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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 10, only available to the Chamber, the Legal
Representatives of V01 Victims and the Trust Fund for Victims
and
Confidential *EX PARTE* Annexes 11 to 25, only available to the Chamber, the
Legal Representatives of V02 Victims and the Trust Fund for Victims
and
Confidential *EX PARTE* Annexes 26 to 56, only available to the Chamber and the
Office of Public Counsel for Victims**

**Seventh 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”) 53 victim application forms for reparations¹ (“Applications”) in the case of *The Prosecutor v. Thomas Lubanga Dyilo* (“Lubanga case”) together with the Registry’s tripartite seventh report on its assessment of the Applications against the requirements of rule 85 of the Rules of Procedure and Evidence (“Report”² and “Rules”).

II. Procedural history

2. On 21 October 2016, the Chamber authorised the Office of the Public Counsel for Victims (“OPCV”) to continue the identification process initiated by the Trust Fund for Victims (“Trust Fund”) and to identify and transmit the files of more victims potentially eligible for reparations in the Lubanga 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 Registry (“VPRS”).⁴

¹ This includes application a/30017/17 previously transmitted to the Chamber (ICC-01/04-01/06-3287-Conf-Exp-Anx22) for which supplementary information was received in the meantime.

² Annex 10 contains the assessment report of the nine applications for reparations submitted to the Registry by the Trust Fund for Victims and the Legal Representative of V01 victims; Annex 25 contains the assessment report of the 14 applications for reparations submitted to the Registry by the Trust Fund for Victims and the Legal Representative of V02 victims; Annex 56 contains the assessment report of the 30 applications for reparations submitted to the Registry by the Office of Public Counsel for Victims.

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.

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 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

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.

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.

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 supplementary information had been received, together with the Registry's fourth report on its assessment of the applications.¹¹
10. On 18 May and 1 June 2017, the Registry transmitted to the Chamber the fifth and sixth batches of 60 new applications for reparations each, together with the Registry's fifth and sixth report on its assessment of the applications.¹²

III. Classification

11. Pursuant to regulation 23bis(1) of the Regulations of the Court ("Regulations"), annexes 1 to 10 to the present document are classified as "confidential *ex parte*, only available to the Chamber, the Legal Representatives of V01 Victims and the Trust Fund for Victims", annexes 11 to 25 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 for Victims" and annexes 26 to 56 are classified as "confidential *ex parte*, only available to the Chamber and the Office for Public Counsel for Victims", because they contain confidential information that may lead to the identification of victims.

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.

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 and "Sixth Transmission to Trial Chamber II of Confidential Applications for Reparations and the Report Thereon", 1 June 2017, ICC-01/04-01/06-3323.

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.

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 submitted 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 Report.

15. Additionally, the Registry notes that each of the reparations forms collected by the Trust Fund, except one,¹⁴ are supported by two written expert

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

¹⁴ a/1616/11.

statements of harm, assessing the physical and psychological harm suffered by the respective applicants.

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 when such statement is provided. Therefore, when a type of harm is not ticked on page 9 of the respective form, but it is obvious from the narrative in the application form and/or from the expert statement that the applicant has suffered that type of harm, the Registry listed it and added a comment to highlight this in the "VPRS Assessment" column.
17. Finally, the Registry notes that the supplementary information or clarifications it requested for five¹⁵ applications for reparations have not been, to date, provided. In light of the fact that the present transmission contains the last applications received from the OPCV and the Trust Fund, the Registry included the five applications, which have been assessed as unclear or incomplete, in its present transmission. Comments highlighting the missing information or discrepancies have been added to the "VPRS Assessment" column.

B. Additional submissions

1. Reparations measures sought

18. The Registry notes that 43 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 Report.

¹⁵ a/0406/08 ; a/1616/10 ; a/2016/11 ; a/2901/11 and a/2922/11.

19. The Registry notes that the remaining ten Potentially Eligible Victims did not specify in their respective forms the reparations measures sought.¹⁶ Noting that all nine out of the ten Victims have been previously admitted to participate in the proceedings, the Registry retrieved their previous participation and/or reparations forms and listed in the Report the reparations measures mentioned in the respective previous forms, if any.

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

20. The Registry notes that 38 out of the altogether 53 Potentially Eligible Victims consented to their identities being disclosed to the Defence. This information is outlined in the Report.

21. The Registry further notes that all 53 Potentially Eligible Victims consented to the Trust Fund being given access to their files.

C. Further transmissions of applications

22. In its present filing the Registry is transmitting to the Chamber the last reparations forms, received from the OPCV and the Trust Fund.

23. Consequently, to date, the Registry has sent to the Chamber, in original version, a total of 386 reparations forms received from the OPCV and a total of 56¹⁷ reparations forms received from the Trust Fund.

¹⁶ Nine applications collected by the Trust Fund and one application collected by the OPCV.

¹⁷ This number does not include the 31 applications collected and sent by the Trust Fund to the Chamber directly.

24. The Registry stands ready, upon the Chamber's order, to grant access to the Trust Fund to the 386 reparations forms collected by the OPCV in original versions.
25. Pending further orders from the Chamber, the Registry will cease its transmission of reparations forms.

A handwritten signature in black ink, appearing to be 'Marc Dubuisson', is written over a horizontal line.

Marc Dubuisson, Director, Division of Judicial Services

per delegation of Herman von Hebel, Registrar

Dated this 15 June 2017

At The Hague, The Netherlands