



THE TRUST FUND FOR VICTIMS

Now & Into 2021

A report summarizing the virtual meeting on 14 December 2020,
*a side-event of the 19th annual Assembly of State Parties, co-hosted by the
Governments of Ireland, Sweden, and the Trust Fund for Victims*



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Embassy of Ireland



Embassy of Sweden
The Hague

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The Trust Fund for Victims: Now and Into 2021

14 December, 2020—On Monday afternoon the Trust Fund for Victims (TFV) at the International Criminal Court (ICC), co-hosted by the governments of Ireland and Sweden, held a virtual side-event to the 19th annual Assembly of State Parties (ASP). The event, “The Trust Fund for Victims: Now and Going into 2021,” served to recap the TFV’s accomplishments from the past year and to give insight into what will be coming next in 2021.

Chair of TFV Board of Directors (BOD), Mama Koité Doumbia addressed the event. “In these times of coronavirus, victims continue to suffer doubly from a lack of adequate care and continued support,” she said. “However, notwithstanding the risks involved, TFV representatives remained attentive with the implementing partners to support the victims. For that, we say bravo and thank you.”

Pieter de Baan, Executive Director of the TFV, acknowledged the recent attention that has fallen upon the TFV and the implementation of its mandates: “Over the past year, the TFV has been in the spotlight from various angles, including most recently in the Independent Oversight Mechanism (IOM) evaluation, the Independent Experts Review (IER), and also in the general media.” The ASP side event, he said, was an opportunity for the TFV to present an up-to-date picture of its current work and to demonstrate its commitment to increasing communication presence and public accountability.

H.E. Ambassador Kevin Kelly provided an introductory address on behalf of the Government of Ireland. “Ireland is delighted to co-sponsor this event alongside Sweden,” he said. “We believe that this meeting provides a great opportunity to reflect on the evolution of the Trust Fund, and how it should continue to move forward next year in 2021 and in the coming years.” Ambassador Kelly mentioned that as a TFV supporter, he was encouraged by the diligent work of the independent experts and how the report was received by the TFV.

The Trust Fund for Victims in the past year

TFV Executive Director, Mr De Baan recapped the past year for the TFV, highlighting that in 2020 the TFV:

- increased its active investment portfolio in reparations awards and assistance programmes, going from 6 to 29 implementation partners (increase by almost 400 per cent), despite the COVID-19 pandemic and security related constraints;
- in doing so, completed complex international tenders to select implementing partners while working closely with the Registry to align procurement procedure with the TFV business needs;
- implemented and developed activities in Uganda, DRC, Mali, Central African Republic and Côte d’Ivoire;

- was implementing reparation awards [*Katanga*] while conducting victim identification and verification [*Lubanga, Al Mahdi*];
- issued more than 1000 eligibility decisions taken by the BOD in relation to potential beneficiaries of reparation awards;
- strengthened its organisational base in The Hague and in the field, including 9 approved new positions, 6 short-term assignments and a staffing increase of 48 per cent not counting external consultants, visiting professionals and interns;
- held more than 10 remote BOD sessions;
- adopted its Strategic Plan, which focuses on impact (reparative value for victims) and organisational performance, and developed and published its Activity Plan in relation to the Strategic Plan, which is also a response to the IOM Evaluation Report; and
- started the publication of its periodical Management Brief to the BOD by the Secretariat; next brief to be published in January that will cover the last quarter of 2020.

The Trust Fund for Victims in 2021

Mr De Baan also summarised central plans for the upcoming year, highlighting that in 2021 the TFV:

- will dispose of the full staff capacity, mobilised and energised;
- will further invest in fundraising, communications, monitoring and evaluation, centralised audit of implementing partners, gender and conflict sensitivity;
- expects to complete the implementation of awards in *Katanga* and will start the complex, multi-annual reparations programmes in *Lubanga* and *Al Mahdi*;
- expects to finalise the identification and verification of reparation beneficiaries in *Lubanga* and *Al Mahdi*;
- will start up assistance activities in three more ICC situation countries, including Mali and Georgia;
- and will develop and consult on policies in the areas of fund management and investment, donor vetting, procurement, data protection, communication, monitoring & evaluation, gender mainstreaming and operational conflict sensitivity.

Fund Management, Investment and Distribution

At the event, Mr De Baan gave details as to where TFV funds have been and will be allocated in regard to reparations and assistance programmes.

“What you see here is where the allocations as decided by the BOD have gone in terms of specific reparations and assistance programming already running in Uganda, the Central African Republic (CAR), the Democratic Republic of the Congo (DRC) and Côte d’Ivoire, but also those that will be running next year in Georgia, Mali and Kenya,” said Mr De Baan. “This gives you an overview and an exact breakdown of where the resources are going, as already decided by the TFV.”

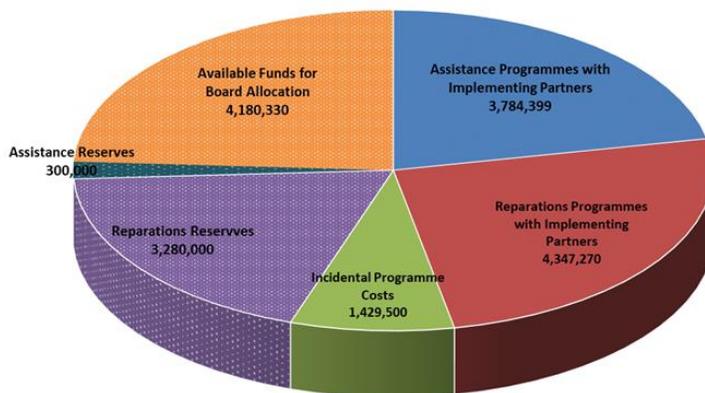
On the graphs on reparations and assistance programmes, Mr De Baan added: “These are not the total programme values but the current contracts with implementing partners.”

UN Exchange Rate at Dec: 0.837

Final amounts subject to financial audit

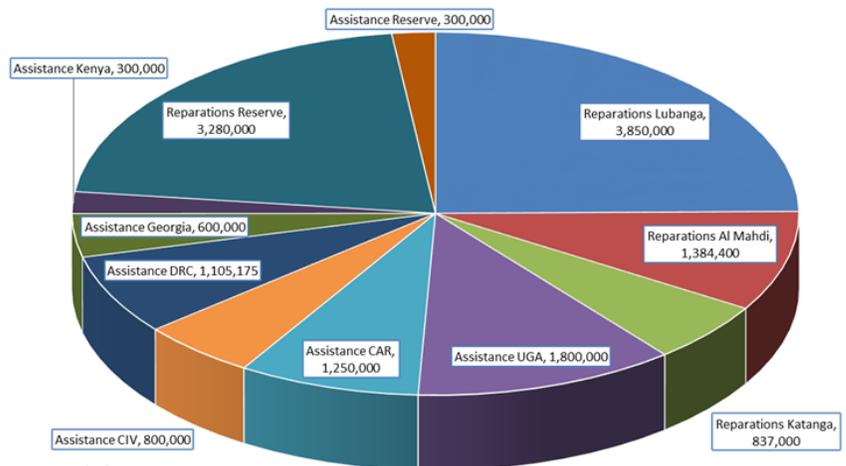
Allocations based on Board Decisions at November 2020

TFV Portfolio Distribution



Amounts in Euros

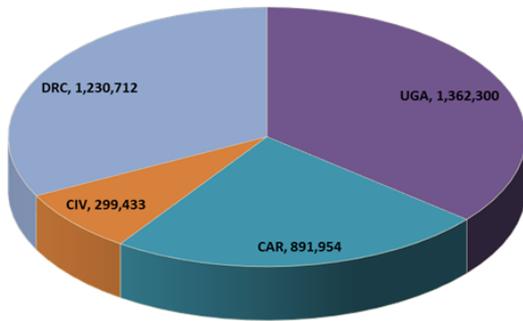
TFV Breakdown of Programme Allocations



Amounts in Euros

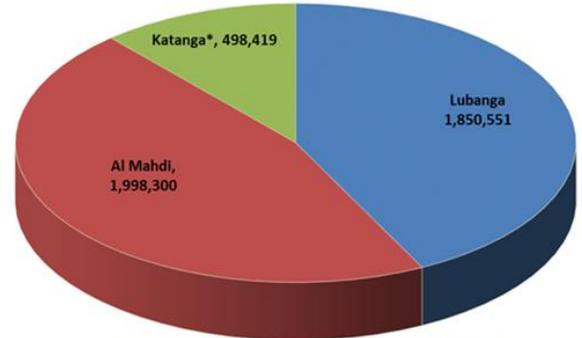


Assistance Programmes with Implementing Partners



Total Investment Assistance Programmes: €3,784,399**
** Amount of contract values

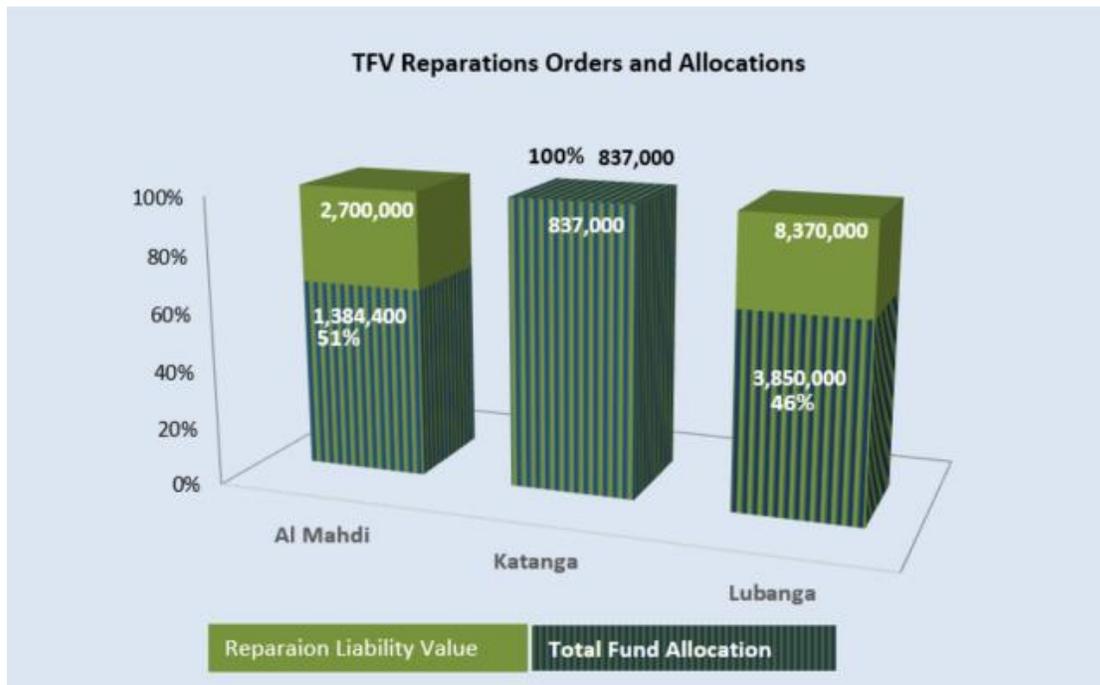
Reparations Programmes with Implementing Partners



Total Investment Reparations Programmes: € 4,347,270**

* Katanga reparations payments made directly to beneficiaries
** Amount of contract values

*note: *Katanga* reparations are directly implemented by the TFV*



The TFV's Strategic Plan 2020-2021

Another main topic of discussion at the virtual event was the TFV's newly adopted Strategic Plan. The final version of the Strategic Plan was published in August 2020. It integrates the TFV's response to recommendations from the IOM evaluation and was developed in alignment with the end date of the ICC's Strategic Plan. De Baan explained that the Strategic Plan is founded on the notion of "responsibility to repair" which defines the interventions by the TFV in relation to the primary responsibility of other actors; the liability of a convicted person in Court-ordered reparations; State responsibility in relation to harm suffered from ICC crimes in situation countries

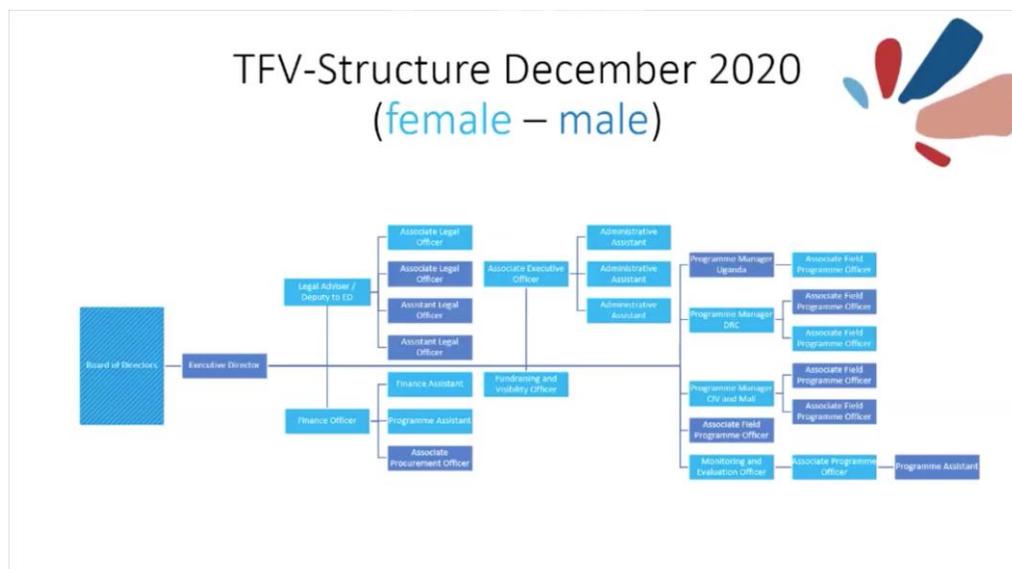
The driving forces of the new Strategic Plan are the TFV's two strategic goals: **impact** and **performance**.

Impact, Mr De Baan informed, is defined by reparative value for victims.

"If the Rome Statute defines international criminal justice as an international public good, its impact in terms of reparative justice must be understood and measured as reparative value that is delivered locally to victims, their families and their communities" he said.

Organisational Structure and Capacity

While explaining the TFV's operational structure and capacity, Mr De Baan shared a graphic that outlined the makeup of the organization:



Mr De Baan explained that the TFV's organizational structure emphasises and values:

- Gender balance
- The delegation of programme management to field-based teams
- The integration of legal and programme functions
- The key functions of a multi-donor trust fund (finance, resource development, monitoring, evaluation and communication)
- Internal control (the closure of key recommendations from the External Auditor in 2020 in relation to oversight of implementing partners)
- Policy development as it pertains to fund management and investment, which the TFV is currently working on improving - i.e. parameters for assistance mandate: ICC jurisdiction, harm-based (emblematic crime/harm pattern), victim-centred (thorough assessment), complementarity to State action, added value to other actors (comparative investment value), gender and conflict sensitivity, funding outlook from current and prospective resources.
- Interdependence and synergy with the ICC Registry. For example, a joint task force on procurement, which helped clear a significant backlog and to understand the need for adaptation of the process of procuring implementing partners to the business needs of the TFV.

The TFV's Delivery of Reparative Value

Mr De Baan ended his intervention on the topic of delivery, at which point he emphasised that in order for the TFV to deliver reparative value to victims, the TFV seeks to maintain optimal core capacity in the Secretariat and also functional and substantive synergy with the ICC.

"We also depend on the capabilities of locally based implementing partners, as they ensure delivery," said Mr De Baan. "In this regard, we need to ensure quality control, accurate reporting on results and effective networking and cooperation."

Mr De Baan noted that in order to achieve its strategic goals, the TFV's needs to strike a balance between mandates, ambition and capacity.

TFV Staff Presentations

The "Trust Fund for Victims: Now and Going into 2021" event then heard from TFV staff members, including Legal Adviser Franziska Eckelmans, Programme Manager (Côte d'Ivoire, Mali) Aude Le Goff, Programme Manager (Uganda) Scott Bartell and Programme Manager (DRC) Kizita Forgwé. The presentations focused on: how the TFV staff in Côte d'Ivoire and Mali developed assistance programmes in 2020, while addressing the parallel initiatives of the respective States; and how the COVID-19 pandemic affected the implementation of assistance programmes in Uganda and the DRC.

Legal Adviser Franziska Eckelmans

The first TFV Secretariat presentation came from TFV Legal Adviser Franziska Eckelmans, who focused on the role of victims in the implementation of reparation awards.

Ms Eckelmans said that the TFV benefits from financial support of States Parties, in this manner providing them with the possibility to concretely support the implementation of reparations redressing victims' harm. The Board of Directors of the Trust Fund decides whether and with what amount of the voluntary contributions to complement a reparation award. This decision is the basis for the TFV to implement a reparation award, if there are no funds of the convicted person for that purpose.

"2020 was a year of extensive eligibility decisions taken by the Board of Directors in the ongoing reparation cases," said Ms Eckelmans.

In terms of TFV interaction with victims, Ms Eckelmans said that a clear distinction exists between the role of victims in trial and reparation proceedings leading up to a reparation award and the role of victims in the implementation of reparation awards. She explained that victims' roles encompass the following:

- In addition to being **participants in the trial (and related) proceedings**, victims are also **parties to the reparation proceedings** that end with the reparation order. They have the right to appeal the reparation order.
- Victims may **become beneficiaries of reparation** awards by decision of the Trial Chamber issuing a reparation order. For example, in the case of *Katanga*, the Trial Chamber directly determined the number of victims who will be beneficiaries of the individual and collective reparations (now 297).
 - Where the Trial Chamber does not directly determine the beneficiaries of a reparation award, the Regulations of the TFV and the Appeals Chamber jurisprudence provide for the following scenarios, by which victims may become **beneficiaries**:
 - For individual reparation awards, i.e. awards that are for the benefit of specific individuals, the TFV (together with e.g. legal representatives) identifies potential beneficiaries and the BOD of the TFV determines whether they are eligible to be beneficiaries of individual reparation awards. This determination is subject to judicial review by a Trial Chamber.
 - For collective reparation awards, the eligibility assessment can be carried out by the implementing partners of the TFV.
- Victims and their legal representatives have an important role in the design of the TFV's implementation plan and are, during the implementation of reparation awards, extensively consulted by the TFV and heard by the Trial Chamber that monitors the implementation process.

Programme Manager Aude Le Goff (Côte d’Ivoire, Mali)

The TFV’s virtual event also heard from Programme Manager for Côte d’Ivoire and Mali, Aude Le Goff. Ms Le Goff focused on how TFV Programme Managers must address the parallel initiatives of the respective States they work in to provide reparations to victims.

Ms Le Goff explained that the TFV initiated its operations in Mali with the reparation mandate and works at delivering individual and collective reparations to the victims of the *Al Mahdi* case. Ms Le Goff acknowledged that while the TFV is implementing Court-ordered reparations for crimes committed in Timbuktu, the TFV is very conscious that thousands of victims outside Timbuktu have suffered harm resulting from crimes falling within the jurisdiction the ICC, and they also have important expectations in terms of reparation of their harm. This is where, as a complement to the TFV’s reparations mandate, the assistance mandate comes in, she said, as it “allows the TFV to respond to the harm of a larger number of victims than only the ones targeted in the reparation order.” With respect to designing an assistance programme, Ms Le Goff said the primary responsibility to repair is with the State, therefore the TFV must always first consider what the State is already doing, and how the TFV can support the national initiatives. In addition, Ms Le Goff explained the design of the assistance programme results from consultations with Ministries, civil society, victims and local communities.

“In Mali, the State has a strong, transitional justice process going on within the ‘Commission Vérité, Justice et Réconciliation Mali,’ which has gathered over 18,000 testimonies of victims and is very well known by victims,” said Le Goff. “A national policy of reparation has been developed and presented to the civil society and international community in August. A National Commission for the reparation of Victims (‘Commission Administrative de Réparation des victimes’) has yet to be established and should be operational by 2022-23.”

As victims are in urgent need of reparation of their harm, the TFV’s Board of Directors decided in October 2020 to launch an assistance programme that would respond to their harm, while the State prepares to be operational and deliver reparations on its own. Ms Le Goff explained that complementing such a national reparation initiative requires a strong methodology and framework, within which the TFV response is shaped. In Mali, the TFV will provide reparative measures in the regions of Mopti and Gao to address the harms of victims who have suffered as a consequence of certain key incidents.

“We are right now in the process of identifying implementing partners or a consortium of implementing partners. The expression of interest was published in November. Early 2021, the TFV will identify the key incidents with the civil society and the selected implementing partners. We hope to have a program running by mid 2021,” said Ms Le Goff. “And in addition, we will be working with the State to enhance its programme and support efforts for its launching.”

Programme Manager Scott Bartell (Uganda)

The final presentation came from TFV Programme Manager for Uganda, Scott Bartell. Mr Bartell described how the Covid-19 pandemic has impacted his work as Programme Manager and that of the TFV's implementing partners in Uganda.

To start with, Mr Bartell emphasised that the reach and scope of assistance provided to victims by the TFV is exceptional.

“In many instances the TFV is the only organization providing this type of rehabilitation to victims in the situation,” said Mr Bartell. “Without the TFV, more than 56,000 Ugandans would still be suffering or would have perished due to their injuries. Assistance is not humanitarian support, it is about vindicating victims’ rights and rendering valuable assistance to victims before the ICC.”

Mr Bartell explained that the TFV and its partners in Uganda have had to change how they operate in order to continue as many services as possible with respect to the limiting COVID-19 prevention protocols instituted in Uganda. For example, many of the counselling services of this year have continued by telephone for victims and first responders, and TFV outreach and messaging through radio has increased to mitigate the need for social distancing. Unfortunately, surgical interventions have been postponed or delayed because hospitals and clinics are conserving bed capacity and resources to manage the effects COVID-19.

Mr Bartell said TFV partners have adjusted their methods of operation and adopted distancing protocols and personal protective equipment, reduced the size of their groups activities and increased the number of personnel working toward project objectives.

“In the near future, as we work to put COVID-19 behind us, our projects will enter a catch-up phase in 2021 to increase the tempo of activities to provide services that had been delayed or postponed,” said Mr Bartell. “Your continued financial support” he continued, addressing States Parties, “is absolutely worth it and necessary for victims in situations who would continue suffering without it.”

Programme Manager Kizita Forgwe (Democratic Republic of the Congo)

note (Ms Forgwe was unable to join the ‘Trust Fund for Victims: Now and Going into 2021’ event, but she has contributed her written presentation on the topic of reparations implementation in the Democratic Republic of the Congo (DRC) in the Lubanga and Katanga cases.

Our strategy for reparations implementation in the DRC has been early planning with the full participation of the field office as well as of legal representatives for victims (LRVs). All our implementation strategies have been victim-centered, taking into consideration the satisfaction and security of the victims at all times.

For reparations, and specifically the implementation of the *Katanga* reparations, it is amazing what we have achieved so far, given the current security and health crisis. As you may know we have implemented most of the income-generating activities and 100 per cent of the school assistance. We have also made progress with regard to the other modalities of reparations. All these have been successful due to a small but very hardworking team on the field, great support from colleagues at secretariat headquarters, invaluable support and coordination from the field office and the LRVs.

Implementation amongst others involved meticulous planning, long, joint field visits with the team and LRVs, tough negotiations with vendors to ensure that victims are receiving the best value for money for their share of the reparation awards and interaction with victims to ensure all processes used for implementation—especially for the most vulnerable – meet their needs. The same principles, including that of best value for money, is also used for discussions on reparations that will be implemented by eventual TFV partners like in *Lubanga* case and, most likely upon issuance of the reparation order, the *Ntaganda* case.

The security situation in the Ituri Province has greatly impacted the implementation of reparations, which has led to a repeated complete stop of field activities to ensure the safety of the victims and TFV staff. For example, over the past few weeks, we have not been able to carry out any activities outside Bunia due to the deteriorating security situation in the Ituri Province. The challenges have been numerous, with field TFV staff and other country office colleagues working long hours under sometimes very difficult circumstances in the face of security issues and the COVID-19 and Ebola health crises.

As already mentioned, our approach has always been rights-based and victim-centered, ensuring the victims feel safe and satisfied when and upon receiving their reparations. Victims, through consultations with LRVs and sometimes TFV staff, have also been involved in the planning process. We have had some very strong feedback from victims. One recent quote from a victim after receiving reparations was: “I have regained my dignity again as a man.” We have been using very innovative ways of moving matters forward by coordinating virtually with the LRVs who have been unable to come to the field and coordinating with



our colleagues and partners to have timely and accurate security analyses, so we do not put ourselves or victims at any risk. During all implementation activities, we ensure at all times the safety and protection of victims and ourselves by respecting the state recommended hygiene measures against COVID-19 and Ebola. Victims are provided with handwashing services, masks and social distancing guidelines during the implementation of all activities.

In the DRC as well, under the TFV assistance mandate, we are implementing a five-year project cycle with 10 implementing partners targeting a total number of 20,000 direct beneficiaries. Since July 2020, 1,955 direct beneficiaries have been reached in the fields of psychological rehabilitation, physical rehabilitation, community peacebuilding and material support. We look forward to reaching many more beneficiaries in 2021.

For more information about the Trust Fund for Victims, please contact: trustfundforvictims@icc-cpi.int
or visit: www.trustfundforvictims.org or follow us on Twitter @TFV_FPV