

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **French**

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

Date: **14 August 2015**

TRIAL CHAMBER II

Before: Judge Marc Perrin de Brichambaut, Presiding Judge
Judge Olga Herrera Carbuccion
Judge Péter Kovács

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
THE PROSECUTOR *v.* THOMAS LUBANGA DYILO**

Public

**Decision on the “Request for extension of time to submit the draft
implementation plan on reparations”**

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

Office of the Prosecutor

Ms Fatou Bensouda

Mr James Stewart

Counsel for Thomas Lubanga Dyilo

Ms Catherine Mabilile

Mr Jean-Marie Biju-Duval

Legal Representatives of Victims V01

Mr Luc Walley

Mr Franck Mulenda

Legal Representatives of Applicants

Legal Representatives of Victims V02

Ms Carine Bapita Buyangandu

Mr Paul Kabongo Tshibangu

Mr Joseph Keta Orwinyo

Office of Public Counsel for Victims

Ms Paolina Massidda

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Trust Fund for Victims

Mr Pieter de Baan

TRIAL CHAMBER II (“the Chamber”) of the International Criminal Court (“the Court”), acting pursuant to article 75 of the Rome Statute and regulation 35 of the Regulations of the Court (“the Regulations”), issues the following decision.

I. Procedural history

1. On 3 March 2015, the Appeals Chamber delivered its judgment on the appeals against the “Decision establishing the principles and procedures to be applied to reparations”¹ (“the Judgment”) and its annex “Order for Reparations (amended)”² (“the Order”). The Order directed the Trust Fund for Victims (“the TFV”) to submit, within six months, i.e. by 3 September 2015, a draft implementation plan (“the Draft”) to give effect to the principles and procedures adopted in the Order.³ It also provided for an extension of the time limit to be granted to the TFV by the newly constituted Chamber, if the TFV could show good cause for such an extension.⁴
2. On 17 March 2015, the Presidency of the Court referred the case of *The Prosecutor v. Thomas Lubanga Dyilo* to the Chamber.⁵
3. On 11 August 2015, the TFV filed a request for extension of time to submit the Draft (“the Request”) on the basis of regulation 35 of the Regulations and the

¹ *The Prosecutor v. Thomas Lubanga Dyilo*, Appeals Chamber, “Judgment on the appeals against the ‘Decision establishing the principles and procedures to be applied to reparations’ of 7 August 2012 with AMENDED order for reparations (Annex A) and public annexes 1 and 2”, 3 March 2015, ICC-01/04-01/06-3129.

² *The Prosecutor v. Thomas Lubanga Dyilo*, Appeals Chamber, “Order for reparations”, 3 March 2015, ICC-01/04-01/06-3129-AnxA.

³ *Ibid.*, para. 75.

⁴ *Ibid.*, para. 75.

⁵ “Decision referring the case of *The Prosecutor v. Thomas Lubanga Dyilo* to Trial Chamber II”, 17 March 2015, ICC-01/04-01/06-3131.

findings of the Appeals Chamber.⁶ The TFV submitted that owing, in particular, to the complexity of the task ordered by the Appeals Chamber, it was unable to submit the Draft within the time limit initially set.⁷

4. The TFV recalled, in particular, that this was first time that the Court had directed it to prepare a draft implementation plan and it therefore aimed to develop and establish best practices and methodologies which could then be applied to future cases.⁸ Furthermore, the TFV submitted that it did not, at that stage, have access to the information it deemed necessary to prepare the Draft.⁹ In this connection, the TFV submitted that it had undertaken several initiatives to gain access to the required information,¹⁰ but the time limit set by the Appeals Chamber would not allow it to process, compile and integrate this information into the Draft.¹¹ The TFV therefore requested the Chamber to extend the time limit to 3 November 2015.¹²

II. Analysis

5. The Chamber recalls that, on the basis of the first sentence of regulation 35(2) of the Regulations, a Chamber may extend a time limit if good cause is shown. In the instant case, taking into account the reasons submitted by the TFV, the Chamber finds that there is good cause to extend the time limit for filing the Draft to 3 November 2015.

⁶ “Request for extension of time to submit the draft implementation plan on reparations”, 11 August 2015, ICC-01/04-01/06-3157-Conf, paras. 1-2, 22 and page 10. A public redacted version was filed on 13 August 2015 (ICC-01/04-01/07-3157-Red).

⁷ *Ibid.*, paras. 5 and 20.

⁸ *Ibid.*, para. 6.

⁹ *Ibid.*, para. 14.

¹⁰ *Ibid.*, paras. 15-17.

¹¹ *Ibid.*, paras. 18-21.

¹² *Ibid.*, para. 2 and page 10.

6. However, the Chamber considers it advisable to reiterate, in this connection, that, in accordance with the Appeal's Chamber's instructions, the Draft must (i) identify the victims eligible to benefit from the reparations;¹³ (ii) evaluate the extent of the harm caused to the victims;¹⁴ and (iii) determine the appropriate modalities and forms of reparations¹⁵ on the basis of the criteria and principles adopted in the Order.

7. Given the above and the information gathered during the consultation period leading up to the submission of the Draft, the Draft must, therefore, include the anticipated monetary amount that is necessary to remedy the harm caused by the crimes of which Thomas Lubanga Dyilo was convicted.¹⁶ Lastly, the Draft must also include the monetary amount that the TFV will complement, if the Board of Directors so decides, as an advance in order that the awards can be implemented.¹⁷

FOR THESE REASONS, the Chamber

ALLOWS the Request;

GRANTS an extension of time until 3 November 2015, for filing the Draft; and

REITERATES that the TFV must include in the Draft:

1. A list of the victims potentially eligible to benefit from the reparations, including the requests for reparations and the supporting material;

¹³ ICC-01/04-01/06-3129-AnxA, paras. 6-9, 12-19, 54-57 and 63.

¹⁴ *Ibid.*, paras. 10-11, 58-59 and 65.

¹⁵ *Ibid.*, paras. 23-28, 33-48, 67-70 and 79.

¹⁶ ICC-01/04-01/06-3129, para. 240; ICC-01/04-01/06-3129-AnxA, paras. 20-21, 45, 49, 60 and 78.

¹⁷ ICC-01/04-01/06-3129, para. 240; ICC-01/04-01/06-3129-AnxA, para. 62; Regulations of the Trust Fund for Victims, para. 56, ICC-ASP/4/Res.3, adopted at the 4th plenary meeting on 3 December 2005, by consensus.

2. An evaluation of the extent of the harm caused to the victims;
3. Proposals for the modalities and forms of reparations;
4. The anticipated monetary amount, as indicated in paragraph 7; and
5. The monetary amount which could potentially be advanced, as indicated in paragraph 7.

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

_____ [signed] _____

Judge Marc Perrin de Brichambaut

Presiding Judge

_____ [signed] _____

Judge Olga Herrera Carbuccion

_____ [signed] _____

Judge Péter Kovács

Dated this 14 August 2015

At The Hague, the Netherlands