

ANNEX 1
CONFIDENTIAL
EX PARTE



Ms Catherine Mabilie
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Reference: CSS/2011/395

Date: 22 July 2011

Dear Madam,

I am writing to you in connection with the management of legal assistance paid by the Court's after the end of closing arguments in the case of *The Prosecutor v. Thomas Lubanga Dyilo*.

I wish to remind you that the closing arguments are scheduled for 25 and 26 August 2011. In this connection, I would like to draw your attention to the provisions of the "Report on the operation of the Court's legal aid system and proposals for its amendment" (ICC-ASP/6/4 of 31 May 2007) ("the Amendments") governing the Court's legal aid system.

In accordance with the provisions of paragraph 29 and Annex IV of the Amendments, only the costs of Counsel's activities after closing arguments are presented will be covered by the Court's legal aid system. Accordingly, all payments to members of your team, except those of Counsel, will cease as of the last day of closing arguments in the case of *The Prosecutor v. Thomas Lubanga Dyilo*. However, in order to enable you to finish putting your affairs in order, we are willing to continue payments for your team until 30 August 2011.

I should clarify that, from the last date of closing arguments until the delivery of the judgment of the Trial Chamber, Counsel does not automatically receive the monthly provision of €10,832. Counsel's fees are instead calculated on the basis of the reasonably necessary activities to be carried out during that period. The calculation will be made at an hourly rate, at a maximum of 7.5 hours worked per day, up to a maximum equal to the monthly fee (€10,832). I also wish to remind you that no reimbursement of professional fees is applicable during that period.

Finally, you are reminded that you may, at any time, request assistance from the Office of Public Counsel for the Defence regarding any matter deemed appropriate, including between the end of closing arguments and delivery of the judgment in the case.

Furthermore, I wish to mention that, should either the Prosecutor or the Defence institute appeals proceedings in respect of the Trial Chamber's verdict, the Court's legal aid scheme will cover only the fees of a Defence team composed as follows, in accordance with Annex IV of the Amendments:

<i>Human resources during the appeals phase</i>	<i>(Maximum) payments in euros</i>
1 counsel	10,832
1 legal assistant	6,113
1 case manager	4,047

Noting the system that we have established to enable teams to avail themselves of the services of *pro bono* members when circumstances so warrant, I wish to inform you that we are prepared to extend the electronic accesses of all or part of your team, if this is deemed to be necessary and in accordance with all the ethical and professional rules set forth, *inter alia*, in the Code of Professional Conduct for counsel. Please inform us of any decision you make in this regard and provide us with all relevant details, so that we can take any necessary measures without delay.

I trust in your cooperation in taking the necessary measures to ensure that the offices allocated to your team revert to the Court. In this connection, please note that we are making one of these offices available to you to enable you to store documents and other items considered necessary during the period from the end of the closing arguments to the appeals phase, should there be one. I assure you that this office, which is for your team only, will be locked and will remain inaccessible to any other person.

Please take the necessary action to apprise all the members of your team of the contents of this letter without delay, so that they may have sufficient time to take any appropriate measures that may be required.

I am happy to address any other questions you may have.

Yours sincerely,

[signed]

Prof. Dr. Esteban Peralta Losilla
Chief, Counsel Support Section