



Original: **French**

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

Date: **14 April 2017**

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***

Urgent

Public Document

**Request by the Defence for Mr Lubanga for New Transmissions
of Applications for Reparations**

Source: Defence for Mr Thomas Lubanga

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

Office of the Prosecutor

Counsel for the Defence

Ms Catherine Mabile

Mr Jean-Marie Biju-Duval

Legal Representatives of Victims

Mr Luc Walley

Mr Franck Mulenda

Ms Carine Bapita Buyangandu

Mr Paul Kabongo Tshibangu

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Office of Public Counsel for Victims

Ms Paolina Massidda

REGISTRY

Registrar

Mr Herman von Hebel

Trust Fund for Victims

Mr Pieter de Baan

Victims Participation and Reparations

Section

Mr Philipp Ambach

BACKGROUND

1. By its order of 22 February 2017,¹ Trial Chamber II (“Chamber”) set the time limits and modalities for transmitting applications for reparations to the Defence (“Order”).
2. On 22 March 2017, the Registrar transmitted 23 redacted applications for reparations to the Defence (“Second Transmission”).²
3. On 5 April 2017, the Registrar transmitted 95 redacted applications for reparations to the Defence (“Third Transmission”).³
4. The Defence notes that the applications of potential victims who had consented to have their identities disclosed to the Defence for Mr Lubanga contain redactions that do not comply with the instructions in the Order.
5. The Defence is filing the present request to receive a new version of these applications and to have a new date set for filing its submissions.

REDACTIONS AUTHORIZED BY THE CHAMBER

6. In its Order, the Chamber set the redaction modalities to be followed for applications for reparations to be transmitted to the Defence.
7. With regard to the potentially eligible victims who had consented to the disclosure of their identities, the Chamber considered that only “information pertaining to the current residence or other contact information that may be used to locate [them]”⁴ could be redacted.
8. The other redaction modalities given by the Chamber in its Order concern only the potential victims who had refused to have their identities disclosed.

¹ “Order for the Transmission of the Application Files of Victims who may be Eligible for Reparations to The Defence Team of Thomas Lubanga Dyilo”, 22 February 2017, ICC-01/04-01/06-3275-tENG.

² “Second Transmission to the Defence of Redacted Applications for Reparations pursuant to Trial Chamber II Order ICC-01/04-01/06-3275 of 22 February 2017”, 8 March 2017, ICC-01/04-01/06-3281.

³ “Third Transmission to the Defence of Redacted Applications for Reparations pursuant to Trial Chamber II Order ICC-01/04-01/06-3275 of 22 February 2017”, 8 March 2017, ICC-01/04-01/06-3288.

⁴ ICC-01/04-01/06-3275-tENG, para. 14.

9. The Defence notes nevertheless that the redactions affect a great deal of information not related to the current locations of the applicants.
10. In the Second Transmission, five applicants⁵ had consented to have their identities disclosed to the Defence team.
11. In the Third Transmission, 74 applicants⁶ had consented to have their identities disclosed to the Defence team.
12. Accordingly, only the section “G. Victim contact information” of their application forms should have been redacted.
13. Yet, additional redactions were made to information in their accounts of the events, especially that concerning places of enlistment, names of camps, commanders, battle sites or duties performed by the applicants.
14. This information does not in any way reveal the current locations of the applicants, and is important for the Defence to be able to assess their eligibility for victim status, as well as the merits of their allegations.
15. These redactions, which affect five dossiers in the Second Transmission⁷ and 63 dossiers in the Third Transmission,⁸ are inconsistent with the modalities set by the Chamber in its Order.

FOR THESE REASONS, MAY IT PLEASE TRIAL CHAMBER II TO:

FIND that the redactions made in files ICC-01/04-01/06-3269-Anx6, Anx11, Anx13, Anx17 and Anx21 do not comply with the instructions in the Order of 22 February 2017;

⁵ ICC-01/04/01/06-3269, para. 18.

⁶ ICC-01/04-01/06-3270, para. 10.

⁷ ICC-01/04/01/06-3269: Anx6, Anx11, Anx13, Anx17 and Anx21.

⁸ ICC-01/04-01/06-3270: Anx5, Anx6, Anx11 to Anx16, Anx18, Anx20 to Anx23, Anx26, Anx27, Anx29 to Anx32, Anx34 to Anx39, Anx41, Anx42, Anx44, Anx45, Anx48, Anx52, Anx55, Anx58 to Anx63, Anx65 to Anx68, Anx70, Anx71, Anx73, Anx75, Anx76, Anx78, Anx79, Anx81 to Anx83, Anx85 to Anx89 and Anx91 to Anx96.

FIND that the redactions made in dossiers ICC-01/04-01/06-3270-Anx5, Anx6, Anx11 to Anx16, Anx18, Anx20 to Anx23, Anx26, Anx27, Anx29 to Anx32, Anx34 to Anx39, Anx41, Anx42, Anx44, Anx45, Anx48, Anx52, Anx55, Anx58 to Anx63, Anx65 to Anx68, Anx70, Anx71, Anx73, Anx75, Anx76, Anx78, Anx79, Anx81 to Anx83, Anx85 to Anx89 and Anx91 to Anx96 do not comply with the instructions given in the Order of 22 February 2017;

Accordingly, INSTRUCT the Registry to send anew the aforementioned applications for reparations, with redactions only of the information in the section “G. Victim contact information”;

INSTRUCT the Registry to justify any additional redactions;

SET a new timetable to allow the Defence for Mr Lubanga to file its submissions further to the retransmission of the aforementioned applications.

[signed]

Ms Catherine Mabilie, Lead Counsel

Dated this 14 April 2017

At The Hague