

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **French**

No.: **ICC-01/04-01/06**
Date: **18 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***

Confidential

Ex parte, available only to the Registry and the Prosecution
Order concerning Thomas Lubanga Dyilo's financial situation

Order 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

Legal Representatives of Victims V1

Legal Representatives of Victims V2

Legal Representatives of Applicants

Office of Public Counsel for Victims

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Trust Fund for Victims

TRIAL CHAMBER II of the International Criminal Court ("the Chamber"), pursuant to article 75 of the Rome Statute, orders as follows.

I. Background

1. On 3 March 2015, the Appeals Chamber, in the instant case, delivered the "Judgment on the appeals against the 'Decision establishing the principles and procedures to be applied to reparations¹ with AMENDED order for Reparations (Annex A)²'" (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") in order to enable implementation of the principles and procedures adopted in the Order.³
2. On 14 August 2015, at the TFV's request,⁴ the Chamber granted an extension of time limit until 3 November 2015 for submitting the Draft.⁵
3. On 3 November 2015, the TFV submitted the Draft, and requested to be informed about the financial situation of Thomas Lubanga Dyilo⁶ ("Mr Lubanga").

II. Analysis

4. The Chamber notes that, the Order states that should Mr Lubanga be found indigent, his financial situation is to be monitored on an ongoing basis by the

¹ "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 Order, 3 March 2015, ICC-01/04-01/06-3129-AnxA.

³ Order, para. 75.

⁴ "Request for extension of time to submit the draft implementation plan on reparations", 11 August 2015, ICC-01/04-01/06-3157-Conf. A Public redacted version was filed on 13 August 2015 (ICC-01/0401/07-3157-Red).

⁵ "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.

⁶ "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 and ICC-01/04-01/06-3177-Conf-Exp-AnxI).

Presidency, pursuant to regulation 117 of the Regulations of the Court, with, as necessary, the assistance of the Registrar in order to enable implementation of the Order.⁷ The Chamber also notes that the Order states that the Board of Directors of the TFV (“the Board”) may decide to advance “other resources of the Trust Fund” in order to enable the implementation of the Order.⁸

5. Finally, the Chamber notes that, in the Draft, the TFV requests the Chamber to determine whether Mr Lubanga is to be declared indigent for purposes of reparations so as to enable the Board to decide whether to advance “other resources of the Trust Fund” for purposes of enabling implementation of the Order.⁹
6. For the above reasons, the Chamber considers that, in order for it to enable implementation of the Order, it, and subsequently the TFV, should be apprised of Mr Lubanga’s financial situation. The Chambers considers that the Registrar is competent to examine the matter and establish whether Mr Lubanga is indigent for purposes of reparations.¹⁰ The Chamber further considers that the Prosecution might have useful information which could assist the Registrar in this matter.

FOR THESE REASONS, THE CHAMBER

INSTRUCTS the Registrar to review Mr Lubanga’s financial situation and report back to the Chamber by 11 January 2016;

⁷ Order, para. 61.

⁸ Order, para. 62. See paras. 47 and 48 of the Regulations of the Trust Fund for Victims. Resolution ICC-ASP/4/Res.3, adopted by the Assembly of States Parties by consensus at the 4th plenary meeting on 3 December 2005 (“the Regulations of the TFV”), para. 56 of the Regulations of the TFV.

⁹ Draft, para. 108.

¹⁰ See, for example, “Order on the ‘Fifth Report of the Registrar concerning the execution of the requests for the identification, tracing and freezing or seizure of the property and assets of Thomas Lubanga Dyilo’”, 14 December 2009, ICC-01/04-01/06-2213-Conf-Exp; “Report on the Request for the identification, tracing and freezing or seizure of the property and assets to the Republic of Rwanda”, 27 January 2011, ICC-01/04-01/06-2674-Conf-Exp.

INSTRUCTS the Prosecution to transmit to the Registrar any information relevant to Mr Lubanga's financial situation.

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

[signed]

Judge Marc Perrin de Brichambaut
Presiding Judge

[signed]

Judge Olga Herrera Carbuccion

[signed]

Judge Péter Kovács

Dated this 18 November 2015

At The Hague, the Netherlands