

ANNEX

Explanatory Annex to Corrigendum* to the “Public Redacted Version of ‘Defence Appeal Brief – Part II’, 31 January 2020, ICC-01/04-02/06-2465”, 27 March 2020, ICC-01/02-04/06-2465-Red

1. On 27 March 2020, the Defence filed its “Public Redacted Version of ‘Defence Appeal Brief – Part II’”.¹
2. When proceeding to file the public redacted version of the Defence Response to CLR1 and CLR2 Observations on Defence Appeal Brief Part II² and filing the required corrigendum, two mistakes were also identified in the aforementioned filing in paragraphs 250 and 261, the correction of which will assist the Appeals Chamber and the Parties.
3. Accordingly, the two errors identified in paragraph 2 above have been corrected:

(i) Paragraph 250:

- 250. The Chamber’s findings that two non-escorts of Mr. Ntaganda, **P-0838** and P-0898, were enlisted in the FPLC and actively participated in hostilities were manifestly unreasonable or reflect a misapplication of the standard of proof.⁶⁷⁴

The new paragraph 250 reads as follows:

250. The Chamber’s findings that two non-escorts of Mr. Ntaganda, **P-0883** and P-0898, were enlisted in the FPLC and actively participated in hostilities were manifestly unreasonable or reflect a misapplication of the standard of proof.⁶⁷⁴

(ii) Paragraph 261:

- 261. The finding that “Mave”, an escort of Kisembo in Mamedì, was under 15 years old is manifestly unreasonable. The evidence of age, which is testimonial and based on no images, derived from three witnesses: **P-0907**, who estimated that she was [REDACTED];⁷⁰¹ **P-0901**, who estimated that she was “about 12”;⁷⁰² and P-0887 who declined to give an age estimate, stating only that “she was still very young” and that “[h]er breasts hadn’t even started to develop.”⁷⁰³ No Chamber, properly understanding the nature and caution with which age assessments should be approached, could have found beyond reasonable doubt that this person was under 15 years of age.

¹ Public Redacted Version of “Defence Appeal Brief - Part II”, 27 March 2020, ICC-01/04-02/06-2465.

² Defence response to CLR1 and CLR2 Observations on Defence Appeal Brief – Part II, 22 May 2020, ICC-01/04-02/06-2537.

The corrected paragraph 261 reads as follows:

- 261. The finding that “Mave”, an escort of Kisembo in Mamedi, was under 15 years old is manifestly unreasonable. The evidence of age, which is testimonial and based on no images, derived from three witnesses: **P-0901**, who estimated that she was [REDACTED];⁷⁰¹ **P-0907**, who estimated that she was “about 12”;⁷⁰² and P-0887 who declined to give an age estimate, stating only that “she was still very young” and that “[h]er breasts hadn’t even started to develop.”⁷⁰³ No Chamber, properly understanding the nature and caution with which age assessments should be approached, could have found beyond reasonable doubt that this person was under 15 years of age.