be examined on a case-by-case basis.

13 The regions of residence of the eligible victims, as I said, out of the territories in Ituri
14 the victims live in at least four territories.

15 Now coming to the forms and modalities of collective reparations the V02 group of
16 victims are of the opinion that the forms of participation of their clients would be
17 helpful to the work of assessment of the harm suffered, in addition to in-person
18 interviews with them, and we asked that the work which was suspended unilaterally
19 by the Fund should be resumed.

20 The Trust Fund has said that the available funds are limited and that they are willing
21 to contribute up to €1 million for the funding of collective reparations. The V02
22 group of victims' Legal Representatives believe that the available funds should be,
23 first of all, allocated to the 150 participating victims.

24 Furthermore, the Fund could select its partners from amongst the NGOs that played
25 a role of intermediary during the proceedings ever since 2006.

1 The TFV has prepared a programme, the Fund has prepared a reparations
2 programme from 2014 to 2017, and in its recent filings, they plan for a duration of
3 24 months. The V02 group of victims' Legal Representatives believe that a duration
4 of 24 months is realistic, instead of three years, that is if it runs from the decision of
5 the Chamber approving the reparations plan, and we believe that during the first year
6 the 150 victims could benefit from reparations.

7 Your Honours, we believe, to conclude, that for collective reparation to be useful we
8 have to take into account those 150 participating victims as a priority by bringing
9 them together and dividing them into categories, because we have victims who were
10 students at the time in 2002 and today some of those victims have managed to go
11 through university studies, so today they may have difficulties paying for their
12 studies. And they proposed, amongst other things, that they should be taken into
13 consideration, for example, by awarding them scholarships in local universities, so
14 they feel that this would be the best way of compensating them. Three quarters, that
15 is the majority out of the 138 victims that we represent are students.

16 With regard to indirect victims, the relatives of those child soldiers, they are
17 requesting that the loss of education of their children, which is difficult to assess,
18 should in fact be assessed and then what can be allocated to them should be
19 determined thereafter. And incidentally, because when people came to recruit
20 members of certain families, there was also pillaging, but this is not the purpose of the
21 instant case, but it would be necessary to take that into account for indirect victims.
22 And now for the last category, of institutional victims, we have to rehabilitate all
23 those schools which were destroyed. I believe this is how things could be concretely
24 done for the three categories of victims that we represent.

25 Your Honours, the time has come to be pragmatic. Those of us, the Legal

1 Representatives of the V02 group of victims wish that after the transmission of the last
2 batch of victim files in December 2016, that is in a short time, there should be
3 a decision from you which should be issued as soon as possible in early 2017
4 approving the draft reparation plan of the TFV so that the first fruits of the
5 reparations of the victims should be visible in Ituri. The credibility of the Court
6 depends on this. Thank you.

7 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [13:02:28] (Interpretation) Thank
8 you, Counsel, for your very comprehensive and complete presentation.

9 And this brings us to the end of this session. We will resume at 2.30 p.m. with the
10 presentation of the counsel of the OPCV. Thank you.

11 (Recess taken at 1.02 p.m.)

12 (Upon resuming in open session at 2.31 p.m.)

13 THE COURT USHER: [14:31:44] All rise.

14 Please be seated.

15 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [14:31:59] (Interpretation) We
16 shall resume and I would like to give the floor to the OPCV. You have the floor,
17 madam.

18 MS MASSIDDA: [14:32:14] (Interpretation) It would appear that there was a
19 technical problem, but I believe now the microphone is working.

20 Your Honours, our observations are based on the previous filings that have been
21 presented to this Chamber regarding the implementation of reparations project filed
22 by the TFV in November 2015. Indeed, in our February 1, 2016 filings, we discussed
23 certain aspects which we believe are important in order to grant effective -- rather,
24 collective reparations to the victims. We would like to go over those aspects in order
25 to verify exactly how the projects proposed by certain organisations might potentially

1 correspond to the needs of the victims or not.

2 It is indeed essential that the reparations coincide not only with the resources that are
3 actually available, but also to the needs and to the present situation of the victims
4 concerned in order to be both adequate and useful.

5 We have already emphasised on numerous occasions in our various interventions in
6 the 2012 reparation procedures that it is necessary that collective reparations deal
7 with the individual aspect of injury and damage. We believe it's necessary to clarify
8 that the projects developed, although there is indeed a collective dimension in that it
9 refers to the community where the victims live, but they must first and foremost be
10 addressed to the individuals. This is a concern that was already expressed this
11 morning by my learned friends.

12 The former child soldiers are still undergoing today the effects of the uprooting that
13 they went through because of their enlistment and their conscription, in particular
14 because they were not able to go back to school or to be reintegrated into their
15 communities after their demobilisation.

16 It is therefore necessary to redefine the priority measures of collective reparations on
17 the individual impact that must be satisfied for each of the victims that are
18 beneficiaries.

19 Various measures regarding awareness raising, dialogue, accompanying the
20 communities that were proposed by the TFV in its recent filing dated 16 September,
21 as well as a number of project that have been submitted to the Chamber, including
22 those that concentrated on reinforcing the intervention capacities, as well as the
23 support and accompaniment structures as well as -- and here I'm emphasising the
24 importance of these project that are aimed at re-enforcing the intervention capacity as
25 well as the support, and accompanying structure, dialogue and education that exists

1 already with the various local players in order to make it possible to implement the
2 awareness raising projects as well as community mobilisation. And I would like to
3 refer the Chamber to Annex 1, 10, 14, and also to the comments made by Child
4 Soldiers International, page 5 and 6 in particular.

5 We agree with the approach proposed by the fund in its comments regarding
6 symbolic reparations, in particular the necessity to develop projects in parallel with
7 other reparations projects. We do not necessarily share the aspect of where these
8 symbolic reparations should be carried out, and we believe further discussion is
9 necessary.

10 It is important to establish concrete projects based on available services for victims
11 during the implementation phase of the project regarding symbolic reparations. We
12 believe that symbolic reparations may not replace collective reparations as such, in
13 other words, concrete projects to the benefit of the victims. Symbolic reparations
14 may not be -- must not be disconnected from the integrated services proposed by the
15 TFV in its project.

16 Now, these projects must be centred on the individuals themselves. This is
17 something that all of the Legal Representatives share. The projects must be
18 organised around two essential requirements, the medical and psychological aspects
19 on the one hand and the educational aspect on the other. The various comments in
20 relation -- which have been submitted to the Chamber in keeping with Rule 103 of the
21 RPE deal with these two aspects, which are also emphasised by the fund in its
22 implementation project. By way of example on this particular issue, that is the two
23 particularly important requirements, I would like to recall the proposals submitted by
24 the expert group, by the Association for the Reconciliation and Peace in Ituri, the
25 Network of Associations for Human Rights in Ituri, the consortium referred to in

1 Annex 11, the League for Peace and Human Rights, Cooperation Internationale,
2 COOPI, and the Women's Initiative for Gender Justice, as well as the United Nations
3 organisation.

4 I would like to go into further detail into the two components I referred to a moment
5 ago, in particular because as regards the educational aspect, we believe that some of
6 the projects already contain certain aspects which could be useful in the future.

7 However, as regards the medical and psychological component, we believe that the
8 projects that have been submitted to the Chamber as of today are not fully satisfactory,
9 in that they do not really enable us to move forward in the future and, therefore, on
10 that particular component, I would like to make a number of practical suggestions
11 towards the end of my presentation.

12 As regards the medical component, and I just said a moment ago that this part hasn't
13 really been that developed in the various projects that have already been presented
14 before the Chamber, the victims have clear requirements today. Both boys and girls,
15 during the period when they had to fight within the ranks of the UPC/FPLC, they had
16 to take drugs, to drink alcohol in order to comply with the tasks that they were
17 submitted to, or simply to be submissive and therefore they developed an addiction
18 later on and they were abandoned to their fate, inasmuch as the various assistance
19 measures that were offered while they were former soldiers during the events was
20 deficient. Therefore, a number, a large number of victims have considerable medical
21 requirements today in order to deal with these addictions.

22 This aspect results also from consultations carried out by the fund in Ituri in May and
23 June 2015. In its recent filings on the part of the fund in, recently in 2016, the fund
24 refers to the perception on the part of the community members when the child
25 soldiers came home. These former child soldiers are seen, are considered as thieves,

1 alcoholics, drug addicts, uncontrollable, violent and unable to readjust to civilian life.

2 This is paragraph 23 of the September 2016 submission by the TFV.

3 As regards the psychological component which was taken into account by the project

4 presented by the TFV in their implementation project, it is absolutely essential for us

5 to consider that the victims, their families and their communities inevitably suffered

6 major psychological damage during these events. This presumption has been

7 confirmed once again by the filings presented by the various amicus curiae.

8 Being personally exposed to violence leaves psychological scars on each individual,

9 but also leaves very deep scars in the entire social fabric. The transmission from one

10 generation to another of this trauma must also be taken into account in the

11 reparations projects. Indeed, the sequelae left by the conflict still play an important

12 role in the day-to-day lives of the victims.

13 They were uprooted from their childhood, from their daily lives, and the victims were

14 projected and maintained in a very violent reality and find themselves now today

15 with this heavy cumbersome load on their shoulders, and they're not equipped nor

16 are they really able to rebuild their future.

17 We appreciated in particular some of the submissions made by the expert groups who

18 emphasised on the one hand the fundamental value of involving the community

19 through their privileged representatives in order to establish the reception of

20 reparation programmes on the one hand, and secondly, which is extremely important

21 for us, that is that the psychosocial rehabilitation of victims represents a key aspect of

22 any reparation programme.

23 In keeping with these suggestions we support the integration of a chapter involving

24 psychological rehabilitation as well as psychosocial rehabilitation as part of the initial

25 step of any reparation project. According to the expert group once again, such an

1 approach is midway between individual reparations and collective reparations
2 because it makes it possible to deal with the individual who is part of a group and
3 who will benefit, if need be, from psychological support and therapeutic intervention.
4 In addition, such initiatives might also make it possible to develop local capacities
5 and therefore to integrate the project in the community in a long-lasting and
6 comprehensive fashion thanks to the training of nonprofessional personnel who could
7 intervene with the victims by providing -- accompanied by a sworn psychologist on
8 these matters which we feel are particularly important. We would like to draw the
9 attention of the Chamber to the expert report, paragraph 15, 25 to 36, and as regards
10 the last comment, in particular incorporating the project into the community,
11 paragraph 33.

12 We believe that integrated projects dealing with the suffering and needs of the victims
13 in a holistic manner based on the model of the Panzi hospital in Bukavu, virtually
14 everyone is familiar with this example, should be set up. Such structures which take
15 in many isolated victims suffering from stigmatisation makes it possible to provide
16 transitional care, if only housing, if need be, but also to provide therapeutic care,
17 medical care, judicial advice, as well as services to help in their reintegration into the
18 community as well as training for income generation -- income-generating activities.
19 As regards the educational component, as has already been recognized by a number
20 of specialised studies, education contributes to returning to normal daily life through
21 the establishment of a routine, structures and hopes for the future. Thus it also
22 contributes to the psychosocial stability of the populations which have undergone
23 violence.

24 Education can be a determining factor in the protection of children and women; a
25 main advantage in acquiring a certain form of resilience within the affected

1 communities; education can also contribute to the reintegration of young adults into
2 the community, to citizenship, to good governance, at a number of different levels, be
3 it governmental level, community level or individual level. Education supports the
4 development of other sectors thereby improving the lives of the affected
5 communities.

6 Therefore, establishing reparation measures in the area of education also represents
7 the implementation of the presumption of psychological injury or damage inasmuch
8 as through education both children and adults develop the necessary mechanisms to
9 adapt to events in favour of reintegration and through dialogue and the rebuilding of
10 social bonds.

11 Initially the reparations measures must correspond to the day-to-day requirements of
12 the situations where the victims find themselves at present, enabling them to equip
13 them so that they can once again be autonomous, enabling their reintegration into
14 their community.

15 I'm sure you noticed, your Honours, that this is a theme that has been mentioned by
16 all of the speakers we've heard this morning.

17 For a number of victims it's too late for them to go back to elementary school, and yet
18 the things that are learned in elementary school must also be transmitted to them so
19 that they can be better equipped to live their daily lives today. The reparations
20 measures must enable the victims, equip the victims today who are young adults
21 today so that they can acquire the necessary professional or vocational training. And
22 here I would like to refer to the reports of certain organisations such as bricklaying,
23 carpentry, mechanics, sewing, soldering and farming, et cetera.

24 In particular annex 2, 3, and 11 of the proposal submitted to the Chamber.

25 But of course that's not going to be enough. There need to be other accompanying

1 measures, civic measures in order to enable these young people to develop their
2 communications and social skills. Some of this training will enable the victims to be
3 reintegrated into their communities to enable them to develop and benefit from the
4 skills learned and therefore enable them to live off of this new skill that they have
5 learned. This will also contribute to the social and economic development of the
6 communities where they are living.

7 As you have noticed probably, this is the opposite to what some of the speakers have
8 referred to. The very fact that individual victims become more autonomous, this
9 will have an impact on the social and economic development of the community.

10 These educational measures must also include numeracy and literacy, if need be,
11 because, as was stated this morning, the representative of Child Soldiers International,
12 this has a direct impact on self-esteem, on self-confidence and empowerment of
13 victims, but also on their potential civic commitment as well as their involvement in
14 the community.

15 Some of the projects that have been presented to the Chamber contain in a nutshell
16 some of the important elements which must be developed further. I refer here in
17 particular to educational projects, training projects, building healthcare centres, other
18 social centres, building social infrastructure and rehabilitation centres proposed
19 essentially by the network of human rights associations in Ituri, the League for Peace
20 and Human Rights and COOPI, Cooperazione Internazionale, as well as the United
21 Nations organisation.

22 I refer here annex 3, page 8; annex 4, page 4 and 5; annex 6, page 2; annex -- sorry,
23 COOPI's paper, which is public, on page 10; and the United Nation's paper, page 43
24 and following, annex 15.

25 These projects also identify the goal of peaceful cohabitation and reconciliation, which

1 is an essential component for the success of any collective reparation project. Indeed,
2 reparation measures are necessary in the area of education must be inspired by the
3 concept of peace-building education. The principles upon which this is based are as
4 follows: This is a process and not a product. The process must be designed in the
5 long term and not in the short term. It is based on contributions and local resources
6 rather than external resources, and it seeks to create opportunities rather than
7 imposing solutions.

8 As regards more specifically the former girl child soldiers as well as their children
9 born as a result of rape, the educational component also plays a very important role in
10 the reparations that should be proposed to them. The children of these victims have
11 a right to education. They must necessarily benefit from access to elementary school.
12 It appears following the direct consultations with victims as of today that their
13 priority is indeed that their children -- that is that their priority is their children, that
14 is the indirect victims of the events.

15 We have noted as regards the gender specific aspect, we noted that most of the
16 reparations projects do not deal specifically with this important matter. We must
17 recall, however, as regards this issue, that the restrictive framework of the charges
18 and the non-inclusion as such of sexual crimes represent distinct elements of said
19 approach in the reparations framework and procedure. Indeed, far from reflecting
20 the sexual character of the crimes, this approach must be considered as a fundamental
21 element to be taken account of in the reparations framework.

22 In addition, the gender dimension must not be set aside in this case, given that the
23 impact of reparations to the benefit of the victims relies essentially on the way
24 individually they see, they perceive the impact of reparations in light of the suffering
25 undergone by other victims.

1 The way the affected communities perceive the needs of and the situations of the
2 former child soldiers, both male and female, play an important role in the way that
3 they will be able to be reintegrated into their own family and community groups.
4 From that point of view, taking appropriate account of the gender specific dimension
5 makes it better possible to take account of the suffering of each of the victims and
6 providing the social support that they require, expressing through the redevelopment
7 of respect and solidarity on the part of their families and their communities.
8 We believe therefore that all of the projects proposed must identify how the gender
9 specific approach shall be taken account of in the implementation phase.
10 Lastly, we'd like to emphasise the need to deploy these measures in the long term,
11 that they be sustainable in order that the expertise and the knowledge in the area of
12 assistance be developed locally so that the sustainability related to having to once
13 again learn to live together be long lasting.
14 Support on the part of the Congolese State, and this is a theme that was referred to by
15 my learned friends this morning, the support of the Congolese State as regards the
16 sustainability of some of these measures would represent a clear guarantee.
17 It is indeed unfortunate that the DRC has not yet submitted its observations. We do
18 hope that the observations that they are to be filing at the end of October as they have
19 stated will take account of its necessary involvement in this process. Indeed, the
20 success of the entire reparations process will depend in part on the involvement of the
21 DRC.
22 It could intervene financially by way of a specific contribution to the TFV or
23 implement specific measures, such as free schooling for certain categories of victims;
24 or medical care, such as setting up a permanent reception centre, orientation centre as
25 well as medical assistance to victims, and this is something that was already

1 suggested in December 2015 by the League for Peace, Human Rights and Justice. Or
2 the Congolese State could also promote certain educational tools to be used in the
3 schools in order to explain the crime of the use of child soldiers.

4 Mr President, your Honours, by way of conclusion, we emphasise by priority any
5 project that would make it possible to deal with the suffering and present needs of the
6 victims in a holistic manner. We feel therefore that it's important to set up
7 partnerships with existing local structures who already benefit from the know-how
8 and the confidence of the local population in order to contribute to the development
9 of long lasting structures of a similar nature in the localities which are geographically
10 close to the victims and to the affected communities.

11 In this respect it's important to remember that the victims and the affected
12 communities live throughout the territory of Ituri and not solely in the vicinity of
13 Bunia.

14 Again, by way of example of a project that could serve as inspiration, we would like
15 to refer to the Panzi Hospital in Bukavu as well as certain other projects which have
16 been set up by the TFV as part of its assistance mission, in particular the transit homes
17 that the fund has set up in partnership with the Collective des Associations féminines
18 de Béni, CAF Béni, as well as Oxfam-Québec in order to provide psychological
19 rehabilitation to victims, but also temporary housing, medical care, legal assistance,
20 literacy classes and the participation in income-generating activities.

21 The details of the projects that I've just referred to may be found on the TFV site and
22 also progress report dated September 2015, the two specific projects I mentioned are
23 described on page 36 and 37, and you will also find information regarding the cost of
24 these projects.

25 I see that I have almost used up all of my 30 minutes of speaking time. Perhaps you

1 could grant me 5 extra minutes? Perhaps 3.

2 I'd like to add a few words about the projects regarding the medical and
3 psychological component, because we believe that the project that has already been
4 submitted to the Chamber is not sufficiently valid in terms of the suggestions made.

5 We suggest that the Chamber ask the TFV to contact local partners, which in the
6 framework of their assistance role have already carried out certain missions
7 successfully and which have specific expertise.

8 Here I'm referring to COOPI, Cooperazione Internazionale, as well as the organisation
9 for intercultural communication and rural cooperation. The references are identical
10 to those I just mentioned. It's the TFV report dated September 2015, page 43 and 44.

11 The Chamber could also request that the various organisations referred to, who have
12 expertise in the field of medical and psychological support, to develop specific
13 projects in Ituri.

14 By way of conclusion, we would like to insist on the importance that the reparations
15 implemented enable victims to rebuild themselves individually and collectively and
16 enable them to go beyond mere survival that they found themselves in following the
17 events that were dealt with in this case. Any project must, in Ituri in particular and
18 in the Congo in general, will have a better chance of succeeding if that is the case both
19 in the present and in the long term.

20 In addition, long lasting peace and reconciliation between the communities affected
21 by the conflict is directly related, intrinsically related to the administration of justice
22 and the implementation of effective reparations. Long lasting peace may only be
23 reached if the measures taken enable the concerned victims to be restored to a stable
24 life and that they guarantee that such crimes not be repeated. Thank you.

25 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [15:05:21] (Interpretation)

1 Thank you very much to the OPCV, Maître Massidda, for a very dense presentation
2 that was aimed at answering the questions put by the Chamber.

3 Now we shall give the floor to the Defence team for Mr Lubanga.

4 Maître, the floor is yours. We are all ears.

5 MS MABILLE: [15:05:51] (Interpretation) I thank you, Mr President, your
6 Honours.

7 I would like as an introduction to say that it is nine years now that myself and my
8 learned friend Mr Biju-Duval have been defending Mr Lubanga. For approximately
9 220 days of hearing, Mr Lubanga was always present during those hearings. He
10 would have wished to be in our midst here today because, of course, these are the
11 first hearings to be held in the reparations phase, and I would like to underscore the
12 fact that he would not like for his absence to be interpreted as a measure of disinterest
13 on his part in this part of the proceedings or in any type of lack of respect for the
14 victims, because those who are watching us today, and especially those who have
15 access to the proceedings in the DRC do not necessarily have access to the decisions
16 that are handed down.

17 And I would like to specify that if Mr Lubanga is not present today, it is because you,
18 the Chamber, rendered an order, made an order on 5 October indicating that the
19 presence of Mr Lubanga at this hearing was not necessary and that he would be
20 represented by his counsel.

21 It is not in our habit to comment upon the decisions of the Court. We appealed the
22 decision, and we were told this morning that our appeal was rejected. And I would
23 finish off by saying that Mr Lubanga would very much like to have been able to hear
24 the two amici curiae and all that our excellent learned colleagues had to say this
25 morning about the victims.

1 Now I would like to develop upon our position that of course may be challenged that
2 it is indeed in front of the international criminal courts the counsel, whether it
3 be -- the counsel for Defence are not here necessarily to represent but to assist their
4 client, and any engagements that might be taken today before this Chamber and in
5 this phase of proceedings by Mr Lubanga would to my mind have a far greater scope
6 were they to be formulated, spoken from the mouth of the convicted person his self
7 rather than his counsel, even if his counsel are talented.

8 Now, even before intervening specifically on the subject that I would like to discuss
9 with the Chamber this afternoon, notably one of the reports of the amici curiae, a
10 comment that was a source of inspiration to me this morning gave rise to a first
11 development of an argument that might be deemed to be outside of what I was
12 requested to develop. You will understand why.

13 This first development is indeed the role of the Defence team in the reparations phase.
14 And I would like to say a few words on the subject before once again coming
15 specifically to the mission that has been entrusted in us by your Chamber.

16 It is not to be challenged that in the first phases of the case there are the two parties,
17 the Prosecution and the Defence. The Rome Statute has mentioned the Statute of the
18 victims and their role in the phase where the guilt or the innocence of the accused is
19 to be established can be marginal. They can express their opinions, but they do not
20 have the same role as those taking part, notably the parties to the case.

21 Mr Lubanga has been convicted and then as a result the reparations phase is open.

22 This is an entirely new phase, because the majority of the international courts do not
23 provide to the representation of the victims nor for their compensation.

24 We see and we heard this morning and we have heard this during the various parts of
25 this phase, we have heard that the implementation of this compensation phase for the

1 victims is a very delicate matter. And I would go on to add that in view of the fact
2 that this is the first case, the case of Mr Lubanga before the ICC, notably, we have no
3 jurisdiction that can assist us in the matter before the ICC, and it will be written as the
4 cases evolve.

5 The role of the Defence. Now, even if the Rome Statute does not explicitly make
6 mention of the role of the rights of the convicted person during this phase, it is clear
7 that he is a party to the process. And the two new parties to the process are the
8 victims on the one side and the Defence on the other.

9 It is also clear that Mr Lubanga has, in addition to his criminal conviction, a civil
10 conviction that will give rise to the reparation of the crimes committed. So the role
11 of the Defence is at this stage, and that is what I would like to clearly point out, to
12 verify the request for participation on the part of the victims. And I understand by
13 this that it is very delicate indeed for the victims to understand this role. And I
14 would like to rephrase this in another manner and to verify, and verifying the
15 requests and dossiers of the victims does not mean to say that we are denying the
16 status of victims, nor does it mean that we consider that there are no victims. And I
17 really need to belabour this point because on each occasion when we say that we
18 want to verify the victims' request, immediately people seem to get very hot under
19 the collar and our role seems to be challenged.

20 So I understand that in this particular case there is a certain amount of apprehension
21 because it is true that in this case, when the Defence had to test the evidence of the
22 Prosecution, especially with regard to the notion of child soldiers and the witnesses
23 child soldiers who came to testify before the Chamber, we did our job, and we were
24 obliged to challenge them because we had serious elements to do so, and the proof is
25 in the matter that some of them were sidelined.

1 However, we are now in another phase, and in this phase the role of the Defence is
2 once again to verify that the sums that are requested to be paid by Mr Lubanga are
3 really sums that are associated with victims who suffered harm as a result of
4 Mr Lubanga's actions.

5 Now, that is the first role of the Defence at this stage of the proceedings. The second
6 role that would seem also equally important to me is to share with you, I would say
7 Legal Representatives for Victims, in the essence what the position of Mr Lubanga
8 will be at this stage of reparations. What does he want? What can he contribute?
9 What does he not want to contribute? And the details of what the convicted person
10 wants to do at this stage of the proceedings seems incredibly important to me and
11 Defence can assist the convicted person in this regard.

12 The third role of the Defence is of course also to have his fundamental rights
13 respected. Now, the Rome Statute with regard to the fundamental rights of the
14 convicted person does not provide us with many articles to assist us. But there is
15 one right that is outstanding from the beginning to the end of the trial, and that is the
16 right to a fair trial. And the first elements that I provided you with seem absolutely
17 fundamental to me in this regard.

18 I wanted to remind you of this fact because I really want people to understand better
19 and better what the role of the Defence is. And I would like to quote from a decision
20 that the Chamber is aware of, because it was handed down by the Trial Chamber II in
21 another case, which is the Katanga case, and it is a decision dated 1 September 2015.
22 And I sometimes think to myself that the judges put our role into words better than
23 we do ourselves, and that is why I have -- I am to quote from a paragraph of this
24 decision.

25 This is a decision that was handed down in the context of a request made by the

1 Defence for Mr Katanga requesting that the redactions be lifted. And the Chamber is
2 handing down this decision -- of course, I'm not going to quote it to you in its entirety,
3 just one paragraph thereof -- and it is attempting to see or ascertain whether it should
4 or should not lift said redactions.

5 In this paragraph it is indicated, and I note it in its entirety, the Chamber, quote:
6 "The Chamber notes that some of the details provided by the victims in their
7 description of the attack on Bogoro and the harm suffered might prove useful to the
8 Defence in order to test the credibility of the victims and assess the extent of the
9 alleged prejudice suffered." End of quote.

10 That is precisely what our role is. Now, I have finished with my first explanations
11 and I would like now to concentrate on the observations developed by Women's
12 Initiative for Gender Justice on reparations.

13 In my explanations, I will call this organisation "the organisation". But you will
14 know thereby that I am clearly referring to said organisation.

15 This organisation has on a number of occasions in its submissions, and I'm talking
16 here under the control of the Chamber and that of the Legal Representatives of
17 Victims in paragraph 15, 16 and 29, presupposed that Mr Lubanga will perturb the
18 reparations programmes and that the victims will voice their concerns with regard to
19 their security.

20 This organisation goes on to add that, in addition, were Mr Lubanga not to benefit
21 from a reduced sentence, he will be released in 2019, date at which the programmes
22 put in place will not have been completed.

23 This organisation goes on to point out that since the outset, as it has been following all
24 the submissions provided and it has read through all of the decisions handed down
25 since the year 2006, date at which Mr Lubanga was arrested, I am therefore surprised

1 that this organisation has not noted that during the entire duration of the criminal
2 trial, no evidence was produced to the Chamber proving that Mr Lubanga allegedly
3 attempted in any manner whatsoever to put pressure upon, intimidate the witnesses
4 and fabricate any false evidence. No elements in this regard was ever reported to
5 the Trial Chamber, nor to the Court of Appeal, to reflect this.

6 However, in this case everything has been attempted by the Office of the Prosecutor
7 to try and discredit, of course, Mr Lubanga, but also to establish that Mr Lubanga had
8 a negative form of behaviour towards the victims. I wanted to say this or quote this
9 so that the organisation could read through the decision rendered by the Trial
10 Chamber.

11 At a moment in time when the Office of the Prosecutor alleged that Mr Lubanga was
12 attempting during a hearing to intimidate the child soldier witnesses, the Prosecutor
13 wrote at the time, I quote:

14 "It is entirely terrifying for the child soldiers to testify before him." End of quote.

15 Whilst the Chamber, our Chamber, the Trial Chamber had taken all the precautions to
16 make sure that the alleged child soldiers would never meet eyes with Mr Lubanga.

17 Now, in this decision, and I quoted it, it is also preoccupied by the erroneous
18 statements who has said, without justifying what it says, that the accused "allegedly
19 misbehaved," end of quote.

20 Now over those nine years, those nine years of proceedings, once again, and I shall
21 repeat, it has never been proven that Mr Lubanga allegedly attempted any
22 manoeuvres whatsoever to intimidate witnesses.

23 And I would like to say in a cynical tone that were there have been a moment at
24 which Mr Lubanga might have attempted to intimidate the victims, it was indeed
25 during the presentation of evidence. And of course, this would have been a time at

1 which we wanted him to be acquitted. There would have been manoeuvres possibly
2 at that moment in time.

3 But to say that today Mr Lubanga did everything that he could to intimidate the
4 victims and to such an extent that we the Defence team could not do our job, are mere
5 suppositions. And if this really is a subject for discussion, if people are really saying
6 that Mr Lubanga or any other individuals are attempting to intimidate victims, then
7 we need or they need to provide evidence thereof, because otherwise we need to stop,
8 because here we are in judicial proceedings in which evidence needs to be brought.
9 That's my first observation.

10 And my second observation, this organisation indicates that Mr Lubanga is said to
11 still be supported by the Hema community. I would like to say that, even were that
12 to be the case, how could Mr Lubanga be responsible for that support? He has been
13 absent from Ituri for more than 14 years now, since he spent more than two and a half
14 years in prison before being brought before the Court.

15 What kind or what possibility would he have had to entertain any relations with the
16 Hema community or any other? And I think that the only links that he managed to
17 maintain were those with his wife and children.

18 Now, the last and final argument developed by this organisation was that the UPC,
19 the Union des Patriotes Congolais, the political party that abandoned in 2003, the
20 UPC/FPLC, and which became a true political party, had its Statutes filed from the
21 year 2004 and from that time on it had national and regional elected members, and I
22 do not see why, by virtue of the fact that this party has political activities, it causes
23 any harm to the accused. It's not a rebel group. It has been invited by the
24 government in Kinshasa to take part in the negotiations with regard to social dialogue
25 in Kinshasa aimed at finding a solution to the very thorny problem of the presidential

1 election in Congo.

2 And finally I would add, and I would add this speaking to our LRV learned friends,
3 that when Mr Lubanga and we ourselves had any information as to the identity of
4 victims who came to testify before the Trial Chamber, never was there any idea that
5 these victims had been approached or intimidated by Mr Lubanga whatsoever.

6 All of these arguments have been developed by this organisation to say to the
7 Chamber that, especially -- and I'm quoting them: "The Defence should not receive,
8 even in a redacted form, the request for participation." End of quote.

9 And I'm saying to them that we are in a legal forum here and there should therefore
10 be some evidence provided that would tend to prove that there has been some level
11 of intimidation upon the victims on the part of Mr Thomas Lubanga in support of
12 their arguments.

13 Now, this organisation has proposed a second model with regard to this idea of a fair
14 trial, and this second model would provide the Defence with access to the process of
15 identification and selection. And as it is of course very mindful of the Defence, it has
16 proposed that we be able to submit our comments on this process, and in such a
17 manner we would certainly have enough elements and that this would satisfy the
18 idea of a fair trial.

19 Now, however, it has been noted that the Defence might have some objections at this
20 stage, and I would like to confirm that indeed we do have objections.

21 Let us now come to the proposals made by this organisation which suggests that, in
22 order to avoid the individualisation factor and that we do not have access to the
23 requests for participation on the part of the victims, they are suggesting that there be
24 preventive symbolic reparations in a transformative manner.

25 It might be that I am not sufficiently well versed in this area, but I do not manage to

1 understand why it is that these proposals would mean that at a given moment in time
2 there might be a list of victims established, because of course these actions would
3 necessarily involve identifying the victims because, if such action profits everybody, it
4 cannot at all be linked to the crimes committed by Mr Lubanga. So I do not see how
5 it is that these measures would avoid in any way the identification of said victims,
6 and as a result, the objective stated by this organisation in presenting these measures,
7 which might otherwise be very interesting, would not avoid the fact that at a given
8 moment in time we will have to identify the victims.

9 I would now like to say something about the manner in which this case has moved
10 forward, very briefly.

11 Mr President, I would like to ask for the same indulgence that you gave to our
12 colleague, Paolina.

13 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [15:29:43] (Interpretation) Yes,
14 of course.

15 MS MABILLE: [15:29:47] (Interpretation) Thank you, Mr President.

16 Now let us talk about the way forward. When the trial opened in 2007, the Trial
17 Chamber rendered decisions granting the status of victims, so there was no
18 verification during that phase. The verification, as the Chamber said, had to be done
19 subsequently, but this never happened and we are still waiting for it. And so the
20 files of the victims have been disclosed to the Defence in a totally redacted manner.
21 I must point out that I was a little stupefied to see the report of the fund which stated
22 that they had carried out an initial screening of the victims and that they -- there were
23 31 files which had been examined, 31 files that were admitted prima facie in 2007, and
24 based on what I read, it is stated that out of the 31 victims interviewed, 29 had already
25 been represented for several years before that, 12 files were complete, and 19 files

1 were incomplete.

2 I find it hard to understand how, given that there had been Legal Representation from
3 the very beginning of the trial, and in 2006 we have this situation where the files are
4 not complete. There were time lines given that were reasonable for both the LRVs
5 and for the other parties. So how can we accept that today at this stage of the
6 proceedings the files are still not complete? Now, that is the end of that aspect.

7 Now I would like to say that Mr Lubanga wrote in his filings that he would like to
8 make a personal contribution to the reparation process. I would like to summarise
9 his proposal.

10 In doing that, I point out that I do not feel very comfortable doing this because it is
11 absolutely important that Mr Lubanga be able to make that proposal himself. He
12 himself is Congolese, and in the past he had the opportunity to make certain types of
13 contributions, and this has become part of his own culture. And if I'm using my
14 words to do it, I would like to say that I would do it more effectively.

15 Mr Lubanga proposes that there should be a ceremony, and he himself says that such
16 ceremonies are organised regularly, maybe not in the entire country of Congo, but in
17 Ituri, when serious crimes are committed, the people concerned meet together and
18 carry out a sort of ritual or ceremony during which the perpetrator sincerely
19 apologises to the family that suffered from the crime, and there is a general rule,
20 maybe there is a cow or a sheep or a goat that is brought, and sometimes there are
21 little, a few drops of blood that are drunk that seals the reconciliation.

22 Mr Lubanga says he would be prepared to take part in such a ceremony. It is highly
23 symbolic. But what the LRVs are afraid of is that the rest of community may rally
24 behind Mr Lubanga if he says - and I think that may be what he wishes to say - that
25 the young adults should be assisted in rebuilding their lives. But those are my

1 words. I think it could be something simple, but it is something that would be there
2 present. The community would not understand that people who are in the area of
3 Mr Lubanga would not be victims of crimes that he has perpetrated.

4 Those are the observations that the Defence for Lubanga would like to make at this
5 stage, and I thank you for your indulgence.

6 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [15:35:14] (Interpretation)

7 Thank you for your observations.

8 Unless my colleagues have questions, this brings an end to our hearing of today.

9 I would like to thank the participants, the interpreters, the court reporters, and we
10 will meet again after tomorrow, that is Thursday, 13 October, at 9.30 a.m., and we will
11 listen to the presentation of the Trust Fund for victims.

12 (The hearing ends in open session at 3.35 p.m.)