

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 22 July 2021

**TRIAL CHAMBER II**

**Before:** Judge Chang-ho Chung, Presiding Judge  
Judge Péter Kovács  
Judge Maria del Socorro Flores Liera

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO**

**IN THE CASE OF  
*THE PROSECUTOR v. BOSCO NTAGANDA***

**Public**

**Joint Response of the Common Legal Representatives of Victims to the “Trust Fund for Victims’ Request to Vary the Time Limit to Submit Draft Implementation Plan”**

**Source:** Office of Public Counsel for Victims (CLR1 and CLR2)

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

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Mr Karim Asad Ahmad Khan  
Ms Nicole Samson

**Counsel for the Defence**  
Mr Stéphane Bourgon  
Ms Kate Gibson

**Legal Representatives of the Victims**  
Mr Dmytro Suprun  
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**Legal Representatives of the Applicants**

Ms Sarah Pellet  
Ms Caroline Walter

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

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

**States' Representatives**

**Amicus Curiae**

## **REGISTRY**

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**Registrar**  
Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**  
Mr Nigel Verrill

**Detention Section**

**Victims Participation and Reparations  
Section**  
Mr Philipp Ambach

**Trust Fund for Victims**  
Mr Pieter de Baan

**Other**

## I. PROCEDURAL BACKGROUND

1. On 8 July 2019, Trial Chamber VI found Mr Bosco Ntaganda guilty of 18 counts of war crimes and crimes against humanity,<sup>1</sup> and sentenced him to 30 years of imprisonment on 7 November 2019.<sup>2</sup>
2. On 8 March 2021, Trial Chamber VI issued an Order for Reparations against Mr Ntaganda (the “Reparations Order”)<sup>3</sup> in which it *inter alia* set deadlines for the Trust Fund for Victims (the “TFV”) to submit an urgent plan for priority victims, and a general draft implementation plan (the “DIP”) by 8 June 2021 and 8 September 2021, respectively.
3. On 16 March 2021, the Presidency assigned the present case to the newly constituted Trial Chamber II (the “Trial Chamber”).<sup>4</sup> Judge Chang-ho Chung was subsequently elected Presiding Judge of the Trial Chamber.<sup>5</sup>
4. On 8 April 2021, both the Common Legal Representative for the Victims of the Attacks<sup>6</sup> and the Defence<sup>7</sup> provided their respective notices of appeal against the Reparations Order, and on 7 June 2021, they filed their respective appeal briefs.<sup>8</sup>

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<sup>1</sup> See the “Judgment” (Trial Chamber VI), [No. ICC-01/04-02/06-2359](#), 8 July 2019.

<sup>2</sup> See the “Sentencing Judgment” (Trial Chamber VI), [No. ICC-01/04-02/06-2442](#), 7 November 2019.

<sup>3</sup> See the “Reparations Order” (Trial Chamber VI), [No. ICC-01/04-02/06-2659](#), 8 March 2021 (the “Reparations Order”).

<sup>4</sup> See the “Decision assigning judges to divisions and recomposing chambers” (Presidency), [No. ICC-01/04-02/06-2663](#), 16 March 2021, p. 7.

<sup>5</sup> See the “Decision on the Election of the Presiding Judge” (Trial Chamber II), [No. ICC-01/04-02/06-2664](#), 22 March 2021, para. 2.

<sup>6</sup> See the “Notice of Appeal of the Common Legal Representative of Victims against the Reparations Order”, [No. ICC-01/04-02/06-2668](#), 8 April 2021.

<sup>7</sup> See the “Defence Notice of Appeal against the Reparations Order ICC-01/04-02/06-2659”, [No. ICC-01/04-02/06-2669](#), 8 April 2021.

<sup>8</sup> See the “Appeal Brief of the Common Legal Representative of the Victims of the Attacks”, [No. ICC-01/04-02/06-2674](#), 7 June 2021; and the “Defence Appellant Brief against the 8 March Reparations Order”, [No. ICC-01/04-02/06-2675](#), 7 June 2021.

5. On 9 June 2021, the TFV submitted its “Report on the Trust Fund’s Preparation for Draft Implementation Plan”<sup>9</sup> and “Initial Draft Implementation Plan with Focus on Priority Victims” (the “IDIP”).<sup>10</sup>

6. On 23 June 2021, pursuant to an order by the Trial Chamber,<sup>11</sup> the Common Legal Representative of Victims of the Attacks,<sup>12</sup> the Common Legal Representative of the Former Child Soldiers,<sup>13</sup> the Defence<sup>14</sup> and the Registry<sup>15</sup> filed their respective observations on the IDIP.

7. On 28 June 2021, pursuant to the authorisation granted by the Trial Chamber,<sup>16</sup> the TFV submitted supplementary observations.<sup>17</sup>

8. On 16 July 2021, the TFV filed the “Trust Fund for Victims’ Request to Vary the Time Limit to Submit Draft Implementation Plan” (the “TFV’s Request” or the “Request”).<sup>18</sup>

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<sup>9</sup> See the “Report of the Trust Fund’s Preparation for Draft Implementation Plan”, [No. ICC-01/04-02/06-2676-Conf](#), 9 June 2021. A public redacted version was issued on 14 June 2021, [No. ICC-01/04-02/06-2676-Red](#).

<sup>10</sup> See the “Initial Draft Implementation Plan with Focus on Priority Victims (‘Initial Draft Implementation Plan’ or ‘IIP’)”, No. ICC-01/04-02/06-2676-Conf-AnxA, 9 June 2021. All references to the Initial Draft Implementation Plan in these submissions will be made to its corrected version, namely the “Corrigendum of Initial Draft Implementation Plan with Focus on Priority Victims (‘Initial Draft Implementation Plan’ or ‘IIP’)”, [No. ICC-01/04-02/06-2676-Conf-AnxA-Corr](#), 14 June 2021. A public redacted version was issued on the same day, [No. ICC-01/04-02/06-2676-AnxA-Corr-Red](#).

<sup>11</sup> See the “Order for the submission of observations on the initial draft implementation plan with focus on priority victims” (Trial Chamber II), [No. ICC-01/04-02/06-2677](#), 10 June 2021.

<sup>12</sup> See the “Observations of the Common Legal Representative of the Victims of the Attacks on the Trust Fund for Victims’ Draft Initial Implementation Plan”, [No. ICC-01/04-02/06-2680-Conf](#), 23 June 2021. A public redacted version was issued on 28 June 2021 as [No. ICC-01/04-02/06-2680-Red](#).

<sup>13</sup> See the “Response of the Common Legal Representative of the Former Child Soldiers to the TFV Initial Draft Implementation Plan with focus on Priority Victims”, [No. ICC-01/04-02/06-2681](#), 23 June 2021.

<sup>14</sup> See the “Defence Observations on the TFV initial draft implementation plan”, [No. ICC-01/04-02/06-2682-Conf](#), 23 June 2021.

<sup>15</sup> See the “Registry Observations on the Trust Fund for Victims’ Initial Draft Implementation Plan”, [No. ICC-01/04-02/06-2683](#), 23 June 2021.

<sup>16</sup> See the email of the Trial Chamber dated 24 June 2021 at 17:43 granting the TFV’s request to submit a reply.

<sup>17</sup> See the “Observations on the responses and observations submitted on the Initial Draft Implementation Plan”, [No. ICC-01/04-02/06-2687-Conf](#), 28 June 2021. A public redacted version was issued on the same day, [No. ICC-01/04-02/06-2687-Red](#).

<sup>18</sup> See the “Trust Fund for Victims’ Request to Vary the Time Limit to Submit Draft Implementation Plan”, [No. ICC-01/04-02/06-2693](#), 16 July 2021 (the “TFV’s Request”).

9. On 19 July 2021, the Trial Chamber ordered the parties and the Registry to submit any observations in response to the Request by 22 July 2021 at the latest.<sup>19</sup>

## II. SUBMISSIONS

10. The Common Legal Representative of the Former Child Soldiers and the Common Legal Representative of Victims of the Attacks (jointly the “Legal Representatives”) support the TFV’s Request on the basis that good cause for an extension of time limit has been shown, as required pursuant to regulation 35 of the Regulations of the Court (the “Regulations”).

11. Pursuant to regulation 35(2) of the Regulations, the Chamber may extend or reduce a time limit if good cause is shown, and, where appropriate, after having given the participants an opportunity to be heard.<sup>20</sup> Under the current practice of the Court, factors such as difficulties in organising field missions when they are necessary;<sup>21</sup> security concerns, weather conditions, and obstacles in the access to all groups of victims in a country;<sup>22</sup> and COVID-19 related restrictions or circumstances,<sup>23</sup> have all been considered good causes for the extension of a time limit.

12. In its Request, the TFV submits that recent developments related to the COVID-19 pandemic in the Democratic Republic of Congo and Uganda have negatively impacted the field activities it was undertaking for the preparation of the DIP.<sup>24</sup> In

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<sup>19</sup> See the email of the Trial Chamber dated 19 July 2021 at 10:24.

<sup>20</sup> See Regulation 35(2) of the [Regulations of the Court](#).

<sup>21</sup> See the “Decision on the request of the Trust Fund for Victims for an extension of the time limit for the submission of the first batch of files of potential victims” (Trial Chamber II), [No. ICC-01/04-01/06-3205-tENG](#), 29 March 2016, paras. 2, 4.

<sup>22</sup> See the “Decision on the ‘Registry’s Request for Extension of Notice Period and Submissions on the Article 15(3) Process’” (Pre-Trial Chamber III), [No. ICC-01/19-6](#), 28 June 2019, para. 14.

<sup>23</sup> See the “Decision on Request for an Extension of Time for Filing Expert’s Report” (Trial Chamber VI), [No. ICC-01/04-02/06-2553](#), 20 July 2020, paras. 6-7. See also the “Decision on the submissions by the Legal Representative of Victims V01 in its Response to the Twelfth Report of the Trust Fund for Victims on the implementation of collective reparations, filing ICC-01/04-01/06-3500-Conf-Exp” (Trial Chamber II), [No. ICC-01/04-01/06-3508](#), 26 March 2021, paras. 14, 16; and the “Decision on request for extension of deadlines for the final transmission of victim applications for participation at trial” (Trial Chamber X), [No. ICC-01/12-01/18-880](#), 12 June 2020, para. 10.

<sup>24</sup> See the TFV’s Request, *supra* note 18, paras. 6-10.

particular, it submits that the COVID-19 restrictions imposed in both countries have prevented it *“from conducting any meaningful field mission thereby rendering impossible, for the time being, the collection of data and the conduct of consultations necessary for the preparation and submission of a comprehensive DIP”*.<sup>25</sup>

13. The Legal Representatives submit that the TFV has shown good cause and that its Request should therefore be granted. They indeed note that other Chambers of this Court have considered that COVID-19 related restrictions are constituting good cause to extend a time limit.<sup>26</sup> Moreover, they have equally been experiencing similar difficulties in carrying out their field activities, such as direct consultations with their respective clients. Needless to say, these field activities are essential and crucial for both the TFV and the Legal Representatives in order to further advance in the reparations process.

14. The Legal Representatives wish to stress, however, that the extension sought should not have a negative impact on the necessary preparatory steps to be taken by the TFV in relation the IDIP for the benefit of priority victims. Indeed, while good cause is shown, victims remain entitled to prompt reparations, *“which requires the reparation process to be as expeditious as possible, especially when a considerable number of years have elapsed since the commission of the crimes”*.<sup>27</sup> Accordingly, the TFV should be directed to find all possible alternatives to finalise both its IDIP and its DIP as efficiently and expeditiously as possible.

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<sup>25</sup> *Idem*, para. 10.

<sup>26</sup> See the “Decision on Request for an Extension of Time for Filing Expert’s Report” (Trial Chamber VI), [No. ICC-01/04-02/06-2553](#), 20 July 2020, para. 7; the “Decision on the submissions by the Legal Representative of Victims V01 in its Response to the Twelfth Report of the Trust Fund for Victims on the implementation of collective reparations, filing ICC-01/04-01/06-3500-Conf-Exp, 26 March 2021” (Trial Chamber II), [No. ICC-01/04-01/06-3508](#), 26 March 2021, paras 14 and 16; the “Decision on request for extension of deadlines for the final transmission of victim applications for participation at trial, 12 June 2020” (Trial Chamber X), [No. ICC-01/12-01/18-880](#), 12 June 2020, para. 10; and the “Decision on requests for extension of time” (Trial Chamber IX), [No. ICC-02/04-01/15-1865](#), 19 July 2021, paras. 9 and 10.

<sup>27</sup> See the “Decision on requests for extension of time” (Trial Chamber IX), *idem*. See also the Reparations Order, *supra* note 3, para. 89.

**FOR THE FOREGOING REASONS**, the Legal Representatives respectfully request the Trial Chamber to grant the TFV's Request, and to direct the TFV to find all possible alternatives to finalise both its IDIP and its DIP as efficiently and expeditiously as possible.



Sarah Pellet  
Common Legal Representative of the  
Former Child soldiers



Dmytro Suprun  
Common Legal Representative of the  
Victims of the Attacks

Dated this 22<sup>nd</sup> day of July 2021  
At The Hague, The Netherlands