

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: ICC-01/04-01/06
Date: **21 February 2013**

THE APPEALS CHAMBER

Before: Judge Erkki Kourula, Presiding Judge
Judge Sang-Hyun Song
Judge Sanji Mmasenono Monageng
Judge Anita Ušacka
Judge Ekaterina Trendafilova

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
THE PROSECUTOR
*v. THOMAS LUBANGA DYILO***

Confidential Document

Prosecution's Request for Reclassification of Annexed list of Authorities

Source: Office of the Prosecutor

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

The Office of the Prosecutor

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Legal Representatives of Victims

The Trust Fund for Victims

Mr Luc Walley

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Mr Paul Kabongo Tshibangu

Mr Joseph Keta Orwinyo

The Office of Public Counsel for Victims

REGISTRY

Registrar

Ms Silvana Arbia

Procedural History

1. On 14 March 2012, the Trial Chamber convicted Thomas Lubanga of three counts of war crimes (the "Judgment").¹ On 10 July 2012, the Majority imposed a joint sentence of 14 years' imprisonment for Thomas Lubanga's crimes (the "Sentencing Decision").²
2. On 3 October 2012, the Prosecution filed a Notice of Appeal against the Sentencing Decision under articles 81(2), 83(2) and 83(3).³ On the same day, Thomas Lubanga filed Notices of Appeal against the Judgment⁴ and the Sentencing Decision⁵.
3. On 3 December 2012, the Appellant filed documents in support of both his appeal against the Sentencing Decision⁶ and his appeal against the Judgment.⁷ On the same day, the Prosecution filed the document in support of its appeal against the Sentencing Decision.⁸
4. On 4 February 2013, the Prosecution filed its response to the Appellant's appeals against conviction⁹ and sentence¹⁰, including to his request to present additional evidence. On the same day, the Appellant filed his response to the Prosecution's appeal against sentence.¹¹

¹ ICC-01/04-01/06-2842.

² ICC-01/04-01/06-2901.

³ ICC-01/04-01/06-2933 OA4.

⁴ ICC-01/04-01/06-2934 OA5.

⁵ ICC-01/04-01/06-2935 OA6.

⁶ Sentencing Appeal Brief.

⁷ ICC-01/04-01/06-2948-Conf.

⁸ ICC-01/04-01/06-2950.

⁹ ICC-01/04-01/06-2969-Conf, with the list of authorities as « Annex 1 ».

¹⁰ ICC-01/04-01/06-2968-Conf, with the list of authorities as « Annex ».

¹¹ ICC-01/04-01/06-2967-Conf.

5. The Prosecution filed its responses confidentially given that: (a) it was responding to two filings classified as confidential by the Appellant;¹² (b) it referred to information that could potentially identify witnesses for whom protective measures were granted by the Trial Chamber; and (c) it made reference to filings and decisions classified as confidential.¹³
6. The annexed lists of authorities included as "Annex 1" to the Prosecution's response to the appeal against conviction and as "Annex" to its response to the appeal against sentence were also filed confidentially given that no public redacted version was available at the time. The Prosecution committed to file public redacted versions of the documents without delay.¹⁴
7. On 18 February 2013, the Prosecution filed a public redacted version of its response to Thomas Lubanga's appeal against conviction.¹⁵
8. On 19 February 2013, the Prosecution filed a public redacted version of its response to the Thomas Lubanga's appeal against sentence.¹⁶
9. Given that public redacted versions of the main submissions are now available, the lists of authorities attached to both filings can be reclassified as public.¹⁷

Confidential Filing

10. This application is filed confidentially because it refers to documents bearing that designation. If the Chamber decides to grant this request, the Prosecution submits that this application should also be reclassified as "Public".

¹² ICC-01/04-01/06-2948-Conf and ICC-01/04-01/06-2942-Conf.

¹³ ICC-01/04-01/06-2969-Conf, para. 28; ICC-01/04-01/06-2968-Conf, para. 11.

¹⁴ Ibid.

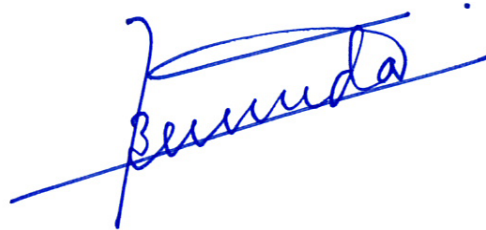
¹⁵ ICC-01/04-01/06-2969-Red; ICC-01/04-01/06-2969- Anx2- Red.

¹⁶ ICC-01/04-01/06-2968-Red.

¹⁷ ICC-01/04-01/06-2968-Conf-Anx; ICC-01/04-01/06-2969-Conf-Anx1.

Relief sought

11. For the reasons set out above, the Prosecution requests that the Appeals Chamber reclassify the list of authorities annexed to both Prosecution filings from confidential to public, pursuant to Regulation 23bis of the Regulations of the Court.¹⁸



Fatou Bensouda
Prosecutor

Dated this 21st day of February 2013
At The Hague, The Netherlands

¹⁸ Ibid.