



Original: **French**

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

Date: **21 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 for an  
extension of the time limit set by the Order of 13 July 2017**

Decision 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**

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**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 regulation 35(2) of the Regulations of the Court, issues the following Decision.<sup>1</sup>

### **I. Procedural history**

1. On 13 July 2017, the Chamber instructed the Legal Representatives of V01 Victims (“V01 LRVs”), the Legal Representatives of V02 Victims (“V02 LRVs”), the Office of Public Counsel for Victims (“OPCV”)<sup>2</sup> and the Defence team for Thomas Lubanga Dyilo (“Defence” and “Mr Lubanga” respectively) to file submissions on the evidence admitted in these proceedings, so as to enable the Chamber to determine the monetary amount of Mr Lubanga’s liability for reparations (“Order of 13 July 2017”).<sup>3</sup>

2. On 17 July 2017, the OPCV filed an application for an extension of the time limit to 30 September 2017 for filing its submissions on the evidence admitted in these proceedings for the determination of the monetary amount of Mr Lubanga’s liability for reparations (“OPCV Application”).<sup>4</sup>

3. On 18 July 2017, the V01 LRVs filed a “*Réponse des Représentants légaux des victimes à ‘Demande de prorogation du délai aux fins des observations sur les éléments admis dans la présente procédure en vue de fixer le montant des réparations auquel est tenu Mr Thomas Lubanga Dyilo’*” (“V01 LRV Document”).<sup>5</sup>

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<sup>1</sup> 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).

<sup>2</sup> “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.

<sup>3</sup> “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.

<sup>4</sup> “*Demande de prorogation du délai aux fins de dépôt des observations sur les éléments admis dans la présente procédure en vue de fixer le montant des réparations auxquelles est tenu M. Thomas Lubanga Dyilo*”, 17 July 2017, ICC-01/04-01/06-3341.

<sup>5</sup> “*Réponse des Représentants légaux des victimes à ‘Demande de prorogation du délai aux fins des observations sur les éléments admis dans la présente procédure en vue de fixer le montant des réparations auquel est tenu Mr Thomas Lubanga Dyilo’*”, 18 July 2017, ICC-01/04-01/06-3342.

4. On 20 July 2017, the Chamber instructed the Registrar to file additional documents in the case record that the Chamber considers useful for the determination of the amount of Mr Lubanga's liability for reparations.<sup>6</sup>

## II. Analysis

5. The OPCV submitted that the question of determining the monetary amount of Mr Lubanga's liability for reparations was essential to the victims' interests in these proceedings.<sup>7</sup> In order to respond to the question, the OPCV submitted that it needed to: make a contextual monetary estimate of the harm suffered by the potentially eligible victims and the resulting needs identified at the time the dossiers were collected; consult various people in order to compare its findings with reality on the ground;<sup>8</sup> and exchange views with the other teams of legal representatives – and potentially also with the Trust Fund for Victims (“TFV”) and the Defence – in order to reach a common position.<sup>9</sup> The OPCV also referred to *The Prosecutor v. Germain Katanga* (“Katanga”), in which the Chamber accorded a timeframe of two-and-a-half months to the parties to complete a task which, in the OPCV's opinion, was similar to the one it was charged with by the Order of 13 July 2017.<sup>10</sup> Lastly, the OPCV submitted that, owing to its limited resources and in view of the recess,<sup>11</sup> the deadline of 11 August 2017 set by the Chamber would not allow it sufficient time to furnish a complete, up-to-date analysis, as requested by the Chamber.<sup>12</sup> For those reasons, the OPCV applied for an extension of time until 30 September 2017.

6. Similarly, the V01 LRVs submitted that: (1) the time limit of less than one month would not allow it to complete the task the Chamber had instructed it to

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<sup>6</sup> “Order Instructing the Registrar to File Additional Documents in the Case Record”, dated 20 July 2017 and registered on 21 July 2017, ICC-01/04-01/06-3344-tENG, and its public annexes 1-24 and confidential annex 25 (“Order of 20 July 2017”).

<sup>7</sup> OPCV Application, para. 2.

<sup>8</sup> OPCV Application, para. 11.

<sup>9</sup> OPCV Application, paras. 2, 12.

<sup>10</sup> OPCV Application, para. 12.

<sup>11</sup> OPCV Application, paras. 2, 13.

<sup>12</sup> OPCV Application, paras. 11, 12.

undertake, owing to the complexity of the issues involved; and that (2) the deadline fell during the recess, a period when several counsel and other members of the team would be on leave.<sup>13</sup> Accordingly, the V01 LRVs asked to be granted the same extension of time as that requested in the OPCV Application, should the Chamber decide to accord it.<sup>14</sup>

7. As a preliminary remark, the Chamber is of the view that the document submitted by the V01 LRVs should be renamed. Given the arguments and the request expressed in the document, the Chamber considers it to be effectively an Application for an extension of the time limit set by the Order of 13 July 2017. Accordingly, the Chamber instructs the V01 LRVs in future to submit such applications in the appropriate format and to specify their legal basis, so that the Chamber can give them proper consideration.

8. Regarding the merits of the applications, the Chamber takes note of the amount of work that the OPCV and the V01 LRVs deem is required to complete the task entrusted to them by the Chamber. In the Order of 13 July 2017, the Chamber acknowledged the difficulty of such an exercise.<sup>15</sup> The Chamber also takes account of the fact that, during the recess, the resources available to the parties in terms of time and staff are more limited. The Chamber further notes that the OPCV refers to the task undertaken in *The Prosecutor v. Germain Katanga*, which it describes as similar. In that respect, the Chamber emphasizes that the task in the instant case is solely for the purpose of determining the amount of the *collective* reparations for which Mr Lubanga is liable. In the opinion of the Chamber, it is within this more restricted framework that the parties were instructed to file submissions on the various factors to be taken into account and on the method they consider to be the most appropriate and equitable for the determination of the amount of Mr Lubanga's liability for

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<sup>13</sup> V01 LRV Document, paras. 4-5.

<sup>14</sup> V01 LRV Document, p. 4.

<sup>15</sup> Order of 13 July 2017, para. 10.

reparations.<sup>16</sup> Moreover, the Chamber draws the attention of the parties to the work done by the TFV and the Registry in this regard<sup>17</sup> and to the documents already tendered into the case record.<sup>18</sup>

9. In view of the above, the Chamber finds that the OPCV and the V01 LRVs have shown good cause, within the meaning of regulation 35(2) of the Regulations of the Court. The Chamber therefore considers it appropriate to grant an extension of time, but to limit that extension to four weeks.

10. Lastly, the Chamber considers it appropriate to extend the time limit for the V02 LRVs and the Defence to file their submissions on the evidence admitted in these proceedings, so as to enable the Chamber to determine the amount of Mr Lubanga's liability for reparations. The parties are asked to endeavour to complete the task within the new time limit.

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<sup>16</sup> Order of 13 July 2017, para. 10.

<sup>17</sup> See, for example, "Filing on Reparations and Draft Implementation Plan", 3 November 2005, ICC-01/04-01/06-3177-Conf, and two annexes (ICC-01/04-01/06-3177-AnxA and ICC-01/04-01/06-3177-Conf-Exp-AnxI). A redacted version was filed on the same day.

<sup>18</sup> See the Order of 20 July 2017, para. 3; "*Rapport du Greffier sur l'exécution de l'Ordonnance ICC-01/04-01/06-3260*", 24 January 2017, ICC-01/04-01/06-3272 and five confidential annexes; "*Transmission des observations du Gouvernement de la République démocratique du Congo en réponse à l'Ordonnance ICC-01/04-01/06-3260*", 20 February 2017, ICC-01/04-01/06-3274 and one confidential annex.

**FOR THESE REASONS, the Chamber**

**GRANTS**, in part, the OPCV Application and the request of the V01 LRVs;

**EXTENDS** the time limit to 8 September 2017 for the OPCV and the V01 and V02 LRVs to file their observations on the evidence admitted in these proceedings, so as to enable the Chamber to determine the amount of Mr Lubanga's liability for reparations; and

**EXTENDS** the time limit to 29 September 2017 for the Defence to file its response to the submissions of the OPCV and the V01 LRVs.

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

[signed]

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**Judge Marc Perrin de Brichambaut**

**Presiding Judge**

[signed]

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**Judge Olga Herrera Carbuccion**

[signed]

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**Judge Péter Kovács**

Dated this 21 July 2017

At The Hague, Netherlands