

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **French**

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

Date: **15 July 2016**

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

**Decision on the request of the Defence team for Thomas Lubanga Dyilo on the
basis of regulation 24(5) of the Regulations of the Court**

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 Victims V01

Mr Luc Walleyne

Mr Franck Mulenda

Legal Representatives of Victims V02

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**

Ms Isabelle Guibal

Trust Fund for Victims

Mr Pieter de Baan

TRIAL CHAMBER II (“the Chamber”) of the International Criminal Court, acting pursuant to regulation 24(5) of the Regulations of the Court, issues the following order:

I. Procedural history

1. On 9 February 2016, the Chamber instructed the Trust Fund for Victims (“the TFV”) to supplement the draft implementation plan submitted on 3 November 2015¹ (“the Order of 9 February 2016”). In this regard, the Chamber instructed the TFV to prepare a file for each potential victim and to transmit a first batch of files to the Chamber by 31 March 2016, a second batch by 15 July and a third batch by 31 December 2016² (“the first aspect of the Order of 9 February 2016”). The Chamber also instructed the TFV to continue developing the programmes proposed and to transmit to the Chamber the complete details of the initial group of reparation programmes on 7 May 2016³ (“the second aspect of the Order of 9 February 2016”).

2. On 31 May 2016, after being granted an extension of the time limit,⁴ the TFV submitted a document concerning the first aspect of the Order⁵ and, in the same document, submitted a request that the approach set out in the Order of 9 February 2016⁶ be reconsidered (“the Document of 31 May 2016”).

¹ “Order instructing the Trust Fund for Victims to supplement the draft implementation plan”, 9 February 2016, ICC-01/04-01/06-3198-tENG.

² *Ibid.*, paras. 17-18 and p. 12.

³ *Ibid.*, paras. 21-22 and p. 12.

⁴ “Decision on the request of the Trust Fund for Victims for an extension of the time limit for the submission of the first batch of files of potential victims”, 29 March 2016, ICC-01/04-01/06-3205-tENG.

⁵ “First submission of victim dossiers With Twelve confidential, *ex parte* annexes, available to the Registrar, and Legal Representatives of Victims V01 only”, 31 May 2016, ICC-01/04-01/06-3208, and 12 confidential, *ex parte* annexes.

⁶ Document of 31 May 2016, paras. 85-192, 199 and p. 68.

3. On 7 June 2016, after being granted a further extension of the time limit,⁷ the TFV submitted a document concerning the reparations projects⁸ (“the Document of 7 June 2016”).

4. On 1 July 2016, pursuant to the decision of the Chamber,⁹ the Office of Public Counsel for Victims¹⁰ (“the OPCV”), the Legal Representatives of the V01¹¹ and V02¹² groups of victims (“the Observations of the Legal Representatives V01 and V02”) and the Defence team for Thomas Lubanga Dyilo¹³ (“Mr Lubanga” and “the Defence”, respectively) submitted consolidated observations on the Document of 31 May and the Document of 7 June 2016.

5. On 8 July 2016, pursuant to regulation 24(5) of the Regulations of the Court, the Defence requested authorisation from the Chamber to file a reply to the Observations of the Legal Representatives V01 and V02 on the following points: (i) the claims that Mr Lubanga “[TRANSLATION] has a persistently negative attitude towards the victims and the victims were verbally attacked by the Defence during the hearings concerning the reduction of sentence” and (ii) the holding of *ex parte*¹⁴ hearings (“the Application for leave to reply”).

⁷ “Décision prorogeant le délai pour le dépôt de l’information additionnelle relative aux programmes de réparation”, 4 May 2016, ICC-01/04-01/06-3207.

⁸ “Additional Programme Information Filing”, 7 June 2016, ICC-01/04-01/06-3209.

⁹ “Order setting the time limit for observations on the latest documents filed by the Trust Fund for Victims”, 14 June 2016, ICC-01/04-01/06-3210-tENG.

¹⁰ “Réponse consolidée aux soumissions déposées le 31 mai et le 7 juin 2016 par le Fonds au profit des victimes”, 1 July 2016, ICC-01/04-01/06-3212 and a confidential, *ex parte* annex available only to the OPCV.

¹¹ “Observations consolidées du groupe de victimes V01 sur les documents ‘First submission of victim dossiers’ et ‘Additional Programme Information Filing’ déposés par le Fonds au profit des victimes respectivement les 31 mai et 1er juin”, 1 July 2016, ICC-01/04-01/06-3213.

¹² “Observations de l’équipe V02 sur les écritures ICC-01/04-01/06-3208 et ICC-01/04-01/06-3209 du Fonds au profit des victimes”, 1 July 2016, ICC-01/04-01/06-3214.

¹³ “Corrigendum - Réponse consolidée de la Défense de M. Thomas Lubanga relative à la ‘First submission of victim dossiers’, datée du 31 mai 2016, et au ‘Additional Programme Information Filing’, daté du 7 juin 2016”, (30 June 2016, ICC-01/04-01/06-3211), 1 July 2016, ICC-01/04-01/06-3211-Corr and a public annex.

¹⁴ “Requête de la Défense aux fins de solliciter l’autorisation de déposer une réplique aux ‘Observations consolidées du groupe de victimes V01’ et aux ‘Observations de l’équipe V02’, déposées le 1er juillet 2016”, 8 July 2016, ICC-01/04-01/06-3215, paras. 3-6.

II. Analysis

6. The Chamber recalls that regulation 24(5) of the Regulations of the Court provides that participants may reply to a response only with the leave of the Chamber.

7. In the instant case, the Chamber considers that it needs no additional submissions in order to rule on the Document of 31 May 2016 and the Document of 7 June 2016. The Chamber therefore rejects the Application for leave to reply.

FOR THESE REASONS, the Chamber

REJECTS the Application for leave to reply.

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

[signed]

Judge Marc Perrin de Brichambaut
Presiding Judge

[signed]

Judge Olga Herrera Carbuccion

[signed]

Judge Péter Kovács

Dated this 15 July 2016

At The Hague, the Netherlands