

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: French

No.: ICC-01/04-02/12
Date: 9 December 2014

THE APPEALS CHAMBER

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

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
*THE PROSECUTOR v. MATHIEU NGUDJOLO CHUI***

Public Document

**Defence Observations on the Registrar's submission No. ICC-01/04-02/12-235 of 20
November 2014 and annexes thereto.**

Source: Defence Team for Mathieu Ngudjolo

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

Office of the Prosecutor

Ms Fatou Bensouda
Mr James Stewart
Mr Fabricio Guariglia

Counsel for the Defence of M. Ngudjolo

Mr Jean-Pierre Kilenda Kakengi Basila
Mr Jean-Pierre Fofé Djofia Malewa

Legal Representatives of the Victims

Mr Jean-Louis Gilissen
Mr Fidel Nsita Luvengika

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

Office of Public Counsel for Victims

**Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Mr Nigel Verril

Detention Section

Mr Patrick Craig

**Victims Participation and Reparations
Section**

Other

I- PROCEDURAL HISTORY

1. On 8 October 2014, the Appeals Chamber issued a *Decision and order in relation to the Prosecutor's request for reclassification and for lesser redacted versions of the Registry's monitoring reports*.¹
2. On 6 November 2014, the Appeals Chamber further ordered the Registrar to file, by 17 November 2014, an, *ex parte* submission available only to the Registry, Prosecution and Defence for Ngudjolo, containing justified proposals for redactions in the listed filings and decisions founding the Prosecutor's third ground of appeal.²
3. The Appeals Chamber granted the Registrar's request No. ICC-01/04-02/12-233,³ and by Decision No. ICC-01/04-02/12-234⁴ extended to 20 November 2014, the time limit for the Registrar to file the submission.
4. In compliance with the decisions and orders, on 20 November 2014, the Registrar filed proposed redactions in public submission No. ICC-01/04-02/12-235⁵ along with 16 confidential Annexes *ex parte* Registry, Prosecutor and Defence for Ngudjolo only, two confidential Annexes *ex parte* Registry and Defence only and four confidential Annexes *ex parte* Registry only.
5. The Defence's observations are presented below.

II- DEFENCE OBSERVATIONS

6. The Defence for Ngudjolo examined the filings listed by the Registrar in Annex No. ICC-01/04-02/12-235-Conf-Exp-Anx1, titled: "Justifications of the Registry

¹ ICC-01/04-02/12-209.

² ICC-01/04-02/12-232: "Order on the submission of proposed redactions to certain documents founding the Prosecutor's third ground of appeal".

³ ICC-01/04-02/12-233: "Request for extension of time limit pursuant to Regulation 35 of the Regulations of the Court for the implementation of the "Order on the submission of proposed redactions to certain documents founding the Prosecutor's third ground of appeal", 14 November 2014.

⁴ ICC-01/04-02/12-234: "Decision on the Registrar's request for an extension of the time limit", 17 November 2014.

⁵ ICC-01/04-02/12-235: "Submission of the Registry proposed redactions following the Appeals Chamber Order of 6 November 2014".

proposed redactions pursuant to the Appeals Chamber Order of 6 November 2014”.

7. The Defence is of the view that the Registrar’s proposed redactions are justified and concurs with them.
8. The Defence was unable to read the filings under ICC-01/04-01/07-829-Conf-Exp, ICC-01/04-01/07-1195-Conf-Exp-Corr, ICC-01/04-01/07-1419-Conf-Exp, ICC-01/04-01/07-1466-Conf-Exp, for the single reason that they are *ex parte* Registry only. The Defence did, however, examine the redactions proposed by the Registry in Annex ICC-01/04-02/12-235-Conf-Exp-Anx1, considered them to be justified and concurs with them
9. The Defence also examined the following filings listed by the Registrar in paragraph 1 of submission No. ICC-01/04-02/12-235-Conf-Exp:

- ICC-01/04-01/07-800-Conf
- ICC-01/04-01/07-894-Conf-Exp
- ICC-01/04-01/07-932-Conf-Exp
- ICC-01/04-01/07-1196-Conf-Exp
- ICC-01 /04-01 /07-1215-Conf-Exp-tENG
- ICC-01/04-01/07-1233-Conf-Exp
- ICC-01 /04-01 /07-1319-Conf-Exp-tENG
- ICC-01/04-01/07-1512-Conf-Exp-tENG
- ICC-01/04-01/07-1627-Conf-Exp
- ICC-01/04-01/07-1778-Conf-Exp-tENG
- ICC-01/04-01/07-1785-Conf-Exp-tENG
- ICC-01/04-01/07-1875-Conf-Exp-tENG

- ICC-01/04-01/07-2187-Conf-Exp-tENG
- ICC-01/04-01/07-3120-Conf-Exp-tENG

10. The Defence concurs with the Registrar's view that the filings may be made public without redactions.

RESPECTFULLY SUBMITTED

ON BEHALF OF THE DEFENCE FOR MATHIEU NGUDJOLO,

[SIGNED]

Jean-Pierre Kilenda Kakengi Basila
Lead Counsel

Dated this 9th day of December 2014

At Brussels