



Original: **French**

No.: ICC-01/04-01/06
Date: **21 December 2016**

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***

Urgent

Public Document

**Order to complete the process of identifying victims
potentially eligible to benefit from reparations**

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 Walleyen

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 (“the Chamber”) of the International Criminal Court (“the Court”), acting pursuant to article 75 of the Rome Statute and regulation 35(2) of the Regulations of the Court, issues the following order.¹

1. On 9 February 2016, the Chamber issued an order² (“the Order of 9 February 2016”) containing an instruction to the Trust Fund for Victims (“the TFV”) “to begin the process of locating and identifying victims potentially eligible to benefit from [...] reparations”³ (“the Identification Process”). The Chamber also instructed the TFV to prepare a file for each victim potentially eligible to benefit from reparations in the instant case (“the Potentially Eligible Victims”), and to transmit a first batch of files to the Chamber by 31 March 2016, a second batch by 15 July and a third batch by 31 December 2016.⁴

2. On 15 July 2016, the Chamber issued an order instructing the Registry to provide all the necessary and appropriate aid and assistance to the Office of Public Counsel for Victims (“the OPCV”), the Legal Representatives of victim groups V01 and V02, (“the Legal Representatives of V01 and V02 Victims”) and the TFV, for the purpose of carrying out the Identification Process and preparing and transmitting the files of Potentially Eligible Victims.⁵

3. On 21 October 2016, the Chamber issued an Order in which it instructed the TFV to continue the Identification Process⁶ (“the Order of 21 October 2016”). It also authorised the OPCV to continue the Identification Process and to transmit to the Chamber – through the Victims Participation and Reparations Section (“VPRS”) –

¹ Judge Herrera Carbuca confirms her Dissenting Opinion of 21 October 2016, ICC-01/04-01/06-3252-Anx.

² “Order instructing the Trust Fund for Victims to supplement the draft implementation plan”, 9 February 2016, ICC-01/04-01/06-3198-tENG.

³ Order of 9 February 2016, para. 15.

⁴ Order of 9 February 2016, paras. 17-18 and p. 12.

⁵ “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, Judge Herrera Carbuca dissenting, ICC-01/04-01/06-3217-Anx-tENG.

⁶ “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, Judge Herrera Carbuca dissenting, ICC-01/04-01/06-3252-Anx.

the files of Potentially Eligible Victims as they became ready, with a deadline of 31 December 2016.⁷

4. On 16 December 2016, the Legal Representatives of V02 victims filed a request to extend the deadline for transmitting Potentially Eligible Victim files to the Chamber, from 31 December 2016 to April 2017.⁸

5. The Chamber was informed by the Legal Representatives of V02 Victims that they had carried out a field mission in December 2016 to meet Potentially Eligible Victims and prepare their files.⁹ The Legal Representatives of V02 Victims also proposed additional missions to be carried out with the TFV in January, February and March 2017.¹⁰ The Legal Representatives of V02 Victims added that they had agreed with the TFV that they would modify the way they conduct interviews with Potentially Eligible Victims in comparison with previous missions, in particular so as to lighten the workload.¹¹

6. On 20 December 2016, the OPCV filed a request for an extension of time until 30 June 2017 to complete and transmit to the Chamber the files of the Potentially Eligible Victims already met, and to continue the Identification Process and the preparation of additional files.¹²

7. The OPCV informed the Chamber that, further to the Order of 21 October 2016, two field missions¹³ had been carried out during which nearly 200 Potentially Eligible Victims had been met.¹⁴ The victim files it deemed complete had been transmitted to the Registry on an ongoing basis.¹⁵ According to the OPCV,

⁷ *Ibid.*

⁸ “*Demande de prorogation du délai initialement fixe au 31 décembre 2016 pour la transmission à la Chambre des dossiers des victimes*”, 16 December 2016, ICC-01/04-01/06-3265 (“Request of the Legal Representatives of V02 Victims”).

⁹ Request of the Legal Representatives of V02 Victims, para. 10.

¹⁰ *Ibid.*, para. 13.

¹¹ *Ibid.*, paras. 11 and 12.

¹² “*Demande de prorogation du délai aux fins de dépôt des demandes en réparation supplémentaires de bénéficiaires potentiels*”, 20 December 2016, ICC-01/04-01/06-3266-Conf (“OPCV Request”). A public redacted version was filed on the same day.

¹³ OPCV Request, paras. 2 and 12-15.

¹⁴ *Ibid.*, para. 2.

¹⁵ *Idem.*

the Chamber ought to receive most of them before the deadline of 31 December 2016.¹⁶ The OPCV went on to say, however, that the deadline was too short for it to complete some of the files or for it to cover every geographical area relevant to the case and meet all the potential reparation beneficiaries.¹⁷ The OPCV emphasised that a six-month extension was needed to prevent the indiscriminate exclusion of what could be a substantial number of victims with a claim in the instant case.¹⁸ Lastly, the OPCV informed the Chamber that the working method adopted by its team on the two aforementioned missions had proved successful and cost-effective.¹⁹

8. In view of the developments that the Legal Representatives of V02 Victims and the OPCV described – not least the interest exhibited by Potentially Eligible Victims in participating in these proceedings²⁰ – the Chamber deems it appropriate at this time to extend until 31 March 2017 the deadline for completing the Identification Process and preparing and transmitting the files.

9. Noting the observations of the Legal Representatives of V02 Victims and those of the OPCV, the Chamber also deems it appropriate to provide some guidelines for completing the Identification Process and preparing and transmitting the files.

10. Firstly, the Chamber directs the Legal Representatives of V02 Victims, the OPCV and the TFV to use the form that has already been adopted.²¹ Secondly, the Chamber reiterates that *all* Potentially Eligible Victim files, including those of victims who refuse the disclosure of their identities to the Defence, must be transmitted to the Chamber (through VPRS).²²

¹⁶ *Idem*.

¹⁷ *Ibid.*, paras. 2 and 16-20.

¹⁸ *Ibid.*, para. 21.

¹⁹ *Ibid.*, para. 22.

²⁰ *Ibid.*, paras. 19 and 20.

²¹ See, in connection, the Order of 21 October 2016, para. 21.

²² See, in connection, *ibid.*, para. 21.

11. The Chamber considers that it falls to the legal representatives of victims to determine the best approach to conducting interviews with Potentially Eligible Victims, on the basis of their shared expertise and experience.²³ Nonetheless, the Chamber wishes to stress that Potentially Eligible Victims must be treated equally²⁴ and that the approach adopted must be both effective and economical. To this end, the Chamber directs the Legal Representatives of V02 Victims and the TFV to confer on how best to proceed with the Identification Process and with the preparation and transmission of files, and in particular on whether it is necessary to conduct the interviews with a doctor, a psychologist, a counsel and one additional person present.²⁵

²³ *Ibid.*, para. 19.

²⁴ See also the Order for Reparations dated 3 March 2015, ICC-01/04-01/06-3129-AnxA, paras. 12-13.

²⁵ Request of the Legal Representatives of V02 Victims, paras. 12-13.

FOR THESE REASONS, the Chamber

EXTENDS until 31 March 2017 the deadline to complete the Identification Process and finish preparing and transmitting the files;

DIRECTS the OPCV and the Legal Representatives of V02 Victims, in conjunction with the TFV, to submit all Potentially Eligible Victim files to VPRS as they become ready, before the deadline of 31 March 2017; and

DIRECTS the OPCV and the Legal Representatives of V02 Victims, in conjunction with the TFV, to use the form already in use, as indicated in paragraph 10.

Done in both 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 21 December 2016

At The Hague, Netherlands