



87 Vauxhall Walk, London SE11 5HJ | +44 (0)20 7793 1777 | [www.redress.org](http://www.redress.org)

## **AT LONG LAST: REPARATIONS FOR VICTIMS CAN NOW PROCEED IN THE ICC'S FIRST CASE**

**3 March 2015** - REDRESS welcomes the news that the process for delivering much needed reparations to the child soldiers used by Congolese warlord Thomas Lubanga Dyilo, and others affected by his crimes, can finally move forward, after the Appeals Chamber of the International Criminal Court (ICC) ruled today on the appeals against the Trial Chamber's decision on the principles to be applied to reparations in the case.

In a decision amending the Trial Chamber's ruling of 7 August 2012, the Appeals Chamber established the minimum elements required of a reparations order, and clarified the principles governing reparations to victims. It also ordered the Trust Fund for Victims (TFV) to present a draft plan for collective reparations to a newly constituted Trial Chamber no later than six months from today's ruling.

The Appeals Chamber found that reparations needed to be made against the convicted person and only for the crimes he was convicted of. It held that the Trial Chamber erred by using Lubanga's indigence as a reason to avoid finding him liable to pay reparations to the victims. Furthermore, the Appeals Chamber underscored that a convicted person's liability for reparations must be proportionate to the harm caused and, *inter alia*, his or her participation in the commission of the crimes for which he or she was found guilty, in the specific circumstances of the case.

**"This crucial finding highlights that how much money a convicted person has should not determine what reparations should be owed to the victims: reparations is indelibly connected to and should reflect the harm suffered by victims. This is important as a matter of law and because it will go far in acknowledging the vast suffering of the victims,"** said Carla Ferstman, REDRESS' Director.

**"Further work should be undertaken to locate, freeze and seize Lubanga's assets for the benefit of victims,"** added Ferstman. **"The Appeals Chamber refers to Court Regulation 117, which confirms that the financial situation of the sentenced person should be monitored on an ongoing basis, even following completion of a sentence of imprisonment, in order to enforce fines, forfeiture orders or reparation orders."**

The decision also means that reparations could not be awarded directly to victims of sexual and gender based violence, because this was not a crime for which Lubanga was convicted. Nonetheless, the Appeals Chamber ruled that the Trust Fund for Victims could use its discretion

to address the harm suffered by these victims as part of its assistance mandate, and in this respect, the TFV could also make referrals to NGOs providing services to these victims.

**“The overly narrow charging policy in this case has meant that sexual and gender based violence were never fully part of the prosecution. While the Trial Chamber had nonetheless tried to include these victims within the scope of the beneficiaries of reparations, the Appeal Chamber today made clear that reparations must follow the conviction, and must relate only to those harms proved in the prosecution’s case. This is an important lesson for the Prosecutor and the Court as a whole: charges must reflect the full range of harms suffered by victims, or else these victims will be excluded from the reparations process,”** said Ferstman.

The Appeals Chamber amended the reparations decision in several respects. Nevertheless, it found that the Trial Chamber was right to award only collective reparations, even though many of the victims had requested reparations on an individual basis. It stressed that the large number of victims was an important factor in determining that a collective award of reparations was most appropriate. We welcome the Appeals Chamber’s decision to instruct the Trust Fund for Victims that it consults with victims who participated at trial and submitted individual requests on issues related to the design of collective reparations awards.

REDRESS is also pleased that the Appeals Chamber confirmed that all victims are to be treated fairly and equally as regards to reparations, whether or not they participated in the trial or filed requests for reparations. Equally, we are satisfied that the Appeals Chamber confirmed the Trial Chamber’s finding that reparations programmes should include measures to reintegrate former child soldiers in order to stop their victimisation, discrimination and stigmatisation, and that a gender-inclusive approach should guide the design of the principles and procedures to be applied to reparations.

Thomas Lubanga Dyilo was found guilty, on 14 March 2012, of the war crimes of enlisting and conscripting children under the age of 15 and using them to participate actively in hostilities. He was sentenced on 10 July 2012 to 14 years of imprisonment. The Appeals Chamber confirmed this verdict on 1 December 2014.

**For further information, please contact:** Eva Sanchis, REDRESS Communications Officer, on [eva@redress.org](mailto:eva@redress.org) or +44 20 7793 1777.

**ABOUT REDRESS:** We are an award-winning human rights charity based in London which works internationally to combat torture by seeking justice and reparation for torture survivors. We are also the informal facilitator of the Victims' Rights Working Group ([www.vrwg.org](http://www.vrwg.org)), a network of more than 400 national and international organisations and experts that advocates on victims' issues before the International Criminal Court. REDRESS was founded by a torture survivor in 1992.