

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: French

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

Date: 6 October 2016

TRIAL CHAMBER II

Before:

**Judge Marc Perrin de Brichambaut, Presiding Judge
Judge Olga Herrera Carbuca
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 on the conduct of the hearing to be held on 11 and 13 October 2016

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

Trust Fund for Victims

Mr Pieter de Baan

Amici curiae

Ligue pour la Paix, les Droits de l'Homme et la Justice

Cooperazione internazionale

Fédération des Jeunes pour la Paix Mondiale

Association pour la réconciliation et la paix en Ituri

Réseau des Associations des Droits de l'Homme de l'Ituri

Ligue pour la Paix et les Droits de l'Homme (Mahagi)

Actions féminines pour la défense des Droits de l'Homme

Ligue pour la Paix et les Droits de l'Homme (Bunia)

Terre des Enfants (Bunia)

Dr Shannon Golden and Mr Craig
Higson-Smith (Center for Victims of
Torture)

Professor Fionnuala Ní Aoláin
(University of Minnesota Law School)

Dr Norbert Wühler (World Intellectual
Property Organization Appeal Board)

Child Soldiers International

Women's Initiatives for Gender Justice

United Nations Organization

(MONUSCO)

TRIAL CHAMBER II (“the Chamber”) of the International Criminal Court, in the discharge of its functions under article 75 of the Rome Statute, orders:

1. On 15 July 2016, the Chamber, acting pursuant to rule 103 of the Rules of Procedure and Evidence (“the Rules”), invited observations from the States concerned, and any organisations which were so minded, on current or past collective projects for former child soldiers in the East of the Democratic Republic of the Congo and proposals for collective projects to support the setting up of a range of collective reparations projects for the former child-soldier victims of Thomas Lubanga Dyilo¹ (“the Order of 15 July 2016”). By that same order, the Chamber advised the legal representatives of the V01 and V02 groups of victims, the Office of Public Counsel for Victims and the Defence team for Thomas Lubanga Dyilo (“the Parties”), the Trust Fund for Victims (“the TFV”) and the Registry that it would be convening a public hearing requiring their attendance on 11, 13 and 14 October 2016 (“the Hearing”) and that it would impart to them in due course the list of participants invited to present observations at the Hearing and set its agenda.²

2. On 30 September 2016, the *Ligue pour la Paix, les Droits de l’Homme et la Justice*³ and *Cooperazione internazionale*⁴ filed observations.

3. On 5 October 2016, the Registry submitted a report on implementation of the Order of 15 July 2016, appending thereto the observations of the following *amici curiae*: *Fédération des Jeunes pour la Paix Mondiale*, *Association pour la réconciliation et la paix en Ituri*, *Réseau des Associations des Droits de l’Homme de l’Ituri*, *Ligue pour la Paix et les Droits de l’Homme (Mahagi)*, *Actions féminines pour la défense des Droits de l’Homme*,

¹ “Order pursuant to rule 103 of the Rules of Procedure and Evidence”, 15 July 2016, ICC-01/04-01/06-3217-tENG and Judge Herrera Carbuca’s dissent, ICC-01/04-01/06-3217-Anx-tENG.

² Order of 15 July 2015, para. 11.

³ “Observations de la Ligue pour la Paix, les Droits de l’Homme et la Justice (LIPADHOJ) présentées conformément à l’ordonnance de la Chambre de céans du 15 juillet 2016 rendue en application de la règle 103 du règlement de procédure et de preuve”, dated 29 September 2016 and notified on 30 September 2016, ICC-01/04-01/06-3232.

⁴ “Ordonnance rendue en application de la règle 103 du Règlement de procédure et de preuve”, 30 September 2016, ICC-01/04-01/06-3234, one confidential and two public annexes.

Ligue pour la Paix et les Droits de l'Homme (Bunia), Terre des Enfants (Bunia), Child Soldiers International, Women's Initiatives for Gender Justice ("Women's Initiatives"), the United Nations Organization ("the United Nations") on behalf of the United Nations Organization Mission in the Democratic Republic of the Congo, and the joint observations of Dr Shannon Golden (Center for Victims of Torture), Mr Craig Higson-Smith (Center for Victims of Torture), Professor Fionnuala Ní Aoláin (University of Minnesota Law School) and Dr Norbert Wühler (World Intellectual Property Organization Appeal Board) and the observations of two further amici curiae⁵ ("the Amici Curiae Observations").

4. The Chamber underscores that the Hearing will consider only "current or past collective projects for former child soldiers in the East of the Democratic Republic of the Congo, whether carried out by public or private actors"⁶ and "proposals for future collective projects to support the setting up of a range of collective reparation projects for the former child soldier victims of Mr Lubanga".⁷

5. The Chamber notes further that Women's Initiatives and Child Soldiers International requested to present their observations in oral form at the Hearing, as provided in the Order of 15 July 2016.⁸ Accordingly, the Chamber allows them to do so.

6. In accordance with rule 103(2) of the Rules, the Parties are invited to respond *viva voce* to the written and oral observations of the aforementioned *amici curiae*.

⁵ "*Rapport du Greffier sur l'exécution de la Décision ICC-01/04-01/06-3217*", dated 4 October 2016 and entered on the record on 5 October 2016, ICC-01/04-01/06-3240 and one public annex; 13 confidential annexes, *ex parte* only available to the participants and non-governmental organisations making observations; and one confidential annex.

⁶ Order of 15 July 2016, para. 8.

⁷ Order of 15 July 2016, para. 8.

⁸ Order of 15 July 2016, para. 12.

7. Since the Chamber has instructed the TFV to make the draft implementation plan complete,⁹ it accordingly invites submissions from the TFV on the written and oral *Amici Curiae* Observations and on the Parties' observations. Further the Chamber considers it necessary for the Parties to be afforded an opportunity to respond to the TFV's observations at the Hearing.

8. Lastly, the Chamber notes that the Registry has conveyed the *Amici Curiae* Observations, save for those of the United Nations, as "[TRANSLATION] confidential, *ex parte* only available to the participants and non-governmental organisations submitting observations" pursuant to regulation 23 *bis*(2) of the Regulations of the Court. So as not to adversely affect the endeavours of the *amici curiae*, the Parties and the TFV are instructed not to reveal information on the names and contact details of the employees of the *amici curiae* and the particulars of the collective reparations projects presented.

FOR THESE REASONS, the Chamber

ORDERS that the Hearing be held in public on 11 and 13 October 2016 in Courtroom I with the Parties and the TFV in attendance at the following sessions:

- a. First session, 11 October 2016 (9.30 a.m. to 11.00 a.m.):
 - i. 9.30 a.m. to 9.40 a.m.: Opening of the hearing and introductory remarks by the Presiding Judge (10 minutes).
 - ii. 9.40 a.m. to 10.10 a.m.: Submissions by Women's Initiatives (30 minutes).
 - iii. 10.10 a.m. to 10.20 a.m.: Questions from the Chamber (10 minutes).
 - iv. 10.20 a.m. to 10.50 a.m.: Submissions by Child Soldiers International (30 minutes).

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

v. 10.50 a.m. to 11.00 a.m.: Questions from the Chamber (10 minutes).

11.00 a.m. to 11.30 a.m.: Adjournment.

b. Second session, 11 October 2016 (11.30 a.m. to 12.30 p.m.):

i. 11.30 a.m. to 12.00 p.m.: Submissions in response by the Legal Representative of the V01 group of victims (30 minutes).

ii. 12.00 p.m. to 12.30 p.m.: Submissions in response by the Legal Representative of the V02 group of victims (30 minutes).

12.30 p.m. to 2.30 p.m.: Adjournment.

c. Third session, 11 October 2016 (14.30 p.m. to 15.30 p.m.):

i. 2.30 p.m. to 3.00 p.m.: Submissions in response by the Office of Public Counsel for Victims (30 minutes).

ii. 3.00 p.m. to 3.30 p.m.: Submissions in response by the Defence team for Thomas Lubanga Dyilo (30 minutes).

d. First session, 13 October 2016 (9.30 a.m. to 11.00 a.m.):

i. 9.30 a.m. to 10.30 a.m.: Submissions by the TFV (60 minutes).

ii. 10.30 a.m. to 11.00 a.m.: Questions from the Chamber and the Parties (30 minutes).

11.00 a.m. to 11.30 a.m.: Adjournment.

e. Second session, 13 October 2016 (11.30 a.m. to 1.00 p.m.):

i. 11.30 a.m. to 11.50 a.m.: Submissions in reply by the Legal Representative of the V01 group of victims (20 minutes).

ii. 11.50 a.m. to 12.10 p.m.: Submissions by the Legal Representative of the V02 group of victims in reply (20 minutes).

- iii. 12.10 p.m. to 12.30 p.m.: Submissions in reply by the Office of Public Counsel for Victims (20 minutes).
- iv. 12.30 p.m. to 12.50 p.m.: Submissions in reply by the Defence team for Thomas Lubanga Dyilo (20 minutes).
- v. 12.50 p.m.: Close of the hearing by the Presiding Judge.

GRANTS LEAVE to the Women's Initiatives and Child Soldiers International to address the Chamber at the Hearing at the above appointed times;

INSTRUCTS the Registry to provide support and assistance to facilitate the attendance of Women's Initiatives and Child Soldiers International; and

INSTRUCTS the Parties and the TFV not to reveal information at the Hearing on the names and contact details of the employees of the *amici curiae* or concerning the particulars of the collective reparations projects.

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 6 October 2016

At The Hague, the Netherlands