



Original: **French**

No.: **ICC-01/04-01/06**
Date: **24 September 2020**

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***

Confidential

**Order Setting the Deadline for the Filing of Observations on the Request of the
Trust Fund for Victims of 21 September 2020**

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 Peter Lewis

Counsel Support Section

Victims and Witnesses Section

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, acting pursuant to article 75 of the Rome Statute, orders the following.

1. On 3 March 2015, the Appeals Chamber delivered the “Judgment on the appeals against the ‘Decision establishing the principles and procedures to be applied to reparations’”¹ with its annex: “Order for Reparations (amended)”² (“Order for Reparations”), instructing the Trust Fund for Victims (“Trust Fund”) to submit a draft implementation plan giving effect to the principles and procedures adopted in the Order for Reparations within six months, i.e., by 3 September 2015.³
2. On 3 November 2015, the Trust Fund submitted a draft implementation plan.⁴
3. On 9 February 2016, the Chamber deferred approval of the draft implementation plan and instructed the Trust Fund to supplement its draft plan⁵ (“Order of 9 February 2016”). To this end, it instructed the Trust Fund to continue developing the complete details of the initial group of collective reparations projects, and transmit them to the Chamber by 7 May 2016.⁶
4. On 7 June 2016, the Trust Fund transmitted to the Chamber information concerning the procedural and operational implications for the development and implementation of collective reparation projects subsequent to the Order of 9 February 2016.⁷

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 for Reparations, 3 March 2015, ICC-01/04-01/06-3129-AnxA.

³ Order for Reparations, para. 75.

⁴ “Filing on Reparations and Draft Implementation Plan”, 3 November 2015, ICC-01/04-01/06-3177-Red with two annexes: ICC-01/04-01/06-3177-AnxA, and ICC-01/04-01/06-3177-Conf-Exp-AnxI.

⁵ “Order instructing the Trust Fund for Victims to supplement the draft implementation plan”, 9 February 2016, ICC-01/04-01/06-3198-tENG.

⁶ Order of 9 February 2016, paras. 21-22 and page 12.

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

5. On 15 July 2016, the Chamber, by a majority, requested the Trust Fund to examine the feasibility of developing concrete projects aimed at providing symbolic collective reparations.⁸
6. On 21 October 2016, the Chamber approved the Trust Fund's proposals⁹ regarding symbolic collective reparations.¹⁰
7. On 8 December 2016, the Chamber instructed the Trust Fund to submit proposals for service-based collective reparations by 13 February 2017.¹¹
8. On 6 April 2017, the Chamber approved the first stage of the Trust Fund's programme for service-based collective reparations of 13 February 2017,¹² which is the selection of organizations that will be tasked with implementation of the collective reparations.¹³ The Chamber therefore instructed the Trust Fund to report to it on the outcome of the process of selecting the said organizations, and to report to the Chamber before finalizing contracts with them.¹⁴

⁸ "Request Concerning the Feasibility of Applying Symbolic Collective Reparations", 15 July 2016, ICC-01/04-01/06-3219" and "Opinion of Judge Herrera Carbuccia", 15 July 2016, ICC-01/04-01/06-3217-Anx-tENG.

⁹ "Filing regarding symbolic collective reparations projects with Confidential Annex: Draft Request for Proposals", 16 September 2016, ICC-01/04-01/06-3223-Conf, with one confidential annex (ICC-01/04-01/06-3223-Conf-Anx). A public redacted version of the Trust Fund's filing was also filed on 19 September 2016 and notified on 20 September 2016 (ICC-01/04-01/06-3223-Red).

¹⁰ "Order approving the proposed plan of the Trust Fund for Victims in relation to symbolic collective reparations", 21 October 2016, ICC-01/04-01/06-3251.

¹¹ "Order instructing the Trust Fund for Victims to Submit Information regarding Collective Reparations", 8 December 2016, ICC-01/04-01/06-3262.

¹² "Information regarding Collective Reparations", 13 February 2017, ICC-01/04-01/06-3273, with three public annexes (ICC-01/04-01/06-3273-AnxA, ICC-01/04-01/06-3273-AnxB, and ICC-01/04-01/06-3273-AnxC); one confidential annex (ICC-01/04-01/06-3273-Conf-AnxD1); and one confidential annex *ex parte* Trial Chamber II (ICC-01/04-01/06-3273-Conf-Exp-AnxD2). A public redacted version of the confidential annex was filed on the same day (ICC-01/04-01/06-3273-Anx-D1-Red).

¹³ "Order approving the proposed programmatic framework for collective service-based reparations submitted by the Trust Fund for Victims", 6 April 2017, ICC-01/04-01/06-3289 ("Order of 6 April 2017").

¹⁴ Order of 6 April 2017, para. 17.

9. On 15 December 2017, the Chamber issued the “Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable” (“Decision of 15 December 2017”).¹⁵
10. On 18 July 2019, the Appeals Chamber rendered a unanimous judgment on two appeals brought against the Decision of 15 December 2017.¹⁶
11. On 21 September 2020, the Trust Fund filed a request (“Request”)¹⁷ for the Chamber’s approval of the results of the invitation to tender to provide service-based collective reparations to the victims (“Annex to the Request”).¹⁸
12. Since the Request relates directly to the victims’ rights and interests, and while the Chamber notes that the terms of reference underpinning the collective reparations programme proposed by the organization selected by the Trust Fund were drafted with the assistance of legal representatives of victims, it is of the view that observations on the Request should be sought from the legal representatives of groups of victims V01 and V02 (“Legal Representatives V01 and V02”) and from the Office of Public Counsel for Victims (“OPCV”) before ruling on the Request. In particular, the Chamber wishes to receive observations on projects such as those proposed in the Annex to the Request and on the role, if any, of Legal

¹⁵ “Corrected version of the ‘Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable’”, 21 December 2017, ICC-01/04-01/06-3379-Red-Corr-tENG, with two public annexes (Annexes I and III); one confidential annex *ex parte*, Registry, Trust Fund for Victims, Legal Representatives V01, Legal Representatives V02, and Office of Public Counsel for Victims (Annex II); as well as a confidential redacted version of Annex II. This decision was rendered, along with its annexes, on 15 December 2017 and the corrected versions were filed on 21 December 2017.

¹⁶ Appeals Chamber, “Judgment on the appeals against Trial Chamber II’s ‘Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable’”, 18 July 2019, ICC-01/04-01/06-3466-Conf, with two public annexes. A public version of the judgment was filed on the same day.

¹⁷ “*Requête d’approbation des résultats de l’invitation à soumissionner concernant les réparations collectives basées sur les services apportés aux victimes*”, 21 September 2020, ICC-01/04-01/06-3480-Conf.

¹⁸ Annex A to the “*Requête d’approbation des résultats de l’invitation à soumissionner concernant les réparations collectives basées sur les services apportés aux victimes*”, 21 September 2020, ICC-01/04-01/06-3480-Conf-Exp-AnxA.

Representatives V01 and V02 and of the OPCV during the implementation of the collective reparations program.

FOR THESE REASONS, the Chamber

INSTRUCTS Legal Representative V01, Legal Representative V02 and the OPCV to file observations on the points mentioned in paragraph 12 of this order by 16.00 on 2 October 2020.

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

[signed]

Judge Marc Perrin de Brichambaut

Presiding Judge

[signed]

[signed]

Judge Olga Herrera Carbuccia

Judge Péter Kovács

Dated this 24 September 2020

At The Hague, Netherlands