

ANNEX 3

PROCEDURAL HISTORY

1. On 14 March 2012, Trial Chamber I rendered the Conviction Decision¹ in the case of the *Prosecutor v. Thomas Lubanga Dyilo*, appending the Separate Opinion of Judge Adrian Fulford² and the Separate and Dissenting Opinion of Judge Odio Benito.³ In the Conviction Decision Trial Chamber I, *inter alia*, found Mr Lubanga guilty of the crimes of conscripting and enlisting children under the age of fifteen years into the FPLC⁴ and using them to participate actively in hostilities within the meaning of articles 8 (2) (e) (vii) and 25 (3) (a) of the Statute from early September 2002 to 13 August 2003.⁵
2. On 10 July 2012, the Trial Chamber rendered, by majority, the Sentencing Decision,⁶ Judge Odio Benito dissenting,⁷ in which the Majority sentenced Mr Lubanga to a total period of 14 years of imprisonment.⁸
3. On 3 October 2012, pursuant to article 81 (1) (b) of the Statute, rule 150 of the Rules of Procedure and Evidence, and regulation 57 of the Regulations of the Court, Mr Lubanga filed the Notice of Appeal⁹ in which he requested that the Appeals Chamber set aside the Conviction Decision and acquit him.¹⁰

¹ See Annex 4; with Annex A, “Procedural Background”, ICC-01/04-01/06-2842-AnxA, and Annex B, “List of Acronyms”, ICC-01/04-01/06-2842-AnxB, available at, respectively: <http://www.legal-tools.org/doc/b04157/>; and: <http://www.legal-tools.org/doc/9efff5/>. On 14 March 2012, the Trial Chamber issued the “Summary of the ‘Judgment pursuant to Article 74 of the Statute’”, ICC-01/04-01/06-2843, available at: <http://www.legal-tools.org/doc/99d5ee/>. On 31 August 2012, the parties were notified of the French version of the Conviction Decision. See “Jugement rendu en application de l’article 74 du Statut”, ICC-01/04-01/06-2842-tFRA, available at: <http://www.legal-tools.org/doc/6d72b5/>.

² See Annex 4.

³ See Annex 4.

⁴ See Annex 4.

⁵ Conviction Decision, para. 1358.

⁶ See Annex 4.

⁷ “Dissenting Opinion of Judge Odio Benito”, ICC-01/04-01/06-2901, pp. 41-52.

⁸ Sentencing Decision, para. 107.

⁹ See Annex 4. On 26 November 2012, Mr Lubanga filed the “Defence application for an extension of the page limit for its appeal brief challenging the *Judgment pursuant to Article 74 of the Statute*”. See ICC-01/04-01/06-2943-tENG (A5), available at: <http://www.legal-tools.org/doc/33e326/>. On 27 November 2012, the Appeals Chamber issued the “Order on the filing of a response to the ‘Requête de la Défense aux fins d’augmentation du nombre de pages autorisées pour son Mémoire déposé dans le cadre de son appel à l’encontre de du ‘Jugement rendu en application de l’Article 74 du Statut’””, ICC-01/04-01/06-2944 (A5), available at: <http://www.legal-tools.org/doc/d4ea7e/>. On 27 November 2012, the Prosecutor responded, objecting to the request. See “Prosecution’s Response to the Defence Request for an Extension of the Page Limit”, ICC-01/04-01/06-2945 (A5), available at: <http://www.legal-tools.org/doc/a317ab/>. On 28

4. On 24 October 2012, the Appeals Chamber designated Judge Erkki Kourula as the Presiding Judge.¹¹
5. On 26 November 2012, Mr Lubanga filed the First Additional Evidence Request.¹²
6. On 3 December 2012, Mr Lubanga filed the Document in Support of the Appeal.¹³
7. On 13 December 2012, the Appeals Chamber rendered the Victim Participation Decision,¹⁴ in which it, *inter alia*, authorised the 120 victims who participated in the trial

November 2012, pursuant to regulation 37 (2) of the Regulations of the Court, the Appeals Chamber granted Mr Lubanga's request, extending the page limit by 20 pages. *See* "Decision on Mr Lubanga's request for an extension of the page limit", ICC-01/04-01/06-2946 (A 5), available at: <http://www.legal-tools.org/doc/5d6c5e/>.

¹⁰ Notice of Appeal, p. 4. Mr Lubanga also filed a notice of appeal against the Sentencing Decision. *See also* "Notice of Appeal lodged by the Defence for Mr Thomas Lubanga against Trial Chamber I's Decision on sentence pursuant to Article 76 of the Statute of 10 July 2012", 3 October 2012, ICC-01/04-01/06-2935-tENG (A6), available at: <http://www.legal-tools.org/doc/3353fd/>. Also on 3 October 2012, the Prosecutor filed a notice of appeal against the Sentencing Decision. *See* "Prosecution's Notice of Appeal against Trial Chamber I's 'Decision on Sentence pursuant to Article 76 of the Statute'", ICC-01/04-01/06-2933 (A4), available at: <http://www.legal-tools.org/doc/2f9402/>.

¹¹ "Decision on the Presiding Judge of the Appeals Chamber in the appeal of Mr Thomas Lubanga Dyilo against the decision of Trial Chamber I entitled 'Judgment pursuant to Article 74 of the Statute'", ICC-01/04-01/06-2941 (A5), available at: <http://www.legal-tools.org/doc/91b159/>. Prior to this, on 11 October 2012, the Presidency temporarily attached Judge Ekaterina Trendafilova to the Appeals Chamber for the purposes of the appeals in the *Lubanga* case. *See* "Decision replacing a judge in the Appeals Chamber", ICC-01/04-01/06-2938 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/9f1e05/>.

¹² *See* Annex 4. On 28 November 2012, the Prosecutor requested instructions from the Appeals Chamber on whether it would determine the admissibility of the proposed additional evidence before examining the merits of the appeal. *See* "Prosecution's Request for Instructions under Regulation 62 of the Regulations of the Court", ICC-01/04-01/06-2947-Conf (A5 A6). On 14 December 2012, the Prosecutor requested a five-page extension of the applicable page limit for its response to the First Additional Evidence Request. *See* "Prosecution's Request for an Extension of the Page Limit", ICC-01/04-01/06-2952 (A5 A6), available at: <http://www.legal-tools.org/doc/0d2fd5/>. On 17 December 2012, the Appeals Chamber rejected the request as premature. *See* "Decision on the Prosecutor's request for an extension of the page limit", ICC-01/04-01/06-2955 (A5 A6), available at: <http://www.legal-tools.org/doc/45e501/>. On 21 December 2012, the Appeals Chamber directed the Prosecutor to set out her response to Mr Lubanga's First Additional Evidence Request within her response to Mr Lubanga's Document in Support of the Appeal. *See* Annex 4, Additional Evidence Directions.

¹³ *See* Annex 4. The document was filed with Annex 1, List of Authorities, ICC-01/04-01/06-2948-Anx1-tENG (A5), available at: <http://www.legal-tools.org/doc/75d266/>; Annex 2, Table of Content, ICC-01/04-01/06-2948-Anx2 (A5), available in French only, at: <http://www.legal-tools.org/doc/7ec110/>; and Annex 3, ICC-01/04-01/06-2948-Anx3-Red (A5), available in French only, at: <http://www.legal-tools.org/doc/10e934/>.

¹⁴ *See* Annex 4.

proceedings and whose right to participate in the proceedings was not withdrawn to participate in the appeal proceedings against the Conviction Decision.¹⁵

8. On 4 February 2013, the Prosecutor filed her Response to the Document in Support of the Appeal,¹⁶ in which she also addressed Mr Lubanga's First Additional Evidence Request¹⁷ and adduced one item of rebuttal evidence.¹⁸

¹⁵ Victim Participation Decision, p. 3. Following this decision, on 7 January 2013, the Registrar filed the "Transmission of the List of Victims in compliance with the Decision ICC-01/04-01/06-2951". See ICC-01/04-01/06-2959 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/e9d102/>. Appended to this document are confidential and *ex parte* annexes. On 25 January 2013, the Registrar filed corrigenda and explanatory notes to the appended confidential and *ex parte* annexes. See Annex 1, ICC-01/04-01/06-2959-Conf-Exp-Anx1-Corr (A4 A5 A6), and explanation, ICC-01/04-01/06-2959-Conf-Exp-Anx1-Corr-Anx (A4 A5 A6); Annex 2, ICC-01/04-01/06-2959-Conf-Exp-Anx2-Corr (A4 A5 A6), and explanation, ICC-01/04-01/06-2959-Conf-Exp-Anx2-Corr-Anx (A4 A5 A6); Annex 3, ICC-01/04-01/06-2959-Conf-Exp-Anx3-Corr (A4 A5 A6), and explanation, ICC-01/04-01/06-2959-Conf-Exp-Anx3-Corr-Anx (A4 A5 A6); Annex 4, ICC-01/04-01/06-2959-Conf-Anx4-Corr (A4 A5 A6), and explanation, ICC-01/04-01/06-2959-Conf-Anx4-Corr-Anx (A4 A5 A6); and Annex 5, ICC-01/04-01/06-2959-Conf-Anx5-Corr (A4 A5 A6), and explanation, ICC-01/04-01/06-2959-Conf-Anx5-Corr-Anx (A4 A5 A6). On 14 January 2013, the Legal Representatives of Victims V02 filed the "Observations de l'équipe VO2 de représentants légaux de victimes, conformément à la décision ICC 01/04 01/06-2951 et suite à la transmission ICC 01/04 01/06-2959 du Greffe". See ICC-01/04-01/06-2960 (A4 A5 A6), available in French only, at: <http://www.legal-tools.org/doc/1fa0c7/>. On 14 January 2013, the Legal Representatives of Victims V01 filed the "Observations des Représentants Légaux des Victimes a/0156/07et a/1622/10 relatives au document du Greffe du 7 janvier 2012 'Transmission on the List of Victims in compliance with the Decision ICC-01/04-01/06-2951'", ICC-01/04-01/06-2961-Conf (A4 A5 A6). On the same date, Mr Lubanga filed the "Observations de la Défense à l'égard de la procédure intitulée 'Transmission of the List of Victims in compliance with the Decision ICC-01/04-01/06-2951' du Greffe datée du 7 janvier 2013", ICC-01/04-01/06-2962 (A4 A5 A6), available in French only, at: <http://www.legal-tools.org/doc/003c8d/>.

¹⁶ See Annex 4; with Annex 1, "List of Authorities", ICC-01/04-01/06-2969-Anx1 (A5), available at: <http://www.legal-tools.org/doc/c420af/>, and Annex 2, ICC-01/04-01/06-2969-Anx2 (A5), available at: <http://www.legal-tools.org/doc/d20802/>. These documents were originally filed as confidential, ICC-01/04-01/06-2969-Conf (A 5), with Annex 1, ICC-01/04-01/06-2969-Conf-Anx1 (A5), and Annex 2, ICC-01/04-01/06-2969-Conf-Anx2 (A5). A public redacted version of the Response to the Document in Support of the Appeal and Annex 2 thereto were filed on 18 February 2013, and registered on 19 February 2013. Annex 1 was reclassified as public pursuant to the Appeals Chamber's Order of 1 March 2013. See ICC-01/04-01/06-2990 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/b03378/>. Prior to this, on 31 January 2013, the Prosecutor filed an urgent request for a 25-page extension of the page limit for her response to Mr Lubanga's Document in Support of the Appeal. See "Prosecution's Urgent Request for an Extension of the Page Limit", ICC-01/04-01/06-2963 (A5 A6), available at: <http://www.legal-tools.org/doc/b117e6/>. On that same day, the Appeals Chamber issued an order inviting Mr Lubanga to file his response, if any, to the Prosecutor's page limit extension request by 1 February 2013 at 12h00. See "Order on the filing of a response to the 'Prosecution's Urgent Request for an Extension of the Page Limit'", 31 January 2013, ICC-01/04-01/06-2964 (A5), available at: <http://www.legal-tools.org/doc/bb6f22/>. Mr Lubanga did not file a response. On 1 February 2013, the Appeals Chamber extended the page limit by 20 pages for the Prosecutor's response to Mr Lubanga's Document in Support of the Appeal. See "Decision on the 'Prosecution's Urgent Request for an Extension of the Page Limit'", ICC-01/04-01/06-2965 (A5), para. 9, available at: <http://www.legal-tools.org/doc/8233c5/>. Subsequently, the Prosecutor filed the "Prosecution's Request for Reclassification of Annexed list of Authorities", dated 21 February 2013, and registered on 22

9. Also on 4 February 2013, the Legal Representatives of Victims V01 filed their Observations of Legal Representatives of Victims V01.¹⁹ On 7 February 2013, the Legal Representatives of Victims V02 filed their Observations of Legal Representatives of Victims V02.²⁰

10. On 15 February 2013, Mr Lubanga filed a request for leave to reply to the Prosecutor's Response to the Document in Support of the Appeal²¹ (hereinafter: "Request to Reply"), submitting that a reply would allow him to respond to the additional evidence adduced in the Response to the Document in Support of the Appeal, as well as to provide additional information in relation to discrete points raised therein.²² On 21 February 2013, the Appeals Chamber, finding it necessary in the interests of justice, ordered Mr Lubanga to file a reply by 28 February 2013.²³

February 2013, ICC-01/04-01/06-2983 (A5 A6), available at: <http://www.legal-tools.org/doc/7e76cb/>. On 1 March 2013, the Appeals Chamber issued an order reclassifying Annex 1 to the Response to the Document in Support of the Appeal as public. See "Order on the Reclassification of Documents", ICC-01/04-01/06-2990 (A4 A5 A6), p. 3, available at: <http://www.legal-tools.org/doc/b03378/>.

¹⁷ Response to the Document in Support of the Appeal, paras 37-95.

¹⁸ Annex 2 to the Response to the Document in Support of the Appeal, 4 February 2013, ICC-01/04-01/06-2969-Conf-Anx2 (A5). A public redacted version was filed on 18 February 2013, and registered on 19 February 2013, ICC-01/04-01/06-2969-Anx2-Red, available at: <http://www.legal-tools.org/doc/d20802/>.

¹⁹ See Annex 4. On 28 March 2013, the Prosecutor filed the "Prosecution's Response to the Observations of Legal Representatives Group V01". See ICC-01/04-01/06-3004 (A4 A5 A6), available at <http://www.legal-tools.org/doc/a2dd09/>; with Annex, ICC-01/04-01/06-3004-Anx (A4 A5 A6), available at: <http://www.legal-tools.org/doc/84a6e1/>.

²⁰ See Annex 4. Prior to this, on 5 February 2013, the Legal Representatives of Victims V02 filed a request for a three-day extension of time for the filing of their consolidated observations to Mr Lubanga's Document in Support of the Appeal. See "Demande de délai de grâce de l'équipe VO2 de représentants légaux de victimes, pour soumettre leurs observations consolidées conformément à la décision ICC 01/04-01/06-2951", ICC-01/04-01/06-2971 (A4 A5 A6), available in French only, at: <http://www.legal-tools.org/doc/f808f7/>. On 5 February 2013, the Appeals Chamber issued the "Order relevant to the request for an extension of time filed by the Legal Representatives of Victims V02", ICC-01/04-01/06-2974 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/70ad0c/>. In the absence of a response to the request of the Legal Representatives of Victims V02, on 7 February 2013, the Appeals Chamber granted, pursuant to regulation 35 (2) of the Regulations of the Court, an extension of time to 7 February 2013 at 16h00. See "Decision on the request for an extension of time filed by the Legal Representatives of Victims V02", ICC-01/04-01/06-2975 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/1bf582/>.

²¹ "Requête de la Défense aux fins aux fins de solliciter l'autorisation de déposer une réplique à la 'Prosecution's Response to Thomas Lubanga's Appeal against Trial Chamber I's Judgment pursuant to Article 74' et à la 'Prosecution's Response to the 'Mémoire de la Défense de M. Thomas Lubanga relatif à l'appel à l'encontre de la 'Décision relative à la peine, rendue en application de l'article 76 du Statut' rendu par la Chambre de première instance I le 10 juillet 2012'", déposées le 4 février 2013", ICC-01/04-01/06-2979 (A5 A6), available in French only, at: <http://www.legal-tools.org/doc/f76f22/>.

²² Request to Reply, paras 8-13.

²³ "Order on the filing of a reply under regulation 60 of the Regulations of the Court", ICC-01/04-01/06-2982 (A5 A6), p. 1, and para. 7, available at: <http://www.legal-tools.org/doc/43c92d/>. See also

11. On 20 February 2013, Mr Lubanga filed with the Presidency a request for the recusal of Judge Sang-Hyun Song from all of the final appeals stemming from the case against Mr Lubanga,²⁴ namely the *Lubanga A*,²⁵ A 2,²⁶ A 3,²⁷ A 4,²⁸ A 5,²⁹ and A 6 appeals.³⁰ On 11 June 2013, the Presidency notified the parties that the plenary of judges, by absolute majority of thirteen, with one judge dissenting, dismissed Mr Lubanga's request for disqualification of Judge Sang-Hyun Song.³¹

12. On 27 February 2013, Mr Lubanga filed the "Application by the Defence for Mr Thomas Lubanga for Prosecution disclosure of documents relating to cooperation request

"Prosecution's Response to Thomas Lubanga's Request to File a Reply", 19 February 2013, ICC-01/04-01/06-2980 (A5 A6), para. 12, available at: <http://www.legal-tools.org/doc/9460e1/>.

²⁴ "Defence application for the disqualification of Judge Sang-Hyun Song", ICC-01/04-01/06-2981-tENG-Corr (A A2 A3 A4 A5 A6), available at: <http://www.legal-tools.org/doc/cd524d/>; with Annex 1, ICC-01/04-01/06-2981-Anx1, available in French only, at: <http://www.legal-tools.org/doc/6aead1/>; Annex 2, ICC-01/04-01/06-2981-Anx2, available at: <http://www.legal-tools.org/doc/3faed5/>; Annex 3, ICC-01/04-01/06-2981-Anx3, available at: <http://www.legal-tools.org/doc/240efc/>; Annex 4, ICC-01/04-01/06-2981-Anx4, available at: <http://www.legal-tools.org/doc/87b15c/>; Annex 5, ICC-01/04-01/06-2981-Anx5, available at: <http://www.legal-tools.org/doc/1216ab/>. On 11 March 2013, the Presidency issued the "Notification concerning the 'Corrigendum to Defence application for the disqualification of Judge Sang-Hyun Song' dated 20 February 2013", ICC-01/04-01/06-2996 (A A2 A3 A4 A5 A6), available at: <http://www.legal-tools.org/doc/9274ff/>; with Annex 1, ICC-01/04-01/06-2996-Anx1 (A A2 A3 A4 A5 A6), available at: <http://www.legal-tools.org/doc/522794/>; Annex 2, ICC-01/04-01/06-2996-Anx2 (A A2 A3 A4 A5 A6), available at: <http://www.legal-tools.org/doc/a6f6d2/>; Annex 3, ICC-01/04-01/06-2996-Anx3 (A A2 A3 A4 A5 A6), available at: <http://www.legal-tools.org/doc/a20365/>; and Annex 4, ICC-01/04-01/06-2996-Anx4 (A A2 A3 A4 A5 A6), available at: <http://www.legal-tools.org/doc/79d9ca/>.

²⁵ See Legal Representatives of Victims V02, "Appeal against Trial Chamber I's *Decision establishing the principles and procedures to be applied to reparation* of 7 August 2012", 24 August 2012, ICC-01/04-01/06-2909-tENG, available at: <http://www.legal-tools.org/doc/3331ea/>.

²⁶ See Legal Representatives of Victims V01, "Appeal against Trial Chamber I's *Decision establishing the principles and procedures to be applied to reparation* of 7 August 2012", 3 September 2012, ICC-01/04-01/06-2914-tENG, available at: <http://www.legal-tools.org/doc/377bb0/>.

²⁷ See "Appeal of the Defence for Mr Thomas Lubanga against Trial Chamber I's *Decision establishing the principles and procedures to be applied to reparation* rendered on 7 August 2012", 6 September 2012, ICC-01/04-01/06-2917-tENG, available at: <http://www.legal-tools.org/doc/0b9aff/>.

²⁸ See "Prosecution's Notice of Appeal against Trial Chamber I's 'Decision on Sentence pursuant to Article 76 of the Statute'", 3 October 2012, ICC-01/04-01/06-2933, available at: <http://www.legal-tools.org/doc/2f9402/>.

²⁹ Notice of Appeal.

³⁰ "Notice of Appeal lodged by the Defence for Mr Thomas Lubanga against Trial Chamber I's Decision on sentence pursuant to Article 76 of the Statute of 10 July 2012", 3 October 2012, ICC-01/04-01/06-2935-tENG (A6). Available at: <http://www.legal-tools.org/doc/3353fd/>.

³¹ "Notification of the decision on the Defence Application for the disqualification of Judge Sang-Hyun Song from the case of *The Prosecutor v. Thomas Lubanga Dyilo*", ICC-01/04-01/06-3040 (A A2 A3 A4 A5 A6), available at <http://www.legal-tools.org/doc/fce554/>; with Annex, ICC-01/04-01/06-3040-Anx (A A2 A3 A4 A5 A6) available at: <http://www.legal-tools.org/doc/329b4b/>.

OTP/DRC/COD-190/JCCD-pt”,³² which was granted by the Appeals Chamber on 11 April 2013.³³

13. On 28 February 2013, Mr Lubanga filed the Reply to the Response to the Document in Support of the Appeal.³⁴ On 26 March 2013, the Appeals Chamber rejected a request of the Prosecutor to strike Mr Lubanga’s Reply to the Response to the Document in Support of the Appeal.³⁵

14. On 8 March 2013, the non-governmental organisation Child Soldiers International filed an application for leave to submit observations as *amicus curiae* pursuant to rule

³² ICC-01/04-01/06-2988-tENG (A5), available at <http://www.legal-tools.org/doc/a7cc06/>; with public redacted version of Annex 1, ICC-01/04-01/06-2988-Anx1-Red (A5), available at: <http://www.legal-tools.org/doc/74dcff/>. See also “Order on the filing of a response”, 1 March 2013, ICC-01/04-01/06-2991 (A5 A6), available at: <http://www.legal-tools.org/doc/b96668/>; and “Prosecution’s Response to Thomas Lubanga’s Request for Disclosure”, 12 March 2013, ICC-01/04-01/06-2998 (A5), available at: <http://www.legal-tools.org/doc/0b54f7/>; with Annex, ICC-01/04-01/06-2998-Anx (A5), available at: <http://www.legal-tools.org/doc/bed107/>.

³³ “Decision on Mr Thomas Lubanga’s request for disclosure”, ICC-01/04-01/06-3017 (A5 A6), available at: <http://www.legal-tools.org/doc/2298fb/>. See also “Prosecution’s Communication of Document ‘OTP/DRC/COD-190/JCCD-pt’ to the Appeals Chamber in compliance with Decision ICC-01/04-01/06-3017”, 17 April 2013, ICC-01/04-01/06-3019 (A5 A6), available at: <http://www.legal-tools.org/doc/2de31c/>. It is to be noted that the Prosecutor disclosed to Mr Lubanga a redacted version of document “OTP/DRC/COD-190/JCCD-pt”, and appended as an annex, for the consideration of the Appeals Chamber, a confidential *ex parte*, Prosecutor only, version of the document without redactions. See Annex, ICC-01/04-01/06-3019-Conf-Exp-Anx1. On 25 April 2013, the Appeals Chamber ordered, *inter alia*, the Prosecutor to provide reasons for the proposed redactions in a filing that is, to the extent possible, available to Mr Lubanga. See “Order in relation to the ‘Prosecution’s Communication of Document ‘OTP/DRC/COD-190/JCCD-pt’ to the Appeals Chamber in compliance with Decision ICC-01/04-01/06-3017””, ICC-01/04-01/06-3022 (A5 A6), p. 3, available at: <http://www.legal-tools.org/doc/1c5130/>. See also “Prosecution’s Reasons for its Request for Non-Disclosure of Information in Document ‘OTP/DRC/COD-190/JCCD-pt’”, 2 May 2013, ICC-01/04-01/06-3025-Red (A5 A6), available at: <http://www.legal-tools.org/doc/167d2c/>; and “Réponse de la Défense aux ‘Prosecution’s Reasons for its Request for Non-Disclosure of Information in Document OTP/DRC/COD-190/JCCD-pt’”, 10 May 2013, ICC-01/04-01/06-3027 (A5 A6), available in French only at: <http://www.legal-tools.org/doc/90298b/>. On 27 May 2013, the Appeals Chamber issued the “Decision on the Prosecutor’s request for non-disclosure in relation to document ‘OTP/DRC/COD-190/JCCD-pt’”, in which it, *inter alia*, rejected the Prosecutor’s request for non-disclosure in relation to the above-mentioned document and ordered that document ICC-01/04-01/06-3019-Conf-Exp-Anx1 be reclassified as confidential *ex parte*, available to the Prosecutor and Mr Lubanga only. See ICC-01/04-01/06-3031 (A5 A6), p. 3, available at: <http://www.legal-tools.org/doc/511563/>.

³⁴ See Annex 4.

³⁵ “Decision on the ‘Prosecution’s request to strike Thomas Lubanga’s Reply or, alternatively, for leave to respond to its new argument””, ICC-01/04-01/06-3002 (A5 A6), available at: <http://www.legal-tools.org/doc/3898da/>. See also “Prosecution’s request to strike Thomas Lubanga’s Reply or, alternatively, for leave to respond to its new argument”, 6 March 2013, ICC-01/04-01/06-2992 (A5 A6), available at: <http://www.legal-tools.org/doc/d79965/>; and “Réponse de la Défense à la ‘Prosecution’s request to strike Thomas Lubanga’s Reply or, alternatively, for leave to respond to its new argument’, déposée le 6 mars 2013”, 12 March 2013, ICC-01/04-01/06-2997 (A5 A6), available in French only, at: <http://www.legal-tools.org/doc/e5892d/>.

103 of the Rules of Procedure and Evidence,³⁶ which was rejected by the Appeals Chamber on 16 August 2013.³⁷

15. On 27 August 2013, following its previous decision of 6 May 2013 on the Registrar's request for guidance regarding new victim applications to participate at the appeals phase of the proceedings,³⁸ the Appeals Chamber issued the "Decision on 32

³⁶ "Application by Child Soldiers International for leave to submit observations to Appeals Chamber of the International Criminal Court pursuant to Rule 103 of the Rules of Procedure and Evidence", ICC-01/04-01/06-2995 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/fc1423/>; with Annex 1, ICC-01/04-01/06-2995-AnxI (A4 A5 A6), available at: <http://www.legal-tools.org/doc/563a56/>. On 26 March 2013, the Appeals Chamber issued the "Order inviting responses to the 'Application by Child Soldiers International for leave to submit observations to Appeals Chamber of the International Criminal Court pursuant to Rule 103 of the Rules of Procedure and Evidence'", in which it ordered that the filing of Child Soldiers International (ICC-01/04-01/06-2995) and concomitant annex (ICC-01/04-01/06-2995-AnxI) be re-stamped under 01/04-01/06 A4 A5 A6. It also ordered Mr Lubanga and the Prosecutor to file a response to said filing by 9 April 2013. See ICC-01/04-01/06-3001 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/f3e121/>. On 9 April 2013, Mr Lubanga filed his observations, in which he opposed the application made by Child Soldiers International. See "Observations de la Défense de M. Thomas Lubanga concernant la demande présentée par l'organisation Child Soldiers International le 8 mars 2013", 9 April 2013, ICC-01/04-01/06-3013 (A4 A5 A6), available in French only, at: <http://www.legal-tools.org/doc/c2ffaa/>. On the same date, the Prosecutor filed the "Prosecution's Observations on the Application by Child Soldiers International for Leave to Submit Observations pursuant to Rule 103 of the Rules of Procedure and Evidence", in which she stated that she did not object to the Child Soldiers International's application. See ICC-01/04-01/06-3014 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/e74e36/>.

³⁷ "Decision on the application by Child Soldiers International for leave to submit observations pursuant to rule 103 of the Rules of Procedure and Evidence", ICC-01/04-01/06-3044 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/68b9de/>.

³⁸ "Decision on the request of the Registrar relating to the transmission of applications for participation in the appeal proceedings and on related issues", 6 May 2013, ICC-01/04-01/06-3026 (A4 A5 A6), pp. 3-4, available at: <http://www.legal-tools.org/doc/fe7c39/>. In this decision, the Appeals Chamber, *inter alia*, ordered the Registrar to transmit to the Appeals Chamber the 32 applications for participation in the appeal proceedings specified in his request for guidance on the issue, together with a report thereon, pursuant to regulation 86 of the Regulations of the Court, by 20 May 2013. It also ordered the Registrar to notify Mr Lubanga and the Prosecutor of the applications and report by 27 May 2013. The Appeals Chamber also ordered Mr Lubanga and the Prosecutor to respond to the applications by 17 June 2013. See also "Request for guidance regarding applicants for participation in the appeal phase", 7 February 2013, ICC-01/04-01/06-2977 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/2cde3e/>. On 14 February 2013, the Appeals Chamber, *inter alia*, ordered Mr Lubanga, the Prosecutor, Mr Joseph Keta Orwinyo, legal representative of victims (hereinafter: "Mr Keta"), and the Office of Public Counsel for Victims (hereinafter: "OPCV") to file submissions by 25 February 2013. See "Order on the filing of submissions on new applications to participate as victims in the proceedings", ICC-01/04-01/06-2978 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/a2404f/>. On 25 February 2013, the OPCV filed their submissions. See "Submissions on whether the Appeals Chamber should consider the applications for participation at the appeals stage", ICC-01/04-01/06-2984-tENG (A4 A5 A6), available at <http://www.legal-tools.org/doc/25307b/>; with an Annex, ICC-01/04-01/06-2984-Anx-Red (A4 A5 A6), available in French only, at: <http://www.legal-tools.org/doc/ded4c9/>. These documents were originally filed as confidential *ex parte*, available to the Registrar and OPCV only, ICC-01/04-01/06-2984-Conf-Exp (A4 A5 A6), and ICC-01/04-01/06-2984-Conf-Exp-Anx (A4 A5 A6), and were later reclassified as public, ICC-01/04-01/06-2984-tENG (A4 A5 A6), and ICC-01/04-01/06-2984-Anx-Red (A4 A5 A6), pursuant to the Appeals Chamber's instruction of 13 May 2013. On 25 February 2013, Mr Lubanga filed his submissions.

applications to participate in the proceedings”,³⁹ in which it, *inter alia*, authorised the participation of 30 new victims in the appeals proceedings.⁴⁰ On 3 October 2013, the Appeals Chamber authorised the participation of an additional victim.⁴¹

See “Observations of the Defence for Mr Thomas Lubanga Dyilo pursuant to the Appeals Chamber’s Order No. ICC-01/04-01/06-2978”, ICC-01/04-01/06-2985-tENG (A4 A5 A6), available at: <http://www.legal-tools.org/doc/1c5256/>. On the same date, Mr Keta filed his submissions. *See* “Observations on the admissibility of 29 applications for participation in the appellate proceedings in the case of The Prosecutor v. Thomas Lubanga”, ICC-01/04-01/06-2986-tENG (A4 A5 A6), available at: <http://www.legal-tools.org/doc/b0fb0e/>. Also on the same date, the Prosecutor filed her submissions. *See* “Prosecution’s Submissions on Victim Applications at Appeals Stage”, ICC-01/04-01/06-2987 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/7004c1/>. On 27 May 2013, the Registrar filed the “Transmission to the parties of redacted versions of 32 applications to participate in proceedings in compliance with the Decision ICC-01/04-01/06-3026”. *See* ICC-01/04-01/06-3033 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/f01ef2/>. On the same date, the Registrar filed the “Request for reclassification of the ‘Transmission to the Appeals Chamber of a Report on 32 Applications to Participate in the Proceedings’ filed on 20 May 2013”, ICC-01/04-01/06-3032 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/d65eae/>. On 30 May 2013, the Appeals Chamber issued the “Order on the reclassification of documents”. *See* ICC-01/04-01/06-3036 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/ef1e94/>. On 14 June 2013, Mr Lubanga filed the “Observations of Mr Thomas Lubanga’s Defence regarding the 32 applications for participation transmitted on 27 May 2013”. *See* ICC-01/04-01/06-3041-tENG (A4 A5 A6), available at: <http://www.legal-tools.org/doc/75afac/>. On 17 June 2013, the Prosecutor filed the “Prosecution’s Response to Victims Applications”. *See* ICC-01/04-01/06-3042-Conf (A4 A5 A6). On 10 June 2014, the Prosecutor filed a public redacted version, ICC-01/04-01/06-3042-Red (A4 A5 A6), available at: <http://www.legal-tools.org/doc/4d3c7f/>, pursuant to the Appeals Chamber’s order of 20 May 2014. *See* Transcript of 20 May 2014, ICC-01/04-01/06-T-363-Red-Eng (A4 A5 A6), page 4, lines 12-17, available at: <http://www.legal-tools.org/doc/7479b6/>.

³⁹ ICC-01/04-01/06-3045-Red2 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/af8699/>.

⁴⁰ In addition, the Appeals Chamber ordered the Registrar to choose either the Legal Representatives of Victims V01 or V02 to represent three victims, namely victims a/0198/09, a/2899/11 and a/2917/11 and to file a report indicating the legal representatives to whom each victim had been assigned by 6 September 2013. *See* ICC-01/04-01/06-3045-Red2 (A4 A5 A6), p. 4. *See also* “Report on the legal representation of victims a/0198/09, a/2899/11 and a/2917/11 participating in the proceedings”, 6 September 2013, ICC-01/04-01/06-3047 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/a287d5/>. Moreover, the Appeals Chamber ordered the Registrar to file in a separate confidential document the names of the staff members of the Victims Participation and Reparations Section that were redacted from the victims’ applications. *See* ICC-01/04-01/06-3045-Red2 (A4 A5 A6), p. 4. *See also* “Transmission of a Confidential document in compliance with the Decision ICC-01/04-01/06-3045-Red2”, 6 September 2013, ICC-01/04-01/06-3046 (A4 A5 A6), available at <http://www.legal-tools.org/doc/871d18/>; with confidential Annex 1, ICC-01/04-01/06-3046-Conf-Anx1. In the same decision, the Appeals Chamber rejected Mr Lubanga’s request to convene a status conference. *See* ICC-01/04-01/06-3045-Red2 (A4 A5 A6), p. 4. *See also* “Requête de la Défense de M. Thomas Lubanga aux fins de tenue d’une conférence de mise en état”, ICC-01/04-01/06-3043 (A4 A5 A6), available in French only, at: <http://www.legal-tools.org/doc/09ff9a/>. Finally, the Appeals Chamber ordered the Legal Representatives of Victims V01 and V02 to provide consolidated observations on behalf of the 30 victims authorised to participate on the documents in support of the appeals by 23 September 2013, and ordered Mr Lubanga and the Prosecutor to respond thereto by 30 September 2013. *See* ICC-01/04-01/06-3045-Red2 (A4 A5 A6), p. 4. *See also* “Demande d’extension de délai pour l’équipe V02 de représentants légaux de victimes aux fins de soumettre ses observations, conformément à la décision ICC-01/04-01/06-3045-Conf-Red A4 A5 A6”, 12 September 2013, ICC-01/04-01/06-3048 (A4 A5 A6), available in French only at: <http://www.legal-tools.org/doc/3d9673/>; “Réponse à la demande d’extension de délai pour faire des observations complémentaires introduite par le groupe de victimes V02 le 12 septembre 2013”, 18 September 2013, ICC-01/04-01/06-3049 (A4 A5 A6), available in

16. On 23 December 2013, Mr Lubanga filed the Second Additional Evidence Request,⁴² in which he requested authorisation to present additional evidence in relation to his appeals against the Conviction and Sentencing Decisions, as well as to add a new ground of appeal.⁴³

17. On 14 January 2014, the Appeals Chamber issued the Decision on Adding a New Ground of Appeal and Order Regarding the Second Additional Evidence Request,⁴⁴ granting Mr Lubanga's request to present an additional ground of appeal.⁴⁵ On 17 January 2014, the Prosecutor filed her Response to the Second Additional Evidence Request.⁴⁶ On 24 January 2014, the Legal Representatives of Victims V01 and V02 filed

French only at: <http://www.legal-tools.org/doc/193713/>; "Decision on requests for an extension of the time limit", ICC-01/04-01/06-3050 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/521653/>; "Observations of the 28 new victims represented by the V02 team of Legal Representatives of Victims for the purposes of presenting their views, pursuant to decision ICC-01/04-01/06-3045-Conf-Red A4 A5 A6", 11 October 2013, ICC-01/04-01/06-3053-Conf-tENG (A4 A5 A6); "Réponse de la Défense aux 'Observations de 28 nouvelles victimes représentées par l'équipe V02 de représentants légaux de victimes aux fins de soumettre ses observations, conformément à la décision ICC-OV04-01/06-3045-Conf-Red A 4 A 5 A 6'", 18 October 2013, ICC-01/04-01/06-3054 (A4 A5 A6), available in French only at: <http://www.legal-tools.org/doc/0890d1/>.

⁴¹ "Decision on a/2922/11's application to participate in the appeals proceedings", ICC-01/04-01/06-3052-Red (A4 A5 A6), available at: <http://www.legal-tools.org/doc/c7862a/>. Prior to this, the Appeals Chamber ordered the Registrar to request clarifications from applicant a/2922/11 and report the results of the enquiry to the Appeals Chamber by 30 September 2013. See ICC-01/04-01/06-3045-Red2 (A4 A5 A6), pp. 3-4, available at: <https://www.legal-tools.org/doc/af8699/>. See also "Transmission of Consolidated Applications a/2922/11 and a/0333/10, in compliance with the Decision ICC-01/04-01/06-3045-Red2", 30 September 2013, ICC-01/04-01/06-3051 (A4 A5 A6), available at <http://www.legal-tools.org/doc/e23ebe/>; together with two confidential *ex parte* annexes, only available to the parties and the legal representatives of applicant a/2922/11 and victim a/0333/10.

⁴² See Annex 4.

⁴³ Second Additional Evidence Request, para. 11, p. 13.

⁴⁴ See Annex 4.

⁴⁵ Decision on Adding a New Ground of Appeal and Order Regarding the Second Additional Evidence Request, para. 10. In this decision, the Appeals Chamber also ordered, *inter alia*, (i) the Prosecutor to file her Response to the Second Additional Evidence Request by 17 January 2014, (ii) the Legal Representative of Victims V01 and V02 to submit observations on Mr Lubanga's Second Additional Evidence Request by 24 January 2014, and (iii) the Prosecutor and Mr Lubanga to respond to these observations by 31 January 2014 and 3 February 2014, respectively.

⁴⁶ See Annex 4; with Annex A, ICC-01/04-01/06-3058-AnxA-Red (A5 A6), available at: <http://www.legal-tools.org/doc/2ab2ce/>; Annex B, ICC-01/04-01/06-3058-AnxB-Red (A5 A6), available at: <http://www.legal-tools.org/doc/d0d0af/>; Annex C, ICC-01/04-01/06-3058-AnxC-Red (A5 A6), available at: <http://www.legal-tools.org/doc/1be659/>; Annex D, ICC-01/04-01/06-3058-AnxD-Red (A5 A6), available at: <http://www.legal-tools.org/doc/a57a5b/>; Annex E, ICC-01/04-01/06-3058-AnxE-Red (A5 A6), available at: <http://www.legal-tools.org/doc/2f91a5/>; Annex F, ICC-01/04-01/06-3058-AnxF-Red (A5 A6), available at: <http://www.legal-tools.org/doc/6869aa/>. Annex G was originally filed as confidential, ICC-01/04-01/06-3058-Conf-AnxG (A5 A6), and later reclassified as public, ICC-01/04-01/06-3058-AnxG (A5 A6), available at: <http://www.legal-tools.org/doc/65b427/>, pursuant to the Appeals Chamber's order of 26 February 2014, ICC-01/04-01/06-3065 (A5 A6), available at: <http://www.legal-tools.org/doc/9806b6/>. See

their observations on the Second Additional Evidence Request.⁴⁷ On 3 February 2014, Mr Lubanga filed a Response to Victims Observations on the Second Additional Evidence Request.⁴⁸ On 6 February 2014, the Prosecutor filed a Motion to Strike Sections of Mr Lubanga's Response to Victims Observations on the Second Additional Evidence Request.⁴⁹

18. On 21 March 2014, in relation to Mr Lubanga's First Additional Evidence Request, the Appeals Chamber scheduled a hearing for 14 and 15 April 2014 for the purpose of hearing the testimony of witnesses D-0040 and D-0041, as well as to receive submissions and observations by the parties and participants.⁵⁰ On 10 April 2014, the Appeals

also "Prosecution's Request for Reclassification of Annexed list of Authorities, ICC-01/04-01/06-3058-Conf-AnxG", ICC-01/04-01/06-3062 (A5 A6), available at: <http://www.legal-tools.org/doc/da777a/>.

⁴⁷"Réponse à la requête de la Défense du 23 Décembre 2013", ICC-01/04-01/06-3059-Conf (A5 A6); "Observations of the V02 team of Legal Representatives of Victims pursuant to the Appeals Chamber's decision ICC-01/04-01/06-3057 RH A5 A6", ICC-01/04-01/06-3060-tENG (A5 A6), available at: <https://www.legal-tools.org/doc/d62ae5/>. On 31 January 2014, the Prosecutor filed the "Prosecution's Response to [REDACTED] Observations (ICC-01/04-01/06-3059 A5 A6)". See ICC-01/04-01/06-3061-Conf (A5 A6). On 10 June 2014, the Prosecutor filed a public redacted version, ICC-01/04-01/06-3061-Red (A5 A6), available at: <http://www.legal-tools.org/doc/58dbec/>, pursuant to the Appeals Chamber's order of 20 May 2014. See Transcript of 20 May 2014, ICC-01/04-01/06-T-363-Red-Eng, page 4, lines 12-17, available at: <http://www.legal-tools.org/doc/7479b6/>.

⁴⁸ See Annex 4.

⁴⁹ See Annex 4.

⁵⁰ Scheduling Order for a Hearing, p. 3. In addition, the Appeals Chamber, *inter alia*, ordered the Registrar to make the necessary arrangements for witnesses D-0040 and D-0041 to give testimony by means of video-link technology and to inform the Appeals Chamber immediately if any difficulties were encountered that might affect the above schedule. See Scheduling Order for a Hearing, p. 4. On 25 March 2014, the Appeals Chamber issued the Further Order Regarding the Hearing, see Annex 1, in which it, *inter alia*, instructed Mr Lubanga by 28 March 2014 and the Prosecutor by 31 March 2014, to make, submissions in respect of the conduct of the hearing of witnesses D-0040 and D-0041. The Appeals Chamber also ordered the Legal Representatives of Victims V01 and V02 to make submissions by 28 March 2014 on whether they wished to request authorisation to question the witnesses, pursuant to rule 91 of the Rules of Procedure and Evidence, and the parties were requested to respond to their submissions by 31 March 2014. See Scheduling Order for a Hearing, paras 3-5. On 28 March 2014, Mr Lubanga filed his submissions in respect of the conduct of the hearing of witnesses D-0040 and D-0041. See "Observations de la Défense conformément à l'ordonnance de la Chambre d'appel ICC-01/04-01/06-3068 datée du 25 mars 2014", ICC-01/04-01/06-3070 (A4 A5 A6), available in French only, at: <http://www.legal-tools.org/doc/8ef672/>. Also on 28 March 2014, the Legal Representatives of Victims V01 filed the "Réponse à l'Ordonnance du 25 mars 2014", submitting that they did not wish to question the witnesses. See ICC-01/04-01/06-3071 (A4 A5 A6), para. 3, available in French only, at: <http://www.legal-tools.org/doc/7f2b3c/>. On the same date, the Legal Representatives of Victims V02 filed the "Observations de l'équipe V02 de représentants légaux de victimes conformément à l'ordonnance ICC-01/04-01/06-3068 de la Chambre d'appel", in which they requested leave to question the two witnesses. See ICC-01/04-01/06-3072 (A4 A5 A6), available in French only at: <http://www.legal-tools.org/doc/6265e1/>; with a confidential annex ICC-01/04-01/06-3072-Conf-Anx. On 31 March 2014, Mr Lubanga responded to the observations of the Legal Representatives of Victims V02, objecting to their request for leave to question the two witnesses. See "Réponse de la Défense aux observations de l'équipe V02 datées du 28 mars 2014", ICC-01/04-01/06-3073 (A4 A5 A6), paras 4-9,

Chamber postponed the hearing and, on 30 April 2014, rescheduled it to a later date.⁵¹ On 19 and 20 May 2014, the Appeals Chamber held a hearing (hereinafter: “Oral Hearing”), during which witnesses D-0040 and D-0041⁵² provided their testimony via video-link,

available in French only at: <http://www.legal-tools.org/doc/8344ce/>. On 31 March 2014, the Prosecutor filed the “Prosecution’s submissions regarding the conduct of the hearing before the Appeals Chamber”, in which she, *inter alia*, requested to communicate with the witnesses prior to their testimony. See ICC-01/04-01/06-3074 (A4 A5 A6), para. 10, available at: <http://www.legal-tools.org/doc/e5e808/>.

⁵¹ “Scheduling order and decision in relation to the conduct of the hearing before the Appeals Chamber”, ICC-01/04-01/06-3083 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/ea5495/>. The Appeals Chamber, *inter alia*, rejected the request of the Legal Representatives of Victims V02 for leave to question the two witnesses, considering that the proposed questions did not relate to the victims’ personal interests. The Appeals Chamber granted the request of the Prosecutor to communicate with the witnesses prior to their testimony, subject to their consent. See ICC-01/04-01/06-3083 (A4 A5 A6), paras 25-26, and p. 3, para. (2) (b). See also “Registry report to the Appeals Chamber in compliance with ICC-01/04-01/06-3067”, in which the Registrar informed the Appeals Chamber that, for logistical reasons, the initially scheduled dates of 14 and 15 April “[were] not attainable” and that the hearing could be held at a later date. See ICC-01/04-01/06-3075 (A4 A5 A6), paras 6-7. This document was filed on 1 April 2014 and registered on 2 April 2014, available at: <http://www.legal-tools.org/doc/e5e211/>. On 10 April 2014, taking into consideration the Registrar’s report of 1 April 2014, the Appeals Chamber filed the “Order postponing the hearing before the Appeals Chamber”. See ICC-01/04-01/06-3079 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/Oa41d6/>. On 2 May 2014, the Prosecutor filed the “Prosecution’s Further Submissions Regarding the Conduct of the Hearing Before the Appeals Chamber”. See ICC-01/04-01/06-3084 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/0bbc0c/>. On 14 May 2014, the Prosecutor filed the “Prosecution’s Notice of Documents to be Used with Witness D-0040”. See ICC-01/04-01/06-3090 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/02f93b/>.

⁵² On 12 May 2014, Mr Lubanga informed the Appeals Chamber that he withdrew his request to hear the testimony of witness D-0041 and requested that the Appeals Chamber admit as additional evidence certain materials related to this witness. See “Requête de la Défense aux fins d’admission en preuve des éléments relatifs à D-0041”, ICC-01/04-01/06-3088 (A4 A5 A6), paras 7-8, available in French only at: <http://www.legal-tools.org/doc/668c12/>; with four confidential annexes. On 14 May 2014, the Prosecutor filed the “Prosecution’s Response to ‘Requête de la Défense aux fins d’admission en preuve des éléments relatifs à D-0041’”, opposing Mr Lubanga’s request to admit additional evidence related to D-0041. See ICC-01/04-01/06-3091 (A4 A5 A6), para. 1, available at: <http://www.legal-tools.org/doc/03b907/>. On 15 May 2014, Mr Lubanga filed the “Requête urgente de la Défense sollicitant la comparution du témoin D-0041 devant la Chambre d’appel par vidéoconférence”, in which he expressed his wish to rescind the request for the withdrawal of witness D-0041. See ICC-01/04-01/06-3092 (A4 A5 A6), paras 6-9, available in French only at: <http://www.legal-tools.org/doc/8e3710/>. On 15 May 2014, the Appeals Chamber issued the “Order for a response”. See ICC-01/04-01/06-3094 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/503d44/>. On 15 May 2014, the Prosecutor filed the “Prosecution’s Response to ‘Requête urgente de la Défense sollicitant la comparution du témoin D-0041 devant la Chambre d’appel par video-conference’”, wherein she stated that she did not oppose the request to hear the testimony of D-0041. See ICC-01/04-01/06-3095 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/88868c/>. Documents ICC-01/04-01/06-3088 (A4 A5 A6), ICC-01/04-01/06-3091 (A4 A5 A6), ICC-01/04-01/06-3092 (A4 A5 A6), and ICC-01/04-01/06-3095 (A4 A5 A6), were originally filed as confidential and later reclassified as public, pursuant to the Appeals Chamber’s Order of 28 May 2014, ICC-01/04-01/06-3108 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/3dde1c/>. On 15 May 2014, Mr Lubanga filed the “Transmission par la Défense de la liste des éléments qu’elle entend utiliser dans le cadre de l’audition du témoin D-0041”. See ICC-01/04-01/06-3093 (A4 A5 A6), available in French only at: <http://www.legal-tools.org/doc/8c6246/>. Also on 15 May 2014, the Appeals Chamber issued its “Further order on matters relevant to the hearing before the Appeals Chamber”. See ICC-01/04-01/06-3097 (A4 A5 A6), available at: <https://www.legal-tools.org/doc/d52053/>. On 16 May 2014, the Prosecutor filed the “Prosecution’s Notice of Documents to be Used with Witness D-0041”. See ICC-01/04-01/06-3099 (A4 A5 A6), available at: <http://www.legal->

and following which the parties and participants proceeded to present their submissions and observations.⁵³

[tools.org/doc/02f93b/](http://www.legal-tools.org/doc/02f93b/). On 23 May 2014, pursuant to the Appeals Chamber’s order of 15 May 2014 (ICC-01/04-01/06-3097) (A4 A5 A6), Mr Lubanga filed the Third Additional Evidence Request. *See* Annex 4. On 5 June 2014, the Prosecutor filed the “Prosecution’s Response to ‘Requête de la Défense aux fins de présentation d’éléments de preuve supplémentaires dans le cadre des appels à l’encontre du «*Jugement rendu en application de l’article 74 du Statut*» et de la «*Décision relative à la peine, rendue en application de l’article 76 du Statut*» conformément à la Norme 62 du Règlement de la Cour””. *See* ICC-01/04-01/06-3110 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/7444a3/>. On 19 June 2014, the Appeals Chamber issued the “Reasons for the ‘Decision on the Prosecutor’s request for redactions for the purposes of disclosure””. *See* ICC-01/04-01/06-3115-Red (A4 A5 A6), available at: <http://www.legal-tools.org/doc/566b22/>. *See also* “Decision on the Prosecutor’s request for redactions for the purposes of disclosure”, 16 May 2014, filed as confidential, *ex parte*, available to the Prosecutor only, with a public redacted version filed on 19 June 2014, ICC-01/04-01/06-3100-Red (A4 A5 A6), available at: <http://www.legal-tools.org/doc/238c2a/>; and “Application for Authorisation to Redact Material Intended for Disclosure”, 15 May 2014, ICC-01/04-01/06-3096-Conf-Exp, with two annexes, ICC-01/04-01/06-3096-Conf-Exp-Anx1 and ICC-01/04-01/06-3096-Conf-Exp-Anx2. These documents were filed as confidential, *ex parte*, available to the Prosecutor and the Victims and Witnesses Unit (hereinafter: “VWU”) only.

⁵³ Transcript of 19 May 2014, ICC-01/04-01/06-T-362-Red-Eng (A4 A5 A6), available at: <http://www.legal-tools.org/doc/cf2ff4/>; and Transcript of 20 May 2014, ICC-01/04-01/06-T-363-Red-Eng (A4 A5 A6), available at: <http://www.legal-tools.org/doc/7479b6/>. On 20 May 2014, the Appeals Chamber addressed certain procedural issues at the Oral Hearing. First, the Appeals Chamber, *inter alia*, ordered Mr Lubanga to file submissions on the material disclosed by the Prosecutor on 25 April 2014 and related to witnesses P-0017, P-0038 et P-0055 by 5 June 2014, and the Prosecutor to respond to any further submissions by 12 June 2014. *See* Transcript of 20 May 2014, p. 3, line 17, to p. 4, line 9, available at: <http://www.legal-tools.org/doc/7479b6/>. *See also* “Transmission d’informations par la Défense à la Chambre d’appel concernant la divulgation tardive par le Procureur de 51 documents concernant les témoins P-0017, P-0038 et P-0055”, dated 8 May 2014 and registered 9 May 2014, ICC-01/04-01/06-3086 (A4 A5 A6), available in French only at: <http://www.legal-tools.org/doc/8c6246/>; “Prosecution Response to Defence Notice Concerning the Disclosure of Documents Relating to Witnesses P-17, P-38, and P-55”, 13 May 2014, ICC-01/04-01/06-3089 (A5 A6), available at: <https://www.legal-tools.org/doc/43e7ab/>. On 5 June 2014, pursuant to the Appeals Chamber’s oral order of 20 May 2014, Mr Lubanga filed the “Observations de la Défense conformément à l’ordonnance de la Chambre d’appel du 20 mai 2014 concernant la divulgation tardive par le Procureur de déclarations additionnelles de certains témoins à charge”. *See* ICC-01/04-01/06-3109-Red (A4 A5 A6), available in French only at: <http://www.legal-tools.org/doc/09e3db/>. *See also* “Prosecution Response to ‘Observations de la Défense conformément à l’ordonnance de la Chambre d’appel du 20 mai 2014 concernant la divulgation tardive par le Procureur de déclarations additionnelles de certains témoins à charge’ ”, 12 June 2014, ICC-01/04-01/06-3113-Red (A4 A5 A6), available at: <http://www.legal-tools.org/doc/eea426/>; with Annex, ICC-01/04-01/06-3113-Anx (A4 A5 A6), available at: <http://www.legal-tools.org/doc/ed7c66/>. At the Oral Hearing, the Appeals Chamber further ordered the parties to review their confidential filings and to ensure the submission of public redacted versions of the documents by 10 June 2014. *See* Transcript of 20 May 2014, ICC-01/04-01/06-T-363-Red-Eng (A4 A5 A6), page 4, lines 12-17, available at: <http://www.legal-tools.org/doc/7479b6/>. Following this order, the Prosecutor and Mr Lubanga filed requests for reclassification of certain documents. *See* “Requête de la Défense sollicitant la requalification de certaines écritures conformément à l’ordonnance orale de la Chambre du 20 mai 2014”, 23 May 2014, ICC-01/04-01/06-3104 (A4 A5 A6), available in French only at: <https://www.legal-tools.org/doc/0860fe/>; “Prosecution’s Request for the Reclassification of certain confidential filings, pursuant to the Appeals Chamber’s Order of 20 May 2014”, ICC-01/04-01/06-3107 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/453ac2/>. On 28 May 2014, the Appeals Chamber issued its “Order for the reclassification of documents”, ICC-01/04-01/06-3108 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/3dde1c/>. On 10 June 2014, the Prosecutor filed the “Prosecution’s Further Request for the Reclassification of certain

19. On 17 June 2014, the Appeals Chamber issued the “Decision on the request of the Defence in relation to investigations conducted pursuant to article 70 of the Statute”,⁵⁴ rejecting Mr Lubanga’s request.

20. On 14 November 2014, following a request submitted by the Prosecutor,⁵⁵ the Appeals Chamber issued the “Decision on the Prosecutor’s second request for redactions for the purposes of disclosure”,⁵⁶ in which it, *inter alia*, granted the Prosecutor’s request

non-public filings, pursuant to the Appeals Chamber’s Order of 20 May 2014”. See ICC-01/04-01/06-3111 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/5c72c9/>. On 11 June 2014, following the Prosecutor’s request of 10 June 2014, the Appeals Chamber issued the “Order for the reclassification of documents”. See ICC-01/04-01/06-3112 (A4 A5 A6), available at: <http://www.legal-tools.org/doc/b62dcf/>.

⁵⁴ ICC-01/04-01/06-3114 (A5 A6), available at: <http://www.legal-tools.org/doc/0dd5b4/>. The Appeals Chamber rejected, as moot, Mr Lubanga’s request to order the Prosecutor to indicate the actions she had undertaken pursuant to article 70 of the Statute concerning certain victims and intermediaries and disclose to Mr Lubanga all the evidence collected in relation thereto. See ICC-01/04-01/06-3114 (A 5 A 6), paras 21-22. See also “Requête de la Défense de M. Lubanga aux fins de communication d’éléments de preuve recueillis par le Procureur dans le cadre des enquêtes conduites en vertu de l’Article 70”, dated 28 February 2014 and registered on 3 March 2014, ICC-01/04-01/06-3066 (A5 A6), available in French only at: <http://www.legal-tools.org/doc/c8c59a/>; together with public redacted versions of Annex 1, ICC-01/04-01/06-3066-Anx1-Red (A5 A6), available in French only at: <http://www.legal-tools.org/doc/b06ea0/>; Annex 2, ICC-01/04-01/06-3066-Anx2-Red (A5 A6), available at: <http://www.legal-tools.org/doc/c84db7/>; Annex 3, ICC-01/04-01/06-3066-Anx3-Red (A5 A6), available in French only at: <http://www.legal-tools.org/doc/916ac7/>; and Annex 4, ICC-01/04-01/06-3066-Anx4-Red (A5 A6), available at: <http://www.legal-tools.org/doc/840b27/>. See also “Prosecution Response to ‘Requête de la Défense de M. Lubanga aux fins de communication d’éléments de preuve recueillis par le Procureur dans le cadre des enquêtes conduites en vertu de l’Article 70’”, 25 March 2014, originally filed as confidential, ICC-01/04-01/06-3069-Conf (A5 A6), and later reclassified as public, ICC-01/04-01/06-3069 (A5 A6), available at: <https://www.legal-tools.org/doc/395895/>, pursuant to the Appeals Chamber’s order of 5 May 2014, ICC-01/04-01/06-3085 (A5 A6), available at: <https://www.legal-tools.org/doc/c89382-1/>. See also “Prosecution’s Request for Reclassification of Document ICC-01/04-01/06-3069-Conf”, 16 April 2014, ICC-01/04-01/06-3082 (A5 A6), available at: <https://www.legal-tools.org/doc/afe8c6/>. See also “Order relating to the Prosecutor’s response to Mr Lubanga’s article 70 investigation request”, 3 April 2014, originally filed as confidential, ICC-01/04-01/06-3076-Conf (A5 A6), and later reclassified as public, ICC-01/04-01/06-3076 (A5 A6), available at: <https://www.legal-tools.org/doc/ee32a4/>, pursuant to the Appeals Chamber’s order of 11 June 2014, ICC-01/04-01/06-3112 (A5 A6), available at: <http://www.legal-tools.org/doc/b62dcf/>. See also “Provision of Report on Intermediaries”, 7 April 2014, ICC-01/04-01/06-3077 (A5 A6), available at: <https://www.legal-tools.org/doc/2a0443/>; with confidential, *ex parte*, available to the Prosecutor only, Annexes 1 and 2.

⁵⁵ “Second Application for Authorisation to Redact Material Intended for Disclosure”, 10 November 2014, ICC-01/04-01/06-3117-Conf-Exp (A4 A5 A6), filed on a confidential *ex parte* basis, only available to the Prosecutor and the VWU. Pursuant to the Appeals Chamber’s instruction, the Prosecutor filed a public redacted version of her filing on 17 November 2014, ICC-01/04-01/06-3117-Red2 (A4 A5 A6), available at: <https://www.legal-tools.org/doc/d8d34c/>.

⁵⁶ ICC-01/04-01/06-3118-Conf-Exp (A4 A5 A6), available to the Prosecutor only. A confidential redacted version was filed on the same date, ICC-01/04-01/06-3118-Conf-Red (A4 A5 A6).

to authorise certain redactions to interview transcripts and ordered additional redactions *proprio motu*.⁵⁷

21. On 18 November 2014, the Appeals Chamber issued the “Scheduling Order for delivery of judgment on the appeals of Mr Thomas Lubanga Dyilo against the Conviction Decision and of Mr Thomas Lubanga Dyilo and the Prosecutor against the Sentencing Decision”.⁵⁸

⁵⁷ The Appeals Chamber further ordered the Prosecutor to disclose to Mr Lubanga redacted versions of the interview transcripts by 16.00 on 17 November 2014; authorised Mr Lubanga to request the lifting of any of the redactions that had been authorised or ordered and; instructed the Prosecutor to inform the Appeals Chamber whether she intended to file a public redacted version of her request and, if not, provide reasons therefor. *See* ICC-01/04-01/06-3118-Conf-Red (A4 A5 A6), pp 3-4.

⁵⁸ ICC-01/04-01/06-3119 (A4 A5 A6), available at: <https://www.legal-tools.org/doc/568d7b/>.