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

Date: **20 July 2017**

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 Document

With 25 public annexes and 1 confidential annex

Order Instructing the Registrar to File Additional Documents in the Case Record

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

Office of the Prosecutor

Counsel for Thomas Lubanga Dyilo

Ms Catherine Mabilie

Mr Jean-Marie Biju-Duval

Legal Representatives of V01 Victims

Mr Luc Walley

Mr Franck Mulenda

Legal Representatives of V02 Victims

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**

Mr Philipp Ambach

Trust Fund for Victims

Mr Pieter de Baan

TRIAL CHAMBER II (“Chamber”) of the International Criminal Court (“Court”), acting pursuant to articles 69(3) and 75 of the Rome Statute (“Statute”), issues the following Order.¹

1. On 13 July 2017, the Chamber instructed the Legal Representatives of the V01 Victims (“V01 LRVs”), the Legal Representatives of V02 Victims (“V02 LRVs”), the Office of Public Counsel for Victims (“OPCV”)² and the Defence team for Thomas Lubanga Dyilo (“Defence” and “Mr Lubanga”, respectively), to file submissions on the evidence admitted in these proceedings for the determination of the monetary amount of Mr Lubanga’s liability for reparations (“Order of 13 July 2017”).³ The Chamber also indicated that it intended to examine additional documents for the same purpose.⁴

2. The Chamber notes that, pursuant to article 69(3) of the Statute, during trial proceedings, “[t]he Court shall have the authority to request the submission of all evidence that it considers necessary for the determination of the truth”.⁵ While the Chamber is aware that the article in question applies to the trial stage, it considers that, although these are separate proceedings,⁶ the article also applies *mutatis mutandis* to the reparations stage.

¹ Judge Herrera Carbuca reiterates her opinions of 15 July 2016 (ICC-01/04-01/06-3217-Anx) and 25 October 2016 (ICC-01/04-01/06-3252-Anx).

² “Order relating to the request of the Office of Public Counsel for Victims of 16 September 2016”, 21 October 2016, ICC-01/04-01/06-3252-tENG and dissenting “Opinion of Judge Herrera Carbuca”, ICC-01/04-01/06-3252-Anx-tENG.

³ “Order Instructing the Parties to File Submissions on the Evidence Admitted for the Determination of Thomas Lubanga Dyilo’s Liability for Reparations”, 13 July 2017, ICC-01/04-01/06-3339-tENG.

⁴ Order of 13 July 2017, para. 11.

⁵ See also *The Prosecutor v. Jean-Pierre Bemba Gombo*, Trial Chamber III, “Decision on Directions for the Conduct of the Proceedings”, 19 November 2010, ICC-01/05-01/08-1023 [French translation registered on 30 March 2011, ICC-01/05-01/08-1023-tFRA], para. 5; *The Prosecutor v. Jean-Pierre Bemba Gombo*, Trial Chamber III, “Public redacted version of ‘Second decision on issues related to the closing of the case’”, 18 October 2013, ICC-01/05-01/08-2837-Red, para. 19; *The Prosecutor v. Jean-Pierre Bemba Gombo*, Trial Chamber III, “Order seeking observations on the submission as evidence of items used during the questioning of witnesses but not submitted as evidence by the parties or participants”, 23 October 2013, ICC-01/05-01/08-2841 [French translation registered on 9 September 2016, ICC-01/05-01/08-2841-tFRA], para. 10.

⁶ Appeals Chamber, “Decision on the admissibility of the appeals against Trial Chamber I’s ‘Decision establishing the principles and procedures to be applied to reparations’ and directions on the further conduct of proceedings”, 14 December 2013, ICC-01/04-01/06-2953. See also *The Prosecutor v. Germain*

3. The Chamber considers that, in addition to the items of evidence already admitted in these proceedings, the following documents, annexed to this Order, are relevant for determining the amount of Mr Lubanga's liability for reparations:

- Public annex 1: *Ituri: "Covered in Blood". Ethnically Targeted Violence In Northeastern DR Congo*. Human Rights Watch, July 2003. Vol. 15, No. 11 (A);
- Public annex 2: *Global Report 2004*. Child Soldiers International;
- Public annex 3: *Democratic Republic of Congo: Disarmament, Demobilization and Reintegration (DDR) and Reform of the Army*. London: Amnesty International, 25 January 2007. AFR 62/001/2007;
- Public annex 4: *DR Congo: Priorities for children associated with armed forces and groups*. Document submitted to the Security Council Working Group on Children and Armed Conflict. London, Great Britain: Coalition to Stop the Use of Child Soldiers, July 2007;
- Public annex 5: Nduwimana, Lt. Col. D. "Reintegration of Child Soldiers in the Eastern Democratic Republic of Congo: Challenges and Prospects". Nairobi, Kenya: The International Peace Support Training Centre, 2013. Occasional Paper Series 4, Issue 2;
- Public annex 6: Bouta, T. *Assessment of the Ituri Disarmament and Community Reinsertion Program (DCR)*. The Hague, Netherlands: 'Clingendael' Conflict Research Unit, Netherlands Institute of International Relations, May 2005;
- Public annex 7: Alusala, N., J-M. Gasana, G. Lamb and G. F. Mthembu-Salter. *Rumours of peace, whispers of war : assessment of the reintegration of ex-combatants into civilian life in North Kivu, South Kivu and Ituri Democratic Republic of Congo*. Washington, DC, USA: World Bank, 2012;
- Public annex 8: *The Impact of Armed Conflict on Children in the Democratic Republic of Congo (DRC)*. New York, USA: Watchlist on Children and Armed Conflict, June 2003;

Katanga, "Order for Reparations pursuant to Article 75 of the Statute", 24 March 2017, ICC-01/04-01/07-3728-tENG, para. 16.

- Public annex 9: “Challenging Child Soldier DDR Processes and Policies in the Eastern Democratic Republic of Congo.” *Journal of Peace, Conflict and Development*. Issue 16, November 2010;
- Public annex 10: Rakisits, C. “Child soldiers in the East of the Democratic Republic of the Congo.” *Refugee Survey Quarterly*, Vol. 27, Issue 4, 1 December 2008, pp. 108-112;
- Public annex 11: *Consideration of Reports Submitted by States Parties under article 44 of the Convention. Combined third to fifth reports of States parties due in 2012: Democratic Republic of the Congo*. United Nations Committee on the Rights of the Child, 23 June 2016. CRC/C/COD/3-5;
- Public annex 12: *Consideration of Reports Submitted by States Parties under article 44 of the Convention: Democratic Republic of the Congo*. United Nations Committee on the Rights of the Child, 24 July 2008. CRC/C/COD/2;
- Public annex 13: *Consideration of reports submitted by States parties under article 8(1) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, Initial reports of States parties due in 2004: Democratic Republic of the Congo*. United Nations Committee on the Rights of the Child, 18 April 2011. CRC/C/OPAC/COD/1;
- Public annex 14: *Fourteenth report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo*. United Nations Security Council, 17 November 2003. S/2003/1098;
- Public annex 15: *Thirteenth report of the Secretary-General on the United Nations Organization Mission in Democratic Republic of the Congo*. United Nations Security Council, 21 February 2003. S/2003/211;
- Public annex 16: *Report of the Secretary-General on Children and Armed Conflict in the Democratic Republic of the Congo*. United Nations Security Council, 9 July 2010. S/2010/369;
- Public annex 17: *Report of the Secretary-General on children and armed conflict in the Democratic Republic of the Congo*. United Nations Security Council, 28 June 2007. S/2007/391;

- Public annex 18: *Working Group on Children and Armed Conflict: Conclusions on children and armed conflict in the Democratic Republic of the Congo*. United Nations Security Council, 19 September 2014. S/AC.51/2014/3;
- Public annex 19: *Working Group on Children and Armed Conflict: Conclusions on children and armed conflict in the Democratic Republic of the Congo*. United Nations Security Council, 13 July 2009. S/AC.51/2009/3;
- Public annex 20: *Working Group on Children and Armed Conflict: Conclusions on parties to the armed conflict in the Democratic Republic of the Congo*. United Nations Security Council, 25 October 2007. S/AC.51/2007/17;
- Public annex 21: *Working Group on Children and Armed Conflict: Conclusions on children and armed conflict in the Democratic Republic of the Congo*. United Nations Security Council, 1 March 2011. S/AC.51/2011/1;
- Public annex 22: *Report of the Secretary-General on children and armed conflict in the Democratic Republic of the Congo*. United Nations Security Council, 13 June 2006. S/2006/389;
- Public annex 23: Bodineau, Sylvie. *Rapport d'Évaluation du programme 2007-2011 pour les Enfants Associés aux Forces et aux Groupes Armés en RDC* [Evaluation Report: 2007-2011 Programme for the Reintegration of Children Associated with Armed Forces and Armed Groups in the DRC – Official Court Translation]. UNICEF – United Nations Children's Fund, May-June 2011;
- Public annex 24: Presidency of the Democratic Republic of the Congo. *Bureau du représentant personnel du chef de l'état en charge de la lutte contre les violences sexuelles et le recrutement des enfants en RDC* [Office of the personal representative of the Head of State responsible for combating sexual violence and child recruitment in the DRC – Official Court Translation]. Web. 17 June 2017. <<http://stopdrcsexualviolence.com/donnees-statistiques>>;
- Confidential annex 25: United Nations Mission in the Democratic Republic of Congo. Child Protection Section. *Report on Children associated with armed groups in the Ituri conflict - Draft*, February 2004; and

- Public annex 26: Conoir, Y. *Ending War, Building Peace: Contribution of the National DDR Program in DRC to Peace in the African Great Lakes Region*. Washington, DC, USA: International Bank for Reconstruction and Development/World Bank, May 2012.

FOR THESE REASONS, the Chamber

INSTRUCTS the Registrar to file the documents referred to in paragraph 3, above, in the case record; and

INSTRUCTS the V01 LRVs, the V02 LRVs, the OPCV and the Defence to examine those documents in their observations filed in accordance with the Order of 13 July 2017.

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 20 July 2017

At The Hague, Netherlands