

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **3 May 2023**

TRIAL CHAMBER II

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

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF**

THE PROSECUTOR v. THOMAS LUBANGA DYILO

**Confidential *ex parte* only available to the LRV01, LRV02, OPCV, Registry and to the
Trust Fund for Victims**

**Trust Fund's Request for Leave to reply to the LRV01, LRV02 and OPCV's Responses of
28 April 2023 to the Twentieth progress report on the implementation of collective
reparations and its Addendum**

Source:

The Trust Fund for Victims

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

Legal Representatives of Victims V01

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Mr Franck Mulenda
Ms Evelyne Ombeni
Ms Frédérique Lacroix-Dion

Legal Representatives of Victims V02

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BACKGROUND

1. Following Trial Chamber II's ("Trial Chamber") decisions of 21 October 2016, 6 April 2017 and 7 February 2019, approving, respectively, the programmatic framework for collective symbolic reparations as submitted by the Trust Fund for Victims ("Trust Fund"),¹ the programmatic framework for the service-based collective reparations as submitted by the Trust Fund,² and the Trust Fund's proposal in relation to the process for locating new applicants and determining their eligibility,³ and recalling its progress reports in this regard, the Trust Fund hereby submits a request for leave to reply to the LRV01, LRV02 and OPCV's responses to its Twentieth progress report and its addendum.

CLASSIFICATION OF THE PRESENT SUBMISSION

2. Pursuant to regulation 23 *bis* (2) of the Regulations of the Court, the Trust Fund has classified the present Request for Leave to Reply as *ex parte* only available to the LRV01, LRV02, OPCV, Registry and to the Trust Fund for Victims, as it refers to responses to a report and addendum with the same classification.

RELEVANT PROCEDURAL HISTORY

3. The Trust Fund recalls the procedural history set out in the Eighteenth progress report on the implementation of collective reparations ("Eighteenth progress report") submitted on 4 August 2022.⁴

4. On 10 August 2022, the Legal Representatives V01 ("LRV01 or V01") requested an extension of time to submit their observations on the Eighteenth progress report.⁵

¹ Order approving the proposed plan of the Trust Fund for Victims in relation to symbolic collective reparation, 21 October 2016, [ICC-01/04-01/06-3251](#).

² 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](#).

³ Decision Approving the Proposals of the Trust Fund for Victims on the Process for Locating New Applicants and Determining their Eligibility for Reparations, 7 February 2019, [ICC-01/04-01/06-3440-Red-tENG](#).

⁴ Eighteenth progress report on the implementation of collective reparations as per Trial Chamber II's decisions of 21 October 2016, 6 April 2017 and 7 February 2019 ("Eighteenth progress report"), With Confidential *ex parte* Annex A only available to the LRV01, the Trust Fund for Victims and the VPRS and Confidential *ex parte* Annexes B only available to the LRV01, the LRV02, the OPCV and the Trust Fund for Victims, 4 August 2022, [ICC-01/04-01/06-3537-Red](#).

⁵ *Demande des Représentants légaux des victimes V01 de modifier le délai du dépôt d'observations du dix-huitième Rapport sur le progrès de la mise en œuvre des réparations collectives déposé par le Fonds au profit des victimes le 4 août 2022*, 10 August 2022, [ICC-01/04-01/06-3538-Red](#).

5. On 11 August 2022, the Trial Chamber granted the request.⁶
6. On 2 September 2022, the LRV01,⁷ the Legal Representatives V02 (“LRV02 or V02”),⁸ and the Office of Public Counsel for Victims (“OPCV”)⁹ (altogether the “LRVs” or “Legal Representatives”) submitted their respective responses to the Eighteenth progress report.
7. On 3 October 2022, the Trust Fund notified 832 administrative decisions from the Trust Fund for Victim’s Board of Directors¹⁰, pursuant to Trial Chamber II’s “Ninth Decision on the TFV’s administrative decisions on applications for reparations and additional matters”.¹¹
8. On 31 October 2022, the Trial Chamber issued the “Tenth Decision on the TFV’s administrative decisions on applications for reparations and additional matters” (“Tenth Decision”).¹²
9. On 2 November 2022, the Trust Fund requested,¹³ and was granted its request,¹⁴ to file its Nineteenth progress report latest by 25 November 2022.
10. On 25 November 2022, the Trust Fund submitted its Nineteenth progress report.¹⁵

⁶ Email from Trial Chamber II to LRVs and the TFV on 11 August 2022, at 16.05.

⁷ *Réponse des Représentants légaux des victimes V01 au Dix-huitième Rapport sur le progrès de la mise en œuvre des réparations collectives déposé par le Fonds au profit des victimes le 4 août 2022*, 15 September 2022, [ICC-01/04-01/06-3541-Conf-Corr.](#)

⁸ *Réponse des Représentants légaux des victimes du groupe V02 au Dix-huitième Rapport sur le progrès de la mise en œuvre des réparations collectives déposé par le Fonds au profit des victimes le 4 août 2022* (ICC-01/04-01/06-3537-Conf avec annexes), 21 September 2022, [ICC-01/04-01/06-3540-Corr.](#)

⁹ *Réponse du BPCV au Dix-huitième Rapport de progrès sur la mise en œuvre des réparations collectives déposé par le Fonds au profit des victimes le 4 août 2022* (ICC-01/04-01/06-3539-Conf), 13 September 2022, [ICC-01/04-01/06-3539-Conf-Corr.](#)

¹⁰ Notification of 832 administrative decisions from the Trust Fund for Victim’s Board of Directors pursuant to Trial Chamber II’s “Ninth Decision on the TFV’s administrative decisions on applications for reparations and additional matters”, With Confidential *ex parte* Annex A only available to the LRV01, the Trust Fund for Victims and the VPRS, Confidential *ex parte* Annex B only available to the OPCV, the Trust Fund for Victims and the VPRS, and Confidential *ex parte* Annex C only available to the LRV02, the Trust Fund for Victims and the VPRS, 17 June 2022, 3 October 2022, [ICC-01/04-01/06-3542.](#)

¹¹ Ninth Decision on the TFV’s administrative decisions on applications for reparations and additional matters, 22 September 2022, [ICC-01/04-01/06-3536-Red.](#)

¹² Tenth Decision on the TFV’s administrative decisions on applications for reparations and additional matters, 31 October 2022, [ICC-01/04-01/06-3543-Conf.](#)

¹³ Email from the TFV to Trial Chamber II and the LRVs on 02 November 2022, at 10.57.

¹⁴ Email from Trial Chamber II to LRVs, the Defence and the TFV on 03 November 2022, at 12.27.

¹⁵ Nineteenth progress report on the implementation of collective reparations as per Trial Chamber II’s decisions of 21 October 2016, 6 April 2017 and 7 February 2019, With Confidential *ex parte* Annex A only available to the LRV01 and the Trust Fund for Victims and Confidential *ex parte* Annexe B only available to the LRV02, and the Trust Fund for Victims, 25 November 2022, [ICC-01/04-01/06-3544-Conf.](#)

11. On 22 February 2022, having considered responses from the LRVs,¹⁶ Trial Chamber II issued the “Eleventh Decision on the TFV’s administrative decisions on applications for reparations and additional matters” (the “Eleventh Decision”).¹⁷
12. On 23 February 2023, Trial Chamber II granted¹⁸ the Trust Fund’s request¹⁹ to file its Twentieth progress report latest by 6 March 2023.
13. On 6 March 2023, the Trust Fund submitted its Twentieth progress report.²⁰
14. On 28 April 2023, the OPCV,²¹ the LRV01²² and the LRV02²³ submitted responses to the Twentieth progress report (“the OPCV, LRV01 and LRV02’s Responses” or “the LRVs’ Responses”).

¹⁶ *Réponse des Représentants légaux des victimes V01 au dix-neuvième Rapport sur le progrès de la mise en œuvre des réparations collectives déposé par le Fonds au profit des victimes le 4 août 2022* », 25 novembre 2022, 9 December 2022, [ICC-01/04-01/06-3545-Conf](#) ; *Réponse des Représentants légaux des victimes du groupe V02 au Dix-neuvième rapport sur le progrès de la mise en œuvre des réparations collectives déposé par le Fonds au profit des victimes le 25 novembre 2022 (ICC-01/04-01/06-3544-Conf avec annexes)*, 9 December 2022, [ICC-01/04-01/06-3546-Conf](#) ; and *Réponse du BPCV au Dix-neuvième rapport de progrès sur la mise en œuvre des réparations collectives déposé par le Fonds au profit des victimes le 25 Novembre 2022*, 12 December 2022, [ICC-01/04-01/06-3547](#).

¹⁷ Eleventh Decision on the TFV’s administrative decisions on applications for reparations and additional matters, With Confidential *ex parte* Annex A only available to the LRV01 and the Trust Fund for Victims, 22 February 2023, [ICC-01/04-01/06-3912](#).

¹⁸ Email from Trial Chamber II to LRVs, the Defence and the TFV on 23 February 2023, at 10.41.

¹⁹ Email from the TFV to Trial Chamber II, the LRVs and the Defence on 22 February 2023, at 18.10.

²⁰ Twentieth progress report on the implementation of collective reparations as per Trial Chamber II’s decisions of 21 October 2016, 6 April 2017 and 7 February 2019, With Confidential *ex parte* Annexes A and D only available to the LRV01, the Trust Fund for Victims, and the VPRS, B only available to the LRV02, the Trust Fund for Victims, and the VPRS, C only available to the LRV02 and the Trust Fund for Victims, E, F, H and I only available to the LRV01, LRV02, OPCV and the Trust Fund for Victims, G only available to the LRV01, OPCV and the Trust Fund for Victims, and J only available to the OPCV and the Trust Fund for Victims, 6 March 2023, [ICC-01/04-01/06-3913-Conf](#). (“Twentieth progress report, 6 March 2023, [ICC-01/04-01/06-3913-Conf](#)”).

²¹ *Réponse du BCPV au Vingtième rapport de progrès sur la mise en œuvre des réparations collectives déposé par le Fonds au profit des victimes le 6 mars 2023 et à l’Addendum déposé le 17 avril 2023*, 28 April 2023, [ICC-01/04-01/06-3916-Conf](#).

²² *Réponse des Représentants légaux des victimes V01 au vingtième Rapport sur le progrès de la mise en oeuvre des réparations collectives déposé par le Fonds au profit des victimes le 6 mars 2023 et à son Addendum le 17 avril 2023 avec annexe A confidentielle ex parte accessible uniquement à V01, V02 au BCPV, au Greffe et au Fonds au profit des victimes*, 28 April 2023, [ICC-01/04-01/06-3915-Conf-Exp](#).

²³ *Réponse des Représentants légaux des victimes du groupe V02 au vingtième rapport sur le progrès de la mise en oeuvre des réparations collectives déposé par le Fonds au profit des victimes le 06 mars 2023 (ICC-01/04-01/06-3913-Conf avec annexes) et à l’addendum déposé le 17 avril 2023 (ICC-01/04-01/06-3914-Conf avec annexes)*, 28 April 2023, [ICC-01/04-01/06-3917-Conf-Exp](#).

REQUEST FOR LEAVE TO REPLY

15. By reference to Regulation 24 (5) of the Regulations of the Court, the Trust Fund hereby requests the Trial Chamber for leave to reply to the responses of the LRV01, LRV02 and OPCV on the Trust Fund's Twentieth Progress Report on the implementation of collective reparations by Wednesday, 10 May 2023, or by whichever date the Trial Chamber considers appropriate.

16. In accordance with Regulation 24 (5) of the Regulations of the Court, in light of several new issues raised by the LRVs which the Trust Fund could not reasonably have anticipated, including issues, requests or proposals that have not been communicated to or shared with the Trust Fund in any way prior to the filings and which warrant further clarifications from the Trust Fund, the Trust Fund considers it necessary to respond to the above-mentioned observations in order to allow the Trial Chamber to take an informed decision.

FOR THE FOREGOING REASONS

The Trust Fund respectfully requests the Trial Chamber to:

GRANT the Trust Fund's Request for Leave to Reply;

AUTHORIZE the Trust Fund's to reply to the LRV01, LRV02 and OPCV's Responses by 10 May 2023.



Deborah Ruiz Verduzco
Executive Director of the Trust Fund for Victims,

Dated this 3rd of May 2023

The Hague, Netherlands