



Original: **French**

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

**Decision on the Application of the Office of Public Counsel for Victims seeking
leave to reply to the Observations of the Defence for Thomas Lubanga Dyilo
of 11 July 2017**

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

Office of the Prosecutor

**Counsel for the Defence of Thomas
Lubanga Dyilo**

Ms Catherine Mabilie

Mr Jean-Marie Biju-Duval

Legal Representatives of V01 Victims

Mr Luc Walleyrn

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 regulations 24(5) and 34(c) of the Regulations of the Court (“RoC”), issues the following decision.¹

1. On 11 July 2017, the Defence for Thomas Lubanga Dyilo (“Defence” and “Mr Lubanga” respectively) submitted a redacted version of observations on the eighth transmission of files of victims potentially eligible for reparations in the instant case (“Defence Observations of 11 July 2017”).²

2. On 17 July 2017, the Office of Public Counsel for Victims (“OPCV”) filed an application for leave to reply to the Defence Observations of 11 July 2017 (“OPCV Application”).³ The OPCV submitted that the files of potentially eligible victims contain no legal argument as such, and consequently that the only possibility for the OPCV to defend the interests of its clients in the instant proceedings was to be able to reply to the Defence Observations on the files in question.⁴ The OPCV therefore requested the Chamber’s leave to reply to the Defence Observations of 11 July 2017 in respect of the three points listed below:

- 1) The questioning of the credibility of certain potentially eligible victims based solely on the observation of discrepancies between the dates of birth indicated on the forms and on the identity documents (“first point”);
- 2) The dismissal of information included in some files as irrelevant on the ground that it does not fall strictly within the framework of the charges (“second point”); and

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

² “*Observations de la Défense de M. Lubanga à la huitième transmission des formulaires de réparation expurgés du 15 juin 2017*”, 11 July 2017, ICC-01/04-01/06-3336 and one confidential annex, ICC-01/04-01/06-3336-Conf-Anx1.

³ “*Demande d’autorisation de déposer une réplique aux Observations de la Défense de M. Lubanga à la huitième transmission des formulaires de réparation expurgés*”, 17 July 2017, ICC-01/04-01/06-3340.

⁴ OPCV Application, para. 8.

3) The fact that no supporting documents were submitted with the files of potentially eligible victims (“third point”).⁵

3. The Chamber is of the view that the three points highlighted by the OPCV raise new issues, in accordance with regulation 24(5) of the RoC, on which the Chamber must rule for the first time in its decision setting the monetary amount of Mr Lubanga’s liability for reparations. Conversely, the Chamber notes that the OPCV has already expressed its views on the third point,⁶ and therefore does not consider it useful to have additional observations on that issue. Consequently, the Chamber deems it appropriate to authorize the OPCV to reply to the Defence Observations of 11 July 2017 on the first and second points only.

4. Lastly, the Chamber considers it appropriate for the Defence to be allowed to respond last to the questions raised.

⁵ OPCV Application, para. 9.

⁶ See “*Réplique aux Observations déposées par la Défense de M. Lubanga aux 4ème, 5ème et 6ème transmissions des formulaires des potentiels bénéficiaires*”, 22 June 2017, ICC-01/04-01/06-3333, paras. 27-29 and 31-33.

FOR THESE REASONS, the Chamber

GRANTS the OPCV's Application in part;

AUTHORIZES the OPCV to reply to the first and second points of the Defence Observations of 11 July 2017 by 16 August 2017; and

AUTHORIZES the Defence to respond to the OPCV's reply by 22 August 2017.

Done in both 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