

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: French

No.: ICC-01/04-01/06
Date: 25 January 2018

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 Document

**Order Directing Further Information from the Trust Fund for Victims on the
Procedure for Determining Victim Status at the Implementation Stage of
Reparations**

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 Walley

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**

Mr Philipp Ambach

Trust Fund for Victims

Mr Pieter de Baan

TRIAL CHAMBER II (“Chamber”) of the International Criminal Court, orders as follows.

I. Procedural history

1. On 15 December 2017, the Chamber handed down the “*Décision fixant le montant des réparations auxquelles Thomas Lubanga Dyilo est tenu*”¹ (“Decision of 15 December 2017”). In the decision, it undertook an analysis of 473 dossiers of persons claiming to be victims of the crimes of which Thomas Lubanga Dyilo (“Mr Lubanga”) was convicted; the dossiers were put before the Chamber by the Trust Fund for Victims (“TFV”), working with the Legal Representatives of the V01 and V02 groups of victims (“Legal Representatives of V01 and V02 Victims”) and the Office of Public Counsel for Victims (“OPCV”).² The Chamber found that of the 473 persons, 425 have established on a balance of probabilities that they suffered harm as a result of the crimes of which Thomas Lubanga was convicted.³ Accordingly, the Chamber determined that said persons would be awarded collective reparations, which the Chamber has authorized in the case.⁴ The Chamber, however, found that the 425 persons do not form the entirety of victims in the case, but that hundreds and potentially thousands more victims suffered harm as a consequence of the crimes of which Mr Lubanga was convicted.⁵ Lastly, the Chamber pointed out that at the implementation stage of reparations the TFV is to examine the eligibility for reparations of those persons who have not as yet been in a

¹ Corrected version of the “*Décision fixant le montant des réparations auxquelles Thomas Lubanga Dyilo est tenu*”, 21 December 2017, ICC-01/04-01/06-3379-Red-Corr, with two public annexes (Annex I and Annex III) and one confidential annex, *ex parte* Registry, Trust Fund for Victims, Legal Representatives of V01 and V02 groups of Victims and Office of Public Counsel for Victims (Annex II) and confidential redacted version of Annex II. The decision and annexes were given on 15 December 2017 and the corrected versions were filed on 21 December 2017.

² Decision of 15 December 2017, paras. 35-191.

³ Decision of 15 December 2017, para. 190.

⁴ Decision of 15 December 2017, para. 194.

⁵ Decision of 15 December 2017, p. 123 and, in particular, paras. 232-244.

position to file a dossier.⁶ To that end, the Chamber directed from the TFV submissions by 15 January 2018 on the possibility of continuing to seek and identify further persons who may qualify for reparations, with the assistance of the OPCV and the Legal Representatives of V01 and V02 Victims.⁷

2. On 15 January 2018, the TFV underscored that the assistance of the Legal Representatives of V01 and V02 Victims, the OPCV and the Victims Participation and Reparations Section (“VPRS”) would be of great benefit in its seeking and identifying the victims in the case.⁸ On that subject, the TFV said that it had already embarked on initial discussions with the Legal Representatives of V01 and V02 Victims, the OPCV and the VPRS and that it was in the process of arranging follow-up meetings with all concerned so as to determine how they would work together and the division of labour, and to put in place a work schedule at the soonest.⁹

II. Analysis

3. The Chamber points out that, in addition to locating further persons who may qualify for reparations and compiling their dossiers, the TFV is required to examine their eligibility for reparations, that is, it must ascertain that they meet the conditions laid down by rule 85(a) of the Rules of Procedure and Evidence.

4. In that connection, the Chamber recalls that, in its Decision of 15 December 2017, it made clear that the purpose of the aforementioned analysis of the 473 dossiers was also to arrive at a method for examining the eligibility of persons who make themselves known in the course of the implementation of reparations.¹⁰ The Chamber also took note of the TFV’s filing of initial information on the procedure

⁶ Decision of 15 December 2017, para. 293, referring to the “*Décision relative à la demande de réexamen du Bureau du conseil public pour les victimes de la Décision du 6 avril 2017*”, 13 July 2017, ICC-01/04-01/06-3338, para. 11.

⁷ Decision of 15 December 2017, para. 296 and p. 124.

⁸ “Observations in relation to locating and identifying additional victims pursuant to the Trial Chamber’s decision of 15 December 2017”, 15 January 2018, ICC-01/04-01/06-3386, para. 6 (“TFV Observations”).

⁹ TFV Observations, paras. 7 and 9.

¹⁰ Decision of 15 December 2017, para. 38.

which it intends to put in place to that end¹¹ and it gave specific attention to the role the TFV foresees for the partner organizations which will assist it in implementing reparations.¹²

5. Having regard to the foregoing, and so that it can rule on the procedure for examining, at the implementation stage, victims' eligibility for reparations,¹³ the Chamber hereby directs further information from the TFV on the procedure it intends to apply, in particular as to:

- Whether the TFV intends itself to examine the dossiers of further victims and to determine their eligibility for reparations or whether the task will be delegated.
- Whether redress is envisaged for those persons whose dossiers are rejected and, if so, who will be tasked with the review.
- Whether, once the TFV, the Representatives of V01 and V02 Victims, and the OPCV have decided on a schedule for their enquiries in situ, to set a cut-off date by which further victims must make themselves known in order to be considered for reparations in the case.
- The mode of monitoring envisaged by the TFV so that the Chamber can fulfil its task of monitoring and overseeing the implementation stage of the amended Order for Reparations

¹¹ Decision of 15 December 2017, para. 293.

¹² Decision of 15 December 2017, para. 293.

¹³ The Chamber recalls that the Appeals Chamber set it the task of monitoring and overseeing the implementation stage of the amended Order for Reparations, it "[...] having the authority to approve the draft implementation plan submitted by the Trust Fund" (Appeals Chamber, "Order for Reparations (amended)", ICC-01/04-01/06-3129-AnxA, dated 3 March 2015, [French] translation registered on 1 August 2016, para. 76).

FOR THESE REASONS, the Chamber

DIRECTS from the TFV further information on the procedure for determining, at the implementation stage of reparations, the status of victim for the purposes of reparations, per paragraph 5 and by 12 February 2018.

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 25 January 2018

At The Hague, Netherlands