



Original: English

No. ICC-01/04-01/06

Date: 7 August 2017

**THREE JUDGES OF THE APPEALS CHAMBER APPOINTED FOR THE
REVIEW CONCERNING REDUCTION OF SENTENCE**

**Before: Judge Silvia Fernández de Gurmendi, Presiding Judge
Judge Howard Morrison
Judge Piotr Hofmański**

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

Public

**Scheduling Order for the second review concerning reduction of sentence of Mr
Thomas Lubanga Dyilo**

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

The Office of the Prosecutor
Ms Fatou Bensouda, Prosecutor
Ms Helen Brady

Counsel for Mr Thomas Lubanga Dyilo
Ms Catherine Mabilie
Mr Jean-Marie Biju Duval

Legal Representatives of Victims V01
Mr Franck Mulenda
Mr Luc Walley

Legal Representatives of Victims V02
Ms Carine Bapita Buyangandu
Mr Joseph Keta Orwinyo
Mr Paul Kabongo Tshibangu

The Office of Public Counsel for Victims
Ms Paolina Massidda

States Representatives
The Democratic Republic of the Congo

REGISTRY

Registrar
Mr Herman von Hebel

Other
The Presidency

The three judges of the Appeals Chamber of the International Criminal Court,

In the review by the Court concerning reduction of sentence of Mr Thomas Lubanga Dyilo pursuant to article 110 of the Statute,

Recalling that, on 15 June 2015, the Appeals Chamber appointed Judge Silvia Fernández de Gurmendi, Judge Howard Morrison, and Judge Piotr Hofmański (“Panel”) to conduct the initial review concerning reduction of Mr Thomas Lubanga Dyilo’s sentence pursuant to article 110 (3) of the Statute and rule 224 (1) of the Rules of Procedure and Evidence (“Rules”) (ICC-01/04-01/06-3135),

Considering that article 110 (5) of the Statute provides that “[i]f the Court determines in its initial review under paragraph 3 that it is not appropriate to reduce the sentence, it shall thereafter review the question of reduction of sentence at such intervals and applying such criteria as provided for in the Rules of Procedure and Evidence”,

Recalling that, on 22 September 2015, the Panel determined that it was not appropriate to reduce the sentence of Mr Thomas Lubanga Dyilo (“First Sentence Review Decision”) and decided that it would review Mr Lubanga’s sentence pursuant to article 110 (5) of the Statute two years from the issuance of that decision, leaving the specific date to be set at a later time (ICC-01/04-01/06-3173),

Noting that, on 13 July 2017, Trial Chamber II, the chamber seized of the reparations proceedings in the present case, held that the Office of Public Counsel for Victims (“OPCV”) shall continue as the legal representative with respect to additional victims who are potentially eligible for reparations (ICC-01/04-01/06-3338),

Noting that, on 22 September 2017, two years will have passed from the issuance of the First Sentence Review Decision,

Noting the criteria for review set out in article 110 (4) (a) and (b) of the Statute and rule 223 (a) to (e) of the Rules,

Noting the procedure for review set out in rule 224 (3) and (4) of the Rules, and specifically rule 224 (4), which provides that “[f]or any review under article 110, paragraph 5, [the Panel] shall invite written representations [...]”,

Issues the following

SCHEDULING ORDER

1. Mr Thomas Lubanga Dyilo, the Prosecutor, the Legal Representatives of Victims V01, the Legal Representatives of Victims V02, the OPCV, the Democratic Republic of the Congo, and the Registrar are invited to submit written representations for the purpose of the second review concerning the reduction of sentence of Mr Thomas Lubanga Dyilo.
2. The present review is limited to the Panel's consideration of whether there has been any significant change in circumstances since the date of the First Sentence Review Decision and, as such, any written representations and responses thereto, as provided for below, shall only address the period since the First Sentence Review Decision.
3. The written representations shall be submitted as follows:
 - a. The Democratic Republic of the Congo and the Registrar are invited to file written representations, insofar as they have relevant information, on the criteria set out in rule 223 (a) to (e) of the Rules, by 4 September 2017, in compliance with regulation 33 (1) (d) of the Regulations of the Court. The written representations shall not be more than 10 pages and shall comply with regulation 36 of the Regulations of the Court. The Registrar shall consult as necessary with any states considered to have potentially relevant information in relation to these criteria; and
 - b. Mr Thomas Lubanga Dyilo, the Prosecutor, the Legal Representatives of Victims V01, the Legal Representatives of Victims V02, and the OPCV are invited to file written representations of not more than 10 pages and in accordance with regulation 36 of the Regulations of the Court, by 11 September 2017, in compliance with regulation 33 (1) (d) of the Regulations of the Court, addressing:
 - i. The criteria for review concerning reduction of sentence, to the extent there has been any significant change since the date of the First Sentence Review Decision regarding the presence of the following factors:
 1. The early and continuing willingness of Mr Thomas Lubanga Dyilo to cooperate with the Court in its

- investigations and prosecutions (article 110 (4) (a) of the Statute);
2. The voluntary assistance of Mr Thomas Lubanga Dyilo in enabling the enforcement of the judgments and orders of the Court in other cases, and in particular providing assistance in locating assets subject to orders or fines, forfeiture, or reparation, which may be used for the benefit of victims (article 110 (4) (b) of the Statute); and
 3. Other factors, as provided in rule 223 (a) to (e) of the Rules, establishing a clear and significant change of circumstances sufficient to justify the reduction of sentence (article 110 (4) (c) of the Statute);
 - ii. The representations of the Democratic Republic of the Congo and the Registrar, as appropriate.
4. Mr Thomas Lubanga Dyilo, the Prosecutor, the Legal Representatives of Victims V01, the Legal Representatives of Victims V02, and the OPCV are invited to file written responses of not more than 5 pages and in accordance with regulation 36 of the Regulations of the Court, by 18 September 2017, in compliance with regulation 33 (1) (d) of the Regulations of the Court.
5. The Panel shall communicate its decision on the second review concerning the reduction of sentence of Mr Thomas Lubanga Dyilo, and the reasons for it, to all those who participated in the review proceedings as soon as possible after the written representations and responses provided for above have been received.

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



Judge Silvia Fernández de Gurmendi
Presiding Judge

Dated this 7th day of August 2017

At The Hague, The Netherlands