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No.: **ICC-01/04-01/06**
Date: **22 November 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

**Order Setting the Date for the Delivery of the Decision on the Amount of
Thomas Lubanga Dyilo's Liability for Reparations**

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

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**Victims Participation and Reparations
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Mr Philipp Ambach

Trust Fund for Victims

Mr Pieter de Baan

TRIAL CHAMBER II (“Chamber”) of the International Criminal Court, acting pursuant to article 75 of the Rome Statute and rule 144(1) of the Rules of Procedure and Evidence, issues the following order.

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 and the annex entitled “Order for Reparations (amended)”² (“Judgment on the Appeals” and “Amended Order for Reparations”, respectively), partly confirming and partly amending Trial Chamber I’s Decision on reparations.³ The Appeals Chamber also directed the Trust Fund for Victims (“Trust Fund”) to submit a draft implementation plan, within six months of the issuance of the Judgment on the Appeals, to give effect to the principles and procedures adopted in the Amended Order for Reparations.⁴ The Appeals Chamber furthermore entrusted this Chamber with monitoring and overseeing the implementation of the Amended Order for Reparations, giving it “the authority to approve the draft implementation plan submitted by the Trust Fund”.⁵ Lastly, the Appeals Chamber entrusted this Chamber with setting the amount of Mr Lubanga’s liability for reparations.⁶

2. On 3 November 2015, having been granted an extension of time,⁷ the Trust Fund submitted the “Filing on Reparations and Draft Implementation Plan”⁸ and

¹ 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 Appeals Chamber, “Order for Reparations (amended)”, 3 March 2015, ICC-01/04-01/06-3129-AnxA [and French translation registered on 1 August 2016].

³ Trial Chamber I, “Decision establishing the principles and procedures to be applied to reparations”, 7 August 2012, ICC-01/04-01/06-2904 [and French translation registered on 19 February 2013].

⁴ Appeals Chamber, Amended Order for Reparations, para. 75.

⁵ Appeals Chamber, *ibid.*, para. 76.

⁶ Appeals Chamber, Judgment on the Appeals, paras. 241-242. See also Amended Order for Reparations, paras. 80-81.

⁷ “Decision on the ‘Request for extension of time to submit the draft implementation plan on reparations’”, 14 August 2015, ICC-01/04-01/06-3161-tENG.

⁸ “Filing on Reparations and Draft Implementation Plan”, 3 November 2015, ICC-01/04-01/06-3177-Conf [and French translation registered on 29 January 2016], and its 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.

Annex A entitled “Draft Implementation Plan for collective reparations to victims”⁹ (“Draft Implementation Plan of 3 November 2015”).

3. On 9 February 2016, the Chamber deferred the approval of the Draft Implementation Plan of 3 November 2015 on the ground that it did not comply with the instructions of the Chamber and the Appeals Chamber.¹⁰ Accordingly, the Chamber instructed the Trust Fund “to begin the process of locating and identifying victims potentially eligible to benefit from the reparations”, to prepare a file for each victim potentially eligible for reparations in the instant case (“Potentially Eligible Victims”) and to transmit the files to the Chamber by 31 December 2016.¹¹

4. On 15 July 2016, the Chamber, ruling in the majority, instructed the Registry to provide the Legal Representatives of the V01 and V02 groups of victims (“Legal Representatives of the V01 and V02 Victims”), the Office of Public Counsel for Victims (OPCV) and the Trust Fund with all the necessary and appropriate aid and assistance for the purpose of locating and identifying Potentially Eligible Victims.¹²

5. On 21 October 2016, the Chamber, ruling in the majority, instructed the Trust Fund to continue the process of locating and identifying Potentially Eligible Victims, and instructed the Registry to begin outreach missions as soon as possible.¹³ The Chamber also authorized the OPCV to continue the process of locating and identifying Potentially Eligible Victims, to prepare their files and transmit them to it,

⁹ “Annex A to Filing on Reparations and Draft Implementation Plan”, ICC-01/04-01/06-3177-AnxA.

¹⁰ “Order instructing the Trust Fund for Victims to supplement the draft implementation plan”, 9 February 2016, ICC-01/04-01/06-3198-tENG, para. 15.

¹¹ *Ibid.*, paras. 17-18 and p. 12.

¹² “Order instructing the Registry to provide aid and assistance to the Legal Representatives and the Trust Fund for Victims to identify victims potentially eligible for reparations”, 15 July 2016, ICC-01/04-01/06-3218-tENG and dissenting Opinion of Judge Herrera Carbuccia, ICC-01/04-01/06-3217-Anx-tENG.

¹³ “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 (“Order of 21 October 2016”), and dissenting Opinion of Judge Herrera Carbuccia, ICC-01/04-01/06-3252-Anx-tENG.

through the Victims Participation and Reparations Section, as they became ready and by 31 December 2016.¹⁴

6. Between 31 May 2016 and 31 March 2017,¹⁵ having been granted two extensions of time,¹⁶ the Trust Fund, in conjunction with the OPCV and the Legal Representatives of the V01 and V02 Victims, transmitted 476 files of Potentially Eligible Victims to the Chamber and, in redacted form, to the Defence team for Mr Lubanga (“Defence”).

7. Between 10 April and 29 June 2017,¹⁷ the Defence filed observations on the redacted versions of the files of Potentially Eligible Victims.

8. On 20 July 2017, the Chamber, ruling in the majority, instructed the Registry to file additional documents in the case record that the Chamber considered relevant for determining the amount of Mr Lubanga’s liability for reparations.¹⁸

9. On 8 and 11 September 2017 and on 2 October 2017, in accordance with the Chamber’s instructions,¹⁹ the Legal Representatives of the V01 and V02 Victims,²⁰ the OPCV²¹ and the Defence²² filed their observations on the items of evidence admitted

¹⁴ Order of 21 October 2016, p. 10.

¹⁵ “Order for the Transmission of the Application Files of Victims who may be Eligible for Reparations to The Defence Team of Thomas Lubanga Dyilo”, 22 February 2017, ICC-01/04-01/06-3275-tENG.

¹⁶ “Decision on the request of the Trust Fund for Victims for an extension of the time limit for the submission of the first batch of files of potential victims”, 29 March 2016, ICC-01/04-01/06-3205-tENG; “Order to complete the process of identifying victims potentially eligible to benefit from reparations”, dated 21 December 2016 and registered on 22 December 2016, ICC-01/04-01/06-3267-tENG.

¹⁷ “Order for the Transmission of the Application Files of Victims who may be Eligible for Reparations to The Defence Team of Thomas Lubanga Dyilo”, 22 February 2017, ICC-01/04-01/06-3275-tENG.

¹⁸ “Order Instructing the Registrar to File Additional Documents in the Case Record”, 20 July 2017, ICC-01/04-01/06-3344-tENG with public annexes 1-24 and 26 and confidential annex 25.

¹⁹ “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; “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”, 21 July 2017, ICC-01/04-01/06-3345-tENG.

²⁰ “Observations sur les éléments de preuve admis dans la présente procédure en vue de fixer le montant des réparations auxquelles est tenu Thomas Lubanga Dyilo”, ICC-01/04-01/06-3359; “Observations de l’équipe V02 conformément à l’ordonnance ICC-01/04-01/06-3345”, dated 8 September and registered on 11 September 2017, ICC-01/04-01/06-3363.

²¹ “Observations sur les éléments admis dans la procédure en vue de fixer le montant des réparations auquel est tenu M. Thomas Lubanga Dyilo”, 8 September 2017, ICC-01/04-01/06-3360 with two public annexes.

²² “Observations de la Défense sur les éléments de preuve admis dans la présente procédure en vue de fixer le montant des réparations auxquelles est tenu Thomas Lubanga Dyilo”, dated 29 September 2017 and registered on 2 October 2017, ICC-01/04-01/06-3374.

to the proceedings with a view to setting the amount of Mr Lubanga's liability for reparations.

FOR THESE REASONS, the Chamber

SCHEDULES a public hearing in Courtroom I at 10.00 on 15 December 2017 to be attended by the Legal Representatives of the V01 and V02 Victims, the OPCV, the Defence and the Trust Fund, at which it will deliver its decision setting the amount of Mr Lubanga's liability for reparations, thus completing the Amended Order for Reparations;

INSTRUCTS the Registry to organize, if possible, a video link between Makala prison in the Democratic Republic of the Congo and Courtroom I to enable Mr Lubanga to watch the delivery of the Chamber's decision; and

AUTHORIZES the Registry, in conjunction with its Field Office in Kinshasa, to contact the director of Makala prison to organize the above-mentioned video link and to inform the Chamber of progress on its organization.

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

[signed]

Judge Marc Perrin de Brichambaut

Presiding Judge

[signed]

Judge Olga Herrera Carbuccia

[signed]

Judge Péter Kovács

Dated this 22 November 2017

At The Hague, Netherlands