



Original: **French**

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

Date: **19 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**

**Defence Request for Leave to File a Reply to the “Joint Response to the ‘*Mémoire de la Défense de M. Thomas Lubanga relatif à l’appel à l’encontre de la “Decision establishing the principles and procedures to be applied to reparations”, rendue par la Chambre de première instance le 7 août 2012”*’, Filed on 8 April 2013**

**Source:** Defence team for Mr Thomas Lubanga Dyilo

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

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Mr Luc Walley  
Mr Franck Mulenda  
Ms Carine Bapita Buyangandu  
Mr Paul Kabongo Tshibangu  
Mr Joseph Keta

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparations**

**Office of Public Counsel for Victims**

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Defence**

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Herman Von Hebel

**Counsel Support Section**

**Victims and Witnesses Section**

**Detention Section**

**Victims Participation and Reparations  
Section**

1. On 8 April 2013, the Office of Public Counsel for Victims and the Legal Representatives of the V02 group of victims filed their response<sup>1</sup> to Mr Thomas Lubanga's appellate brief against the Decision establishing the principles and procedures to be applied to reparations issued on 7 August 2012 ("Response").

2. Pursuant to regulation 60 of the Regulations of the Court, the Defence seeks leave to file a brief reply to the Response of the OPCV and the Legal Representatives of the V02 group.

## SUBMISSIONS

3. Regulation 60 provides that the Appeals Chamber may order the appellant to file a reply whenever it considers it necessary in the interests of justice.<sup>2</sup> Any reply filed in accordance with this provision must not exceed 50 pages.

4. To assist the Appeals Chamber, the Defence would like to elaborate as follows on the testimonies cited by the OPCV and the Legal Representatives in paragraphs 100 and 102 of their Response:<sup>3</sup>

- The OPCV and the Legal Representatives cite the testimonies of Witnesses P-0294 and P-0213 without specifying that those testimonies had been set aside by the Chamber in its judgment;
- The OPCV and the Legal Representatives erroneously present Witness P-0038 as a "former child soldier[s] forcibly recruited";

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<sup>1</sup> ICC-01/04-01/06-3010.

<sup>2</sup> The Chambers of the Court have, on several occasions, held that the filing of a reply under regulation 24(5) is appropriate and justified where the issue raised in the initial request is important or has a potential impact on the ongoing proceedings. See, for example, ICC-01/04-01/07-1004-tENG; ICC-01/04-01/06-236; ICC-01/04-01/06-17; ICC-01/04-01/07-600.

<sup>3</sup> ICC-01/04-01/06-3010.

- The OPCV and the Legal Representatives distort P-0017's testimony by claiming that he confirmed that there had been a practice, within the FPLC, of forcing recruits to drink alcohol and take drugs;
- Lastly, the OPCV and the Legal Representatives indirectly refer to Witness P-0294's testimony by citing an extract of the testimony of his mother, Witness P-0293, who quoted what P-0294 had allegedly said about his military service. The Chamber concluded, however, that it was very likely that Witness P-0294 had lied about his military service and dismissed his testimony accordingly.

5. Only the four points set out above will be addressed in the Reply that the Defence wishes to file.

**FOR THESE REASONS, MAY IT PLEASE THE APPEALS CHAMBER to:**

GRANT this request

and

GRANT the Defence leave to file a reply not exceeding six pages to the Response of the OPCV and the Legal Representatives of the V02 group of victims filed on 8 April 2013.

**[signed]**

**Ms Catherine Mabilie, Lead Counsel**

Dated this 19 April 2013,

At The Hague