



Original: **French**

No.: ICC-01/04-01/06  
Date: **22 September 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 Document**

**Response to the request for an extension of time limit  
filed by the Trust Fund for Victims on 21 September 2016**

**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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**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Ms Isabelle Guibal

## I. PROCEDURAL HISTORY

1. On 16 September 2016, the Principal Counsel of the Office of Public Counsel for Victims (“OPCV”), in her capacity as the legal representative of potential beneficiaries (the “Legal Representative”),<sup>1</sup> filed a “Request for guidance from the Chamber further to the Order of 15 July 2016” (the “Request”).<sup>2</sup>

2. On 20 September 2016, Trial Chamber II (the “Chamber”) issued an Order setting time limits for responses to the Legal Representative’s Request.<sup>3</sup>

3. On 21 September 2016, the Trust Fund for Victims (the “TFV”) filed a request to extend its time limit to 3 October 2016 (the “Extension Request”).<sup>4</sup>

## II. RESPONSE TO THE TFV REQUEST

4. The Legal Representative opposes the Extension Request and asks the Chamber to reject it.

5. The Legal Representative submits that the one-week time limit set by the Chamber for observations on her Request is amply sufficient. The TFV has known about the Request since 16 September. Nor do the developments described in the Request raise a new issue requiring extensive review. Instead, they revolve around a particular issue that has already been discussed with the TFV and the Registry. Moreover, the Request merely reiterates developments already described in the

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<sup>1</sup> See “Decision on the OPCV’s request to participate in the reparations proceedings” (Trial Chamber I), ICC-01/04-01/06-2858, 5 April 2012.

<sup>2</sup> See “Request for guidance from the Chamber further to the Order of 15 July 2016”, 01/04-01/06-3222-tENG, 16 September 2016 (the “Request”).

<sup>3</sup> See “Order setting time limits for observations on the motion of the Office of Public Counsel for Victims of 16 September 2016” (Trial Chamber II), ICC-01/04-01/06-3224-tENG, 20 September 2016.

<sup>4</sup> See “Request for an extension of time limit”, ICC-01/04-01/06-3226, 21 September 2016 (the “Extension Request”).

OPCV's "*Réponse consolidée aux soumissions déposées le 31 mai et le 7 juin 2016 par le Fonds au profit des victimes*" of 1 July 2016.<sup>5</sup>

6. Incidentally, the Legal Representative notes that the Chair of the TFV's Board of Directors is currently in The Hague, which should facilitate the internal review process.

7. In its interpretation of regulation 35 of the Regulations of the Court, the Appeals Chamber held that

a cause is good, if founded upon reasons associated with a person's capacity to conform to the applicable procedural rule or regulation or the directions of the Court. Incapability to do so must be for sound reasons, such as would objectively provide justification for the inability of a party to comply with his/her obligations.<sup>6</sup>

In the instant case, and for the reasons given above, the Legal Representative submits that the conditions of regulation 35(1) of the Regulations of the Court have not been met.

8. Lastly, the Legal Representative observes – as already submitted in her Request – that this issue merits immediate resolution by the Chamber so that the reparations proceedings can at last move forward.

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<sup>5</sup> See "*Réponse consolidée aux soumissions déposées le 31 mai et le 7 juin 2016 par le Fonds au profit des victimes*", ICC-01/04-01/02-3212, 1 July 2016.

<sup>6</sup> See "Reasons for the 'Decision of the Appeals Chamber on the request of counsel to Mr. Thomas Lubanga Dyilo for modification of the time limit pursuant to regulation 35 of the Regulations of the Court of 7 February 2007' issued on 16 February 2007", ICC-01/04-01/06-834 OA8 (Appeals Chamber), 21 February 2007, para. 7. See also "Reasons for the 'Decision on the "Application for Extension of Time Limits Pursuant to Regulation 35 of the Regulations of the Court to Allow the Defence to Submit its Observations on the Prosecutor's Appeal regarding the Decision on Evidentiary Scope of the Confirmation Hearing and Preventative Relocation"', ICC-01/04-01/07-653 OA7, 27 June 2008, para. 5.

**FOR THESE REASONS**, the Legal Representative respectfully requests the Chamber to reject the TFV's Extension Request.

[signed]

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**Paolina Massidda**  
**Principal Counsel**

Dated this 22 September 2016

At The Hague, Netherlands