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No.: **ICC-01/04-02/06**
Date: **10 July 2017**

APPEALS CHAMBER

Before: **Judge Sanji Mmasenono Monageng , Presiding Judge**
Judge Christine Van den Wyngaert
Judge Howard Morrison
Judge Piotr Hofmański
Judge Raul C. Pangalangan

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

IN THE CASE OF
THE PROSECUTOR v. BOSCO NTAGANDA

Public

Joint Response of the Common Legal Representatives of Victims to the Defence "Appeal from decision denying leave to file a 'no case to answer motion'"

Source: **Office of Public Counsel for Victims**

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

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I. INTRODUCTION

1. The Common Legal Representative of the Victims of the Attacks and the Common Legal Representative of the Former Child Soldiers (the "Legal Representatives") hereby file their joint response to the Defence "Appeal from decision denying leave to file a 'no case to answer motion'" of 27 June 2017.[1]

2. The Legal Representatives submit that the Defence fails to demonstrate that the Chamber erred in law or fact in relation to both certified issues arising from the "Decision on Defence request for leave to file a 'no case to answer' motion" (the "Impugned Decision").[2] The power to hear or to decline to hear submissions on a 'no case to answer' motion is a discretionary matter falling within the purview of the Trial Chamber in discharging its trial management functions. The decision taken by Trial Chamber VI (the "Trial Chamber") was neither based on an erroneous interpretation of the governing law, nor was it based on a patently incorrect conclusion of fact or so unfair or unreasonable as to amount to an abuse of the Trial Chamber's discretion.[3]

3. The requested relief[4] should be denied and the Impugned Decision affirmed.

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[1] See the "Appeal from decision denying leave to file a 'no case to answer motion'", No. ICC-01/04-02/06-1975 OA6, 27 June 2017 (the "Appeal").

[2] See the "Decision on Defence request for leave to file a 'no case to answer' motion", No. ICC-01/04-02/06-1931, 1 June 2017 (the "Impugned Decision").

[3] See the "Judgment on the Prosecutor's appeal against Trial Chamber V(B)'s "Decision on Prosecution's application for a finding of non-compliance under Article 87(7) of the Statute" (Appeals Chamber), No. ICC-01/09-02/11-1032 OA5, 19 August 2015 (the "*Kenyatta* Judgment"), para. 22 (footnotes omitted). See also ICTR, *The Prosecutor v. Jean Uwikindi*, Case No. ICTR-01-75-AR72(C), "Decision on Defence Appeal against the Decision Denying Motion Alleging Defects in the Indictment", 16 November 2011, para. 6 and ICTY, *The Prosecutor v. Naser Orić*, Case No. MICT-14-79, "Decision on an Application for Leave to Appeal the Single Judge's Decision of 10 December 2015", 17 February 2016, para. 6. These decisions are respectively available at the following addresses: http://www.worldcourts.com/ictr/eng/decisions/2011.11.16_Uwinkindi_v_Prosecutor.pdf and http://www.legal-tools.org/doc/64bb5f/.

[4] The Legal Representatives note that the Appeals Chamber already denied the interim remedy sought, namely a temporary stay of proceedings by virtue of its "Decision on request to suspend the trial proceedings", No. ICC-01/04-02/06-1976 OA6, 28 June 2017 and the "Decision on suspensive effect", No. ICC-01/04-02/06-1968 OA6, 19 June 2017.

II. PROCEDURAL BACKGROUND

4. Having sought and heard submissions of the parties and participants, the Trial Chamber, on 2 June 2015, issued the "Decision on the conduct of proceedings" (the "Conduct of Proceedings Decision"), wherein it stated:

> "*Should the Defence wish to file* [a no case to answer motion], *it should seek leave to do so* […] *no later than five days after the end of the* […] *presentation of evidence by the LRVs*".[5]

5. On 29 March 2017, the Prosecution declared its case closed.[6] The presentation of evidence by the Legal Representative of the Victims of the Attacks ended on 12 April 2017.

6. On 25 April 2017, the Defence filed a request for leave to present a motion for 'no case to answer' (the "Defence Request"), having previously been granted an extension of time to do so.[7]

7. On 8 May 2017, the Legal Representatives and Prosecution opposed the Defence Request in their respective responses thereto.[8]

8. On 1 June 2017, following an oral decision placing the disposition on the record, the Chamber rendered the "Decision on Defence request for leave to file a 'no case to answer' motion.[9]

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[5] See the "Decision on the conduct of the proceedings", No. ICC-01/04-02/06-619, 2 June 2015 (the "Conduct of Proceedings Decision"), para. 17.

[6] See the "Prosecution's Notice of the Close of its Case-in-Chief", No. ICC-01/04-02/06-1839, 29 March 2017.

[7] See the "Request for leave to file motion for partial judgment of acquittal", No. ICC-01/04-02/06-1879-Conf, 25 April 2017 (the "Defence Request"). See also the "Urgent request on behalf of Mr Ntaganda seeking an extension of the applicable time limit to submit 'no case to answer' motion", No. ICC-01/04-02/06-1861, 13 April 2017, and the Email communication from the Chamber to the parties and participants of 13 April 2017 at 18:23.

[8] See the "Joint Response by the Common Legal Representatives of the Victims to the Defence 'Request for Leave to file motion for partial judgment of acquittal', No. ICC-01/04-02/06-1891-Conf, 8 May 2017 and the "Prosecution's response to the 'Request for leave to file motion for partial judgment of acquittal', No. ICC-01/04-02/06-1879-Conf", No. ICC-01/04-02/06-1894-Conf, 8 May 2017.

9. On 6 June 2017, the Defence sought leave to appeal three issues it argued arose from the Impugned Decision.[10] On 7 June 2017, The Request was opposed both by the Legal Representatives and the Prosecution, respectively.[11]

10. On 14 June 2016, the Trial Chamber rendered an oral decision, certifying two of the three issues for appeal, namely: [12]

- Whether the Chamber erred in permitting the trial to proceed in respect of charges for which the Chamber declined to consider the sufficiency of the Prosecution's evidence (the "First Ground of Appeal");

- Whether declining to entertain a Defence motion for a judgment of (partial) acquittal is a discretionary matter (the "Second Ground of Appeal").

III. THE APPELLATE STANDARD

11. The Appellant's main challenge to the Impugned Decision concerns one alleged error of law and one alleged error of both law and fact.

12. The First Ground of Appeal alleges an abuse of discretion. It is not for the Appeals Chamber to interfere with the Chamber's exercise of discretion merely because the Appeals Chamber, if it had the power, might have made a different

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[9] See the transcript of the hearing held on 29 May 2017, No. ICC-01/04-02/06-T-206-CONF ENG ET, p. 5, lines 1-4 (open session) and the "Decision on Defence request for leave to file a 'no case to answer' motion", No. ICC-01/04-02/06-1931, 1 June 2017 (the "Impugned Decision").

[10] See the "Urgent Request for leave to appeal 'Decision on Defence request for leave to file a 'no case to answer' motion', 1 June 2017, ICC-01/04-02/06-1931", No. ICC-01/04-02/06-1937, 6 June 2017. A courtesy copy of the Request was communicated to the Chamber, parties, and participants by Email on 5 June 2017 at 22:28.

[11] See the "Joint Response of the Common Legal Representatives for the Victims to the Defence's Urgent Request for Leave to Appeal Trial Chamber VI's Decision of 1 June 2017", No. ICC-01/04-02/06-1941, 7 June 2017 (the "LRV Response to Leave to Appeal") and the "Prosecution's response to the 'Urgent Request for leave to appeal 'Decision on Defence request for leave to file a 'no case to answer' motion', 1 June 2017, (ICC-01/04-02/06-1931)' (ICC-01/04-02/06-1937)", No. ICC-01/04-02/06-1943, 7 June 2017.

[12] See the transcript of the hearing held on 14 June 2017, No. ICC-01/04-02/06-T-209-CONF ENG ET, p. 4, lines 6-15. The Chamber did not define the certified issues. The Legal Representatives will thus refer to the first and third issues as defined in the "Urgent Request for leave to appeal 'Decision on Defence request for leave to file a 'no case to answer' motion'", see *supra* note 10, para. 2.

ruling.[13] To succeed on this ground, the Appellant must demonstrate that the Impugned Decision was (i) based on an erroneous interpretation of the governing law; that (ii) it was based on a patently incorrect conclusion of fact; or (iii) the Impugned Decision was so unfair or unreasonable as to amount to an abuse of the trial chamber's discretion.[14] Even if the Appellant were to establish that the discretion was erroneously exercised, the Appeals Chamber has to be satisfied that the improper exercise of discretion materially affected the Impugned Decision.[15]

13. As regards the alleged error of law, it is for the Appellant to demonstrate the Chamber's erroneous interpretation of the law and that the purported error materially affected the Impugned Decision.[16]

14. As the Second Ground of Appeal concerns the very existence of discretionary powers in relation to deciding whether or not to entertain a 'no case to answer' motion, and the First Ground of Appeal concerns the question of whether or not the Trial Chamber abused its discretion, the Legal Representatives will deal with the two grounds of appeal in reverse order.

[13] See the "Judgment on Mr Bosco Ntaganda's appeal against the decision reviewing restrictions on contacts of 7 September 2016" (Appeals Chamber), No. ICC-01/04-02/06-1817-Red OA4, 8 March 2017, para. 18.
[14] See the *Kenyatta* Judgment, *supra* note 3, para. 22 (footnotes omitted). See also ICTR, "Decision on Defence Appeal against the Decision Denying Motion Alleging Defects in the Indictment", *supra* note 3, para. 6 and ICTY, "Decision on an Application for Leave to Appeal the Single Judge's Decision of 10 December 2015", *supra* note 3, para. 6.
[15] See the *Kenyatta* Judgment, *supra* note 3, para. 22 (footnotes omitted).
[16] See the "Judgment on the appeal of Côte d'Ivoire against the decision of Pre-Trial Chamber I of 1 December 2014 entitled 'Decision on Côte d'Ivoire's challenge to the admissibility of the case against Simone Gbagbo" (Appeals Chamber), No. ICC-02/11-01/12-75-Red OA, 27 May 2015, paras. 40-41 (footnotes omitted).

IV. SUBMISSIONS

Second Ground of Appeal

15. The Defence submits that "*any statement by a judicial organ that it has discretion not to hear submissions is, barring some justification, a violation of the right to be heard*".[17] This categorical contention fails to take into consideration that the Trial Chamber enjoys general discretionary powers in relation to managing the trial assigned to it.

16. Article 64 of the Rome Statute confers upon a Trial Chamber functions and powers that it shall exercise so as to "*ensure that the trial if fair and expeditious and is conducted with full respect for the rights of the accused and due regard for the protection of victims and witnesses*".[18] It further states that "[u]*pon assignment of a case* […] *the Trial Chamber assigned to deal with the case shall: (a) Confer with the parties and adopt such procedures as are necessary to facilitate the fair and expeditious conduct of the proceedings*" and that "*in performing its functions* […] *during the course of a trial, the Trial Chamber* ***may****, as necessary: (f) Rule on* ***any other relevant matter***".[19]

17. Upon assignment of the case, the Chamber sought the parties and participants' submissions on the conduct of the proceedings before it, and subsequently issued the Conduct of Proceedings Decision which set the parameters for the procedures to be followed, including the procedure of *seeking leave* to file a 'no case to answer motion'. Doing so was not only squarely within in the powers of the Trial Chamber, as the Rome Statute and Rules of Procedure and Evidence are silent as regards the possibility to file a 'no case to answer' motion, but also took into account the submissions of the parties on the matter.[20]

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[17] See the Appeal, *supra* note 1, para. 24.
[18] See Article 64(1) and (2) of the Rome Statute (emphasis added).
[19] See Article 64(3)(a) and (5) (f) of the Rome Statute (emphasis added).
[20] The Legal Representatives, by reference, incorporate their previous submissions on the matter contained in their "Joint Response by the Common Legal Representatives of the Victims to the Defence 'Request for Leave to file motion for partial judgment of acquittal'", No. ICC-01/04-02/06-1981-Conf, 8 May 2017 (the "Joint Response"), paras. 3-4 and 12-19.

18. As previously argued,[21] in the Conduct of Proceedings Decision, the Trial Chamber stated that "[t]*he Chamber takes no position at this time on whether it will entertain a motion by the Defence asserting that there is no case for it to answer*" and directed that the Defence would have to request leave to do so at the relevant time.[22]

19. The Chamber did not adopt the same procedural framework as Trial Chamber V(a) in the *Ruto and Sang* case upon which the Defence appear to place high reliance,[23] when the Chamber could have done so.. While it may be unfortunate that different Trial Chambers of this Court manage their proceedings in different ways, these differences are nevertheless in accordance with the spirit and the letter of Article 64 of the Rome Statute. Indeed, Article 64(3)(f) confers a very broad discretion upon Trial Chambers – indicated by the word "may" – to adopt procedures and measures that may be *necessary* in the circumstances of the case assigned to it – which are necessarily different from one case to another.[24] The Defence's argument that the Chamber erred in "*pronouncing that it possess*[d] *'a broad discretion as to whether or not to pronounce upon such matters at this stage of proceedings'*" is therefore misconceived. The decision of the *Ruto and Sang* Chamber [25] as well as what the Trial Chamber "could have"[26] done are irrelevant.

20. It is equally flawed to assert that a Trial Chamber, in the exercise of its inherent discretion, has no discretion "*not to hear*".[27] Naturally, broad discretion to manage the trial proceedings includes powers not to entertain certain motions. Trial *management* is exercised by the Trial Chamber to ensure that the trial proceeds in a

[21] See the LRV Response to Leave to Appeal, *supra* note 11, paras. 20-21.
[22] See the Conduct of Proceedings Decision, *supra* note 5, para. 17.
[23] See the Appeal, *supra* note 1, paras. 12-14.
[24] See also *infra* para. 24.
[25] See the Appeal, *supra* note 1, paras. 12-14.
[26] *Idem*, para. 13.
[27] *Ibid.*, para. 24.

focused, expeditious manner,[28] which by implication may lead to declining to hear motions of any kind if it is in the interests of justice and the fair and expeditious conduct of the proceedings requires such a decision. Likewise, a Trial Chamber may legitimately decline to hear submissions as its duty to provide a reasoned opinion does not limit it in its discretion to decide whether or not to receive substantive submissions on a procedure not expressly provided for within the legal framework of the Court. In the present case, this was already foreshadowed in the Conduct of Proceedings Decision when the Chamber expressly required leave to be sought to file a motion for 'no case to answer'. The Trial Chamber's denial of leave to file the motion must be understood in this context. Additionally, and as previously argued,[29] at the time of the issuance of the Conduct of Proceedings Decision, the Defence did not seek to challenge this procedure.

21. Furthermore, the Defence argues that a Trial Chamber's trial management functions require it to hear 'no case to answer' motions as an extant of the fair trial rights of the Accused. In particular, it refers to the approach of ICTY Trial Chambers deciding motions of 'no case to answer' – or 'motions to dismiss' before the procedural framework of that Tribunal made it compulsory[30] for Trial Chambers to enter a judgment of acquittal on any count if there was no evidence capable of supporting a conviction.[31] The Defence asserts that the Trial Chambers in cases such as *Blaškić* and *Kunarac* were acting within the framework of their discretionary powers to decide 'motions to dismiss'. Yet, the Defence negates the possibility of the same discretionary powers being exercised where the bench deems the process of hearing such a motion inappropriate in the circumstances of the case before it. Discretionary powers work both ways – they are not one-sided. Discretionary

[28] See the "Judgment on the appeals of Mr Laurent Gbagbo and Mr Charles Blé Goudé against the decision of Trial Chamber I of 9 June 2016 entitled 'Decision on the Prosecutor's application to introduce prior recorded testimony under Rules 68(2)(b) and 68(3)'", No. ICC-01/04-02/06-744 OA8, 1 November 2016, para. 59.
[29] See the LRV Response to Leave to Appeal, *supra* note 11, para. 21.
[30] The text of Rule 98*bis* of the ICTY Rules of Procedure and Evidence is available at the following address: http://www.icty.org/x/file/Legal%20Library/Rules_procedure_evidence/IT032Rev50_en.pdf.
[31] See the Appeal, *supra* note 1, para. 27.

powers exist or they do not. They equip the Chamber with the necessary latitude to adapt to the specific circumstances of the case before it. What the Defence effectively seeks to do is judicial cherry-picking because it disagrees with the outcome of the Trial Chamber's exercise of its inherent discretion. It should, moreover, be noted that even the revised rule 98*bis* of the ICTY Rules of Procedure and Evidence does not *strictu sensu* require the accused to move for such judgment of acquittal. The mandatory character of the procedure under the Tribunals' procedural framework merely requires the parties to be heard before a decision is taken.

First Ground of Appeal

22. At the outset, the Legal Representatives observe that much of the Defence's submissions under its First Ground of Appeal are purely academic in nature or relate to the Second Ground of Appeal.[32] To the extent that the arguments submitted in relation to the First Ground of Appeal relate to the Second Ground of Appeal, they have been addressed *supra*.

23. The Defence fails to show that the Chamber committed a discernible error by either failing to give sufficient or any weight to relevant considerations, or giving weight to irrelevant facts.

24. The manner in which the discretion to manage a trial is exercised by a Trial Chamber should be determined in accordance with the case before it; what is reasonable in one trial is not automatically reasonable in another.[33] The question of whether a trial chamber abused its discretion should not be considered in isolation, but rather by taking into account all relevant circumstances of the case at hand.[34] The

[32] *Idem*, paras. 11-18. The Legal Representatives will not address the Defence's arguments in favour of a common law style adversarial trial system as they do not deem it relevant to the matter at hand.
[33] See ICTR, *The Prosecutor v. Pauline Nyiramasuhuko* et al., Case No. IT-98-42-A, "Appeal Judgment", 14 December 2015, para. 179. This judgment is available at the following address: http://unictr.unmict.org/sites/unictr.org/files/case-documents/ictr-98-42/appeals-chamber-judgements/en/151214-judgement.pdf.
[34] *Idem*.

Defence's contention that the Trial Chamber could or should have followed the *Ruto and Sang* approach is therefore inapposite in relation to the question whether or not the Trial Chamber properly exercised its discretion.

25. The Defence avers that the Chamber erred in fact and law in requiring the Accused to elect to present evidence without a prior determination that the Prosecution has presented a *prima facie* case capable of leading to conviction.[35] It argues that "[t]*he Impugned Decision disregards or under-rates this consideration, and/or gives undue weight to* [the] *Trial Chamber's perception of the potential inefficiency of a no-case procedure*".[36]

26. The bench heard all witnesses who testified before it and received all material entered into evidence in the case throughout the presentation of the Prosecution's case and the evidence led by the Legal Representative of the Victims of the Attacks. This does not mean that the Chamber has already carried out some form of substantive review of the evidence, but rather that the Judges are in a position to discern whether the case presented by the Prosecution is riddled with substantive flaws or other obvious special circumstances that would otherwise significantly affect the case against the Accused. It should equally be recalled that the Defence, in its original request for leave to file a 'no case to answer' motion, already laid out both the counts it was intending to challenge and the nature of the challenges it intended to make in relation to specific witnesses or where it asserted the Prosecution had failed to present any evidence.[37]

27. Against this background, it was legitimate for the Chamber, to state that "[h]*aving considered the nature and scope of the Request*" it did "*not consider it appropriate to entertain the proposed 'no case to answer' motion*".[38]

[35] See the Appeal, *supra* note 1, para. 9.
[36] *Idem*, para. 4.
[37] See the Defence Request, *supra* note 7, paras. 2-3 and 35-40.
[38] See the Impugned Decision, *supra* note 2, para. 25.

28. It is not for the Appeals Chamber to assay how the Trial Chamber appreciated all different factors in particular, but merely to review whether the Trial Chamber took into account irrelevant considerations or gave insufficient or disproportionate weight to individual relevant considerations. The Appeals Chamber must give deference to the Trial Chamber in the latter's appreciation of the facts.[39]

29. The Defence argues that the Trial Chamber placed undue weight on the notion of "efficiency", and that it considered that the predominant purpose of a 'no case to answer' motion was "*a projected net saving of time*".[40] The Legal Representatives first note that this argument covers, in fact, the Defence's "second issue" the Trial Chamber did not certify for appeal, which the Defence now seems to be trying to introduce through the back door.[41] Moreover, it is averred that the reasoning provided in the Impugned Decision does not allow for such a reading. As previously stated,[42] the Chamber set forth a general observation on the principle of a 'no case to answer' procedure.[43] It only then applied this general principle to the circumstances of the case before it and found that there were no such "special circumstances" as they existed in the *Ruto and Sang* case, which would justify a lengthy process of 'no case to answer proceedings' in the present case.[44]

30. In particular, it is clear from the formulation of the general principle which the Chamber applied in its analysis that it considered that if the expeditiousness *and/or fairness* of the trial so warranted, *and* having regard to the evidence presented, it may invite and consider submissions on a 'no case to answer' motion.[45] It is therefore

[39] See the "Judgment on Mr Bosco Ntaganda's appeal against the decision reviewing restrictions on contacts of 7 September 2016", No. ICC-01/04-02/06-1817-Red, 8 March 2017, para. 18.
[40] See the Appeal, *supra* note 1, para. 19.
[41] See the "Urgent Request for leave to appeal 'Decision on Defence request for leave to file a 'no case to answer' motion, 1 July 2017, ICC-01/04-02/06-1931", No. ICC-01/04-02/06-1937, 6 June 2017, para. 2ii.
[42] See the LRV Response to Leave to Appeal, *supra* note 11, para. 15.
[43] See the Impugned Decision, *supra* note 2, paras 26-27.
[44] *Idem*, para. 28.
[45] *Ibid.*, paras. 26-27.

evident that the Chamber assessed the expeditiousness of the trial as defined by the Appeals Chamber, namely advancing the proceedings, moving the proceedings forward, or "*ensuring that the proceedings follow the right course*",[46] rather than a "*net saving of time*" as submitted by the Defence.[47]

31. It also follows from the structure of the Impugned Decision that the Chamber considered that the motion, as foreshadowed in the Defence's application for leave to file for a 'no case to answer' motion, would not contribute to fulfilling this attribute of a fair trial by advancing the proceedings. It found that there were no "special circumstances" prevailing in the present case that would warrant it to consider the proposed motion.[48]

32. The Defence further contends that the Trial Chamber erred in requiring the Accused to elect to present evidence without a prior determination that the Prosecution has presented a *prima facie* case capable of leading to conviction.[49] To quote the Trial Chamber in the *Mladić* case before the ICTY previously cited in more detail[50]: "*The Defence is not forced to spend the resources to challenge charges which it believes have not been supported by evidence. The Defence is not forced to present any evidence for that matter*".[51] It is misconceived that the Impugned Decision would result in a reversal of the burden of proof that would positively require the Accused to present evidence. Rather, presenting evidence on the counts and charges he believes not to be made out by the Prosecution is exercising his choice, including his choice to take the stand. In the present case, the Accused elected to put up a case in his defence several months prior to the question of the 'no case to answer' motion being raised

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[46] See the "Judgment on the Prosecutor's Application for Extraordinary Review of Pre-Trial Chamber I's 31 March 2006 Decision Denying Leave to Appeal", No. ICC-01/04-168 OA3, 13 July 2006, para. 15.
[47] See the Appeal, *supra* note 2, para. 19.
[48] See the Impugned Decision, *supra* note 2, para. 28.
[49] See the Appeal, *supra* note 1, para. 9.
[50] See the Joint Response, *supra* note 20, paras. 15 and 30-32.
[51] *Idem*, para. 32 citing the ICTY, *The Prosecutor v. Ratko Mladić*, Case No. IT-09-92, "98*bis* Judgment", 15 April 2014, Transcript p. 20922. This judgment is available at the following address: http://www.icty.org/x/cases/mladic/trans/en/140415IT.htm.

and decided about.[52] The Defence did not challenge the Chamber's order that it was to indicate whether it intended to put up a defence case already at that juncture. It also notified at that time that it intended to present evidence with respect to "*at least some of the charges*".[53] To now claim that the Impugned Decision required the Accused to present evidence is, at the very least, hardly reconcilable with its earlier stance.

V. CONCLUSION

33. The Legal Representatives submit that the Defence fails to demonstrate that the Chamber either misapplied the law or committed a discernible error in the Impugned Decision.

FOR THE FOREGOING REASONS the Legal Representative respectfully request that the Appeals Chamber

DISMISS the Appeal in its entirety.

[52] See the "Corrigendum of 'Order setting certain deadlines related to the end of the presentation of evidence by the Prosecutor', 19 October 2016, ICC-01/04-02/06-1588", No. ICC-01/04-02/02/06-1588-Corr, para. 10. See also the "Decision supplementing the Decision on the Conduct of Proceedings (ICC-01/04-02/06-619) and providing directions related to preparations for the presentation of evidence by the Defence)", No. ICC-01/04-02/06-1757, 30 January 2017.

[53] See the "Notice on behalf of Mr Ntanganda pursuant to Trial Chamber VI's Order of 19 October 2016, No. ICC-01/04-02/06-1588, 16 December 2016, para. 2.

It is hereby certified that this document contains a total of 4280 words and complies in all respects with the requirements of Regulation 36 of the Regulations of the Court.[54]

Dmytro Suprun
Common Legal Representative of the Victims of the Attacks

Sarah Pellet
Common Legal Representative of the Former Child soldiers

Dated this 10th Day of July 2017

At The Hague, The Netherlands

[54] This statement (30 words), not itself included in the word count, follows the Appeals Chamber's direction. See No. ICC-01/11-01/11-565 OA6, 24 July 2014, para. 32.