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

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TRIAL CHAMBER II

Before: Judge Marc Perrin de Brichambaut, Presiding Judge
Judge Olga Herrera-Carbuccia
Judge Péter Kovács

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
*THE PROSECUTOR v. THOMAS LUBANGA DYILO***

Public

**Registry's Observations on the Defence Request of 14 April 2017 pursuant to Trial
Chamber Order ICC-01/04-01/06-3302 of 28 April 2017**

Source: Registry

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

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I. Introduction

1. The Registry hereby submits observations on the request of the defence team of Mr Thomas Lubanga Dyilo ("Defence") to receive lesser redacted versions of 68 applications for reparations previously transmitted in the case of *The Prosecutor v. Thomas Lubanga Dyilo* ("Defence Request"),¹ in accordance with Trial Chamber II's ("Chamber") "Ordonnance fixant calendrier afin de déposer des observations sur la requête de l'équipe de la défense de Thomas Lubanga Dyilo du 14 avril 2017", issued on 28 April 2017 ("Order of 28 April 2017").²

II. Procedural history

2. On 22 February 2017, the Chamber ordered the Victims Participation and Reparations Section of the Registry ("VPRS") to apply specific redactions to application forms for reparations depending on whether the applicants have consented or not to disclosing their identities to the Defence, and to subsequently transmit them to the Defence ("Order of 22 February 2017").³
3. On 22 March and 5 April 2017, the Registry transmitted to the Defence redacted versions of , in total, 118 application forms for reparations.⁴
4. In its Request of 14 April 2017, the Defence submitted that the redactions applied by the Registry were not in compliance with the Order of 22 February 2017 and requested the transmission of lesser redacted versions of 68 out of

¹ Defence, "Requête de la Défense de M. Lubanga aux fins de nouvelles communications des dossiers de réparation", dated 14 April 2017 and notified on 24 April 2017, ICC-01/04-01/06-3294.

² Trial Chamber II, "Ordonnance fixant calendrier afin de déposer des observations sur la requête de l'équipe de la défense de Thomas Lubanga Dyilo du 14 avril 2017", 28 April 2017, ICC-01/04-01/06-3302.

³ Trial Chamber II, "Ordonnance relative à la transmission des dossiers de victimes potentiellement éligibles aux réparations à l'équipe de défense de Thomas Lubanga Dyilo", 22 February 2017, ICC-01/04-01/06-3275, paras. 14-19.

⁴ Registry, "Second Transmission to the Defence of Redacted Applications for Reparations pursuant to Trial Chamber II Order ICC-01/04-01/06-3275 of 22 February 2017", 22 March 2017, ICC-01/04-01/06-3281 and "Third Transmission to the Defence of Redacted Applications for Reparations pursuant to Trial Chamber II Order ICC-01/04-01/06-3275 of 22 February 2017", 5 April 2017, ICC-01/04-01/06-3288.

the 118 application forms mentioned above, submitted by applicants who consented to their identities being disclosed to the Defence.⁵

5. In its Order of 28 April 2018, the Chamber ordered the VPRS to submit observations on the Defence Request by 2 May 2017.

III. Applicable Law

6. The present submissions are made pursuant to articles 68(1) and 75 of the Rome Statute, rules 85 and 94 of the Rules of Procedure and Evidence, regulation 88 of the Regulations of the Court and regulation 110 of the Regulations of the Registry, and in accordance with the Order of 28 April 2017.

IV. Submissions

7. Following the Order of 22 February 2017, the Registry drafted redaction guidelines upon consultation with the Office of the Public Counsel for Victims, the Trust Fund for Victims ("Trust Fund") and the Legal Representatives of V01 and V02 victims ("Redaction Guidelines").
8. The application forms for reparations submitted by applicants who consented to their identities being disclosed to the Defence were redacted in accordance with these Redaction Guidelines. Consequently, redactions were applied to the following information:
 - i. Current place of residence and any information which could lead to the identification of the current address of the applicants, their relatives, witnesses, etc.
 - ii. Names and all identifying information of third parties, such as relatives, witnesses, etc.
 - iii. In application forms submitted by indirect victims who consented to their identity being disclosed to the Defence, all the


⁵ Defence Request, paras. 13-15.

identifying information of the direct victim was redacted in the absence of consent from the direct victim himself/herself.

- iv. Names of International Criminal Court staff members who assisted in filling in the forms and, regarding the forms collected and submitted by the Trust Fund, names of the experts used by the Trust Fund to assess harm.

9. The Registry respectfully submits that the the redactions mentioned in the Defence Request⁶ are related to direct victims of the crimes, namely child soldiers, or to other relatives, witnesses, etc., and not to the applicants themselves, namely the indirect victims who consented to their identities being disclosed. Therefore, the Registry submits that these redactions are justified and should not be lifted.

10. In addition, the Registry considers that the Legal Representatives of the respective victims are well placed to provide relevant input on the matter, considering that they have met and assisted the applicants in filling in their forms, and they would know best what redactions are necessary in order to protect the interests of their clients and those of other individuals mentioned in the forms.



 Marc Dubuisson, Director, Division of Judicial Services
per delegation of Herman von Hebel, Registrar

Dated this 2 May 2017

At The Hague, The Netherlands

⁶ Defence Request, para. 13.