

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **10 May 2021**

TRIAL CHAMBER II

Before: Judge Chang-ho Chung, Presiding Judge
Judge Péter Kovács
Judge María del Socorro Flores Liera

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

Public

Fifth Decision on the TFV's administrative decisions on applications for reparations

To be notified, in accordance with regulation 31 of the Regulations of the Court, to:**The Office of the Prosecutor**

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Trial Chamber II of the International Criminal Court (the ‘Chamber’), in the case of *The Prosecutor v. Thomas Lubanga Dyilo* (the ‘Lubanga case’), having regard to article 75 of the Rome Statute, issues its Fifth Decision on the TFV’s administrative decisions on applications for reparations (the ‘Decision’).

I. PROCEDURAL HISTORY

1. On 15 December 2017, the Chamber, in its prior composition, issued the ‘Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable’ wherein it, *inter alia*, reiterated that victims who had not been in a position to submit a dossier by 31 March 2017 would be screened by the Trust Fund for Victims (‘TFV’) for eligibility at the implementation stage.¹

2. On 7 February 2019, the Chamber, in its prior composition, issued a decision approving the process for locating new applicants and determining their eligibility for reparations.² The Chamber directed the TFV to collect applications, with the support of the Legal Representatives of Victims and the Office of the Public Counsel for Victims.³ The Chamber also instructed the TFV to forward the applications to the Registry’s Victims Participation and Reparations Section (‘VPRS’) for verifications and recommendations, in order to allow the TFV’s Board of Directors to take administrative decisions on the victims’ eligibility, to be submitted to the Chamber for a final decision.⁴

3. On 26 March 2021, the Chamber issued a Decision, *inter alia*, setting the final cut-off date for the submissions of the last complete dossiers to the VPRS on 1 October 2021.⁵

4. On 21 April 2021, the TFV submitted its Thirteenth progress report on the implementation of collective reparations (the ‘Thirteenth Progress Report’), providing

¹ Corrected Version of the “Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable”, 21 December 2017 (public redacted version filed on 5 July 2018), [ICC-01/04-01/06-3379-Red-Corr-tENG](#), para. 293, referring to Decision on the Motion of the Office of Public Counsel for Victims for Reconsideration of the Decision of 6 April 2017, 13 July 2017, [ICC-01/04-01/06-3338-tENG](#), para. 11.

² Decision Approving the Proposals of the Trust Fund for Victims on the Process for Locating New Applicants and Determining their Eligibility for Reparations (‘Decision on New Applicants’), 7 February 2019 (reclassified as public on 13 April 2021), [ICC-01/04-01/06-3440-tENG](#).

³ Decision on New Applicants, [ICC-01/04-01/06-3440-tENG](#), para. 21.

⁴ Decision on New Applicants, [ICC-01/04-01/06-3440-tENG](#), paras 29-30.

⁵ Decision on the submissions by the Legal Representative of Victims V01 in its Response to the Twelfth Report of the Trust Fund for Victims on the implementation of collective reparations, filing ICC-01/04-01/06-3500-Conf-Exp, 26 March 2021 (reclassified as public on 13 April 2021), [ICC-01/04-01/06-3508](#).

information on the implementation of the collective reparations awards, on the identification of victims, as well as on the status of 70 administrative decisions.⁶

5. On 5 May 2021, the Legal Representative for Victims V01 submitted a response to the TFV's Thirteenth Progress Report, in which it, *inter alia*, provides information on the security situation and on the advances and challenges faced in the identification of new applicants.⁷

II. ANALYSIS

6. In its Thirteenth Progress Report, the TFV submitted for the Chamber's final approval 70 administrative decisions adopted by the Board of Directors,⁸ in light of its verification and assessment of eligibility of 70 new applications for reparations.⁹ The applications were submitted by close relatives of direct victims already recognised by the Board of Directors and the Trial Chamber, and admitted to benefit from the reparations in the present case. Consequently, the TFV notes that the Board of Directors' assessment was limited to the verification of a close personal relationship between an already recognised direct victim and the new applicant (indirect victim).¹⁰ The Chamber also notes that, following its assessment, the Board of Directors approved all 70 applications for reparations.¹¹

7. The Chamber recalls that in rendering its administrative decisions on the eligibility of new applications, the TFV's Board of Directors is assisted by the initial verification of the applications and the recommendations provided by the VPRS.¹² In addition, the Chamber notes that no objections to the Board of Directors' assessment have been raised.

8. In light of the above and after having reviewed the assessment made by the VPRS¹³ and the TFV's Board of Directors,¹⁴ the Chamber issues its final decision endorsing the TFV's

⁶ Thirteenth progress report on the implementation of collective reparations as per Trial Chamber II's decisions of 21 October 2016, 6 April 2017 and 7 February 2019 ('Thirteenth progress report'), 21 April 2021 (public redacted version filed on the same date), [ICC-01/04-01/06-3512-Red](#).

⁷ Réponse au *Thirteenth progress report on the implementation of collective reparations* (ICC-01/04-01/06-3512) avec annexes du 21 avril 2021 ('Response'), 5 May 2021 (public redacted version filed on the same date), [ICC-01/04-01/06-3513-Red](#).

⁸ Thirteenth progress report, [ICC-01/04-01/06-3512-Red](#), paras 24-26.

⁹ Confidential *ex parte* Annex A only available to the LRV01, the Trust Fund for Victims and the VPRS, 21 April 2021 ('Annex A'), 21 April 2021, ICC-01/04-01/06-3512-Conf-Exp-AnxA.

¹⁰ Thirteenth progress report, [ICC-01/04-01/06-3512-Red](#), para. 25.

¹¹ Annex A, ICC-01/04-01/06-3512-Conf-Exp-AnxA.

¹² Decision on New Applicants, [ICC-01/04-01/06-3440-tENG](#), paras 29-30.

¹³ Transmitted to the Chamber by the VPRS via email on 28 April 2021 at 16:03, as requested by the Chamber pursuant to Décision relative à la première et à la deuxième transmission des décisions administratives du Fonds au profit des victimes portant sur des nouvelles demandes en réparation, 20 May 2020, ICC-01/04-01/06-3476-Conf, para. 16.

¹⁴ Annex A to the Thirteenth progress report, ICC-01/04-01/06-3512-Exp-AnxA.

Board of Directors' administrative decisions and approves the 70 new applications for reparations.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY,

ENDORSES the TFV's Board of Directors' administrative decisions; and

APPROVES the administrative decisions taken by the TFV's Board of Directors with regard to 70 new applicants who shall become beneficiaries of reparations.

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



Judge Chang-ho Chung, Presiding Judge



Judge Péter Kovács



Judge María del Socorro Flores Liera

Dated this Monday, 10 May 2021

At The Hague, The Netherlands