

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

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

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No.: **ICC-01/04-02/06**  
Date: **5 December 2019**

**TRIAL CHAMBER VI**

**Before: Judge Chang-ho Chung, Single Judge**

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO  
IN THE CASE OF  
*THE PROSECUTOR v. BOSCO NTAGANDA***

**Public**

**Order setting deadlines in relation to reparations**

To be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

**The Office of the Prosecutor**

Ms Fatou Bensouda  
Mr James Stewart  
Ms Nicole Samson

**Counsel for Bosco Ntaganda**

Mr Stéphane Bourgon  
Mr Christopher Gosnell

**Legal Representatives of Victims**

Ms Sarah Pellet  
Mr Dmytro Suprun

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**The Office of Public Counsel for Victims**

Ms Paolina Massidda

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

**States' Representatives**

Competent authorities of the Democratic  
Republic of the Congo

*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

**Judge Chang-ho Chung**, acting as Single Judge on behalf of Trial Chamber VI (‘Single Judge’ and ‘Chamber’, respectively) of the International Criminal Court, in the case of *The Prosecutor v. Bosco Ntaganda* (‘Ntaganda case’), having regard to Article 75 of the Rome Statute (‘Statute’), Rules 94, 97, and 103 of the Rules of Procedure and Evidence (‘Rules’), and Regulations 24*bis*, 34, and 44 of the Regulations of the Court (‘Regulations’) issues this ‘Order setting deadlines in relation to reparations’.

1. On 8 July 2019, the Chamber issued its Judgment, convicting Mr Ntaganda of five counts of crimes against humanity and thirteen counts of war crimes.<sup>1</sup>
2. On 25 July 2019, the Chamber designated Judge Chang-ho Chung as Single Judge for the purpose of the reparations phase of the proceedings.<sup>2</sup>
3. On 5 September 2019, pursuant to a preliminary order of the Single Judge,<sup>3</sup> the Registry provided the Chamber with, *inter alia*, information on, and its proposed methodology for, the identification of victims for the purpose of reparations and an update on the security situation in the Democratic Republic of the Congo (‘DRC’).<sup>4</sup>
4. On 9 September 2019, in line with the deadline set by the Appeals Chamber,<sup>5</sup> the Defence filed a notice of appeal against the whole Judgment, raising 15 grounds of appeal.<sup>6</sup> That same day, the Prosecution filed a notice of appeal against two discrete findings of the Judgment, contained in two grounds of appeal.<sup>7</sup>
5. On 3 October 2019, in line with the new deadline set by the Single Judge,<sup>8</sup> the LRVs, the Defence, the Office of the Prosecutor (‘Prosecution’), and the TFV responded to the Registry’s submissions.<sup>9</sup>

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<sup>1</sup> Judgment, ICC-01/04-02/06-2359 (with public Annexes A, B, and C).

<sup>2</sup> Decision notifying the designation of a Single Judge, ICC-01/04-02/06-2365.

<sup>3</sup> Order for preliminary information on reparations, 25 July 2019, ICC-01/04-02/06-2366.

<sup>4</sup> Registry’s observations, pursuant to the Single Judge’s “Order for preliminary information on reparations” of 25 July 2019, ICC-01/04-02/06-2366, ICC-01/04-02/06-2391 (with public Annex I and confidential Annex II, notified on 6 September 2019).

<sup>5</sup> Decision on Mr Bosco Ntaganda’s and the Prosecutor’s requests for time extension for the notice of appeal and the appeal brief, 19 July 2019, ICC-01/04-02/06-2364.

<sup>6</sup> Mr. Ntaganda’s Notice of Appeal against the Judgment pursuant to Article 74 of the Statute, ICC-01/04-02/06-2359, ICC-01/04-02/06-2396.

<sup>7</sup> Prosecution notice of appeal, ICC-01/04-02/06-2395.

<sup>8</sup> Email from the Single Judge to the LRVs, the Defence, the Prosecution, the TFV, and the Registry on 18 September 2019, at 18:50.

6. On 7 November 2019, the Chamber issued its Sentencing judgment.<sup>10</sup>
7. On 20 November 2019, the Presidency re-composed the Chamber to be comprised of Judge Robert Fremr, Judge Olga Herrera Carbuccion, and Judge Chang-ho Chung.<sup>11</sup>
8. On 22 November 2019, the Chamber, in its new composition, elected Judge Chang-ho Chung as the Presiding Judge in accordance with Regulation 13(2) of the Regulations and designated him as Single Judge for the purpose of the reparations phase of the proceedings.<sup>12</sup>
9. In order to facilitate the fair and expeditious conduct of the reparations proceedings in the *Ntaganda* case, and without prejudice to providing further directions or convening hearings, if necessary, the Single Judge issues the following directions:
  - a. The Registry, in consultation with the LRVs and/or the TFV, as appropriate, is instructed to: (i) continue to carry out its preliminary mapping of potential new beneficiaries of reparations; (ii) carry out an assessment of how many of the victims participating in the *Ntaganda* case may potentially be eligible for reparations given the scope of the Judgment; and (iii) carry out an assessment of how many of the victims eligible for reparations as direct victim beneficiaries in the case of *The Prosecutor v. Thomas Lubanga Dyilo* (*'Lubanga case'*) are also potentially eligible for reparations in the *Ntaganda* case.
  - b. Noting Rule 97(2) of the Rules and Regulation 44 of the Regulations, the Registry, in consultation with the parties,<sup>13</sup> is directed to identify three or more experts with expertise in, *inter alia*: (i) the scope of liability of the convicted person; (ii) the scope, extent, and evolution of the harm suffered

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<sup>9</sup> Joint Response of the Legal Representatives of Victims to the Registry's Observations on Reparations, ICC-01/04-02/06-2430; Response on behalf of Mr. Ntaganda to Registry's preliminary observations on reparations, ICC-01/04-02/06-2431; Prosecution's response to the Registry's observations, pursuant to the Single Judge's "Order for preliminary information on reparations" (ICC-01/04-02/06-2391-Anx1), ICC-01/04-02/06-2429; and Trust Fund for Victims' response to the Registry's Preliminary Observations pursuant to the Order for Preliminary Information on Reparations, ICC-01/04-02/06-2428.

<sup>10</sup> Sentencing judgment, ICC-01/04-02/06-2442 (with one public annex).

<sup>11</sup> Decision re-composing Trial Chamber VI, ICC-01/04-02/06-2444.

<sup>12</sup> Decision notifying the election of the Presiding Judge and the designation of a Single Judge, ICC-01/04-02/06-2445.

<sup>13</sup> For the purpose of the reparations proceedings, the parties are understood to be the Defence and the LRVs.

by both direct and indirect victims, including the long-term consequences of the crimes on the affected communities and including the potential cost of repair; (iii) appropriate modalities of reparations; (iv) sexual violence, in particular sexual slavery, and the consequences thereof on direct and indirect victims; and (v) any other matter deemed relevant after the aforesaid consultation. The proposed expertise should focus on the specific circumstances of the *Ntaganda* case. The Registry is instructed to submit such a proposed list of experts by **14 February 2020**. Following the receipt thereof, and of any responses referred to under point (c)(iv) below, the Chamber will decide which experts, if any, it will appoint to assist its determinations during the reparations phase. Should any such experts be appointed, the Chamber intends for their expert reports to be filed by **28 August 2020**. By this same deadline, the parties are to have disclosed any additional information they wish for the Chamber to consider in its reparations order. This additional information must be clearly identified in formal filings due on the deadline indicated.

- c. The parties, the Registry, and the TFV are instructed to make submissions of up to 50 pages, by **28 February 2020**, on the following issues:
  - i. whether the principles on reparations established by the Appeals Chamber in the *Lubanga* case need to be amended or supplemented in light of the circumstances of the *Ntaganda* case;
  - ii. the criteria and the methodology to be applied in the determination and the assessment of: (i) the eligibility of victims; (ii) the relevant types and scope of harm; and (iii) the scope of liability of Mr Ntaganda, including the determination of the precise extent of the (monetary) obligations to be imposed on him;
  - iii. the types and modalities of reparations appropriate to address the types of harm relevant in the circumstances of the *Ntaganda* case, including factors relating to the appropriateness of awarding reparations on an individual basis, a collective basis, or both;

- iv. for the parties and the TFV, any responses to the Registry's identification of potential experts; and
  - v. any other issue the parties, the Registry, and the TFV wish to bring to the attention of the Chamber.
- d. The Prosecution and the DRC authorities are invited to make submissions of up to 20 pages, also by **28 February 2020**, on the issues listed under point (c) above.
- e. Any organisation interested in making submissions on the issues set out under point (c) above, pursuant to Article 75(3) of the Statute and Rule 103 of the Rules, may request leave from the Chamber by **10 January 2020**. If granted leave, their submissions of up to 20 pages are to be filed by **28 February 2020**.
- f. The parties shall have a further 50 pages each to make submissions on the reports/information presented, the submissions of other participants, and any other last arguments they wish for the Chamber to consider before the rendering of its reparations order. These final submissions shall be filed by **30 October 2020**.

**FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY**

**DIRECTS** that the reparations phase of the proceedings in the *Ntaganda* case will be carried out in accordance with the deadlines set out above.

Done in both English and French, the English version being authoritative.



**Judge Chang-ho Chung**

Dated 5 December 2019

At The Hague, The Netherlands