



Original: **French**

No.: **ICC-01/04-01/06**  
Date: **20 November 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. THOMAS LUBANGA DYLIO***

**Public**

**Decision on the Prosecution request for extension of time to file observations**

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

**Office of the Prosecutor**

Ms Fatou Bensouda

Mr James Stewart

**Counsel for Thomas Lubanga Dyilo**

Ms Catherine Mabilie

Mr Jean-Marie Biju-Duval

**Legal Representatives of Victims V01**

Mr Luc Walley

Mr Franck Mulenda

**Legal Representatives of Applicants**

**Legal Representatives of Victims V02**

Ms Carine Bapita Buyangandu

Mr Paul Kabongo Tshibangu

Mr Joseph Keta Orwinyo

**Office of Public Counsel for Victims**

Ms Paolina Massidda

**REGISTRY**

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**Registrar**

Mr Herman von Hebel

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Ms Fiona McKay

**Trust Fund for Victims**

Mr Pieter de Baan

**Trial Chamber II** of the International Criminal Court (“the Chamber”), acting pursuant to article 75 of the Rome Statute and regulation 35 of the Regulations of the Court (“the Regulations”), issues the following decision.

### **I. Background**

1. On 3 March 2015, the Appeals Chamber delivered the “Judgment on the appeals against the ‘Decision establishing the principles and procedures to be applied to reparations<sup>1</sup> with AMENDED order for Reparations (Annex A)’” (“the Order”), directing the Trust Fund for Victims (“the TFV”) to submit, within six months, i.e. by 3 September 2015, a draft implementation plan (“the Draft”) to enable implementation of the principles and procedures adopted in the Order.<sup>3</sup>
2. On 14 August 2015, at the TFV’s request, the Chamber granted an extension of time limit until 3 November 2015 for submitting the Draft.<sup>4</sup>
3. On 3 November 2015, TFV submitted the Draft.<sup>5</sup>
4. On 12 November 2015, the Chamber issued an order instructing interested persons or States and the Prosecution, as well as the parties, to submit observations on the Draft by 11 December 2015 and 11 January 2016, respectively<sup>6</sup> (“Order of 12 November 2015”).
5. On 13 November 2015, the Prosecution submitted a request under regulation 35 of the Regulations, for an extension of time limit until 18 January 2016 for filing its observations on the Draft<sup>7</sup> (“the Request”).

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<sup>1</sup> “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.

<sup>2</sup> “Order for reparations”, 3 March 2015, ICC-01/04-01/06-3129-AnxA.

<sup>3</sup> Order, para. 75.

<sup>4</sup> “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.

<sup>5</sup> “Filing on Reparations and Draft Implementation Plan”, 3 November 2015, ICC-01/04-01/06-3177-Red, and both annexes to it (ICC-01/04-01/06-3177-AnxA et ICC-01/04-01/06-3177-Conf-Exp-AnxI).

<sup>6</sup> “Order fixing the schedule for the submission of observations on the draft implementation plan submitted by the Trust Fund for Victims”, 12 November 2015, ICC-01/04-01/06-3179.

<sup>7</sup> “Prosecution’s request for extension of time to file observations on the Trust Fund for Victims’ Reparations and Draft Implementation Plan,” 13 November 2015, ICC-01/04-01/06-3180.

## II. Analysis

6. The Chamber recalls that according to the first sentence of regulation 35(2) of the Regulations, a Chamber may extend a time limit if good cause is shown.
7. The Prosecution submits that it was unable to meet the deadline set by the Chamber. The Prosecution argues, *inter alia*, that owing to staffing constraints, its existing work load, the dissolution of the team in charge of *The Prosecution v. Thomas Lubanga Dyilo* after the conclusion of the case, it will be difficult for it to find available staff with first-hand knowledge of the facts, within the next three weeks.<sup>8</sup> Further, the Prosecution highlights the challenges involved in moving the Office of the Prosecutor to the Court's permanent premises during the week of 7 to 11 December 2015.<sup>9</sup>
8. The Chamber notes that contrary to the Prosecution's assertion, the case of the *Prosecutor v. Thomas Lubanga Dyilo* is yet to be concluded, as the Order permits persons and States to file observations on the Draft before it is approved by the Chamber.<sup>10</sup> Further, the Chamber considers that it is incumbent upon the Prosecution to arrange for contingency staffing. The Chamber also considers that the Prosecution should reasonably have expected to be asked to file observations on the Draft. Lastly, the Chamber notes that if a five-week extension were granted, it would apply to the time limits granted to the parties. The Chamber believes that this would result in undue delay in the proceedings.
9. Nonetheless, in view of the Court's move to its permanent premises, the Chamber considers that there is a good cause to accord a slight extension of the time limit. Accordingly, the Chamber grants one additional week by way of compensation for the days spent on the move, and therefore amends the time limit set out in the Order of 12 November 2015.

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<sup>8</sup> Request, paras. 7-8.

<sup>9</sup> Request, paras. 5-6.

<sup>10</sup> Order, para. 77. See also, Order, para. 76.

**FOR THESE REASONS,**

GRANTS, in part, the Request;

INSTRUCTS the Prosecution and interested parties or States to submit observations of no more than 20 pages by 18 December 2015; and

INSTRUCTS the Legal Representatives of Victims, the Office of Public Counsel for Victims and the Defence team for Thomas Lubanga Dyilo to submit observations not exceeding 40 pages on the Draft and on any other observations submitted by 18 December 2015, by 18 January 2016.

Done in both 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 20 November 2015

At The Hague, the Netherlands