

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: French

No.: ICC-01/04-01/06
Date: 11 November 2015

TRIAL CHAMBER II

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

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
*THE PROSECUTOR v. THOMAS LUBANGA DYILO***

Public

**Request for an extension of time to respond to the submission filed by
the Trust Fund for Victims on 3 November 2015**

Source: Office of Public Counsel for Victims

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

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I. INTRODUCTION

1. The Principal Counsel of the Office of Public Counsel for Victims (“Principal Counsel” and “the OPCV” or “the Office”), acting as legal representative of certain applicants for reparations as well as of victims potentially concerned by an order for collective reparations, respectfully requests Trial Chamber II (“the Chamber”) to grant her an extension of time of 45 days to respond to the submission, filed by the Trust Fund for Victims (“the TFV”) on 3 November 2015, relating to the draft implementation plan on reparations (“the Draft”).¹

II. PROCEDURAL HISTORY

2. On 5 April 2012, Trial Chamber I issued its “Decision on the OPCV’s request to participate in the reparations proceedings”,² by which it instructed the Registry to appoint the OPCV (i) as the legal representative of certain applicants; and (ii) to represent the interests of victims who have not submitted applications but who may fall within the scope of an order for collective reparations.

3. On 3 March 2015, the Appeals Chamber delivered its judgment on the appeals against the “Decision establishing the principles and procedures to be applied to reparations” (“the Judgment”) and its Annex “Order for Reparations (amended)” (“the Order”), directing the TFV to submit, within six months, a draft implementation plan on reparations.³

¹ See the “Redaction of Filing on Reparations and Draft Implementation Plan”, ICC-01/04-01/06-3177-Red and ICC-01/04-01/06-3177-AnxA, 3 November 2015 (“the Draft Implementation Plan on Reparations” or “the Draft”).

² See the “Decision on the OPCV’s request to participate in the reparations proceedings” (Trial Chamber I), ICC-01/04-01/06-2858, 5 April 2012.

³ See the “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” (Appeals Chamber), ICC-01/04-01/06-3129 A, A2 A3, 3 March 2015 (“the Judgment” and “the Order”).

4. On 13 August 2015, the TFV filed a request for an extension of time to submit the Draft.⁴ The request was granted by the Chamber on 14 August 2015.⁵

5. On 3 November 2015, the TFV submitted its Draft Implementation Plan on Reparations giving effect to the principles and procedures adopted in the Order.⁶

III. SUBMISSIONS

6. Regulation 35 of the Regulations of the Court provides for the possibility that a Chamber may extend a time limit if good cause is shown.

7. In the absence of specific instructions from the Chamber concerning the conduct of the proceedings, it is the Principal Counsel's view that regulation 34(b) of the Regulations of the Court, which provides for a 21-day time limit for the submission of any response to a document filed by a participant in the proceedings, applies in the instant case.

8. The Principal Counsel notes that, under the above-mentioned regulation, any response to the Draft submitted by the TFV must be filed by 25 November 2015.

9. As underscored by the Appeals Chamber, it is appropriate for the parties (a term which, in reparations proceedings, also includes the victims) to have the opportunity to submit observations regarding those aspects of the Draft that affect

⁴ See the "Public redacted version of 'Request for extension of time to submit the draft implementation plan on reparations', 11 August 2015, ICC-01/04-01/06", ICC-01/04-01/06-3157-Red, 13 August 2015 ("the Request for Extension of Time").

⁵ See the "Decision on the 'Request for extension of time to submit the draft implementation plan on reparations'" (Trial Chamber II), ICC-01/04-01/06-3161-tENG, 14 August 2015 ("the Decision Granting an Extension of Time").

⁶ See the Draft Implementation Plan on Reparations, footnote 1, above.

their clients' interests and rights, if the need arises.⁷ To this end, the Principal Counsel respectfully submits to the Chamber that additional time is needed for her to fulfil her obligations to her clients and to the Court.

10. Indeed, in the light of the complexity of the questions addressed by the Draft, the unprecedented nature of these questions and the volume of the submissions, the Principal Counsel submits that the statutory time that would be applied in this case is too short.

11. In this regard, the Appeals Chamber also underscored that the reparations procedures that are to be implemented by the Court for the first time in this case constitute a key feature of the Rome Statute, the success of which, to some extent, will reflect the success of the Court itself.⁸ The Principal Counsel, in common with the TFV,⁹ notes that it is important for all stakeholders in the proceedings to make their best efforts to offer appropriate, useful and effective reparations to the victims of the crimes concerned.

12. Following the same reasoning, and as already envisaged by the Appeals Chamber,¹⁰ the Chamber decided to grant the TFV an extension of time to file its Draft Implementation Plan on Reparations.

13. The Principal Counsel underscores that the time limit for the response must take into account the need for her to consult her clients on the proposed Draft, which implies, on the one hand, being able to examine each of the proposals made by the TFV in the light of the interests of the victims represented and, on the other,

⁷ See the Judgment, footnote 3, above, para. 243. Furthermore, the Appeals Chamber also provided that the Trial Chamber set the parties a time limit for responding so that they can make submissions on the scope of Mr Lubanga's liability in the light of the information provided by the TFV in its Draft, *ibid.* para. 241.

⁸ See the Order, footnote 3, above, para. 3.

⁹ See the Request for Extension of Time, footnote 4, above, para. 3.

¹⁰ See the Decision Granting an Extension of Time, footnote 5, above, para. 1.

explaining these proposals to the victims in order to record their reactions. Furthermore, the Principal Counsel underscores that the proceedings will be more efficient and effective if she is able to consult the other legal representatives of victims within this time limit. Such consultations, with both victims and other legal representatives, are essential in view of the matters considered and the purpose of the reparations proceedings.

14. Accordingly, the Principal Counsel requests that the time for submitting a response be extended to 11 January 2016. In the view of the Principal Counsel, this short extension is in the interest of the victims, who are the future beneficiaries of the reparations in question.

FOR THE REASONS SET OUT ABOVE, the Principal Counsel respectfully requests Trial Chamber II to extend to 11 January 2016 the time for submitting a response to the Draft Implementation Plan on Reparations. Failing that, if the Chamber were to consider the present proceedings to be *sui generis* in nature, the Principal Counsel respectfully requests the Chamber to establish the modalities governing the conduct of the proceedings.

[signed]

Paolina Massidda

Principal Counsel

Dated this 11 November 2015

At The Hague, the Netherlands