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Date: 6 October 2017

TRIAL CHAMBER VI

Before: Judge Robert Fremr, Presiding Judge
Judge Kuniko Ozaki
Judge Chang-ho Chung

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

Public

Eighth Periodic Report on Victims in the Case and their General Situation

**With one Confidential *EX PARTE* Annex, available only to the Chamber and both
Legal Representatives of Victims**

and

**Six Confidential *EX PARTE* Annexes, available only to the Chamber and the Legal
Representative of the Victims of the Attack**

Source: Registry

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

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I. Introduction

1. This eighth report is submitted pursuant to the direction of Trial Chamber VI (“Eighth Report” and “Chamber”) in its “Decision on victims’ participation in trial proceedings” (“First Victim Participation Decision”).¹
2. The Common Legal Representatives of Victims (“CLR”) have provided the Victims Participation and Reparations Section (“VPRS”) with detailed information relating to the activities with participating victims during the reporting period (7 June 2017 to 6 October 2017) as well as information on the general situation of these victims.
3. During the reporting period, the VPRS has been notified by the Common Legal Representative of the victims of the attacks allegedly committed by the *Union de patriotes congolais* and the *Forces patriotiques pour la libération de Congo* (“CLR2” and “victims of the attacks”) of the death of eleven victims represented by him and of the requests for resumption of action submitted for each of them.² Pending a decision on the status of the resumption of action requests and following the Chamber’s decision of 20 June 2017 terminating the status of victim a/00682/13 as a participating victim,³ the number of participating victims at the close of the reporting period has been reduced by 12 and is now at 2,131.⁴
4. The present report will cover the following topics:
 - A. Update on the general situation of the former child soldiers and the activities of their Legal Representative in the field (“CLR1”);
 - B. Update on the general situation of the victims of the attacks and the activities of CLR2;

¹ Trial Chamber VI, “Decision on victims’ participation in trial proceedings”, 6 February 2015, ICC-01/04-02/06-449, para. 24 (ix).

² Emails from CLR2 to VPRS on 12 June 2016 at 16:02 and 16:03.

³ Trial Chamber VI, “Decision on withdrawal of a victim’s application for participation”, 20 June 2017, ICC-01/04-02/06-1970, para. 4 and page 5.

⁴ CLR1 represents 283 former child soldiers and CLR represents 1,848 victims of the attack.

- C. VPRS' assessment of the resumption of action forms received;⁵
- D. Update pertaining to the safety and security of victims and intermediaries.⁶

II. Procedural History

5. On 6 February 2015, the Chamber issued its First Victim Participation Decision, directing the VPRS to file every four months, in cooperation with the CLR, a detailed report about the victims admitted to participate in the proceedings and the general situation of participating victims in the case of *The Prosecutor v. Bosco Ntaganda* (“Ntaganda case”).⁷
6. On 1 September 2015, the Chamber issued its “Fourth decision on victims’ participation in trial proceedings” (“Fourth Decision”), adopting a new procedure for the resumption of action by family members or closely connected individuals of deceased victims and ordering, *inter alia*, the Registry to transmit to it any applications to resume the action of a deceased victim through its periodic reports as appropriate.⁸

III. Classification

7. In accordance with regulation 23bis(1) of the Regulations of the Court (“RoC”), the first annex to this filing is submitted as confidential *ex parte*, only available to the Chamber and both Legal Representatives of victims, and the remaining six

⁵ The Registry notes that among the 11 resumptions of action forms it has received from CLR2 on 12 June 2016, five were assessed as complete and six were assessed as needing supplementary information. The Registry has provided a table containing the Registry’s *prima facie* legal analysis of the complete forms for resumption of action in the appended confidential *ex parte* annex II and the five related resumptions of action forms as annexes III to VI.

⁶ The Registry has provided this information in the appended confidential *ex parte* annex I.

⁷ Trial Chamber VI, Decision on victims’ participation in trial proceedings, 6 February 2015, ICC-01/04-02/06-449, para. 24 (ix).

⁸ Trial Chamber VI, Fourth decision on victims’ participation in trial proceedings, 1 September 2015, ICC-01/04-02/06-805, para. 13.

annexes are submitted as confidential *ex parte*, only available to the Chamber and the Legal Representative of the victims of the attack, because they contain sensitive information that relates to the safety and physical well-being of victims and intermediaries.

IV. Applicable Law

8. This submission is made on the basis of articles 68(1) and (3) of the Rome Statute, rule 16 of the Rules of Procedure and Evidence, regulation 86 of the RoC and regulations 97, 99 and 109 of the Regulations of the Registry.

V. Submissions

A. Update on the general situation of the former child soldiers and the activities of their legal representative in the field

9. As per paragraph 24(ix) of the First Participation Decision, CLR1 has provided the VPRS with information relating to her team's activities in interaction with relevant victims.⁹ CLR1 indicated that no resumption of action form was collected during the reporting period and she was not made aware of any victim having passed away during the relevant period.

CLR1
Information relating to activities amongst the former child soldier victims
During the reporting period, CLR1 reported that neither she, nor her field counsel, were able to travel to the Democratic Republic of the Congo ("DRC") in

⁹ Email from CLR1 to VPRS on 25 September 2017 at 09:21.

order to meet with their clients due to the busy court schedule and the testimony of the accused. Nevertheless, CLR1 indicated that the victims were kept informed, on a regular basis, of the said testimony. CLR1 informed that counsel gathered their clients' views and concerns by phone or through contact persons. Furthermore, CLR 1 reported that, as a result of the unfolding of the accused's testimony, the field counsel responded to numerous phone calls by victims who reacted very strongly to the said testimony and requested to be kept informed of the tentative dates for upcoming missions.

CLR1 reported that future missions will be carried out in order to explain the content of the accused's testimony, to further gather the views and concerns of former child soldiers and to explain in detail the following stages of the proceedings.

General situation of the participating child soldier victims

CLR1 reported that the general situation of the participating former child soldier victims remains unchanged.

B. Update on the general situation of the victims of the attacks and the activities of their legal representative in the field

10. In accordance with the First Participation Decision, CLR2 provided the VPRS with information relating to his team's activities in interaction with victims.¹⁰ Detailed information relating to his activities and to the general situation of victims is presented in the table below.

¹⁰ Email from CLR2 to VPRS on 28 September 2017 at 15:29.

CLR2
Information relating to activities amongst the victims of the attacks
<p>CLR2 reported that during the reporting period his team undertook no mission to the field, but daily contact with the victims continued to be maintained via telephone available to the victims 24 hours a day and 7 days a week. CLR2 indicated that either directly or through the teams' focal points, the victims were kept informed about the developments in the proceedings. CLR2 reported that many victims expressed their satisfaction about the significant progress in the proceedings.</p> <p>CLR2 reported that since a number of victims have passed away he proceeded with collecting resumption of action forms, which were submitted to the Registry.</p>
General situation of the participating victims of the attacks
<p>CLR2 reported that the general situation of the victims of the attacks remains unchanged and most victims continue to complain about their precarious living conditions and the fact that no assistance is provided to them.</p> <p>In respect of the security situation in the Ituri region, CLR2 noted that many victims reported that the security situation remains volatile and continues to be one of their main concerns. CLR2 indicated that, according to a report of the United Nations Office for the Coordination of the Humanitarian Affairs (OCHA) dated August 2017, recurrent attacks by various South Sudanese rebel groups, especially in the Irumu territory, pushed many civilians to leave their villages. As a result of a significant increase in the number of internally displaced persons, the situation in certain areas of the region has been classified under the humanitarian emergency category, in particular in Gety. CLR 2 added that victims also complained about confiscation of civilian property at road check points in Ituri by elements of the <i>Forces Armées de la République Démocratique du</i></p>

Congo (FARDC) and the *Police Nationale Congolaise* (PNC). Furthermore, CLR2 reported that in the Aru territory, civilians continued suffering from attacks by *Force de résistance patriotique d'Ituri* (FRPI), *Mai Mai* and *Lord's Resistance Army* (LRA) rebel groups. CLR2 also reported that the general insecure situation in the region was aggravated by an increased number of land conflicts.

CLR2 indicated that, more generally, many victims complained about the failure of the Congolese authorities to handle both the security and humanitarian situation in Ituri, which is also one of the major concerns of the United Nations. In this regard, CLR2 indicated that, in its recent report *RD Congo: au coeur d'une crise humanitaire suffocante pour des millions de civils*, published in July 2017, OCHA stated that despite the proliferation of different rebel groups, Ituri continues to be a 'forgotten province' by the Congolese government. CLR2 added that many NGOs that used to operate in Ituri have recently abandoned the region, mostly due to increased insecurity.

C. The VPRS' Assessment on the Resumption of Action Forms Received


11. On 12 June 2017, the CLR2 formally notified the VPRS of the death of 11 participating victims of the attacks and submitted resumption of action forms on behalf of each of the deceased victims.¹¹
12. The VPRS has assessed all 11 forms, including the supplementary information attached and identified a series of inconsistencies/discrepancies in relation to six forms,¹² which were brought to the attention of CLR2. The latter informed VPRS that he will address the issues raised during his next mission and asked VPRS to

¹¹ a/00206/13; a/00458/13; a/00472/13; a/01202/13; a/01223/13; a/01225/13; a/01278/13; a/01540/13; a/01561/13; a/01580/13 and a/00203/13.

¹² a/00206/13; a/00472/13; a/01202/13; a/01223/13; a/01540/13; and a/01580/13.

only transmit to the Chamber the five complete resumption of action forms alongside the Eighth Report.¹³

13. The VPRS considers that the five complete forms have met the requirements set out in paragraph 8 of the Chamber's Fourth Decision, as detailed in the appended confidential *ex parte* annex II.¹⁴ As per the Chamber's Fourth Decision, the VPRS hereby transmits all relevant information pertaining to the complete resumption of action requests by way of the present periodic report (annexes III-VII).



Marc Dubuisson, Director, Division of Judicial Services
per delegation of Herman von Hebel, Registrar

Dated this 6 October 2017

At The Hague, The Netherlands

¹³ a/00458/13; a/01225/13 ; a/01278/13 ; a/01561/13; and a/00203/13.

¹⁴ The Chamber's Fourth Decision, paragraph 8. In order to be authorised to resume the action on behalf of a deceased victim, "the Chamber considers that an applicant must provide evidence: i) of the death of the victim; ii) of his or her relationship to the victim; and iii) where the applicant cannot easily be presumed to be entitled to continue the action or represent the family, he or she must demonstrate his or her appointment by the deceased victim's family members."