

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/04-02/06**

Date: **12 December 2022**

TRIAL CHAMBER II

Before: Judge Chang-ho Chung, Presiding Judge
Judge Péter Kovács
Judge María del Socorro Flores Liera

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
*THE PROSECUTOR v. BOSCO NTAGANDA***

Public

Decision on the Defence request for an extension of the applicable time limit to file submissions referred to in the Implementation Order issued by Trial Chamber II

To be notified, in accordance with Regulation 31 of the Regulations of the Court, to:**Legal Representatives of Victims**

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Appointed Experts

Trial Chamber II of the International Criminal Court, in the case of *The Prosecutor v. Bosco Ntaganda* (the ‘*Ntaganda* case’), having regard to article 75 of the Rome Statute and Regulation 35(2) of the Regulations of the Court, issues this Decision on the Defence request for an extension of the applicable time limit to file submissions referred to in the Implementation Order issued by Trial Chamber II (the ‘Decision’).

I. PROCEDURAL HISTORY

1. On 25 October 2022, the Chamber issued its Order for the implementation of the Appeals Judgment (‘Order’) instructing, *inter alia*, i) the Trust Fund for Victims (‘TFV’) to provide updated information as to the actual costs of running the rehabilitation programmes approved in the case of *The Prosecutor vs. Thomas Lubanga Dylo* (the ‘*Lubanga* case’) and all other relevant information for the estimation of the amount of the monetary award in the Ntaganda case; ii) the parties and participants, including the Victims Participation and Reparations Section (‘VPRS’), the TFV, and, if available, the Appointed Experts, to provide further submissions and information on issues related to transgenerational harm, within sixty days of the notification of the Order; and iii) the parties and participants, including the Office of the Prosecutor (‘OTP’), the Democratic Republic of Congo (‘DRC’) Government and, if available, the Appointed Experts, to provide further submissions and possible evidence, on issues relevant to the assessment of the actual damage and harm caused to the health centre in Sayo, within the same deadline.¹

2. On 25 November 2022, the Chamber issued the Decision on the Registry submission in compliance with the “Order for the implementation of the Judgment on the appeals against the decision of Trial Chamber VI of 8 March 2021 entitled ‘Reparations Order’ (‘Decision on Sample’), *inter alia*, directing the parties, the TFV, the Registry, and the OTP, to further complement their submissions due within sixty days from the notification of the Order, providing any additional information or documentation they might have as to the estimated total number of potential beneficiaries of reparations in the present case, along with an explanation of the methodology used to provide such estimate.²

¹ Order for the implementation of the Judgment on the appeals against the decision of Trial Chamber VI of 8 March 2021 entitled “Reparations Order” (‘Order’), 25 October 2022, [ICC-01/04-02/06-2786](#), paras 38, 40, 42, and disposition.

² Decision on the Registry submission in compliance with the “Order for the implementation of the Judgment on the appeals against the decision of Trial Chamber VI of 8 March 2021 entitled ‘Reparations Order’”, 25 November 2022, 25 November 2022, [ICC-01/04-02/06-2794](#), para. 37 and disposition.

3. On 6 December 2022, the Defence submitted its request for an extension of the applicable time limit to file the aforementioned submissions ('Request').³

4. On 8 December 2022, the Legal Representatives for Victims ('LRVs') submitted their Joint Response to the Request ('Joint Response'),⁴ and the TFV submitted its Response.⁵

II. SUBMISSIONS AND ANALYSIS

5. In the Request, the Defence asks the Chamber to extend the deadline currently due on 28 December 2022, to 30 January 2023, to submit observations and possibly further evidence in relation to the estimation of the amount of the monetary award, transgenerational harm, the Sayo health centre, and the estimated total number of potential beneficiaries of reparations in the present case.⁶

6. The Defence indicates that 'good cause' pursuant to Regulation 35(2) of the Regulations justifies the extension, considering that: i) more time is required to complete additional efforts that require careful organisation and time; ii) it operates as a team at a reduced capacity in the reparations phase, with team members located away from the seat of the Court, in different time zones, and involved in other cases; iii) other submissions on the sample are scheduled for February 2023 or later; iv) the submissions regarding the estimated total number of potential beneficiaries of reparations require time and coordination between parties and participants; v) granting the extension would enable the parties and participants to make meaningful submissions; vi) the current deadline of 28 December 2022 falls during the winter recess, which ends on 8 January 2023; and vii) neither the victims nor the parties and participants would be prejudiced by the extension, and on the contrary, the potential for prejudice is higher if the time limit is not extended.⁷

³ Defence request for an extension of the applicable time limit to file submissions referred to in the Implementation Order issued by Trial Chamber II, 6 December 2022 (public redacted version filed on 7 December 2022) ('Request'), [ICC-01/04-02/06-2798-Red](#), paras 1-3.

⁴ Joint Response of the Common Legal Representatives of Victims to the "Defence request for an extension of the applicable time limit to file submissions referred to in the Implementation Order issued by Trial Chamber II" ('Joint Response'), 8 December 2022, [ICC-01/04-02/06-2800](#).

⁵ Trust Fund for Victims' Response to the "Defence request for an extension of the applicable time limit to file submissions referred to in the Implementation Order issued by Trial Chamber II" dated 6 December 2022, ICC-01/04-02/06-2798-Red ('Response'), [ICC-01/04-02/06-2801](#).

⁶ Request, [ICC-01/04-02/06-2798-Red](#), para. 6.

⁷ Request, [ICC-01/04-02/06-2798-Red](#), paras 7-13.

7. In their responses, the LRVs⁸ and the TFV⁹ indicate that they do not oppose the Request and that, if granted, the same extension of time should be given to all parties and participants.

8. At the outset, the Chamber notes that, contrary to the Defence allegation,¹⁰ no further submissions are expected or have been requested in relation to the estimation of the amount of the monetary amount from the parties and participants, except from the TFV. The Chamber underlines that it will not entertain further submissions on this matter, except for what it has been specifically requested from the TFV, in light of its role and experience in the advanced implementation of reparations in the *Lubanga* case, as elaborated in the Order.¹¹

9. The Chamber notes that, pursuant to regulation 35(2) of the Regulations, the Chamber may extend or reduce a time limit if good cause is shown, and, where appropriate, after having given the participants an opportunity to be heard. In the past, other Chambers have considered that factors such competing deadlines and the amount of preparation required to meet them, reduced number of staff, or the complexity of the task at hand are all good causes to extend a time limit.¹²

10. In the present case, the Chamber has considered the various issues referred to by the Defence, taken together, and notes that the LRVs and the TFV do not oppose the request. In light of the above, the Chamber is of the view that, in the specific circumstances of the case, a ‘good cause’ was shown pursuant to Regulation 35(2) of the Regulations of the Court, justifying the extension of the time limit.

11. In light of the extension granted above, the Chamber considers that the parties and the participants, including the VPRS, the TFV, the OTP, the DRC Government, and if available, the Appointed Experts, should also be granted an extension of time to submit their observations as elaborated in the Order and the Decision on the Sample.

⁸ Joint Response, [ICC-01/04-02/06-2800](#), para. 2.

⁹ Response, [ICC-01/04-02/06-2801](#), para. 1.

¹⁰ See Request, [ICC-01/04-02/06-2798-Red](#), para. 6.

¹¹ Order, [ICC-01/04-02/06-2786](#), para. 38.

¹² Trial Chamber III, *Prosecutor v. Jean-Pierre Bemba Gombo*, Decision on the Defence’s further request for a revision of the timetable for the filing of documents, 22 November 2017, [ICC-01/05-01/08-3576](#), para. 10; Trial Chamber VI, *Prosecutor v. Bosco Ntaganda*, 28 May 2018, [ICC-01/04-02/06-2291](#), paras 13, 15; Trial Chamber II, *Prosecutor v. Thomas Lubanga Dyilo*, Decision on the “Request for extension of time to submit the draft implementation plan on reparations”, 14 August 2015, [ICC-01/04-01/06-3161-Teng](#), paras 3-5.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY,

GRANTS the Request;

EXTENDS the deadline for the TFV to provide updated information as to the actual costs of running the rehabilitation programmes approved in the *Lubanga* case and all other relevant information, as detailed in the Order, by 30 January 2023;

EXTENDS the deadline for the parties and participants, including the VPRS, the TFV, and, if available, the Appointed Experts, to provide further submissions and information on issues related to transgenerational harm, as detailed in the Order, by 30 January 2023;

EXTENDS the deadline for all the parties and participants, including the OTP, the DRC Government and, if available, the Appointed Experts, to provide further submissions and possible evidence, on issues relevant to the assessment of the actual damage and harm caused to the health centre in Sayo, as detailed in the Order, by 30 January 2023; and

EXTENDS the deadline for the parties, the TFV, the Registry, and the OTP, to complement their submissions above, providing any additional information or documentation they might have as to the estimated total number of potential beneficiaries of reparations in the present case, along with an explanation of the methodology used to provide such estimate, by 30 January 2023.

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



Judge Chang-ho Chung, Presiding Judge



Judge Péter Kovács



Judge María del Socorro Flores Liera

Dated this Monday, 12 December 2022

At The Hague, The Netherlands