



Fonds au Profit des Victimes
The Trust Fund for Victims



Report of the Board of Directors of the Trust Fund for Victims

Fifteenth Session of the Assembly of States Parties

The Hague, 16 November 2016

Good morning, Mr President, Your Excellencies, Distinguished Ladies and Gentlemen,

It is my great honor and pleasure to address you on behalf of the Board of Directors of the Trust Fund for Victims. This is my first report as Chair of a new Board, elected at the previous Assembly. I am honored by the trust and confidence of the four newly-elected Board members who voted for me to continue as the Chair, namely, Baroness Arminka Helic of the United Kingdom, Ms Mama Koite Doumbia of Mali, Ms Alma Taso-Deljkovic of Bosnia and Herzegovina and Mr Felipe Raul Michelini of Uruguay. Succeeding the legacy of the previous Board, this new

Board has renewed its sense of responsibility to realize the Rome Statute's value of reparative justice.

The TFV has been extremely busy throughout this year. As regards the assistance mandate, the Board allocated about €2 million for the programmes in northern Uganda and about €2.4 million for those in eastern part of the Democratic Republic of the Congo.

In Uganda, 6 new partner organizations started to deliver integrated physical and psychological rehabilitation services to victims last year. These include medical services for victims of sexual and gender-based violence, trauma counselling and psychological support, orthopaedic and reconstructive plastic surgery, fitting and repair of prosthetic devices, community mobilization, and referrals for post-operative care and follow-up. They also support the reconciliation and healing at the community level through sensitization and awareness raising campaigns to reduce the stigma and discrimination that victims often have to endure.

In the DRC, five projects are ongoing and new generation projects are under development for launch in early next year. In addition to promoting healing at an individual level, psychological rehabilitation is also targeted at affected communities to reduce stigmatization of victims and promote a greater sense of trust, shared responsibility, and peaceful coexistence among community members. The aim of the TFV's material support activities is to improve the economic status of victims through education (including literacy training), economic development activities, rebuilding of community infrastructure, and creation of employment opportunities. Particularly vulnerable groups, such as former child soldiers and victims of sexual and gender based violence receive special care and support.

The TFV intends to expand the assistance mandate to some more situation countries such as Cote d'Ivoire, Kenya, the Central African Republic and Mali, but as I predicted here last year, it could not make visible progress due to resource constraints. However, the Board recently approved the Secretariat's proposal to take concrete action to move forward subject to the availability of staff. We are preparing for

assessment missions first to Cote d'Ivoire and then to Kenya in close consultation with respective Governments.

As for the Central African Republic, the TFV was about to start the implementation of an assistance programme in 2013, but it had to be suspended due to the security reasons. There is a need to revisit its original assessment and review programming opportunities. Both the CAR and Mali situations also envisage reparations proceedings following convictions by the Court in the *Bemba* and *al-Mahdi* cases.

The TFV's reparations mandate has seriously gained volume and substance this year. In the *Lubanga* case, the Trial Chamber II approved last month the symbolic reparations package as the first installment of the comprehensive package of collective reparations ordered by the Appeals Chamber in March 2015. This will be a modest beginning, but it is the first reparations programme to be implemented in the history of the ICC.

The symbolic reparations program consists of two components, namely the development and construction of symbolic structures in the form of commemoration centres that will host interactive symbolic activities in three communities; and the development of mobile memorialization initiatives in five additional communities that will promote awareness raising of the crimes and resulting harms, reintegration, reconciliation, and memorialization. The TFV is coordinating with the Registry and others to start the actual implementation as soon as tender procedures are completed. This symbolic reparations package is expected to be a substantial benefit by itself but at the same time to provide victims and their communities with an environment to be more ready and receptive to the subsequent parts of the collective reparations programmes.

As for the remaining part of the collective reparations order in the Lubanga case, the relevant part of the Draft Implementation Plan which the TFV submitted in November 2015 is yet to be approved by the Trial Chamber due to some remaining challenges. In particular, victims and potential beneficiaries in this case are former child soldiers in and around Ituri as of 2002-2003. Except for only a small percentage of

victims who participated in the criminal proceedings, most others are unknown to us in terms of both their identity and whereabouts. In accordance with the Appeals Chamber's amended reparations order and the relevant rules and regulations, the TFV has repeatedly submitted to the Trial Chamber that the identification of individual beneficiaries prior to the implementation of the awards is legally unnecessary and practically impossible for collective reparations, and requested the Chamber to reconsider its order of instructing the TFV to compile a list of individual victims as a precondition to the Chamber's approval of the Draft Implementation Plan.

The TFV is also concerned that a rigid judicial scrutiny of individual eligibility status of potential beneficiaries, involving the defense, places a huge physical and mental burden on potential beneficiaries and is detrimental to their rights and well-being. In fact, consultations with victim participants in the case conducted by the TFV earlier this year took average 4 hours per person to obtain detailed information on individual sufferings, and most of them opted not to disclose their information to the defense. They are in a fear that, if their individual

details are disclosed to the defense, it causes potential threats to the safety and security of them and their family members. More than four years have passed since the sentencing of Mr. Lubanga, and prolonged reparations proceedings are simply unacceptable to them. They are tired and disappointed as nothing ever happens except different Court organs come to them to pose similar questions every few years.

Moreover, if the preparatory cost for reparations programmes on the side of the TFV and the Court organs becomes disproportionately high compared to the actual resources that can be used for the awards, such programmes are deemed unfeasible for the TFV Board from a financial point of view. The Board fears that a substantive portion of the €1 million, which it suggested in the Draft Implementation Plan as the amount of complement for this case, will be consumed for preparatory administrative purposes without leaving sufficient money for the real benefit of victims.

Keeping fully in mind the obvious negative impacts of any further delay at this stage, the TFV will continue to make a constructive contribution to

the reparations proceedings in this case to bring real redress to victims as soon as possible. It is also important for the future viability of the Rome Statute's system of reparations to victims to establish a model of a sound sharing of roles and responsibilities between the Court and the TFV as provided by the Appeals Judgment and relevant statutory documents. There, the Court assumes a lead role in the judicial proceedings up to the issue of the reparations order and the TFV bears the primary responsibility for the implementation of reparations programmes under the Chamber's oversight, including victim identification as far as not already determined in the reparations order.

Reparations proceedings in the Katanga, Bemba and al-Mahdi cases are at the stage before issuing reparations order. The TFV has contributed through its filings to provide the Chambers with fact-based information and experience-based observations.

Mr President, Your Excellencies, Distinguished Ladies and Gentlemen,

The TFV must remain responsive to victims' rights and needs under both mandates. To do so, it needs to have sufficient capacity in terms of financial and human resources. The sharp decline in revenue of the TFV since last year is a cause of great concern to the Board. Meanwhile the Board has decided to pursue the expansion of assistance mandate programmes to other situation countries, despite expected resources to be required are only partially ensured at present. Programmes to be proposed from preparatory assessments should provide potential donors with clearer pictures of programmes under consideration and work as a leverage to solicit more resources.

Since last year, the TFV is rebuilding its Secretariat structure to address increasing workload and complexity of activities more efficiently and swiftly. The restructuring aims at strengthening the Secretariat's capacity of programme management, internal control, financial management and fundraising. Despite the TFV's dependence on voluntary contributions in the context of substantive programmes cost, the core function of the permanent Secretariat must be ensured, uninfluenced by fluctuating

annual revenue from voluntary contributions, in order to function as a responsible institution established directly by the Rome Statute.

The TFV's budget proposal to realize this restructuring was only partially approved last year, and the Board sincerely hopes that this year's proposal will be approved and allow us to move forward. During the preparatory process, utmost efforts have been made to minimize the amount of increase, fully in line with the Court's concept of synergy. At the same time, activities under the reparations mandate including the preparatory work are becoming overwhelming workload for the very small Secretariat both in The Hague and in the field. At present the increasing workload has clearly exceeded the existing capacity of the Secretariat and we must postpone many important activities unless adequately staffed.

Having said that, I remain optimistic that the States Parties recognize and support the TFV as an integral element of the Rome Statute's system. The enthusiasm and ambitions that gave fruit in 1998 in Rome

must not be forgotten to bring justice to victims and regain their dignity and hope. In the end, that is all we are here for.

I would like to conclude my remarks by requesting, as usual, your continuous political, financial and moral support to allow the Trust Fund for Victims to accomplish its unprecedented mandates. The Board and the Secretariat reaffirm their full commitment to try our best.

Thank you for your attention.

Motoo Noguchi

Chair of the Board of Directors

Trust Fund for Victims

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