

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: French

No.: ICC-01/04-01/06  
Date: 20 September 2016

**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 DYILO***

**Public Document**

**Order setting time limits for observations on the motion of the Office of Public  
Counsel for Victims of 16 September 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**

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**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Ms Isabelle Guibal

**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 34 of the Regulations of the Court (the “Regulations”), issues the following order.

## **I. Procedural background**

1. On 9 February 2016, the Chamber instructed the Trust Fund for Victims (the “TFV”) to supplement the draft implementation plan (the “Draft”) submitted on 3 November 2015 (the “Order of 9 February 2016”).<sup>1</sup> In this regard, the Chamber instructed the TFV to prepare a file on each potential victim and to provide a first batch of files to the Chamber by 31 March 2016, a second batch by 15 July and a third batch by 31 December 2016 (the “first limb of the Order of 9 February 2016”).<sup>2</sup> The Chamber further instructed the TFV to continue developing the programmes proposed in the Draft and to impart to the Chamber full details of the initial batch of reparation programmes by 7 May 2016 (the “second limb of the Order of 9 February 2016”).<sup>3</sup>
2. Having been accorded further time,<sup>4</sup> the TFV submitted a first batch of files on 31 May 2016.<sup>5</sup> The TFV also requested the Chamber to reconsider the approach laid down in its Order of 9 February 2016 (the “Document of 31 May 2016”).<sup>6</sup>
3. On 7 June 2016, after again being accorded further time,<sup>7</sup> the TFV submitted a document on the reparations projects (the “Document of 7 June 2016”).<sup>8</sup>
4. On 1 July 2016, at the behest of the Chamber,<sup>9</sup> the Office of Public Counsel for Victims<sup>10</sup> (the “OPCV”), the Legal Representatives of the V01<sup>11</sup> and V02<sup>12</sup> groups of

<sup>1</sup> “Order instructing the Trust Fund for Victims to supplement the draft implementation plan”, 9 February 2016, ICC-01/04-01/06-3198-tENG.

<sup>2</sup> Order of 9 February 2016, paras. 17-18 and page 12.

<sup>3</sup> Order of 9 February 2016, paras. 21-22 and page 12.

<sup>4</sup> “Decision on the request of the Trust Fund for Victims for an extension of the time limit for the submission of the first batch of files of potential victims”, 29 March 2016, ICC-01/04-01/06-3205-tENG.

<sup>5</sup> “First submission of victim dossiers With Twelve confidential, *ex parte* annexes, available to the Registrar, and Legal Representatives of Victims V01 only”, 31 May 2016, ICC-01/04-01/06-3208, and 12 confidential *ex parte* annexes.

<sup>6</sup> Document of 31 May 2016, paras. 85-192, 199 and p. 68.

<sup>7</sup> “*Décision prorogeant le délai pour le dépôt de l’information additionnelle relative aux programmes de réparation*”, 4 May 2016, ICC-01/04-01/06-3207.

<sup>8</sup> “Additional Programme Information Filing”, 7 June 2016, ICC-01/04-01/06-3209.

victims (the “Legal Representatives of V01 and V02 victims”) and the Defence team for Thomas Lubanga Dyilo (the “Defence”)<sup>13</sup> tendered consolidated observations (the “Consolidated Observations”) on the Document of 31 May and the Document of 7 June 2016. The OPCV observations included proposals for the implementation of the Order of 9 February 2016<sup>14</sup> and moved the Chamber “[TRANSLATION] to entertain [its] observations [...]”.<sup>15</sup>

5. On 14 July 2016, the TFV filed a second batch of files on victims potentially eligible for reparations in the case.<sup>16</sup>

6. On 15 July 2016, the Chamber ordered the Registry to provide the Legal Representatives of victims and the Trust Fund for Victims with all the necessary and appropriate aid and assistance for the purpose of locating and identifying victims potentially eligible for reparations.<sup>17</sup>

7. On 16 September 2016, the OPCV brought a motion informing the Chamber of developments since the Order of 15 July 2016 and seeking its guidance as to the desired arrangements “[TRANSLATION] to move forward reparations proceedings in the case”<sup>18</sup> (the “OPCV Motion”).

<sup>9</sup> “Order setting the time limit for observations on the latest documents filed by the Trust Fund for Victims”, 14 June 2016, ICC-01/04-01/06-3210-tENG.

<sup>10</sup> “Réponse consolidée aux soumissions déposées le 31 mai et le 7 juin 2016 par le Fonds au profit des victimes”, 1 July 2016, ICC-01/04-01/06-3212 and a confidential, *ex parte* annex available only to the OPCV (the “OPCV Observations”).

<sup>11</sup> “Observations consolidées du groupe de victimes V01 sur les documents ‘First submission of victim dossiers’ et ‘Additional Programme Information Filing’ déposés par le Fonds au profit des victimes respectivement les 31 mai et 1er Juin”, 1 July 2016, ICC-01/04-01/06-3213.

<sup>12</sup> “Observations de l’équipe V02 sur les écritures ICC-01/04-01/06-3208 et ICC-01/04-01/06-3209 du Fonds au profit des victimes”, 1 July 2016, ICC-01/04-01/06-3214.

<sup>13</sup> “Corrigendum - Réponse consolidée de la Défense de M. Thomas Lubanga relative à la ‘First submission of victim dossiers’, datée du 31 mai 2016, et au ‘Additional Programme Information Filing’, daté du 7 juin 2016”, (30 June 2016, ICC-01/04-01/06-3211)”, 1 July 2016, ICC-01/04-01/06-3211-Corr and a public annex. ICC-01/04-01/06-3211-Corr-AnxA.

<sup>14</sup> OPCV Observations, paras. 28-51.

<sup>15</sup> OPCV Observations, p. 19.

<sup>16</sup> “Second submission of victim dossiers With Eleven confidential, *ex parte* annexes, available to the Registrar, and Legal Representatives of Victims V02 and OPCV only”, 14 July 2016, ICC-01/04-01/06-3216 and 11 confidential *ex parte* annexes.

<sup>17</sup> “Order instructing the Registry to provide aid and assistance to the Legal Representatives and the Trust Fund for Victims to identify victims potentially eligible for reparations”, 15 July 2016, ICC-01/04-01/06-3218-tENG.

<sup>18</sup> “Requête afin de solliciter des lignes directrices de la Chambre suite à l’Ordonnance émise le 15 juillet 2016”, 16 September 2016, ICC-01/04-01/06-3222.

## II. Analysis

8. The Chamber is of the view that, for the proper conduct of the present proceedings, time limits for observations on the OPCV Motion must be set pursuant to regulation 34 of the Regulations.

9. Having regard to the points raised in the OPCV motion, which, in essence, rehearse those made in the Consolidated Observations, and given the time frame laid down in its Order of 9 February 2016, the Chamber is minded to set relatively short time limits.

10. Accordingly, the Chamber instructs the TFV to file observations on the OPCV Motion by 26 September 2016.

11. Since the Registry was instructed to provide aid and assistance for the purpose of locating and identifying victims potentially eligible for reparations, the Chamber further directs observations on the OPCV Motion from the Registry by 26 September 2016.

12. Lastly, to allow the Legal Representatives of the V01 and V02 Victims and the Defence to make observations on the OPCV Motion which take account of those which the TFV and the Registry are to provide by 26 September 2016, the Chamber instructs them to do so by 29 September 2016.

**FOR THESE REASONS, the Chamber**

**INSTRUCTS** the TFV and the Registry to file observations on the OPCV Motion by 26 September 2016; and

**INSTRUCTS** the Legal Representatives of the V01 and V02 Victims and the Defence to file by 29 September 2016 observations on both the OPCV Motion and the observations of the TFV and the Registry to be filed by 26 September 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 September 2016

At The Hague, the Netherlands