

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No. ICC-01/04-02/12 A

Date: 4 February 2015

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

**with a confidential *ex parte* Prosecutor, Defence for Mr Ngudjolo and Registry
only annex**

**Order on the reclassification and the filing of public redacted versions of
documents founding the Prosecutor's third ground of appeal**

Order 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 Mr Mathieu Ngudjolo Chui
Mr Jean Pierre Kilenda Kakengi Basila
Mr Jean Pierre Fofé Djofia Malewa

Legal Representatives of Victims
Mr Jean-Louis Gilissen
Mr Fidel Nsita Luvengika

REGISTRY

Registrar
Mr Herman von Hebel



The Appeals Chamber of the International Criminal Court,

In the appeal of the Prosecutor against the decision of Trial Chamber II entitled “Judgment pursuant to article 74 of the Statute” of 18 December 2012 (ICC-01/04-02/12-3-tENG),

Having before it the “Submission of the Registry proposed redactions following the Appeals Chamber Order of 6 November 2014” of 20 November 2014 (ICC-01/04-02/12-235),

Issues the following

ORDER

- i. The Registrar is ordered to implement all the redactions proposed in annexes 2-22 of its filing of 20 November 2014 (ICC-01/04-02/12-235). In addition, the Registrar is directed to make further redactions to the annexes and other documents stipulated in the confidential *ex parte*, Prosecution, Defence for Mr Ngudjolo and Registry only annex to this order.
- ii. The Registrar shall file redacted versions of annexes 2-22 of its filing of 20 November 2014 (ICC-01/04-02/12-235) as well as the other documents stipulated in the abovementioned confidential, *ex parte* annex to this order, as public by Thursday, 12 February 2015. In this regard, the Registrar is instructed to implement the redactions to the corresponding documents originally filed in the case record of Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui.
- iii. The Registrar is directed to reclassify as public the following documents:
 - a. ICC-01/04-01/07-800-Conf
 - b. ICC-01/04-01/07-829-Conf-Exp-Anx
 - c. ICC-01/04-01/07-894-Conf-Exp
 - d. ICC-01/04-01/07-932-Conf-Exp



- e. ICC-01/04-01/07-1196-Conf-Exp
- f. ICC-01/04-01/07-1233-Conf-Exp
- g. ICC-01/04-01/07-1196-Conf-Exp
- h. ICC-01/04-01/07-1319-Conf-Exp
- i. ICC-01/04-01/07-1512-Conf-Exp
- j. ICC-01/04-01/07-1627-Conf-Exp
- k. ICC-01/04-01/07-1778-Conf-Exp
- l. ICC-01/04-01/07-1718-Conf-Exp
- m. ICC-01/04-01/07-1722-Conf-Exp
- n. ICC-01/04-01/07-1785-Conf-Exp
- o. ICC-01/04-01/07-1875-Conf-Exp

REASONS

1. On 8 October 2014, the Appeals Chamber issued the “Decision and order in relation to the Prosecutor’s request for reclassification and for lesser redacted versions of the Registry’s monitoring reports”, wherein it reclassified the third ground of the appeal as public subject to (i) redactions that pertain to protective measures ordered with respect to certain witnesses and (ii) the maintenance of the confidentiality of the documents founding the third ground of appeal.¹

2. On 21 October 2014, in accordance with the principle of publicity, the Appeals Chamber notified the parties orally of its intention to reclassify the documents founding the third ground of appeal as public to the extent possible.²

3. On 6 November 2014, the Appeals Chamber issued the “Order on the submission of proposed redactions to certain documents founding the Prosecutor’s third ground of appeal” directing the Registrar to propose redactions with justifications to a list of filings of the Registry and decisions of Trial Chamber II.³

¹ ICC-01/04-02/12-209 (A), para. 16.

² See ICC-01/04-02/12-T-4-Conf-Eng (ET) p. 4, lines 12-15.

³ ICC-01/04-02/12-232 (A), para. 4.

4. On 20 November 2014, the Registrar filed the “Submission of the Registry proposed redactions following the Appeals Chamber Order of 6 November 2014”⁴ (hereinafter: “Registrar’s Submissions of 20 November 2014”) with several confidential, *ex parte* annexes.⁵

5. On 12 December 2014, the Appeals Chamber issued the “Second order on proposed redactions to certain documents founding the Prosecutor’s third ground of appeal” directing, *inter alia*, the Registrar to implement proposed redactions to annexes 2-5 of its filing of 20 November 2014 (ICC-01/04-02/12-235) and requesting the Prosecutor and Mr Ngudjolo to propose any additional redactions deemed necessary to the annexes.⁶

6. On 12 January 2014, both Mr Ngudjolo⁷ and the Prosecutor⁸ indicated that no additional redactions were necessary.

7. The Appeals Chamber has had careful regard to the proposed redactions and the corresponding justifications for such redactions submitted by the Registrar in the Registrar’s Submissions of 20 November 2014. The Appeals Chamber considers the proposed redactions to be justified given the need to protect witnesses and information necessary for the proper functioning of the Registry. However, the Appeals Chamber notes with concern that not all of the proposed redactions were consistently applied in the documents and in one instance where a proposal for redaction was made no corresponding redaction(s) was actually made in the relevant filing(s). As a result the Appeals Chamber has had to order additional redactions to the documents which are stipulated in detail in the annex to this order. The Registrar is thus ordered to implement all his proposed redactions as well as the additional redactions ordered by the Appeals Chamber and to file these redacted documents as public.

⁴ ICC-01/04-02/12-235 (A).

⁵ See ICC-01/04-02/12-235-Conf-Exp-Anx 1-22.

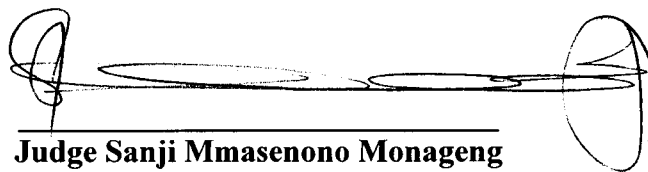
⁶ See ICC-01/04-02/12-240.

⁷ See “Observations de la Défense relatives à la soumission du Greffier référencée ICC-01/04-02/12-242 du 15 décembre 2014 et à ses annexes” ICC-01/04-02/12-245 (A).

⁸ See “Prosecution’s notice pursuant to the Appeals Chamber’s second order on proposed redactions to certain documents”, ICC-01/04-02/12-246 (A).

8. In addition, with respect to the documents for which the Registrar has made no proposals for redactions,⁹ the Appeals Chamber has carefully reviewed them and deems it appropriate not to order any redactions. Accordingly, these documents may be reclassified as public.

Done in both English and French, the English version being authoritative.



Judge Sanji Mmasenono Monageng
Presiding Judge

Dated this 4th day of February 2015

At The Hague, The Netherlands

⁹ See Registrar's Submissions of 20 November 2014, para. 1.