

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **17 April 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**

**Public Document with
Confidential *Ex Parte*, Prosecution Only Annex 1**

**Prosecution's Communication of Document "OTP/DRC/COD-190/JCCD-pt" to
the Appeals Chamber in compliance with Decision ICC-01/04-01/06-3017**

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

Counsel for the Defence

Ms Catherine Mabilie

Mr Jean-Marie Biju-Duval

Legal Representatives of Victims

The Trust Fund for Victims

Mr Luc Walley

Mr Franck Mulenda

Ms Carine Bapita Buyangandu

Mr Paul Kabongo Tshibangu

Mr Joseph Keta Orwinyo

The Office of Public Counsel for Victims

REGISTRY

Deputy Registrar

Mr Didier Preira

Procedural History

1. On 14 March 2012, the Trial Chamber convicted the Appellant of three counts of war crimes.¹ On 10 July 2012, the Trial Chamber rendered a decision on sentence.² Both parties filed notices of appeal.³
2. On 26 November 2012, the Appellant submitted a request to present additional evidence for the first time on appeal.⁴ On 3 December 2012, the Appellant filed documents in support of both his appeal against conviction⁵ and sentence⁶.
3. On 4 February 2013, the Prosecution filed its response to the Appellant's appeals against conviction⁷ and sentence⁸, and addressed his proffered new evidence including as rebuttal a letter from the DRC authorities on its procedures for obtaining election cards and whether they qualify as official identity documents.
4. On 27 February 2013, the Appellant requested that the Appeals Chamber order the Prosecution to disclose a request for assistance ("RFA") sent by the Prosecution to the DRC authorities, with any other related documents.⁹
5. On 1 March 2013, the Appeals Chamber ordered the Prosecution to respond to the Appellant's disclosure request.¹⁰ On 12 March 2013, the Prosecution submitted its response.¹¹
6. On 11 April 2017, the Appeals Chamber ordered the Prosecution to: *"1) Disclose document "OTP/DRC/COD-190/JCCD-pt" to Mr Lubanga Dyilo, redacting any information contained in that document that, in the view of the Prosecutor, cannot be disclosed to Mr Lubanga Dyilo; 2) Communicate the redacted and unredacted versions of*

¹ ICC-01/04-01/06-2842.

² ICC-01/04-01/06-2901.

³ ICC-01/04-01/06-2933 OA4; ICC-01/04-01/06-2934 OA5; ICC-01/04-01/06-2935 OA6.

⁴ ICC-01/04-01/06-2942-Red.

⁵ ICC-01/04-01/06-2948-Red.

⁶ Sentencing Appeal Brief.

⁷ ICC-01/04-01/06-2969-Red.

⁸ ICC-01/04-01/06-2968-Red.

⁹ ICC-01/04-01/06-2988, para.6.

¹⁰ ICC-01/04-01/06-2991.

¹¹ ICC-01/04-01/06-2998.

that document to the Appeals Chamber; and 3) Disclose any additional documents related to document 'OTP/DRC/COD-190/JCCD-pt' to Mr Lubanga Dyilo and communicate them to the Appeals Chamber".¹²

7. On 17 April 2013, the Prosecution disclosed document 'OTP/DRC/COD-190/JCCD-pt' to Mr Lubanga Dyilo in redacted form. Attached to the present filing as confidential *ex parte* Annex 1 is a copy of the redacted document in a version that permits the Appeals Chamber to see through the redactions to the text underneath.
8. The Prosecution informs the Appeals Chamber that there are no additional documents related to document 'OTP/DRC/COD-190/JCCD-pt'.

Confidentiality

9. The Prosecution files Annex 1 to the present filing on an *ex parte* basis in accordance with Rule 81(2) and in order to preserve the confidential nature of the information contained in that document.



Fatou Bensouda
Prosecutor

Dated this 17th day of April 2013
At The Hague, The Netherlands

¹² ICC-01/04-01/06-3017.