



Original: English

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

Date: 1 June 2017

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***

**Public
With
Confidential *EX PARTE* Annexes 1 to 34, only available to the Chamber, the Legal
Representatives of V02 Victims and the Trust Fund for Victims
and
Confidential *EX PARTE* Annexes 35 to 62, only available to the Chamber and the
Office of Public Counsel for Victims**

**Sixth Transmission to Trial Chamber II of Confidential Applications for
Reparations and the Report Thereon**

Source: Registry

Document 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 Frank Mulenda

Legal Representatives of Applicants

Legal Representatives of V02 Victims

Ms Carine Bapita Buyangandu

Mr Paul Kabongo Tshibangu

Mr Joseph Keta Orwinyo

**Unrepresented Applicants for
Participation/Reparations**

Office of Public Counsel for Victims

Ms Paolina Massidda

**Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

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

I. Introduction

1. The Registry hereby transmits to Trial Chamber II (“Chamber”) 60 applications for reparations (“Applications”)¹ in the case of *The Prosecutor v. Thomas Lubanga Dyilo* (“Case”) together with the Registry’s bipartite sixth report on its assessment of the Applications against the requirements of rule 85 of the Rules of Procedure and Evidence (“Sixth Report”² and “Rules”).

II. Procedural history

2. On 21 October 2016, the Chamber authorised the OPCV to continue the identification process initiated by the Trust Fund and to identify and transmit the files of more victims potentially eligible for reparations in the Case (“Potentially Eligible Victims”) by 31 December 2016.³ The Chamber further ordered to receive these files through the Victims Participation and Reparations Section of the Court (“VPRS”).⁴
3. On 21 December 2016, the Chamber granted an extension of time until 31 March 2017 for the identification process to be completed and the victims’ files to be compiled and transmitted to the Chamber.⁵
4. On 22 December 2016, the Registry transmitted to the Chamber a first batch of 23 applications for reparations together with the Registry’s first report on its

¹ 33 applications for reparations collected by the Trust Fund for Victims (“Trust Fund”) and 27 applications for reparations collected by the Office of Public Counsel for Victims (“OPCV”).

² Annex 34 contains the assessment of the 33 applications collected by the Trust Fund and Annex 62 contains the assessment of the 27 applications collected by OPCV.

³ Trial Chamber II, “Order relating to the request of the Office of Public Counsel for Victims of 16 September 2016”, 21 October 2016, ICC-01/04-01/06-3252-tENG, paras. 18 and 21.

⁴ *Id.*, para. 21. The Registry notes that the Chamber has ordered the transmission of the files of Potentially Eligible Victims who have consented to the disclosure of their identities to the Defence team of Mr Lubanga (“Defence”), as well as the files of those who have refused such disclosure.

⁵ Trial Chamber II, “Order to complete the process of identifying victims potentially eligible to benefit from reparations”, dated 21 December 2016 and notified on 22 December 2016, ICC-01/04-01/06-3267-tENG.

assessment of the applications against the requirements of rule 85 of the Rules (“First Report”).⁶

5. On 20 January 2017, the Registry transmitted to the Chamber a second batch of 96 applications for reparations together with the Registry’s second report on its assessment of the applications against the requirements of rule 85 of the Rules.⁷
6. On 21 March 2017, the Registry requested an extension of deadline to submit to the Chamber all applications for reparations to be received by the Registry from the OPCV and Trust Fund by 31 March 2017 (“Registry’s Request”).⁸
7. On 31 March 2017, the Registry transmitted to the Chamber a third batch of 92 applications for reparations together with the Registry’s third report on its assessment of the applications.⁹
8. On 6 April 2017, the Chamber granted the Registry’s Request insofar as it ordered the Registry to transmit, on a rolling basis every two weeks starting from 4 May 2017, 60 applications for reparations in original version together with the Registry’s legal assessment to the Chamber, and the redacted versions to the Defence (“Decision of 6 April 2017”).¹⁰
9. On 4 May 2017, the Registry transmitted to the Chamber a fourth batch of 60 new applications for reparations and one application for which

⁶ Registry, “First Transmission and Report on Applications for Reparations”, 22 December 2016, ICC-01/04-01/06-3269.

⁷ Registry, “Second Transmission and Report on Applications for Reparations”, 20 January 2017, ICC-01/04-01/06-3270.

⁸ Registry, “Request for an Extension of Time Pursuant to Regulation 35 of the Regulations of the Court to Transmit Victims’ Dossiers and Registry’s Legal Assessment Report Thereon”, 21 March 2017, ICC-01/04-01/06-3280.

⁹ Registry, “Third Transmission and Report on Applications for Reparations”, 31 March 2017, ICC-01/04-01/06-3287.

¹⁰ Trial Chamber II, “Décision portant sur les demandes de prorogation de délai présentées par le Bureau du conseil public pour les victimes, le Greffe et les Représentants légaux du groupe de victimes V02”, 6 April 2017, ICC-01/04-01/06-3290, para. 14 and page 8.

supplementary information had been received, together with the Registry's fourth report on its assessment of the applications.¹¹

10. On 18 May 2017, the Registry transmitted to the Chamber a fifth batch of 60 new applications for reparations, together with the Registry's fifth report on its assessment of the applications.¹²

III. Classification

11. Pursuant to regulation 23*bis*(1) of the Regulations of the Court ("Regulations"), annexes 1 to 34 to the present document are classified as "confidential *ex parte*, only available to the Chamber, the Legal Representatives of V02 Victims and the Trust Fund", and annexes 35 to 62 are classified as "confidential *ex parte*, only available to the Chamber and OPCV", because they contain confidential information that may lead to the identification of victims.

IV. Applicable Law

12. The Registry submits the present filing in accordance with articles 68(1) and 75 of the Rome Statute, rules 85 and 94 of the Rules, regulation 88 of the Regulations and regulation 110 of the Regulations of the Registry, and in accordance with the Decision of 6 April 2017.

¹¹ Registry, "Fourth Transmission to Trial Chamber II of Confidential Applications for Reparations and the Report Thereon", 4 May 2016, ICC-01/04-01/06-3304.

¹² Registry, "Fifth Transmission to Trial Chamber II of Confidential Applications for Reparations and the Report Thereon", 18 May 2016, ICC-01/04-01/06-3312.

V. Submissions

A. Assessment criteria applied by the Registry

13. For an explanation of the assessment criteria applied, the Registry refers to its previous submissions included in the First Report.¹³
14. The Registry submits that in assessing the completeness and the requirements related to the crimes and harm alleged in the applications submitted by victims who have been previously admitted to participate in the proceedings, it exclusively relied on the information contained in the new reparations forms collected by the Trust Fund in 2017. Only in exceptional circumstances, namely when information essential for the assessment was not included in the new forms or when inconsistencies or discrepancies were detected, the Registry consulted the previous participation and/or reparations forms of the victims concerned, and added a comment to highlight this in the “VPRS Assessment” column of the present Report.
15. Additionally, the Registry notes that each of the 33 reparations forms collected by the Trust Fund is supported by two written expert statements of harm assessing the physical and psychological harm suffered by the respective applicant.
16. The Registry further notes that the harm listed in the present Report is not exclusively based on page 9 of the respective victims’ reparations forms, but also on the narratives provided in the respective application forms, as well as on the content of the appended expert statement of harm. Therefore, when a type of harm is not ticked on page 9 of the form, but it is obvious from the narrative in the application form or from the expert statement that the applicant has suffered

¹³ Registry, “First Transmission and Report on Applications for Reparations”, 22 December 2016, ICC-01/04-01/06-3269, paras. 11-16.

that type of harm, the Registry listed it and added a comment to highlight this in the “VPRS Assessment” column.

B. Additional submissions

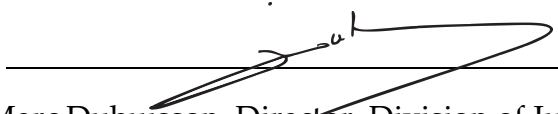
1. Reparations measures sought

17. The Registry notes that 34 Potentially Eligible Victims indicated in the application forms their desired types of reparations, including, *inter alia*, professional training, support with professional activities, and medical and financial assistance. This information is outlined in more detail in the present Report.
18. The Registry notes that the remaining 26 Potentially Eligible Victims did not specify in their respective forms the reparations measures sought. Noting that all 26 Victims have been previously admitted to participate in the proceedings, the Registry retrieved their previous participation and/or reparations forms and listed in the present Report the reparations measures mentioned in the respective previous forms.

2. Consent to the disclosure of the Potentially Eligible Victims' identities to the Defence and for the Trust Fund to be given access to the Potentially Eligible Victims' files

19. The Registry notes that 48 out of the altogether 60 Potentially Eligible Victims consented to their identities being disclosed to the Defence. This information is outlined in the present Report.

20. The Registry further notes that all 60 Potentially Eligible Victims consented to the Trust Fund being given access to their files.



Marc Dubuisson, Director, Division of Judicial Services
per delegation of Herman von Hebel, Registrar

Dated this 1 June 2017

At The Hague, The Netherlands