

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **10 June 2014**

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 CONGO

IN THE CASE OF

***THE PROSECUTOR
v. THOMAS LUBANGA DYILO***

**Confidential-EX PARTE
Prosecutor only**

**Prosecution's Further Request for the Reclassification of certain non-public
filings, pursuant to the Appeals Chamber's Order of 20 May 2014**

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
Ms. Fatou Bensouda, Prosecutor
Mr. James Stewart
Mr. Fabricio Guariglia

Counsel for Thomas Lubanga Dyilo

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

The Office of Public Counsel for Victims

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar
Mr. Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. On 20 May 2014, the Appeals Chamber ordered the parties to review their confidential filings and to ensure the submission of public redacted versions of the documents by 10 June 2014 at the latest.¹
2. On 27 May 2014, the Prosecution filed a request for the reclassification of certain confidential filings,² which the Appeals Chamber granted on 28 May 2014.³
3. The Prosecution has since reviewed all non-public written submissions and requests the Appeals Chamber to reclassify documents ICC-01/04-01/06-3061-Conf-Anx; ICC-01/04-01/06-3062-Conf; ICC-01/04-01/06-3077-Conf-Exp; and ICC-01/04-01/06-3078-Conf as public, pursuant to Regulation 23bis(3).
4. ICC-01/04-01/06-3061-Conf-Anx is a list of authorities annexed to a confidential document, for which the Prosecution is filing a public redacted version. That will eliminate the reason for the confidentiality of ICC-01/04-01/06-3061-Conf-Anx.
5. ICC-01/04-01/06-3062-Conf is a request for reclassification of document ICC-01/04-01/06-3058-Conf-AnxG.⁴ Since the Appeals Chamber has since ordered the reclassification of the latter document,⁵ ICC-01/04-01/06-3062-Conf itself can also be reclassified as public.
6. ICC-01/04-01/06-3077-Conf-Exp is a cover filing used to submit documents to the Appeals Chamber. The information contained in the cover filing has since been made public by the Appeals Chamber.⁶ The documents annexed to this filing remain *ex parte*.
7. The Prosecution classified ICC-01/04-01/06-3078-Conf as confidential because it was of the view that "it identifies a confidential Prosecution witness in the

¹ ICC-01/04-01/06-T-363-Red-ENG, p.4, lns.12-17.

² ICC-01/04-01/06-3107 OA5 OA6.

³ ICC-01/04-01/06-3108 OA5 OA6.

⁴ ICC-01/04-01/06-3062-Conf OA5 OA6, para.5.

⁵ ICC-01/04-01/06-3065 A5 A6.

⁶ Pursuant to the Appeals Chamber's order ICC-01/04-01/06-3085 A5 A6, dated 05 May 2014, document ICC-01/04-01/06-3069 A5 A6 was reclassified as "public".

Ntaganda proceedings by reference to the witness's victim code in the *Lubanga* proceedings and in the DRC situation".⁷ Upon reflection, the Prosecution has now come to the conclusion that the victim code alone, without the supporting documentation, does not identify the witness. Document ICC-01/04-01/06-3078-Conf can therefore be reclassified as public.

8. This application is filed confidential-ex parte 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".



Fatou Bensouda, Prosecutor

Dated this 10th day of June 2014

At The Hague, The Netherlands

⁷ ICC-01/04-01/06-3078-Conf OA5 OA6, para.7.