

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **French**

No.: **ICC-01/04-02/12**

Date: **8 October 2015**

**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. MATHIEU NGUDJOLO***

**Public**

**Decision on the request by Counsel for Mathieu Ngudjolo for leave to reply**

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

**Office of the Prosecutor**

Ms Fatou Bensouda

Mr Éric MacDonald

**Counsel for Mathieu Ngudjolo**

Mr Jean-Pierre Kilenda Kakengi Basila

**Legal Representatives of Victims**

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**States' Representatives**

**Office of Public Counsel for the  
Defence**

**REGISTRY**

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**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

**TRIAL CHAMBER II** (“the Chamber”) of the International Criminal Court, acting pursuant to article 85 of the Rome Statute (“the Statute”) and rule 174 of the Rules of Procedure and Evidence (“the Rules”), issues the following decision.

1. On 27 February 2015, the Appeals Chamber rendered its judgment confirming, by majority, the decision of Trial Chamber II dated 18 December 2012 acquitting Mathieu Ngudjolo.<sup>1</sup>

2. On 14 August 2015, Counsel for Mathieu Ngudjolo (“Counsel”) filed a request for compensation pursuant to article 85 of the Statute<sup>2</sup> (“the Request for Compensation”).

3. On 18 September 2015, in accordance with the Chamber’s order,<sup>3</sup> the Prosecution filed a response to the Request for Compensation<sup>4</sup> (“the Prosecution’s Response”).

4. On 24 September 2015, Counsel requested the leave of the Chamber to reply to the Prosecution’s response pursuant to regulation 24(5) of the Regulations<sup>5</sup> (“the Request”).

5. On 25 September 2015, the Prosecution filed a response to the Request in which it requested that the Chamber dismiss the Reply.<sup>6</sup>

6. The Chamber notes that, in accordance with rule 174 of the Rules of Procedure and Evidence, “[a]ny observations by the Prosecutor shall be notified to the person filing the request”. The rule does not, however, provide for the right to reply as such. Nevertheless, the Chamber considers that a reply should be authorised and ordered.

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<sup>1</sup> “Judgment on the Prosecutor’s appeal against the decision of Trial Chamber II entitled ‘Judgment pursuant to article 74 of the Statute’”, 7 April 2015, ICC-01/04-02/12-271-Corr.

<sup>2</sup> “*Requête en indemnisation sur pied de l’article 85 (1) et (3) du Statut de Rome*”, 14 August 2015, ICC-01/04-02/12-290 with public annexes I and IV and confidential annexes II, III and V.

<sup>3</sup> “Order instructing the Prosecution to file observations on the Request for Compensation”, 18 August 2015, ICC-01/04-02/12-291-tENG.

<sup>4</sup> “Prosecution’s response to Mathieu Ngudjolo Chui’s request for compensation”, 18 September 2015, ICC-01/04-02/12-292 with annex.

<sup>5</sup> “*Demande d’autorisation de réplique à ‘Prosecution’s response to Mathieu Ngudjolo Chui’s request for compensation’ (ICC-01/04-02/12-292 du 18 septembre 2015)*”, 24 September 2015, ICC-01/04-02/12-293.

<sup>6</sup> “Prosecution’s response to Mr Ngudjolo’s request to reply to ‘Prosecution’s response to Mathieu Ngudjolo Chui’s request for compensation’”, 25 September 2015, ICC-01/04-02/12-294.

7. The Chamber underscores that the reply must be strictly limited to the points raised in the Response and may not be used to strengthen the arguments put forward in the Request for Compensation.

**FOR THESE REASONS**, the Chamber

**GRANTS** the Request;

**INSTRUCTS** Counsel to file a reply of no more than 10 pages to the Prosecution's Response, by 16 October 2015, to be strictly limited to the points raised by the Prosecution.

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 Carbuccia**

[signed]

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**Judge Péter Kovács**

Dated this 8 October 2015

At The Hague, the Netherlands