

## **ANNEX 2**

1.	Assignment of Judges .....	2
2.	Main appellate proceedings .....	3
3.	Procedure with respect to the Document in Support of the Appeal .....	5
	(a) Proceedings relating to the confidentiality of the Prosecutor’s third ground of appeal and the documents founding it.....	5
	(b) Other procedure related to the Document in Support of the Appeal .....	8
4.	Victims’ participation in the appeal proceedings .....	9
5.	Relocation, Asylum and Protection .....	12
	(a) Relocation proceedings in the context of Mr Ngudjolo’s asylum application.....	12
	(b) Transmission of confidential documentation to Dutch lawyers and Host State in the context of the asylum proceedings.....	16
	(c) Mr Ngujodlo’s request for inclusion in the Court’s protection programme .....	19
6.	Release of the three detained witnesses.....	22
7.	Other requests and applications .....	25
	(a) Requests on page and time limits.....	25
	(b) Victims’ request for protective measures .....	29
	(c) Application for review of the remuneration scheme during phase A of the appeal .....	29
	(d) Application for review of the Registry decision on Mr Ngudjolo’s family visits.....	30
	(e) Applications for the reclassification of documents.....	30
8.	Appeal Hearing.....	34

## PROCEDURAL HISTORY

1. On 18 December 2012, Trial Chamber II delivered the “Judgment pursuant to article 74 of the Statute”<sup>1</sup> in the case of the *Prosecutor v. Mathieu Ngudjolo*, in which Mathieu Ngudjolo Chui (hereinafter: “Mr Ngudjolo”) was acquitted of all charges against him.

2. On 20 December 2012, the Prosecutor filed the “Prosecution’s Appeal against Trial Chamber II’s ‘Jugement rendu en application de l’article 74 du Statut’”.<sup>2</sup>

### 1. Assignment of Judges

3. On 20 December 2012, the Presidency rendered the “Decision replacing judges in the Appeals Chamber”, whereby it temporarily attached Judge Cuno Tarfusser and Judge Ekaterina Trendafilova to the Appeals Chamber for the purposes of the appeal in the *Ngudjolo* case.<sup>3</sup>

4. On 16 January 2013, the Appeals Chamber rendered the “Decision on the Presiding Judge of the Appeals Chamber in the appeal of the Prosecutor against the decision of Trial Chamber II entitled ‘Jugement rendu en application de l’article 74 du Statut’”, whereby it designated Judge Sanji Mmasenono Monageng as the Presiding Judge.<sup>4</sup>

---

<sup>1</sup> ICC-01/04-02/12-3-tENG.

<sup>2</sup> ICC-01/04-02/12-10 (A). On 19 December 2012, the Prosecutor filed the “Prosecution’s Appeal against Trial Chamber II’s oral decision to release Mathieu Ngudjolo and Urgent Application for Suspensive Effect”, ICC-01/04-02/12-5 (OA). On the same day the Appeals Chamber issued the “Order on the filing of a response to the request of the Prosecutor of 19 December 2012 for suspensive effect”, ICC-01/04-02/12-8 (OA). On 20 December 2012, the Defence filed the “Response of the Defence for Mathieu Ngudjolo to the ‘Prosecution’s Appeal against Trial Chamber II’s oral decision to release Mathieu Ngudjolo and Urgent Application for Suspensive Effect’ [ICC-01/04-02/12-5]”, and, on the same day, the Appeals Chamber issued the “Decision on the request of the Prosecutor of 19 December 2012 for suspensive effect”, rejecting the Prosecutor’s request for suspensive effect, ICC-01/04-02/12-9-tENG (OA) and ICC-01/04-02/12-12 (OA). On 9 January 2013, in light of Mr Ngudjolo’s release, the Prosecutor filed the “Prosecution’s Notice to the Registrar of its Discontinuance of its Appeal against Trial Chamber II’s oral decision to release Mathieu Ngudjolo”, ICC-01/04-02/12-18 (OA).

<sup>3</sup> ICC-01/04-02/12-11 (A).

<sup>4</sup> ICC-01/04-02/12-19 (A).

## 2. *Main appellate proceedings*

5. On 19 March 2013, the Prosecutor filed as confidential *ex parte*, the “Prosecution’s Document in Support of Appeal against the “Jugement rendu en application de l’article 74 du Statut””,<sup>5</sup> with one confidential, *ex parte* annex.<sup>6</sup>

6. On 18 June 2013, Mr Ngudjolo filed the “Mémoire de la Défense de Mathieu Ngudjolo en Réponse à « Prosecution’s Document in Support of Appeal against the “Jugement rendu en application de l’article 74 du Statut” » (ICC-01/04-02/12-39-Conf-Exp)”,<sup>7</sup> with four confidential annexes.<sup>8</sup> Later, Mr Ngudjolo filed the “Corrigendum to the Defence for Mathieu Ngudjolo’s brief in response to the ‘Prosecution’s Document in Support of Appeal against the *Jugement rendu en application de l’article 74 du statut*’ (ICC-01/04-02/12-39-conf-Exp)” (hereinafter: “Response to the Document in Support of the Appeal”) dated 23 October 2013 and registered on 24 October 2013.<sup>9</sup>

7. On 18 July 2013, the legal representative of the main group of victims filed the “Corrigendum to the ‘Observations sur le Document du Procureur déposé à l’appui de son appel et sur la Réponse de la Défense à ce

---

<sup>5</sup> ICC-01/04-02/12-39-Conf-Exp (A). On 22 March 2013, a confidential redacted version was filed as ICC-01/04-02/12-39-Conf-Red (A). On 3 April 2013, a public redacted version was filed as [ICC-01/04-02/12-39-Red2 \(A\)](#). On 16 May 2013, pursuant to a decision of the Appeals Chamber entitled “Decision on ‘Requête urgente en prorogation de délai et en levée de l’*ex parte* touchant au mémoire d’appel du Procureur””, 16 May 2013, ICC-01/04-02/12-71 (A), ICC-01/04-02/12-39-Conf-Exp (A) was reclassified as confidential and filed as ICC-01/04-02/12-39-Conf (A) (hereinafter: “Document in Support of the Appeal”). On 15 October 2014, the Prosecutor filed a second public redacted version of the Document in Support of the Appeal as ICC-01/04-02/12-39-Red3 (A). However, on 20 October 2014, pursuant to an order of the Appeals Chamber entitled “Order on the re-filing of a public redacted version of the Prosecutor’s document in support of the appeal”, 17 October 2014, ICC-01/04-02/12-218 (A), the second public redacted version of the Document in Support of the Appeal was reclassified as confidential and filed as ICC-01/04-02/12-39-Red3-Conf (A). On 20 October 2014, the Prosecutor filed a third public redacted version of the Document in Support of the Appeal as [ICC-01/04-02/12-39-Red4 \(A\)](#).

<sup>6</sup> ICC-01/04-02/12-39-Conf-Exp-AnxA (A).

<sup>7</sup> ICC-01/04/02/12-90-Conf (A).

<sup>8</sup> ICC-01/04/02/12-90-Conf-Anx A (A), ICC-01/04/02/12-90-Conf-Anx B (A), ICC-01/04/02/12-90-Conf-Anx C (A) and ICC-01/04/02/12-90-Conf-Anx D (A).

<sup>9</sup> ICC-01/04-02/12-90-Conf-Corr2 (A). A public redacted version of this filing dated 23 October 2013 and registered on 24 October 2013 was filed as [ICC-01/04-02/12-90-Corr2-Red \(A\)](#).

Document” (hereinafter : “Observations of Victim Group I”)<sup>10</sup> with two confidential annexes.<sup>11</sup>

8. On 22 July 2013, the legal representative of the group of former child-soldier victims filed the “Corrigendum to the Observations on the Prosecution’s Document in Support of Appeal and the Defence Brief in Response” (hereinafter: “Observations of Victim Group II”).<sup>12</sup>

9. On 29 July 2013, the Prosecutor filed the “Prosecution Reply to the Defence Response to the Prosecution’s Appeal Brief”,<sup>13</sup> with an annex.<sup>14</sup>

10. On 19 August 2013, Mr Ngudjolo filed the “Response of the Defence for Mathieu Ngudjolo to the observations of the Legal Representative of the main group of victims (ICC-01/04-02/12-124-Conf-Corr) and the Legal Representative of the child-soldier victims (ICC-01/04-02/12-125-Conf-Corr) on the Prosecution Brief on Appeal and the Defence’s Brief in Response”.<sup>15</sup>

11. On 28 August 2013, Mr Ngudjolo filed the “Response of the Defence for Mathieu Ngudjolo to the ‘Prosecution Reply to the Defence Response to the Prosecution’s Appeal Brief’ (ICC-01/04-02/12-126-Conf)”.<sup>16</sup>

---

<sup>10</sup> ICC-01/04-02/12-124-Conf-Corr-tENG (A). On 1 August 2013, a public redacted version was filed as [ICC-01/04-02/12-124-Corr-Red \(A\)](#). On 16 October 2014, a second public redacted version was filed as [ICC-01/04-02/12-124-Corr-Red2 \(A\)](#).

<sup>11</sup> ICC-01/04-02/12-124-Conf-Anx1 (A); ICC-01/04-02/12-124-Conf-Anx2 (A).

<sup>12</sup> ICC-01/04-02/12-125-Conf-Corr-tENG (A). On 28 October 2013, a public redacted version was filed as [ICC-01/04-02/12-125-Corr-Red \(A\)](#). On 20 November 2014, a second public redacted version was filed as [ICC-01/04-02/12-125-Corr-Red2 \(A\)](#).

<sup>13</sup> ICC-01/04-02/12-126-Conf (A). On 28 October 2013, a public redacted version was filed as [ICC-01/04-02/12-126-Red \(A\)](#). On 15 October 2014, a second public redacted version was filed as [ICC-01/04-02/12-126-Red2 \(A\)](#). For related procedure *see also* the “Prosecution Request for Leave to Reply to the Defence Response to the Prosecution’s Appeal Brief”, 28 June 2013, ICC-01/04-02/12-119-Conf (A); the “Order on the filing of a response to the Prosecutor’s request for leave to reply”, 2 July 2013, ICC-01/04-02/12-120-Conf (A); the “Réponse de l’Équipe de la Défense de Mathieu Ngudjolo à la demande du Procureur « Prosecution Request for Leave to Reply to the Defence Response to the Prosecution’s Appeal Brief » (ICC-01/04-02/12-119-Conf)”, 8 July 2013, ICC-01/04-02/12-121-Conf and the “Order on the filing of a reply under regulation 60 of the Regulations of the Court”, 12 July 2013, ICC-01/04-02/12-123-Conf (A).

<sup>14</sup> [ICC-01/04-02/12-126-Anx \(A\)](#).

<sup>15</sup> ICC-01/04-02/12-131-Conf-tENG (A). On 25 October 2013, a public redacted version was filed as [ICC-01/04-02/12-131-Red \(A\)](#).

<sup>16</sup> ICC-01/04-02/12-134-Conf-tENG (A). On 28 October 2013, a public redacted version was filed as [ICC-01/04-02/12-134-Red-tENG \(A\)](#). For related procedure *see also* the “Prosecution request to

3. *Procedure with respect to the Document in Support of the Appeal*

(a) **Proceedings relating to the confidentiality of the Prosecutor’s third ground of appeal and the documents founding it**

12. On 28 May 2013, the legal representatives of victims filed the “Application for the amendment of the *ex parte* classification of the documents founding the Prosecution’s third ground of appeal and for a partial lifting of its confidentiality”.<sup>17</sup> On 29 May 2013, the Appeals Chamber issued the “Order on the filing of responses to the request by the Victims to have access to certain documents related to the third ground of appeal”.<sup>18</sup> In response, the Prosecutor filed the “Prosecution response to the request by the Victims to have access to certain documents related to the third ground of appeal and to reclassify as public discrete portions of the Prosecution’s Appeal Brief” dated 7 June 2013 and registered on 10 June 2013.<sup>19</sup> On 21 June 2013, the Appeals Chamber rendered the “Decision on the request by the victims to have access to the documents founding the Prosecutor’s third ground of appeal”, by which it ordered the reclassification of various documents founding the third ground of appeal from *ex parte* to confidential, thereby granting the victims access to them.<sup>20</sup>

13. On 25 September 2014, the Prosecutor filed the “Prosecution’s Request to Reclassify its Third Ground of Appeal as Public and to Access Lesser Redacted Versions of the Registry’s Monitoring Reports”.<sup>21</sup> On 26 September 2014, the Appeals Chamber issued the “Order on the filing of a response to the Prosecutor’s request for reclassification of the third ground of the appeal and for access to lesser redacted versions of the Registry’s

---

disregard Respondent’s submissions based on transcript of *ex parte* hearing”, 4 September 2013, ICC-01/04-02/12-136-Conf (A); the “Response of the Defence for Mathieu Ngudjolo to the ‘Prosecution request to disregard Respondent’s submissions based on transcript of *ex parte* hearing’ (ICC-01/04-02/12-136-Conf)”, 17 September 2013, ICC-01/04-02/12-138-Conf-tENG (A), a public redacted version of which was filed on 28 October 2013, ICC-01/04-02/12-138-Red, and the “Judgment on the Prosecutor’s appeal against the decision of Trial Chamber II entitled ‘Judgment pursuant to article 74 of the Statute’”, 27 February 2015, ICC-01/04-02/12-271 (A), paras. 37-39.

<sup>17</sup> ICC-01/04-02/12-76-Conf-tENG (A).

<sup>18</sup> [ICC-01/04-02/12-77 \(A\)](#).

<sup>19</sup> ICC-01/04-02/12-86-Conf (A).

<sup>20</sup> ICC-01/04-02/12-92-Conf (A).

<sup>21</sup> ICC-01/04-02/12-200-Conf (A).

Monitoring Reports”.<sup>22</sup> On 26 September 2014, the legal representative of the main group of victims filed the “Demande d'autorisation à pouvoir répondre à la requête du Procureur visant la reclassification du 3<sup>ème</sup> motif d'appel et l'accès à des versions moins expurgées de rapports du Greffe (ICC-01/04-02/12-200-Conf)”.<sup>23</sup> On 29 September 2014, the legal representative of the group of former child-soldier victims filed the “Demande d'autorisation à pouvoir déposer des observations sur la requête du Procureur ICC-01/04-02/12-200-Conf-Red et sur la réponse de la Défense à cette requête”.<sup>24</sup> On 29 September 2014, Mr Ngudjolo filed the “Réponse de la Défense à « Order on the filing of a response to the Prosecutor's request for reclassification of the third ground of appeal and for access to lesser redacted versions of the Registry's Monitoring Reports » (ICC-01/04-02/12-202-Conf)”,<sup>25</sup> requesting that the Court grant the Prosecutor’s request and urge the Registrar to redact only the portions of the reports that pertain to his private life.<sup>26</sup> On 8 October 2014, the Appeals Chamber rendered the “Decision and order in relation to the Prosecutor's request for reclassification and for lesser redacted versions of the Registry's monitoring reports”, granting, *inter alia*, the Prosecutor’s request to reclassify the third ground of appeal as public, with redactions. The request for unredacted or lesser redacted versions of the Registrar’s monitoring reports was however, rejected.<sup>27</sup>

14. On 17 October 2014, the Appeals Chamber issued the “Order on the re-filing of a public redacted version of the Prosecutor’s document in support of the appeal”,<sup>28</sup> noting that the second public redacted version of the Document in Support of the Appeal did not comply with the Appeals Chamber’s instructions concerning the maintenance of the confidentiality of the documents founding the third ground of appeal. The Prosecutor was thus

---

<sup>22</sup> ICC-01/04-02/12-202-Conf (A).

<sup>23</sup> ICC-01/04-02/12-203-Conf (A).

<sup>24</sup> [ICC-01/04-02/12-204 \(A\)](#).

<sup>25</sup> ICC-01/04-02/12-205-Conf (A).

<sup>26</sup> ICC-01/04-02/12-205-Conf (A), p. 4.

<sup>27</sup> [ICC-01/04-02/12-209 \(A\)](#).

<sup>28</sup> [ICC-01/04-02/12-218 \(A\)](#).

ordered to make additional specific redactions to the third ground of the appeal and to re-file the Document in Support of the Appeal.<sup>29</sup>

15. On 5 November 2014, the Prosecutor filed the “Further Submission and Clarification concerning Redactions to the Prosecutor’s Document in Support of Appeal, and the Confidential Status of Certain Underlying Documents”,<sup>30</sup> with two confidential annexes.<sup>31</sup> 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 to a list of documents.<sup>32</sup> On 20 November 2014, the Registrar filed the “Submission of the Registry proposed redactions following the Appeals Chamber Order of 6 November 2014”,<sup>33</sup> with several confidential, *ex parte* annexes.<sup>34</sup> On 9 December 2014, Mr Ngudjolo filed the “Defence Observations on the Registrar’s submission No. ICC-01/04-02/12-235 of 20 November 2014 and annexes thereto”.<sup>35</sup> 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 parties to propose further redactions to the documents where necessary.<sup>36</sup> On 12 January 2015, Mr Ngudjolo filed the “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”,<sup>37</sup> and the Prosecutor filed the “Prosecution’s notice pursuant to the Appeals Chamber’s second order on proposed redactions to certain documents”.<sup>38</sup> Both the Prosecutor and Mr Ngudjolo indicated that no further redactions were necessary to the documents. On 4 February 2015, the Appeals Chamber issued the “Order on the reclassification and the filing of public redacted versions of documents founding the Prosecutor’s third

<sup>29</sup> ICC-01/04-02/12-218 (A), p. 3.

<sup>30</sup> ICC-01/04-02/12-231-Conf (A).

<sup>31</sup> ICC-01/04-02/12-231-Conf-AnxA (A); ICC-01/04-02/12-231-Conf-AnxB (A).

<sup>32</sup> ICC-01/04-02/12-232 (A).

<sup>33</sup> ICC-01/04-02/12-235 (A).

<sup>34</sup> ICC-01/04-02/12-235-Conf-Exp-Anx1 (A) to ICC-01/04-02/12-235-Conf-Exp-Anx22 (A).

<sup>35</sup> ICC-01/04-02/12-237-tENG (A).

<sup>36</sup> ICC-01/04-02/12-240 (A).

<sup>37</sup> ICC-01/04-02/12-245 (A).

<sup>38</sup> ICC-01/04-02/12-246 (A).



ground of appeal”,<sup>39</sup> with a confidential, *ex parte* annex.<sup>40</sup> On 6 February 2015, the Appeals Chamber issued the “Order on the filing of public redacted versions of submissions by the Prosecutor”,<sup>41</sup> whereby it ordered the Prosecutor to file certain public redacted versions of documents. On 13 February 2015, the Prosecutor filed the “Prosecution’s submission of public redacted versions”,<sup>42</sup> with three public annexes.<sup>43</sup> On 16 February 2015, the Prosecutor filed the “Prosecution’s Notice on the Reclassification of its Document in Support of Appeal (ICC-01/04-02/12-39-Red3-Conf) and Request for Public Redacted Versions of the Appeal Hearing Transcript of 21 October 2014 and Certain Prosecution Filings relating to the Third Ground of Appeal”,<sup>44</sup> with a confidential, *ex parte* annex.<sup>45</sup> On 17 February 2015, the Appeals Chamber issued the “Order for reclassification of and proposals for redactions to the Prosecutor's documents relating to the third ground of appeal”,<sup>46</sup> granting the Prosecution’s request. On 20 February 2015, the Prosecutor filed the “Prosecution’s Submission of Proposed Redactions to the Appeal Hearing Transcript of 21 October 2014 relating to the Third Ground of Appeal”,<sup>47</sup> with a confidential annex.<sup>48</sup> On 24 February 2015, the Appeals Chamber filed the “Order on the filing of observations by Mr Ngudjolo on proposals for redactions to the Appeal Hearing Transcript”.<sup>49</sup>

**(b) Other procedure related to the Document in Support of the Appeal**

16. On 22 March 2013, Germain Katanga filed a “Defence Request to Be Provided with the Prosecution Appeal Brief”,<sup>50</sup> in which he sought access to the confidential, redacted version of the Document in Support of the Appeal. On 28 March 2013, the Appeals Chamber issued the “Order on the filing of

<sup>39</sup> [ICC-01/04-02/12-252 \(A\)](#).

<sup>40</sup> [ICC-01/04-02/12-252-Conf-Exp-Anx \(A\)](#).

<sup>41</sup> [ICC-01/04-02/12-257 \(A\)](#).

<sup>42</sup> [ICC-01/04-02/12-261 \(A\)](#).

<sup>43</sup> [ICC-01/04-02/12-261-AnxA \(A\)](#); [ICC-01/04-02/12-261-AnxB \(A\)](#); [ICC-01/04-02/12-261-AnxC \(A\)](#).

<sup>44</sup> [ICC-01/04-02/12-262 \(A\)](#).

<sup>45</sup> [ICC-01/04-02/12-262-Conf-Exp-AnxA \(A\)](#).

<sup>46</sup> [ICC-01/04-02/12-263 \(A\)](#).

<sup>47</sup> [ICC-01/04-02/12-266 \(A\)](#).

<sup>48</sup> [ICC-01/04-02/12-266-Conf-AnxA \(A\)](#). This document was registered on 23 February 2015.

<sup>49</sup> [ICC-01/04-02/12-267 \(A\)](#).

<sup>50</sup> [ICC-01/04-02/12-47 \(A\)](#). This document was registered on 25 March 2013.

submissions on Mr Katanga’s request of 25 March 2013 for access to Prosecution’s Appeal Brief”.<sup>51</sup> On 4 April 2013, the Prosecutor filed the “Prosecution Response to Mr Katanga’s request to be provided access to the Prosecution’s Appeal Brief in the Ngudjolo case”.<sup>52</sup> On 10 April 2013, Mr Ngudjolo filed the “Réponse de la Défense de Mathieu Ngudjolo Chui à la « Defence Request to Be Provided with the Prosecution Appeal Brief » (ICC-01/04-02/12-47)”.<sup>53</sup> On 12 April 2013, the Appeals Chamber issued the “Order on Mr Katanga’s request to be provided with the Prosecution’s appeal brief”,<sup>54</sup> directing the Registrar to notify the confidential redacted version of the Document in Support of the Appeal to Mr Katanga.<sup>55</sup>

#### 4. *Victims’ participation in the appeal proceedings*

17. On 6 March 2013, the Appeals Chamber rendered the “Decision on the participation of victims in the appeal against Trial Chamber II’s ‘Jugement rendu en application de l’article 74 du Statut’”,<sup>56</sup> allowing, *inter alia*, the victims who participated in the trial proceedings, and whose victim status was not revoked, to participate in the appeal proceedings.

18. On 28 March 2013, the Registrar filed the “Transmission of the List of Victims in compliance with the Decision ICC-01/04-02/12-30”,<sup>57</sup> with three confidential, *ex parte* annexes.<sup>58</sup>

19. On 15 April 2013, Mr Ngudjolo filed the “Observations and objections of the Defence team for Mathieu Ngudjolo as to the Registry document ‘Transmission of the List of Victims in compliance with the Decision ICC-01/04-02/12-30’”.<sup>59</sup> On 26 April 2013, the legal representative of the group of former child-soldier victims filed a “Demande du Représentant légal des

<sup>51</sup> [ICC-01/04-02/12-54 \(A\)](#).

<sup>52</sup> [ICC-01/04-02/12-57 \(A\)](#).

<sup>53</sup> [ICC-01/04-02/12-59 \(A\)](#).

<sup>54</sup> [ICC-01/04-02/12-61 \(A\)](#).

<sup>55</sup> [ICC-01/04-02/12-61 \(A\)](#), para. 6.

<sup>56</sup> [ICC-01/04-02/12-30 \(A\)](#).

<sup>57</sup> [ICC-01/04-02/12-55 \(A\)](#).

<sup>58</sup> [ICC-01/04-02/12-55-Conf-Exp-Anx1-Corr2-tENG \(A\)](#); [ICC-01/04-02/12-55-Conf-Exp-Anx2-Corr \(A\)](#); [ICC-01/04-02/12-55-Conf-Exp-Anx3-Corr2-tENG \(A\)](#).

<sup>59</sup> [ICC-01/04-02/12-63-tENG \(A\)](#).

victimes enfant soldats de pouvoir répondre au document de la Défense ICC-01/04-02/12-63”.<sup>60</sup>

20. On 15 May 2013, the legal representative of the main group of victims filed the “Request to resume the action initiated by deceased Victim a/0253/09”,<sup>61</sup> with two confidential, *ex parte* annexes and a third confidential annex.<sup>62</sup> On 21 May 2013, the legal representative of the main group of victims filed the “Notification of the submission of a less-redacted annex relating to the application for resumption of the action brought by deceased Victim a/0253/09 before Trial Chamber II”,<sup>63</sup> with an annex.<sup>64</sup>

21. On 27 May 2013, the Appeals Chamber issued the “Order on the filing of further submissions on the Registrar’s List of participating victims”,<sup>65</sup> inviting submissions from the legal representatives of both groups of participating victims and the parties on the legal and factual issues concerning the participation of anonymous victims and the inclusion of deceased victims on the list of participating victims.

22. On 3 June 2013, the legal representative of the main group of victims filed the “Observations on the participation of anonymous victims and on maintaining victims who died in the course of proceedings on the list of victims participating at appeal”.<sup>66</sup> On the same day, the legal representative of the group of former child-soldier victims filed the “Observations on the participation of anonymous victims in the appellate proceedings and on maintaining deceased victims on the list of victims authorised to participate”.<sup>67</sup> On 5 June 2013, Mr Ngudjolo filed the “Observations of the Defence team for Mathieu Ngudjolo in response to the Legal Representative’s application concerning the resumption of action initiated by

---

<sup>60</sup> ICC-01/04-02/12-68 (A).

<sup>61</sup> ICC-01/04-02/12-70-tENG (A).

<sup>62</sup> ICC-01/04-02/12-70-Conf-Exp-Anx1-tENG (A); ICC-01/04-02/12-70-Conf-Exp-Anx2-tENG (A); ICC-01/04-02/12-70-Conf-Anx3-tENG (A).

<sup>63</sup> ICC-01/04-02/12-72-tENG (A).

<sup>64</sup> ICC-01/04-02/12-72-Anx1-tENG (A).

<sup>65</sup> ICC-01/04-02/12-73 (A).

<sup>66</sup> ICC-01/04-02/12-79-tENG (A).

<sup>67</sup> ICC-01/04-02/12-80-tENG (A).

deceased Victim a/0253/09 (regulation 34 of the Regulations of the Court)".<sup>68</sup> On 10 June 2013, the Prosecutor filed the "Prosecution's Submissions Pursuant to the Appeals Chamber's 'Order on the filing of further submissions on the Registrar's List of participating Victims' dated 27 May 2013".<sup>69</sup> On 20 June 2013, Mr Ngudjolo filed the "Response of the Defence of Mathieu Ngudjolo to the observations of the Legal Representatives regarding the participation of anonymous victims and the maintenance of deceased victims on the list of victims participating in the appellate proceedings (ICC-01/04/-02/12-79 and ICC-01/04-02/12-80)".<sup>70</sup>

23. On 23 September 2013, the Appeals Chamber rendered the "Decision on the participation of anonymous victims in the appeal and on the maintenance of deceased victims on the list of participating victims",<sup>71</sup> whereby (i) Mr Ngudjolo's objections to the participation of anonymous victims in the appeal were rejected and (ii) the Registrar was ordered to file an updated list of participating victims that excludes certain deceased victims.

24. On 23 October 2013, the legal representative of the group of child-soldier victims filed the "Observations du représentant légal faisant suite à la Décision ICC-01/04-02/12-140 de la Chambre d'appel".<sup>72</sup>

25. On 25 October 2013, the Registry filed the "Transmission of an Updated List of Victims in compliance with the Decision ICC-01/04-02/12-140",<sup>73</sup> with two confidential, *ex parte* annexes.<sup>74</sup>

26. On 11 November 2013, the Appeals Chamber rendered the "Decision on further submissions regarding the anonymous victims in the appeal" determining that no further submissions on the willingness of victims

---

<sup>68</sup> ICC-01/04-02/12-83-tENG (A).

<sup>69</sup> ICC-01/04-02/12-87 (A).

<sup>70</sup> ICC-01/04-02/12-91-tENG (A).

<sup>71</sup> ICC-01/04-02/12-140 (A).

<sup>72</sup> ICC-01/04-02/12-145 (A).

<sup>73</sup> ICC-01/04-02/12-146 (A).

<sup>74</sup> ICC-01/04-02/12-146-Conf-Exp-Anx1 (A); ICC-01/04-02/12-146-Conf-Exp-Anx2 (A).

a/0390/09 and a/0452/09 to have their anonymity lifted vis-à-vis the parties are required.<sup>75</sup>

## 5. *Relocation, Asylum and Protection*

### (a) **Relocation proceedings in the context of Mr Ngudjolo's asylum application**

27. On 21 December 2012, Mr Ngudjolo filed the “Urgent Defence Application for the international relocation of Mathieu Ngudjolo outwith the African continent and his presentation to the authorities of one of the States Parties to the International Criminal Court for the purposes of expediting his asylum application”,<sup>76</sup> with four public annexes,<sup>77</sup> requesting the Appeals Chamber to order his relocation to the Kingdom of Belgium, bring him before the Belgian authorities to allow him to request asylum, and stay all measures directed at his return to the Democratic Republic of Congo (hereinafter: “Request for Relocation”).<sup>78</sup>

28. On 24 December 2012, the Registrar filed as confidential, *ex parte* the “Report on the developments relating to the release and asylum request made by Mathieu Ngudjolo Chui” (hereinafter: “Report of 24 December 2012”),<sup>79</sup> with three confidential, *ex parte* annexes.<sup>80</sup> On the same day, the Appeals Chamber rendered the “Decision on the urgent request of Mr Ngudjolo Chui of 21 December 2012”.<sup>81</sup>

29. On 29 January 2013, Mr Ngudjolo filed the “Defence request that the Appeals Chamber order the Victims and Witnesses Unit to execute and the host State to comply with the acquittal judgment of 18 December 2012 issued by Trial Chamber II of the International Criminal Court”,<sup>82</sup> with four

<sup>75</sup> ICC-01/04-02/12-154 (A).

<sup>76</sup> ICC-01/04-02/12-15-tENG (OA).

<sup>77</sup> ICC-01/04-02/12-15-AnxI-tENG (OA); ICC-01/04-02/12-15-AnxII-tENG (OA); ICC-01/04-02/12-15-AnxIII-tENG (OA); ICC-01/04-02/12-15-AnxIV-tENG (OA).

<sup>78</sup> ICC-01/04-02/12-15-tENG (OA), para. 59.

<sup>79</sup> ICC-01/04-02/12-16-Conf-Exp (OA).

<sup>80</sup> ICC-01/04-02/12-16-Conf-Exp-Anx1 (OA); ICC-01/04-02/12-16-Conf-Exp-Anx2 (OA); ICC-01/04-02/12-16-Conf-Exp-Anx3 (OA).

<sup>81</sup> ICC-01/04-02-12-17-Conf (OA).

<sup>82</sup> ICC-01/04-02/12-20-tENG (A).

confidential annexes.<sup>83</sup> On 30 January 2013, Mr Ngudjolo filed an “ADDENDUM to ‘Defence request that the Appeals Chamber order the Victims and Witnesses Unit to execute and the host State to comply with the acquittal judgment of 18 December 2012 issued by Trial Chamber II of the International Criminal Court’”<sup>84</sup> and, on 8 February 2013, Mr Ngudjolo filed a “SECOND ADDENDUM to ‘Defence request that the Appeals Chamber order the Victims and Witnesses Unit to execute and the host State to comply with the acquittal judgment of 18 December 2012 issued by Trial Chamber II of the International Criminal Court’”<sup>85</sup>

30. On 15 February 2013, the Appeals Chamber issued the “Order on the filing of submissions by the Registrar on the Defence request of 8 February 2013”.<sup>86</sup> On 22 February 2013, the Registrar filed the “Registry’s observations pursuant to regulation 24 *bis* of the Regulations of the Court on the ‘SECOND ADDENDUM to “Defence request that the Appeals Chamber order the Victims and Witnesses Unit to execute and the host State to comply with the acquittal judgment of 18 December 2012 issued by Trial Chamber II of the International Criminal Court’””,<sup>87</sup> with a confidential, *ex parte* annex (hereinafter: “VWU Report”).<sup>88</sup>

31. On 26 February 2013, Mr Ngudjolo filed an “Application to reply to the ‘*Observations du Greffe en application de la norme 24bis du Règlement de la Cour au sujet du “SECOND ADDENDUM à la « Requête de la Défense tendant à obtenir de la Chambre d’appel une injonction donnée à l’Unité d’aide aux victimes et aux témoins d’exécuter, et à l’Etat hôte de respecter le jugement d’acquittement du 18 décembre 2012 rendu par la Chambre de première instance II de la Cour pénale internationale »*”

---

<sup>83</sup> ICC-01/04-02/12-20-Conf-AnxI-tENG (A); ICC-01/04-02/12-20-Conf-AnxII (A); ICC-01/04-02/12-20-Conf-AnxIII-tENG (A); ICC-01/04-02/12-20-Conf-AnxIV-tENG (A).

<sup>84</sup> ICC-01/04-02/12-21-tENG (A).

<sup>85</sup> ICC-01/04-02/12-22-tENG (A).

<sup>86</sup> ICC-01/04-02/12-24 (A).

<sup>87</sup> ICC-01/04-02/12-25-tENG (A).

<sup>88</sup> ICC-01/04-02/12-25-Conf-Exp-Anx1-tENG (A). A public redacted version, available in French only, was filed on 31 May 2013 as ICC-01/04-02/12-25-Anx1-Red (A).

”(Regulation 24 of the Regulations of the Court)”,<sup>89</sup> requesting, *inter alia*, leave to reply to the Registrar’s observations.<sup>90</sup> On 20 March 2013, the Appeals Chamber rendered the “Decision on the defence request to reply to the Registrar’s observations pursuant to regulation 24 *bis* of the Regulations of the Court (ICC-01/04-02/12-25 A)”,<sup>91</sup> authorising Mr Ngudjolo to reply to the Registrar’s observations. On 25 March 2013, Mr Ngudjolo filed the “Reply of the Defence for Mathieu Ngudjolo to ‘*Observations du Greffe en application de la norme 24bis du Règlement de la Cour au sujet du ‘SECOND ADDENDUM à la ‘Requête de la Défense tendant à obtenir de la Chambre d’appel une injonction donnée à l’Unité d’aide aux victimes et aux témoins d’exécuter, et à l’Etat hôte de respecter le jugement d’acquittement du 18 décembre 2012 rendu par la Chambre de première instance II de la Cour pénale internationale’*””.<sup>92</sup>

32. On 20 March 2013, the Defence filed the “URGENT application by Mathieu Ngudjolo’s Defence seeking the Appeals Chamber’s instructions on the modalities of preparation for the appeals procedure in view of Mathieu Ngudjolo’s current situation (Article 67 of the Rome Statute)”,<sup>93</sup> with one public annex.<sup>94</sup> On 24 April 2013, the Appeals Chamber rendered the “Decision on ‘URGENT application by Mathieu Ngudjolo’s Defence seeking the Appeals Chamber’s instructions on the modalities of preparation for the appeals procedure in view of Mathieu Ngudjolo’s current situation (Article 67 of the Rome Statute)’”,<sup>95</sup> whereby Mr Ngudjolo’s urgent application was unanimously rejected.<sup>96</sup>

---

<sup>89</sup> ICC-01/04-02/12-26-tENG (A).

<sup>90</sup> ICC-01/04-02/12-26-tENG (A), paras 26-27

<sup>91</sup> ICC-01/04-02/12-43 (A).

<sup>92</sup> ICC-01/04-02/12-48-Conf-tENG (A). A public redacted version, available in French only, was filed on 10 June 2013 as ICC-01/04-02/12-48-Red (A).

<sup>93</sup> ICC-01/04-02/12-40-tENG (A).

<sup>94</sup> ICC-01/04-02/12-40-AnxI-tENG-Corr (A) and its annex, ICC-01/04-02/12-40-AnxI-tENG-Corr-Anx (A).

<sup>95</sup> ICC-01/04-02/12-67 (A).

<sup>96</sup> ICC-01/04-02/12-67 (A), para. 14.



33. On 14 May 2013, the Registry filed the “Registry’s update on the situation in relation to Mathieu Ngudjolo Chui”.<sup>97</sup>

34. On 27 May 2013, the Appeals Chamber rendered the “Decision on Mr Ngudjolo’s request to order the Victims and Witnesses Unit to execute and the Host State to comply with the acquittal judgment of 18 December 2012 issued by Trial Chamber II of the International Criminal Court”,<sup>98</sup> directing the Registrar pursuant, *inter alia*, to rule 185(1) of the Rules of Procedure and Evidence to make the appropriate arrangements for the transfer of Mr Ngudjolo to a third State.<sup>99</sup> On the same day, the Appeals Chamber issued the “Order on the filing of public redacted versions of documents related to Mr Ngudjolo’s request of 8 February 2013”.<sup>100</sup>

35. On 28 October 2014, the Registrar filed the “Registrar’s transmission of a note verbale received from the Ministry of Foreign Affairs of the Kingdom of the Netherlands”,<sup>101</sup> with two confidential, *ex parte* annexes.<sup>102</sup> On 29 October 2014, Mr Ngudjolo filed the “Réponse de la Défense à l’écriture du Greffier référencée ICC-01/04-02/12-226-Conf-Exp du 28-10-2014”.<sup>103</sup> On the same day, the Appeals Chamber issued the “Order in relation to the Registrar’s transmission of a note verbale received from the Ministry of Foreign Affairs of the Kingdom of Netherlands”.<sup>104</sup> On 30 October 2014, Mr Ngudjolo filed the “Observations de la Défense relatives à l’écriture du Greffier référencée ICC-01/04-02/12-226-Conf-Exp et à la pièce ICC-01/04-02/12-226-Conf-Exp-Anx1”.<sup>105</sup> On the same day, the Appeals

<sup>97</sup> ICC-01/04-02/12-69-Conf-Exp. This document was registered on 15 May 2013. On 3 June 2013, a public redacted version was filed as [ICC-01/04-02/12-69-Red \(A\)](#).

<sup>98</sup> ICC-01/04-02/12-74-Conf (A). On 12 June 2013, a public redacted version was filed as [ICC-01/04-02/12-74-Red \(A\)](#).

<sup>99</sup> ICC-01/04-02/12-74-Conf (A), p. 3, para. 13.

<sup>100</sup> [ICC-01/04-02/12-75 \(A\)](#).

<sup>101</sup> ICC-01/04-02/12-226-Conf-Exp (A). This document was registered on 29 October 2014.

<sup>102</sup> ICC-01/04-02/12-226-Conf-Exp-Anx1 (A); ICC-01/04-02/12-226-Conf-Exp-Anx2 (A).

<sup>103</sup> ICC-01/04-02/12-227-Conf-Exp (A).

<sup>104</sup> ICC-01/04-02/12-228-Conf-Exp (A).

<sup>105</sup> ICC-01/04-02/12-229-Conf-Exp (A).



Chamber issued the “Order regarding Mr Ngudjolo’s presence at the seat of the Court pending the outcome of the appellate proceedings”.<sup>106</sup>

**(b) Transmission of confidential documentation to Dutch lawyers and Host State in the context of the asylum proceedings**

36. On 5 March 2013, Mr Ngudjolo filed the “Urgent Defence application for leave to disclose a confidential, *ex parte* document to the Dutch lawyer assisting Mr Mathieu Ngudjolo Chui in his asylum application proceedings (Article 83 of the Rome Statute and regulation 23 *bis* of the Regulations of the Court)”,<sup>107</sup> with one confidential, *ex parte* annex<sup>108</sup>. On the same day, the Appeals Chamber issued the “Order on the filing of submissions by the Registrar on the Defence request of 5 March 2013”.<sup>109</sup> On 6 March 2013, the Registrar filed the “Observations of the Registry regarding the access and transmission of VWU security assessment to the Counsel of Mr Ngudjolo in the asylum procedure”.<sup>110</sup> On 8 March 2013, the Appeals Chamber issued the “Decision on the request for disclosure of a confidential Registry report to Dutch asylum lawyer representing Mr Ngudjolo Chui”.<sup>111</sup>

37. On 14 March 2013, Mr Ngudjolo filed the “Urgent Defence application for leave to disclose a confidential document to the Dutch lawyer assisting Mr Mathieu Ngudjolo Chui in his asylum application (article 83 of the Rome Statute and regulation 23 *bis* of the Regulations of the Court)”,<sup>112</sup> with two confidential, *ex parte* annexes.<sup>113</sup> On 15 March 2013, the Appeals Chamber issued the “Order on the filing of submissions by the Registrar on the Defence request of 14 March 2013”.<sup>114</sup> On the same day, the Registrar filed the “Registry observations on the ‘Requête urgente de la Défense en vue d’obtenir l’autorisation de communiquer un document confidentiel à l’avocat néerlandais qui assiste Monsieur Mathieu Ngudjolo Chui dans sa procédure

<sup>106</sup> ICC-01/04-02/12-230-Conf-Exp (A).

<sup>107</sup> ICC-01/04-02/12-27-Conf-Exp-tENG (A).

<sup>108</sup> ICC-01/04-02/12-27-Conf-Exp-AnxI (A).

<sup>109</sup> ICC-01/04-02/12-28-Conf-Exp (A).

<sup>110</sup> ICC-01/04-02/12-29-Conf-Exp (A).

<sup>111</sup> ICC-01/04-02/12-32-Conf-Exp (A).

<sup>112</sup> ICC-01/04-02/12-35-Conf-Exp-tENG (A).

<sup>113</sup> ICC-01/04-02/12-35-Conf-Exp-Anx1 (A); ICC-01/04-02/12-35-Conf-Exp-Anx2-tENG (A).

<sup>114</sup> ICC-01/04-02/12-36-Conf-Exp (A).

de demande d’asile (Article 83 du Statut de Rome et norme 23bis du Règlement de la Cour) (ICC-01/04-02/12-Conf-Exp)”.<sup>115</sup> On 20 March 2013, the Appeals Chamber rendered the “Decision on the reclassification of documents and the second request for disclosure of a confidential Registry report to Dutch asylum lawyer representing Mr Ngudjolo Chui”.<sup>116</sup>

38. On 22 March 2013, the Registry filed a “Request of the Host State to have access to the VWU report”,<sup>117</sup> with one confidential, *ex parte* annex.<sup>118</sup> On 28 March 2013, the Appeals Chamber rendered the “Decision on the request for disclosure of a confidential Registry report to the Kingdom of The Netherlands”.<sup>119</sup>

39. On 4 June 2013, Mr Ngudjolo filed the “Requête URGENTE de la Défense en vue d’obtenir l’autorisation de la Chambre d’appel de communiquer la décision confidentielle rendue ce 27 mai 2013 aux avocats néerlandais qui assistent Monsieur Mathieu Ngudjolo Chui dans sa procédure de demande d’asile (Article 83 du Statut de Rome et norme 23bis du Règlement de la Cour)”.<sup>120</sup> On 7 June 2013, the Appeals Chamber rendered the “Decision on the third request for disclosure of a confidential document to the Dutch asylum lawyer representing Mr Ngudjolo Chui”.<sup>121</sup>

40. On 28 August 2014, the Registrar filed the “Registrar’s transmission of a request from the Kingdom of the Netherlands to be provided with the Registry’s assessment”.<sup>122</sup> On 25 September 2014, the Appeals Chamber issued the “Order concerning the Registrar’s request for transmission of documents ICC-01/04-02/12-189-Conf-Exp-Anx1 and ICC-01/04-02/12-189-Conf-Exp-Anx2 to the Kingdom of the Netherlands”.<sup>123</sup> On 1 October 2014, Mr Ngudjolo filed the “Observations de la Défense relatives à

<sup>115</sup> ICC-01/04-02/12-37-Conf-Exp (A).

<sup>116</sup> ICC-01/04-02/12-42-Conf-Exp (A).

<sup>117</sup> ICC-01/04-02/12-46-Conf-Exp (A).

<sup>118</sup> ICC-01/04-02/12-46-Conf-Exp-Anx1 (A).

<sup>119</sup> ICC-01/04-02/12-52-Conf-Exp (A).

<sup>120</sup> ICC-01/04-02/12-81-Conf-Exp (A).

<sup>121</sup> ICC-01/04-02/12-85-Conf-Exp (A).

<sup>122</sup> ICC-01/04-02/12-192-Conf-Exp (A).

<sup>123</sup> ICC-01/04-02/12-201-Conf-Exp (A).

l'écriture du Greffier référencée ICC-01/04-02/12-192-Conf-Exp".<sup>124</sup> On 13 October 2014, the Appeals Chamber issued the "Order on the Registrar's request for transmission of documents ICC-01/04-02/12-189-Conf-Exp-Anx1 and ICC-01/04-02/12-189-Conf-Exp-Anx2 to the Kingdom of the Netherlands".<sup>125</sup>

41. On 10 December 2014, Mr Ngudjolo filed the "Defence request seeking that various confidential, *ex parte* procedural documents be transmitted to Mathieu Ngudjolo's Dutch counsel".<sup>126</sup> On 11 December 2014, the Appeals Chamber issued the "Order concerning Mr Ngudjolo's request for transmission of certain documents to his Dutch asylum lawyers".<sup>127</sup> On 22 December 2014, the Appeals Chamber issued a second "Order concerning Mr Ngudjolo's request for transmission of certain documents to his Dutch asylum lawyers".<sup>128</sup>

42. On 4 February 2015, Mr Ngudjolo filed the "Requête URGENTE de la Défense sollicitant la transmission des actes de procédure confidentiels *ex parte* aux Conseils néerlandais de Mathieu Ngudjolo".<sup>129</sup> On 5 February 2015, the Appeals Chamber issued the "Order for observations by the Registrar on Mr Ngudjolo's request for transmission of certain confidential documents to his Dutch asylum lawyers".<sup>130</sup> On 9 February 2015, the Registrar filed the "Registrar's observations pursuant to Order ICC-01/04-02/12-256-Conf-Exp".<sup>131</sup> On 11 February 2015, the Appeals Chamber issued pursuant to regulation 28 of the Regulations of the Court the "Order for further submissions by Mr Ngudjolo on the Registrar's observations to his request for transmission of certain confidential documents to his Dutch asylum lawyers".<sup>132</sup> On 13 February 2015, Mr Ngudjolo filed the "Exécution par la Défense de l'Order for further submissions by Mr Ngudjolo on the

<sup>124</sup> ICC-01/04-02/12-206-Conf-Exp (A).

<sup>125</sup> ICC-01/04-02/12-211-Conf-Exp (A).

<sup>126</sup> ICC-01/04-02/12-238-Conf-Exp-tENG (A).

<sup>127</sup> ICC-01/04-02/12-239-Conf-Exp (A).

<sup>128</sup> ICC-01/04-02/12-244-Conf-Exp (A).

<sup>129</sup> ICC-01/04-02/12-255-Conf-Exp (A).

<sup>130</sup> ICC-01/04-02/12-256-Conf-Exp (A).

<sup>131</sup> ICC-01/04-02/12-258-Conf-Exp (A).

<sup>132</sup> ICC-01/04-02/12-259-Conf-Exp (A).

Registrar's observations to his request for transmission of certain confidential documents to his Dutch asylum lawyers' (ICC-01/04-02/12-259-Conf-Exp)",<sup>133</sup> with a confidential, *ex parte* annex.<sup>134</sup>

43. On 20 February 2015, the Appeals Chamber issued the "Decision on Mr Ngudjolo's request for transmission of confidential documents to his Dutch asylum lawyers".<sup>135</sup>

**(c) Mr Ngudjolo's request for inclusion in the Court's protection programme**

44. On 25 October 2013, the Defence filed the "Request for remedy in respect of the Registrar's Decision referenced NV/DCS/2013/291/MD/pv Trim Reference 2013/000051099 of 22 October 2013",<sup>136</sup> this document was registered on 28 October 2013. It was filed with three confidential, *ex parte* annexes and a public annex.<sup>137</sup>

45. On 30 October 2013, the Appeals Chamber issued the "Order on the filing of submissions by the Registrar on Mr Ngudjolo's application registered on 28 October 2013".<sup>138</sup> On 15 November 2013, the Registrar filed the "Corrigendum - Registrar's observations on Mr Ngudjolo Chui's application",<sup>139</sup> with a confidential, *ex parte* annex.<sup>140</sup>

46. On 8 November 2013, Mr Ngudjolo filed the "CORRIGENDUM de la Requête en vue de solliciter de la Chambre d'appel d'enjoindre au Greffe de divulguer à la Défense de Mathieu Ngudjolo les documents confidentiels visés dans les notes de bas de page numéros 11 et 25 de son écriture ICC-01/04-02/12-149-Conf-Exp",<sup>141</sup> with a confidential, *ex parte* annex.<sup>142</sup>

<sup>133</sup> ICC-01/04-02/12-260-Conf-Exp (A).

<sup>134</sup> ICC-01/04-02/12-260-Conf-Exp-Anx (A).

<sup>135</sup> ICC-01/04-02/12-265-Conf-Exp (A).

<sup>136</sup> ICC-01/04-02/12-147-Conf-Exp-tENG (A). This document was registered on 28 October 2013.

<sup>137</sup> ICC-01/04-02/12-147-Conf-Exp-AnxA-tENG (A); ICC-01/04-02/12-147-Conf-Exp-AnxB-tENG (A); ICC-01/04-02/12-147-Conf-Exp-AnxC-tENG (A); ICC-01/04-02/12-147-AnxD-tENG (A).

<sup>138</sup> ICC-01/04-02/12-148-Conf-Exp (A).

<sup>139</sup> ICC-01/04-02/12-149-Conf-Exp-Corr (A).

<sup>140</sup> ICC-01/04-02/12-149-Conf-Exp-Corr-Anx1 (A).

<sup>141</sup> ICC-01/04-02/12-150-Conf-Exp-Corr (A). This corrigendum was registered on 13 November 2013.

<sup>142</sup> ICC-01/04-02/12-150-Conf-Exp-Corr-Anx (A).

47. On 15 November 2013, the Registrar filed the “Corrigendum - Clarification of the Registry”<sup>143</sup> with a confidential, *ex parte* annex.<sup>144</sup>
48. On 11 November 2013, Mr Ngudjolo filed the “DEUXIEME CORRIGENDUM de la Demande de réplique aux « Registrar’s observations on Mr. Ngudjolo Chui’s application » (ICC-01/04-02/12-149-Conf-Exp)»”,<sup>145</sup> with a confidential, *ex parte* annex.<sup>146</sup>
49. On 28 November 2013, the Appeals Chamber rendered the “Decision on Mr Ngudjolo’s request to reply and related requests”.<sup>147</sup>
50. On 5 December 2013, Mr Ngudjolo filed the “Defence Observations on the ‘Registrar’s observations on Mr. Ngudjolo Chi’s [*sic*] application’ (ICC-01/04-02/12-149-Conf-Exp)”<sup>148</sup>.
51. On 12 February 2014, the Appeals Chamber issued the “Order on the filing of further submissions by the Registrar concerning the Registrar’s Decision referenced NV/DCS/2013/291/MD/pv Trim Reference 2013/000051099 of 22 October 2013”.<sup>149</sup>
52. On 20 February 2014, the Registrar filed the “Registry submissions on methodology”.<sup>150</sup> On 14 March 2014, Mr Ngudjolo filed the “Defence Observations on the ‘Registry submissions on methodology’ (ICC-01-/04-02/12-161-Conf-Exp of 20-02-2014 [*sic*])”.<sup>151</sup>
53. On 8 April 2014, Mr Ngudjolo filed the “Application by the Defence for the Appeals Chamber to require the Registry to set out in detail its plan

---

<sup>143</sup> ICC-01/04-02/12-152-Conf-Exp-Corr (A).

<sup>144</sup> ICC-01/04-02/12-152-Conf-Exp-Corr-Anx1 (A).

<sup>145</sup> ICC-01/04-02/12-153-Conf-Exp-Corr2 (A). This second corrigendum was registered on 13 November 2013.

<sup>146</sup> ICC-01/04-02/12-153-Conf-Exp-Corr2-Anx (A)

<sup>147</sup> ICC-01/04-02/12-155-Conf-Exp (A).

<sup>148</sup> ICC-01/04-02/12-156-Conf-Exp-tENG (A).

<sup>149</sup> ICC-01/04-02/12-160-Conf-Exp (A).

<sup>150</sup> ICC-01/04-02/12-161-Conf-Exp (A). This document was registered on 21 February 2014.

<sup>151</sup> ICC-01/04-02/12-170-Conf-Exp-tENG (A).

for implementation of the judgment concerning Mathieu Ngudjolo, delivered on 7 March 2014 in the case of the Prosecutor v. Germain Katanga”.<sup>152</sup>

54. On 26 May 2014, the Appeals Chamber rendered the “Decision on Mr Ngudjolo’s request to review the Registrar’s decision concerning his exclusion from the Court’s Protection Programme.”<sup>153</sup> On 23 July 2014, the Registry filed the “Registrar’s decision following the ‘Decision on Mr Ngudjolo’s request to review the Registrar’s decision concerning his exclusion from the Court’s Protection Programme’ (Document ICC-01/04-02/12-180-Conf-Exp)”,<sup>154</sup> with two confidential, *ex parte* annexes.<sup>155</sup>

55. On 5 August 2014, Mr Ngudjolo filed the “Observations de la Défense relatives à la Décision du Greffier référencée ICC-01/04-02/12-189-Conf-Exp du 23-07-2014 et Requête en reclassification de ses annexes”.<sup>156</sup>

56. On 2 September 2014, Mr Ngudjolo filed the “Defence Observations on the Registrar’s Decision referenced ICC-01/04-02/12-189-Conf-Exp of 23-07-2014 and its annexes 1 and 2”.<sup>157</sup>

57. On 8 December 2014, the Appeals Chamber rendered the “Decision on Mr Ngudjolo's request to review the Registrar's 23 July 2014 decision not to include him in the Court's Protection Programme”.<sup>158</sup>

58. On 13 January 2015, Mr Ngudjolo filed the “Note d’information à la Chambre d’Appel relative à l’assassinat d’un témoin à Nairobi”,<sup>159</sup> with one confidential, *ex parte* annex.<sup>160</sup>

59. On 27 January 2015, the Registrar filed the “Registrar’s Decision pursuant to Decision ICC-01/04-02/12-236-Conf-Exp”,<sup>161</sup> with one

<sup>152</sup> [ICC-01/04-02/12-172-tENG \(A\)](#).

<sup>153</sup> [ICC-01/04-02/12-180-Conf-Exp \(A\)](#).

<sup>154</sup> [ICC-01/04-02/12-189-Conf-Exp \(A\)](#).

<sup>155</sup> [ICC-01/04-02/12-189-Conf-Exp-Anx1 \(A\)](#); [ICC-01/04-02/12-189-Conf-Exp-Anx2 \(A\)](#).

<sup>156</sup> [ICC-01/04-02/12-190-Conf-Exp \(A\)](#).

<sup>157</sup> [ICC-01/04-02/12-194-Conf-Exp-tENG \(A\)](#).

<sup>158</sup> [ICC-01/04-02/12-236-Conf-Exp \(A\)](#).

<sup>159</sup> [ICC-01/04-02/12-247-Conf-Exp \(A\)](#).

<sup>160</sup> [ICC-01/04-02/12-247-Conf-Exp-Anx \(A\)](#).

<sup>161</sup> [ICC-01/04-02/12-250-Conf-Exp \(A\)](#).

confidential, *ex parte* annex.<sup>162</sup> On 4 February 2015, Mr Ngudjolo filed the “Defence Observations on the ‘Registrar’s Decision pursuant to Decision ICC-01/04-02/12-236-Conf-Exp’ (ICC-01/04-02/12-250-Conf-Exp)”.<sup>163</sup>

60. On 27 February 2015, the Appeals Chamber filed the “Decision on Mr Ngudjolo’s request to review the Registrar’s 27 January 2015 decision not to include him in the Court’s Protection Programme”.<sup>164</sup>

#### 6. *Release of the three detained witnesses*

61. On 4 February 2013, Duty Counsel for Witnesses DRC-D02-P0236, DRC-D02-P0228, and DRC-D02-P0350 (hereinafter: the “Detained Witnesses”) filed the “Requête en mainlevée de la détention des témoins DRC-D02-P-0236, DRC-D02-P-0228 et DRC-D02-P-0350”,<sup>165</sup> with ten public annexes<sup>166</sup> and five confidential annexes,<sup>167</sup> before the Trial Chamber in the case of *Prosecutor v. Germain Katanga*, requesting that the Trial Chamber order the immediate release of the Detained Witnesses.<sup>168</sup>

62. Trial Chamber II in *Prosecutor v. Germain Katanga* rendered the “Decision on the application for the interim release of detained Witnesses DRC-D02-P0236, DRC-D02-P0228 and DRC-D02-P0350”, dated 1 October 2013 and registered 2 October 2013,<sup>169</sup> with Judge Van den Wyngaert dissenting,<sup>170</sup> in which it declared that it had no jurisdiction over the request, which was found to be inadmissible.<sup>171</sup>

<sup>162</sup> ICC-01/04-02/12-250-Conf-Exp-Anx (A).

<sup>163</sup> ICC-01/04-02/12-254-Conf-Exp-tENG (A).

<sup>164</sup> ICC-01/04-02/12-270 (A).

<sup>165</sup> ICC-01/04-01/07-3351.

<sup>166</sup> ICC-01/04-01/07-3351-Anx1; ICC-01/04-01/07-3351-Anx2; ICC-01/04-01/07-3351-Anx4; ICC-01/04-01/07-3351-Anx5; ICC-01/04-01/07-3351-Anx6; ICC-01/04-01/07-3351-Anx7; ICC-01/04-01/07-3351-Anx8; ICC-01/04-01/07-3351-Anx9; ICC-01/04-01/07-3351-Anx10; ICC-01/04-01/07-3351-Anx12.

<sup>167</sup> ICC-01/04-01/07-3351-Conf-Anx3; ICC-01/04-01/07-3351-Conf-Anx11; ICC-01/04-01/07-3351-Conf-Anx13; ICC-01/04-01/07-3351-Conf-Anx14; ICC-01/04-01/07-3351-Conf-Anx15.

<sup>168</sup> ICC-01/04-01/07-3351, paras 1, 54.

<sup>169</sup> ICC-01/04-01/07-3405-tENG.

<sup>170</sup> ICC-01/04-01/07-3405-Anx.

<sup>171</sup> ICC-01/04-01/07-3405-tENG, p. 19.

63. On 7 October 2013, the Detained Witnesses filed the “Notice of appeal by Witnesses DRC-D02-P-0236, DRC-D02-P-0228 and DRC-D02-P-0350 against the *Décision relative à la demande de mise en liberté des témoins détenus DRC-D02-P-0236, DRC-D02-P-0228 et DRC-D02-P-0350* issued by Trial Chamber II on 1 October 2013 (ICC-01/04-01/07-3405)” in the case of *Prosecutor v. Germain Katanga*.<sup>172</sup>

64. On 20 January 2014, the Appeals Chamber rendered the “Decision on the admissibility of the appeal against the ‘Decision on the application for the interim release of detained Witnesses DRC-D02-P0236, DRC-D02-P0228 and DRC-D02-P0350’” in the case of *Prosecutor v. Germain Katanga*, with Judge Sang-Hyun Song dissenting,<sup>173</sup> dismissing the appeal as inadmissible.<sup>174</sup>

65. Also on 20 January 2014, the Appeals Chamber issued the “Order on the implementation of the cooperation agreement between the Court and the Democratic Republic of the Congo concluded pursuant to article 93 (7) of the Statute” (hereinafter: “Order of 20 January 2014”),<sup>175</sup> with Judge Sang-Hyun Song dissenting,<sup>176</sup> instructing the Registrar to take the necessary steps to return the Detained Witnesses to the Democratic Republic of the Congo.<sup>177</sup>

66. The Detained Witnesses filed the “Request for implementation of Order ICC-01/04-02/12-158”, dated 7 April 2014 and registered on 8 April 2014.<sup>178</sup>

67. On 9 April 2014, the Appeals Chamber issued the “Order for submissions in response to the Request for the execution of order ICC-01/04-02/12-158”.<sup>179</sup> On 16 April 2014, the Registrar filed the “Registry

---

<sup>172</sup> ICC-01/04-01/07-3408-tENG (OA 14).

<sup>173</sup> ICC-01/04-01/07-3424-Anx (OA 14).

<sup>174</sup> ICC-01/04-01/07-3424 (OA 14).

<sup>175</sup> ICC-01/04-02/12-158 (A).

<sup>176</sup> ICC-01/04-02/12-158-Anx (A).

<sup>177</sup> ICC-01/04-02/12-158 (A), p. 3.

<sup>178</sup> ICC-01/04-02/12-171-tENG (A).

<sup>179</sup> ICC-01/04-02/12-173 (A).



submissions on the implementation of the Order of 20 January 2014 (document 01/04-02/12-158)”,<sup>180</sup> with nine confidential annexes.<sup>181</sup>

68. On 6 May 2014, the Registrar filed the “Registry’s update following the recent submissions on the Detained Witnesses.”<sup>182</sup>

69. The Detained Witnesses filed the “Supplemental motion seeking implementation of Order ICC-01/04-02/12-158”, dated 7 May 2014 and registered on 8 May 2014,<sup>183</sup> with three confidential annexes.<sup>184</sup>

70. The Registry filed the “Registry transmission of a note verbale received from the Kingdom of the Netherlands”, dated 8 May 2014 and registered on 9 May 2014,<sup>185</sup> with a confidential, *ex parte* annex.<sup>186</sup>

71. On 14 May 2014, the Registry filed the “Registry’s urgent request for guidance”,<sup>187</sup> with two confidential, *ex parte* annexes.<sup>188</sup> On 21 May 2014, the Appeals Chamber rendered the “Decision on the ‘Registry’s urgent request for guidance’ and further order in relation to the Appeals Chamber’s ‘Order on the implementation of the cooperation agreement between the Court and the Democratic Republic of the Congo concluded pursuant article 93(7) of the Statute’”,<sup>189</sup> ordering the Registrar to immediately implement the Order of 20 January 2014.

---

<sup>180</sup> ICC-01/04-02/12-174-Conf (A). A public redacted version was filed on 27 August 2014 and registered on 28 August 2014 as [ICC-01/04-02/12-174-Red \(A\)](#).

<sup>181</sup> ICC-01/04-02/12-174-Conf-Anx1 (A); ICC-01/04-02/12-174-Conf-Anx2 (A); ICC-01/04-02/12-174-Conf-Anx3 (A); ICC-01/04-02/12-174-Conf-Anx4 (A); ICC-01/04-02/12-174-Conf-Anx5 (A); ICC-01/04-02/12-174-Conf-Anx6 (A); ICC-01/04-02/12-174-Conf-Anx7 (A); ICC-01/04-02/12-174-Conf-Anx8 (A); ICC-01/04-02/12-174-Conf-Anx9 (A).

<sup>182</sup> ICC-01/04-02/12-175-Conf-Exp (A).

<sup>183</sup> ICC-01/04-02/12-176-Conf-tENG (A).

<sup>184</sup> ICC-01/04-02/12-176-Conf-Anx1-tENG (A); ICC-01/04-02/12-176-Conf-Anx2-tENG (A); ICC-01/04-02/12-176-Conf-Anx3-tENG (A).

<sup>185</sup> ICC-01/04-02/12-177-Conf-Exp (A).

<sup>186</sup> ICC-01/04-02/12-177-Conf-Exp-Anx1 (A).

<sup>187</sup> ICC-01/04-02/12-178-Conf-Exp (A).

<sup>188</sup> ICC-01/04-02/12-178-Conf-Exp-Anx1 (A); ICC-01/04-02/12-178-Conf-Exp-Anx2 (A).

<sup>189</sup> [ICC-01/04-02/12-179 \(A\)](#).

72. On 10 June 2014, the Registry issued the “Report of the Registrar on the hand-over of the three detained witnesses to the Netherlands”,<sup>190</sup> with eleven confidential annexes.<sup>191</sup>

73. On 18 September 2014, Mr Ngudjolo filed the “Information note to the Appeals Chamber on the situation of the lawyer monitoring the situation of the detained witnesses repatriated to Kinshasa”.<sup>192</sup>

74. On 27 October 2014, Mr Ngudjolo filed the “Information note to the Appeals Chamber on the summary executions and enforced disappearances committed in the DRC”,<sup>193</sup> with one confidential, *ex parte* annex.<sup>194</sup>

## 7. *Other requests and applications*

### (a) **Requests on page and time limits**

75. On 8 March 2013, the Prosecutor filed the “Prosecution’s Urgent Request for an Extension of the Page Limit” in relation to her Document in Support of the Appeal.<sup>195</sup> On 13 March 2013, the Appeals Chamber issued the “Decision on the Prosecution’s Urgent Request for an Extension of the Page Limit”,<sup>196</sup> granting the Prosecutor’s request.

76. On 20 March 2013, Mr Ngudjolo filed the “URGENT application by Mathieu Ngudjolo’s Defence seeking the translation of the Prosecution document in support of the appeal into French and suspension of the time limits (Article 67(1)(a) and (f) of the Rome Statute and regulation 35(2) and 59(1) of the Regulations of the Court)”.<sup>197</sup> On 22 March 2013, the Appeals Chamber issued the “Order on the filing of submissions by the Prosecutor on

<sup>190</sup> ICC-01/04-02/12-185-Conf (A).

<sup>191</sup> ICC-01/04-02/12-185-Conf-Anx1 (A); ICC-01/04-02/12-185-Conf-Anx2 (A); ICC-01/04-02/12-185-Conf-Anx3 (A); ICC-01/04-02/12-185-Conf-Anx4 (A); ICC-01/04-02/12-185-Conf-Anx5 (A); ICC-01/04-02/12-185-Conf-Anx6 (A); ICC-01/04-02/12-185-Conf-Anx7 (A); ICC-01/04-02/12-185-Conf-Anx8 (A); ICC-01/04-02/12-185-Conf-Anx9 (A); ICC-01/04-02/12-185-Conf-Anx10 (A); ICC-01/04-02/12-185-Conf-Anx11 (A).

<sup>192</sup> ICC-01/04-02/12-198-Conf-Exp-tENG (A).

<sup>193</sup> ICC-01/04-02/12-225-Conf-Exp-tENG (A).

<sup>194</sup> ICC-01/04-02/12-225-Conf-Exp-Anx1 (A).

<sup>195</sup> ICC-01/04-02/12-33 (A).

<sup>196</sup> ICC-01/04-02/12-34 (A).

<sup>197</sup> ICC-01/04-02/12-41-tENG (A).

the Defence request of 20 March 2013 for translation and an extension of the time limit”,<sup>198</sup> inviting the Prosecutor to respond to Mr Ngudjolo’s request. On 27 March 2013, the Prosecutor filed the “Prosecution Response to « *Requête URGENTE de la Défense de Mathieu Ngudjolo sollicitant la traduction en langue française du mémoire d’appel du Procureur et la suspension des délais (Article 67-1-a, b) et f) du Statut de Rom [sic] et les normes 35-2 et 59-1 du Règlement de la Cour* »”.<sup>199</sup> On 28 March 2013, Mr Ngudjolo filed the “Requête de la Défense tendant à obtenir de la Chambre d’appel une autorisation de répliquer à la « Prosecution Response to « *Requête URGENTE de la Défense de Mathieu Ngudjolo sollicitant la traduction en langue française du mémoire d’appel du Procureur et la suspension des délais (Article 67-1-a) b) et f) du Statut de Rome et les normes 35-2 et 59-1 du Règlement de la Cour* » du 27 mars 2013”.<sup>200</sup> On 11 April 2013, the Appeals Chamber rendered the “Decision on Mr Ngudjolo’s request for translation and suspension of the time limit”,<sup>201</sup> whereby it (i) rejected Mr Ngudjolo’s request for leave to reply to the Prosecutor’s response, (ii) directed the Registrar to provide Mr Ngudjolo with a draft translation of the Document in Support of the Appeal by 26 April 2013, and (iii) extended the time for Mr Ngudjolo to file his response to the Document in Support of the Appeal to 18 June 2013.

77. On 25 March 2013, the legal representatives for victims filed their “Urgent application for extension of time and amendment of the *ex parte* classification of the Prosecution’s appeal brief”,<sup>202</sup> this document was registered on 26 March 2013. On 28 March 2013, the Appeals Chamber issued the “Order on the filing of submissions by Mr Ngudjolo in relation to the classification of the Prosecutor’s Document in Support of Appeal”.<sup>203</sup> On 8 April 2013, Mr Ngudjolo filed the “Defence response to the ‘*Requête urgente en prorogation de délai et en levée de l’ex parte touchant au*

---

<sup>198</sup> ICC-01/04-02/12-44 (A).

<sup>199</sup> ICC-01/04-02/12-50 (A).

<sup>200</sup> ICC-01/04-02/12-51 (A).

<sup>201</sup> ICC-01/04-02/12-60 (A).

<sup>202</sup> ICC-01/04-02/12-49-Conf-tENG (A).

<sup>203</sup> ICC-01/04-02/12-53-Conf (A).

*mémoire d'appel du Procureur*' (ICC-01/04-02/12-49-Conf)".<sup>204</sup> On 16 May 2013, the Appeals Chamber rendered the "Decision on 'Requête urgente en prorogation de délai et en levée de l'*ex parte* touchant au mémoire d'appel du Procureur'",<sup>205</sup> whereby the Appeals Chamber, *inter alia*, directed the Registrar to re-classify the Document in Support of the Appeal as confidential and extended to 18 July 2013 the time limit for the victims to file their observations.

78. On 4 June 2013, Mr Ngudjolo filed the "Requête URGENTE de la Défense de Mathieu Ngudjolo sollicitant la prorogation du délai de dépôt de la réponse aux observations des deux écritures déposées par les Représentants légaux en conformité avec l'ordonnance ICC-01/04-02/12-73 de la Chambre d'appel".<sup>206</sup> On 7 June 2013, the Appeals Chamber rendered the "Decision on Mr Ngudjolo Chui's request for an extension of time",<sup>207</sup> extending the time limit for Mr Ngudjolo to file his response to the victims' submissions contained in documents ICC-01/04-02/12-79 and ICC-01/04-02/12-80 until 20 June 2013.<sup>208</sup>

79. On 31 July 2013, Mr Ngudjolo filed the "Requête URGENTE de la Défense de Mathieu Ngudjolo sollicitant la traduction en langue française de la réplique du Procureur au Mémoire en réponse de la Défense et l'extension des délais (Article 67-1-a), b) et f) du *Statut de Rome*-et les normes 35-2 et 59-1 du Règlement de la Cour)".<sup>209</sup> On 1 August 2013, the Appeals Chamber issued the "Order on the filing of a response to Mr Ngudjolo's request for translation and extension of time limit".<sup>210</sup> On 6 August 2013, the Prosecutor filed the "Prosecution Response to the 'Requête URGENTE de la Défense de Mathieu Ngudjolo sollicitant la traduction en langue française de la réplique du Procureur au Mémoire en réponse de la Défense et l'extension des délais'

---

<sup>204</sup> ICC-01/04-02/12-58-Conf-tENG (A).

<sup>205</sup> ICC-01/04-02/12-71 (A).

<sup>206</sup> ICC-01/04-02/12-82 (A).

<sup>207</sup> ICC-01/04-02/12-84 (A).

<sup>208</sup> ICC-01/04-02/12-84 (A), p. 3, paras 9-10.

<sup>209</sup> ICC-01/04-02/12-127 (A).

<sup>210</sup> ICC-01/04-02/12-128 (A).

submitted on 31 July 2013.”<sup>211</sup> On 7 August 2013, the Appeals Chamber rendered the “Decision on Mr Ngudjolo’s second request for translation and suspension of the time limit”,<sup>212</sup> granting Mr Ngudjolo’s two requests.

80. On 8 November 2013, Mr Ngudjolo filed the “CORRIGENDUM de la Requête en vue de solliciter de la Chambre d’appel la prorogation du délai de demande d’autorisation de réplique aux Observations du Greffe (ICC-01/04-02/12-149-Conf-Exp)”,<sup>213</sup> with a confidential, *ex parte* annex.<sup>214</sup> On 28 November 2013, the Appeals Chamber rendered the “Decision on Mr Ngudjolo’s request to reply and related requests”.<sup>215</sup>

81. On 14 November 2014, the Registrar filed a “Request for extension of time limit pursuant to Regulation 35 of the Regulations of the Court for the implementation of the ‘Order on the submission of proposed redactions to certain documents founding the Prosecutor’s third ground of appeal’”,<sup>216</sup> requesting a three-day time extension.<sup>217</sup> On 17 November 2014, the Appeals Chamber issued the “Decision on the Registrar’s request for an extension of the time limit”,<sup>218</sup> granting the Registrar’s request.<sup>219</sup>

82. On 19 January 2015, the Registrar filed the “Registry’s Application to Extend the Time Limit in relation to the Appeals Chamber’s Decision ICC-01/04-02/12-236-Conf-Exp”.<sup>220</sup> On the same day, the Appeals Chamber issued the “Decision on the ‘Registry’s Application to Extend the Time Limit in relation to the Appeals Chamber’s Decision ICC-01/04-02/12-236-Conf-Exp’”.<sup>221</sup>

---

<sup>211</sup> ICC-01/04-02/12-129 (A).

<sup>212</sup> ICC-01/04-02/12-130 (A).

<sup>213</sup> ICC-01/04-02/12-151-Conf-Exp-Corr (A). This corrigendum was registered on 13 November 2013.

<sup>214</sup> ICC-01/04-02/12-151-Conf-Exp-Corr-Anx (A). The corrigendum to this explanatory note was registered on 13 November 2013.

<sup>215</sup> ICC-01/04-02/12-155-Conf-Exp (A). *See also supra* para. 49.

<sup>216</sup> ICC-01/04-02/12-233 (A).

<sup>217</sup> ICC-01/04-02/12-233 (A), p. 3.

<sup>218</sup> ICC-01/04-02/12-234 (A).

<sup>219</sup> ICC-01/04-02/12-234 (A), p. 3.

<sup>220</sup> ICC-01/04-02/12-248-Conf-Exp.

<sup>221</sup> ICC-01/04-02/12-249-Conf-Exp.

**(b) Victims' request for protective measures**

83. On 11 June 2013, the legal representative of the main group of victims filed the "Request for protective measures for victims authorised to participate in the proceedings".<sup>222</sup>

84. On 13 June 2013, the Appeals Chamber issued the "Order on the filing of responses to the request by the Victims for protective measures".<sup>223</sup> On 24 June 2013, the Prosecutor filed the "Prosecution's Observations regarding the 'Request for protective measures for victims authorised to participate in the Proceedings'",<sup>224</sup> with a confidential annex.<sup>225</sup> On 25 June 2013, Mr Ngudjolo filed the "Réponse de la Défense de Mathieu Ngudjolo Chui à la « Demande en mesures de protection pour les victimes admises à participer à la procédure » (ICC-01/04-02/12-88-Conf)".<sup>226</sup>

85. On 8 July 2013, the Appeals Chamber rendered the "Decision on the request by the victims for protective measures".<sup>227</sup>

**(c) Application for review of the remuneration scheme during phase A of the appeal**

86. On 26 September 2013, Mr Ngudjolo filed an "Application of the Defence for Mathieu Ngudjolo Chui requesting that the Registry, further to an order of the Appeals Chamber, reconsider the division of time periods for phases A, B and C of the appeal procedure estimated in the letter of 6 September 2013 regarding the level of remuneration during the appeal phase (CSS/2012/515/MG)",<sup>228</sup> with three confidential, *ex parte* annexes.<sup>229</sup>

87. On 30 September 2013, the Appeals Chamber issued the "Order on the filing of submissions to Mr Ngudjolo's request of 26 September 2013".<sup>230</sup> On 8 October 2013, the Registry filed the "Registrar's observations on the

<sup>222</sup> ICC-01/04-02/12-88-Conf-tENG (A).

<sup>223</sup> ICC-01/04-02/12-89-Conf (A).

<sup>224</sup> ICC-01/04-02/12-117-Conf (A).

<sup>225</sup> ICC-01/04-02/12-117-Conf-Anx1 (A).

<sup>226</sup> ICC-01/04-02/12-118-Conf (A).

<sup>227</sup> ICC-01/04-02/12-122-Conf (A).

<sup>228</sup> ICC-01/04-02/12-141-Conf-Exp-tENG (A).

<sup>229</sup> ICC-01/04-02/12-141-Conf-Exp-Anx1-tENG (A); ICC-01/04-02/12-141-Conf-Exp-Anx2-tENG (A); ICC-01/04-02/12-141-Conf-Exp-Anx3 (A).

<sup>230</sup> ICC-01/04-02/12-142-Conf-Exp (A).

application of Mathieu Ngudjolo Chui’s Defence team of 26 September 2013 (ICC-01/04-02/12-141-Conf-Exp)”,<sup>231</sup> with two confidential, *ex parte* annexes.<sup>232</sup>

88. On 11 February 2014, the Appeals Chamber rendered the “Decision on Mr Ngudjolo’s request for review of the Registrar’s decision regarding the level of remuneration during the appeal phase and reimbursement of fees”,<sup>233</sup> rejecting the request.<sup>234</sup>

**(d) Application for review of the Registry decision on Mr Ngudjolo’s family visits**

89. On 26 June 2014, Mr Ngudjolo filed the “Recours contre la Décision du Greffe n°DCS/2014/177/MD/dsa/jg du 20 juin 2014”,<sup>235</sup> with a confidential, *ex parte* annex.<sup>236</sup>

90. On 4 July 2014, the Registry filed the “Observations du Greffe en vertu de la norme 24 bis du Règlement du Greffe en réponse aux écritures référencées ICC-01/04-02/12-186-Conf-Exp”,<sup>237</sup> with a confidential, *ex parte* annex.<sup>238</sup>

91. On 23 July 2014, the Appeals Chamber rendered the “Decision on Mr Ngudjolo’s application for review of the Registrar’s decision of 20 June 2014 concerning a request for a family visit”.<sup>239</sup>

**(e) Applications for the reclassification of documents**

92. On 26 February 2013, Mr Ngudjolo filed an “Application to reply to the ‘*Observations du Greffe en application de la norme 24bis du Règlement de la Cour au sujet du “SECOND ADDENDUM à la « Requête de la Défense tendant à obtenir de la Chambre d’appel une injonction donnée à l’Unité d’aide aux victimes et aux témoins d’exécuter, et à l’Etat hôte de*

<sup>231</sup> ICC-01/04-02/12-144-Conf-Exp-tENG (A).

<sup>232</sup> ICC-01/04-02/12-144-Conf-Exp-Anx1 (A); ICC-01/04-02/12-144-Conf-Exp-Anx2 (A).

<sup>233</sup> ICC-01/04-02/12-159 (A).

<sup>234</sup> ICC-01/04-02/12-159 (A), p. 3, para. 26.

<sup>235</sup> ICC-01/04-02/12-186-Conf-Exp (A).

<sup>236</sup> ICC-01/04-02/12-186-Conf-Exp-AnxA (A).

<sup>237</sup> ICC-01/04-02/12-187-Conf-Exp (A).

<sup>238</sup> ICC-01/04-02/12-187-Conf-Exp-Anx (A).

<sup>239</sup> ICC-01/04-02/12-188-Conf-Exp (A).

*respecter le jugement d'acquiescement du 18 décembre 2012 rendu par la Chambre de première instance II de la Cour pénale internationale »*” (Regulation 24 of the Regulations of the Court),<sup>240</sup> requesting, *inter alia*, the disclosure of the Report of 24 December 2012.<sup>241</sup> On 6 March, the Appeals Chamber issued the “Order on the reclassification of a document and to consult with the authorities of the Kingdom of the Netherlands”,<sup>242</sup> in which the Appeals Chamber instructed the Registrar to reclassify the Report of 24 December 2012 as confidential and to consult with the relevant authorities of the Kingdom of the Netherlands to ascertain whether the related annexes could be reclassified as confidential or public and to report to the Appeals Chamber accordingly.<sup>243</sup> On 18 March 2013, the Registry filed the “Registry observations on the consultation with the Kingdom of the Netherlands in relation to document ICC-01/04-02/12-31”,<sup>244</sup> wherein the Registrar informed the Appeals Chamber that The Netherlands had no objections to the reclassification as public of the annexes to the Report of 24 December 2012.<sup>245</sup> On 12 April 2013, the legal representative of the main group of victims filed the “Observations of the legal representative concerning the list of victims participating in the appeal proceedings transmitted by the Registrar and application for re-classification of document ICC-01/04-02/12-55-Conf-Exp-Anx3-Corr”.<sup>246</sup> On 16 April 2013, the legal representative of the group of child-soldiers victims filed an “Application for re-classification of the list of victims filed by the Registrar under reference ICC-01/04-02/12-55-Conf-Anx2-Red-Corr”.<sup>247</sup> On 18 April 2013, the Appeals Chamber issued the “Order on the reclassification of documents ICC-01/04-02/12-55-Conf-Anx3-Corr and ICC-01/04-02/12-55-Conf-Red-Corr”.<sup>248</sup> By this order, document ICC-01/04-02/12-55-Conf-Anx3-Corr was reclassified as confidential *ex parte*, only available to the Prosecutor, Mr

---

<sup>240</sup> [ICC-01/04-02/12-26-tENG \(A\)](#).

<sup>241</sup> [ICC-01/04-02/12-26-tENG \(A\)](#), paras 26-27.

<sup>242</sup> [ICC-01/04-02/12-31 \(A\)](#).

<sup>243</sup> [ICC-01/04-02/12-31 \(A\)](#), para. 9.

<sup>244</sup> [ICC-01/04-02/12-38 \(A\)](#). This document was registered on 19 March 2013.

<sup>245</sup> [ICC-01/04-02/12-38 \(A\)](#), para. 1.

<sup>246</sup> [ICC-01/04-02/12-62-tENG \(A\)](#).

<sup>247</sup> [ICC-01/04-02/12-65-tENG \(A\)](#).

<sup>248</sup> [ICC-01/04-02/12-66 \(A\)](#).



Ngudjolo and Mr Luvengika<sup>249</sup> and document ICC-01/04-02/12-55-Conf-Anx2-Red-Corr was also reclassified as confidential *ex parte*, only available to the Prosecutor, Mr Ngudjolo and Mr Gilissen.<sup>250</sup>

93. On 22 August 2013, the legal representative of the main group of victims filed the “Demande de reclassification de l’annexe 1 au Corrigendum des ‘Observations sur le Document du Procureur déposé à l’appui de son appel et sur la Réponse de la Défense à ce Document’ comme document public”.<sup>251</sup> On 27 August 2013, the Appeals Chamber issued the “Order on the filing of responses to victims’ request for reclassification of documents”.<sup>252</sup> On 28 August 2013, Mr Ngudjolo filed the “Observations de la Défense de Mathieu Ngudjolo à « Ordre [*sic*] on the filing of response to victims’ request for reclassification of documents» (ICC-01/04-02/12-133)”.<sup>253</sup> On 17 September 2013, the Appeals Chamber issued the “Order on reclassification of documents” directing the Registrar to reclassify as public Annex 1 to the Corrigendum and the legal representative’s request dated 22 August 2013.<sup>254</sup>

94. On 20 September 2013, Mr Ngudjolo filed the “Defence observations on the publication of the public redacted versions of the parties’ and participants’ appellate briefs”.<sup>255</sup> On 4 October 2013, the Appeals Chamber issued the “Order on the filing of public redacted versions of submissions by the parties and participants”.<sup>256</sup>

95. On 25 February 2014, the Prosecutor filed the “Corrected version of Prosecution’s request to re-classify Appeals Judgment ICC-01/04-01/07-1718-Conf-Exp OA9, 25 February 2014, ICC-01/04-02/12-162-Conf-

---

<sup>249</sup> See ICC-01/04-02/12-55-Conf-Exp-Anx3-Corr (A); ICC-01/04-02/12-55-Conf-Exp-Anx3-Corr2 (A).

<sup>250</sup> See ICC-01/04-02/12-55-Conf-Exp-Anx2-Red-Corr (A).

<sup>251</sup> ICC-01/04-02/12-132 (A).

<sup>252</sup> ICC-01/04-02/12-133 (A).

<sup>253</sup> ICC-01/04-02/12-135 (A).

<sup>254</sup> ICC-01/04-02/12-137 (A).

<sup>255</sup> ICC-01/04-02/12-139-Conf-tENG (A). A public redacted version, available in French only, was filed on 13 January 2015 as ICC-01/04-02/12-139-Red (A).

<sup>256</sup> ICC-01/04-02/12-143 (A).

Exp”.<sup>257</sup> On 28 February 2014, the Prosecutor filed the “Corrected version of Prosecution’s request to re-classify Appeals Judgment ICC-01/04-01/07-1718-Conf-Exp OA9, 25 February 2014, ICC-01/04-02/12-162-Conf-Exp”.<sup>258</sup> On 4 March 2014, Mr Ngudjolo filed the “Defence Observations on the ‘Corrected version of Prosecution’s request to re-classify Appeals Judgment ICC-01/04-01/07-1718-Conf-Exp OA9, 25 February 2014, ICC-01/04-02/12-162-Conf-Exp’ (ICC-01/04-02/12-162-Conf-Exp-Corr)”.<sup>259</sup> On 11 March 2014, the Appeals Chamber rendered the “Decision on the Prosecutor’s request for reclassification of the judgment of the Appeals Chamber ICC-01/04-01/07-1718-Conf-Exp OA 9”.<sup>260</sup>

96. On 26 February 2014, Mr Ngudjolo filed the “Requête en reclassification de l’écriture déposée par le Greffier le 20 février 2014 en exécution de l’Ordonnance de la Chambre d’appel référencée ICC-01-/04-02/12-160-Conf-Exp [*sic*] du 12-02-2014”.<sup>261</sup> On 5 March 2014, the Appeals Chamber issued the “Order concerning Mr Ngudjolo’s request for reclassification of the ‘Registry’s submissions on methodology’ (ICC-01/04-02/12-161-Conf-Exp)”.<sup>262</sup> On 7 March 2014, the Registrar filed the “Registry submissions on reclassification following the ‘Order concerning Mr Ngudjolo’s request for reclassification of the ‘Registry’s submission on methodology’ (ICC-01/04-02/12-161-Conf-Exp)”.<sup>263</sup> On 10 March 2014, the Appeals Chamber issued the “Order on the reclassification of the ‘Registry’s submissions on methodology’ (ICC-01/04-02/12-161-Conf-Exp) and Mr Ngudjolo’s observations thereto”.<sup>264</sup>

97. On 27 February 2014, the Detained Witnesses filed the “Request for the rectification of a clerical error and the reclassification of “*Order on the implementation of the cooperation agreement between the Court and the*

---

<sup>257</sup> ICC-01/04-02/12-162-Conf-Exp-Corr (A).

<sup>258</sup> ICC-01/04-02/12-162-Conf-Exp-Corr (A).

<sup>259</sup> ICC-01/04-02/12-165-Conf-Exp-tENG (A).

<sup>260</sup> ICC-01/04-02/12-169-Conf-Exp (A).

<sup>261</sup> ICC-01/04-02/12-163-Conf-Exp (A).

<sup>262</sup> ICC-01/04-02/12-166-Conf-Exp (A).

<sup>263</sup> ICC-01/04-02/12-167-Conf-Exp (A).

<sup>264</sup> ICC-01/04-02/12-168-Conf-Exp (A).

*Democratic Republic of the Congo concluded pursuant to article 93 (7) of the Statute*” (ICC-01/04-02/12-158)” and registered on 27 March 2014.<sup>265</sup>

98. On 5 August 2014, Mr Ngudjolo filed the “Observations de la Défense relatives à la Décision du Greffier référencée ICC-01/04-02/12-189-Conf-Exp du 23-07-2014 et Requête en reclassification de ses annexes”.<sup>266</sup> On 8 August 2014, the Appeals Chamber issued the “Order concerning Mr Ngudjolo’s request for reclassification of the annexes of the Registrar’s decision of 23 July 2014”.<sup>267</sup>

99. On 20 October 2014, the Prosecutor filed the “Prosecution’s Urgent Request for Reclassification”,<sup>268</sup> with a confidential, *ex parte* annex.<sup>269</sup> On 20 October 2014, the Appeals Chamber rendered the “Decision on the Prosecutor’s request for reclassification of documents” rejecting the request.<sup>270</sup>

#### 8. Appeal Hearing

100. On 29 August 2014, the Prosecutor filed the “Prosecution’s Request to Schedule the Appeal Hearing”,<sup>271</sup> with a public annex.<sup>272</sup>

101. On 5 September 2014, the common legal representative of the main group of victims filed the “Observations sur la requête du Procureur sollicitant une audience (ICC-01/04-02/12-193-Red)”.<sup>273</sup> On 8 September 2014, Mr Ngudjolo filed the “Réponse de la Défense à la « Prosecution’s Request to Schedule the Appeal Hearing » (ICC-01/04-02/12-193-Red, 29-08-2014)”.<sup>274</sup> On 12 September 2014, the legal representative of the group of child-soldier victims filed the “Observations relatives à la demande du

<sup>265</sup> [ICC-01/04-02/12-164-tENG \(A\)](#).

<sup>266</sup> [ICC-01/04-02/12-190-Conf-Exp \(A\)](#).

<sup>267</sup> [ICC-01/04-02/12-191-Conf-Exp \(A\)](#).

<sup>268</sup> [ICC-01/04-02/12-219-Conf-Exp \(A\)](#).

<sup>269</sup> [ICC-01/04-02/12-219-Conf-Exp-AnxA \(A\)](#).

<sup>270</sup> [ICC-01/04-02/12-221 \(A\)](#).

<sup>271</sup> [ICC-01/04-02/12-193-Conf \(A\)](#). A public redacted version was filed on the same day as [ICC-01/04-02/12-193-Red \(A\)](#).

<sup>272</sup> [ICC-01/04-02/12-193-Anx \(A\)](#).

<sup>273</sup> [ICC-01/04-02/12-195 \(A\)](#).

<sup>274</sup> [ICC-01/04-02/12-196 \(A\)](#).

Procureur de tenir une audience devant la Chambre d'appel (ICC-01/04-02/12-193-Red)”.<sup>275</sup>

102. On 18 September 2014, the Appeals Chamber issued the “Scheduling order for a hearing before the Appeals Chamber”.<sup>276</sup>

103. On 6 October 2014, Mr Ngudjolo filed the “Requête de la Défense tendant à obtenir de la Chambre d'appel l'autorisation pour Monsieur Ngudjolo de s'adresser aux Honorable Juges de l'audience d'appel”,<sup>277</sup> requesting, *inter alia*, to be allowed to address the Appeals Chamber in the Lingala language for thirty minutes during the oral hearing.<sup>278</sup> On 8 October 2014, the Prosecutor filed the “Prosecution Response to the Defence Request for Authorisation for Mr Ngudjolo to Address the Appeals Chamber (ICC-01/04-02/12-207)”,<sup>279</sup> with a public annex.<sup>280</sup>

104. On 8 October 2014, the Appeals Chamber issued the “Order in relation to the conduct of the hearing before the Appeals Chamber”.<sup>281</sup>

105. On 16 October 2014, the legal representative of the main group of victims filed the “Note d'audience: Liste des citations et références (Ordonnance ICC-01/04-02/12-210)”.<sup>282</sup> On 16 October 2014, the legal representative of the group of child-soldier victims filed the “Liste déposée en application de l'ordonnance ICC-01/04-02/12-210”.<sup>283</sup> On 16 October 2014, Mr Ngudjolo filed the “Exécution par la Défense de l' « Order in relation to the conduct of the hearing before the Appeals Chamber » (ICC-01/04-02/12-210)”,<sup>284</sup> with two confidential annexes.<sup>285</sup> On the same day, the

<sup>275</sup> ICC-01/04-02/12-197 (A). This document was registered on 15 September 2014.

<sup>276</sup> ICC-01/04-02/12-199 (A).

<sup>277</sup> ICC-01/04-02/12-207 (A).

<sup>278</sup> ICC-01/04-02/12-207 (A), p. 3.

<sup>279</sup> ICC-01/04-02/12-208 (A).

<sup>280</sup> ICC-01/04-02/12-208-AnxA (A).

<sup>281</sup> ICC-01/04-02/12-210 (A).

<sup>282</sup> ICC-01/04-02/12-212 (A).

<sup>283</sup> ICC-01/04-02/12-213 (A).

<sup>284</sup> ICC-01/04-02/12-214-Conf (A).

<sup>285</sup> ICC-01/04-02/12-214-Conf-AnxA (A); ICC-01/04-02/12-214-Conf-AnxB (A).

Prosecutor filed the “Prosecution’s Provisional List of Decisions and Authorities for use at the Appeal Hearing”,<sup>286</sup> with a confidential annex.<sup>287</sup>

106. On 17 October 2014, the Appeals Chamber rendered the “Decision on the Prosecutor’s request to establish parameters for Mr Ngudjolo’s personal address at the appeal hearing”,<sup>288</sup> allowing Mr Ngugjolo to personally address the Appeals Chamber but warning that his statements will not be considered as evidence.

107. On 20 October 2014, the Prosecutor filed the “Prosecution’s Second Updated Provisional List of Decisions and Authorities for use at the Appeal Hearing”,<sup>289</sup> with a confidential annex.<sup>290</sup>

108. On 21 October 2014, the Appeals Chamber held a hearing during which the parties and participants presented their final submissions and observations on the merits of the appeal.<sup>291</sup> On the same day, the Appeals Chamber issued two orders in relation to the transcript of the hearing: the “Order to redact the transcript and audio visual broadcast of a public hearing” and the “Order to redact the transcript and audio visual broadcast of a public hearing”.<sup>292</sup>

109. On 4 February 2015, the Appeals Chamber issued the “Scheduling Order for delivery of the judgment on the appeal of the Prosecutor against the decision of Trial Chamber II entitled ‘Judgment pursuant to article 74 of the Statute’”.<sup>293</sup>

110. On 19 February 2015, the Appeals Chamber issued the “Order rescheduling the delivery of the judgment on the appeal of the Prosecutor

---

<sup>286</sup> [ICC-01/04-02/12-215 \(A\)](#).

<sup>287</sup> [ICC-01/04-02/12-215-Conf-Anx \(A\)](#).

<sup>288</sup> [ICC-01/04-02/12-217 \(A\)](#).

<sup>289</sup> [ICC-01/04-02/12-222 \(A\)](#). This document was registered on 21 October 2014.

<sup>290</sup> [ICC-01/04-02/12-222-Conf-Anx \(A\)](#). This annex was registered on 21 October 2014.

<sup>291</sup> Transcript of 21 October 2014, [ICC-01/04-02/12-T-4-Red-ENG \(WT\)](#).

<sup>292</sup> [ICC-01/04-02/12-223-Conf \(A\)](#) and [ICC-01/04-02/12-224-Conf \(A\)](#). Both orders were registered on 22 October 2014.

<sup>293</sup> [ICC-01/04-02/12-253](#).

against the decision of Trial Chamber II entitled ‘Judgment pursuant to article 74 of the Statute’”.<sup>294</sup>

---

<sup>294</sup> ICC-01/04-02/12-264.