



Original: English

**No. ICC-01/04-01/06 A7 A8
Date: 5 October 2018**

THE APPEALS CHAMBER

Before: Judge Piotr Hofmański, Presiding Judge
Judge Chile Eboe-Osuji
Judge Howard Morrison
Judge Luz del Carmen Ibáñez Carranza
Judge Solomy Balungi Bossa

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

IN THE CASE OF THE PROSECUTOR v. THOMAS LUBANGA DYILO

Public document

Order on reclassification of documents

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

Legal Representatives of V01 Victims

Mr Luc Walley
Mr Franck Mulenda

Counsel for the Defence

Ms Catherine Mabile
Mr Jean-Marie Biju-Duval

Legal Representatives of V02 Victims

Ms Carine Bapita Buyangandu
Mr Joseph Keta Orwinyo

Trust Fund for Victims

Mr Pieter de Baan

Office of Public Counsel for Victims

Ms Paolina Massidda

REGISTRY

Registrar

Mr Peter Lewis

The Appeals Chamber of the International Criminal Court,

In the appeals of the legal representatives of the V01 group of victims and of Mr Thomas Lubanga Dyilo against the decision of Trial Chamber II entitled ‘Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable’ of 15 December 2017 (ICC-01/04-01/06-3379-Red-Corr-tENG),

Having before it the ‘Demande de reclassification comme “public” du document ICC-01/04-01/06-3404-Conf-Corr, des Représentants Légaux du groupe des Victimes V02, conformément à l’*Order on the reclassification of documents and on the filing of a public version of the legal representatives of the V02 group of victims’ consolidated response* (ICC/01/04-01/06-3413)’ of 17 August 2018 (ICC-01/04-01/06-3415),

Having before it the ‘Requête de la Défense en reclassification’ of 27 August 2018 (ICC-01/04-01/06-3417),

Pursuant to regulation 23 *bis* of the Regulations of the Court,

Issues the following

ORDER

The Registrar shall reclassify as ‘public’ the following documents:

- a. ICC-01/04-01/06-3404-Conf-Corr,
- b. ICC-01/04-01/06-3404-Conf-Corr-Anx,
- c. ICC-01/04-01/06-3404-Conf-Corr-tENG,
- d. ICC-01/04-01/06-3404-Conf-Corr-Anx-tENG,
- e. ICC-01/04-01/06-3410-Conf,
- f. ICC-01/04-01/06-3410-Conf-tENG,
- g. ICC-01/04-01/06-3416-Conf, and
- h. ICC-01/04-01/06-3416-Conf-tENG.

REASONS

1. On 9 May 2018, the legal representatives of the V02 group of victims (hereinafter: ‘Victims V02’) filed as ‘confidential’ their ‘Consolidated Response of the Legal Representatives of the V02 Group of Victims to the Briefs of the Defence for Mr Thomas Lubanga Dyilo and the Legal Representatives of the V01 Group of Victims against the “Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable” Handed Down on 15 December 2017 by Trial Chamber II’¹ (hereinafter: ‘Victims V02’s Consolidated Response to the Appeal Briefs’), with an annex.²
2. On 15 May 2018, the legal representatives of the V01 group of victims (hereinafter: ‘Victims V01’) filed the ‘Response of the Legal Representatives of the V01 Group of Victims to the Appeal Brief of the Defence for Mr Thomas Lubanga Dyilo against the “*Décision fixant le montant des réparations auxquelles Thomas Lubanga Dyilo est tenu*” handed down by Trial Chamber II on 15 December 2017 and Amended by the Decisions of 20 and 21 December 2017’³ (hereinafter: ‘Victims V01’s Response to Mr Lubanga’s Appeal’).
3. On 18 May 2018, the Office of Public Counsel for Victims (hereinafter: ‘OPCV’) filed a consolidated response to the appeals in this case⁴ (hereinafter: ‘OPCV’s Consolidated Response to the Appeal Briefs’).
4. On 22 May 2018, Victims V01 sought leave to reply to the OPCV’s Consolidated Response to the Appeal Briefs.⁵
5. On 24 May 2018, Mr Thomas Lubanga Dyilo (hereinafter: ‘Mr Lubanga’) sought leave to file a consolidated reply to the OPCV’s Consolidated Response to the

¹ ICC-01/04-01/06-3404-Conf-Corr-tENG.

² ICC-01/04-01/06-3404-Conf-Corr-Anx-tENG.

³ [ICC-01/04-01/06-3405-tENG](#). The original was filed in French under ICC-01/04-01/06-3405.

⁴ ‘Consolidated Response to the Appeal Briefs of the Defence and the Legal Representatives of V01 Victims against the Trial Chamber II Decision of 15 December 2017’, [ICC-01/04-01/06-3407-tENG](#).

⁵ ‘Application for Leave to Reply to the “Consolidated Response to the Appeal Briefs of the Defence and the Legal Representatives of V01 Victims against the Trial Chamber II Decision of 15 December 2017” filed on 18 May 2018 by the Office of Public Counsel for Victims’, [ICC-01/04-01/06-3408-tENG](#).

Appeal Briefs and to Victims V01's Response to Mr Lubanga's Appeal⁶ (hereinafter: 'Mr Lubanga's Request for Leave to Reply').

6. On 26 July 2018, the Appeals Chamber granted leave to both Victims V01 and Mr Lubanga to file replies.⁷

7. Also on 26 July 2018, the Appeals Chamber issued the 'Order on the reclassification of documents and on the filing of a public redacted version of the legal representatives of the V02 group of victims' consolidated response'⁸ (hereinafter: 'Appeals Chamber's Order of 26 July 2018'), directing, *inter alia*:

- a. Victims V02 to file, by 16h00 on 17 August 2018, a public version of Victims V02's Consolidated Response to the Appeal Briefs, with redactions where considered necessary, or request its reclassification as 'public', and
- b. Mr Lubanga to file, within five days of the filing of a public version of the last of ICC-01/04-01/06-3404-Conf-Corr, ICC-01/04-01/06-3407-Conf, ICC-01/04-01/06-3408-Conf, ICC-01/04-01/06-3409-Conf, or ICC-01/04-01/06-3411-Conf, a public version of Mr Lubanga's Request for Leave to Reply, or request its reclassification as 'public'.

8. On 17 August 2018, in response to the Appeals Chamber's Order of 26 July 2018, Victims V02 filed a request seeking reclassification as 'public' of Victims V02's Consolidated Response to the Appeal Briefs⁹ (hereinafter: 'Victims V02's Request for Reclassification'), in which they submit that Victims V02's Consolidated Response to the Appeal Briefs does not contain any confidential information.¹⁰

⁶ 'Defence Application for Leave to File a Consolidated Reply to the Responses of the Legal Representatives of the V01 Group of Victims and the Office of Public Counsel for Victims Respectively Filed on 15 and 18 May 2018', ICC-01/04-01/06-3410-Conf-tENG. The original was filed in French under ICC-01/04-01/06-3410.

⁷ 'Decision on requests for leave to reply', [ICC-01/04-01/06-3412](#).

⁸ [ICC-01/04-01/06-3413](#).

⁹ 'Demande de reclassification comme "public" du document ICC-01/04-01/06-3404-Conf-Corr, des Représentants Légaux du groupe des Victimes V02, conformément à l'Order on the reclassification of documents and on the filing of a public version of the legal representatives of the V02 group of victims' consolidated response (ICC/01/04-01/06-3413)', [ICC-01/04-01/06-3415](#).

¹⁰ [Victims V02's Request for Reclassification](#), para. 6.

9. On 20 August 2018, Victims V01 filed their reply to the OPCV's Consolidated Response to the Appeal Briefs as 'confidential'¹¹ (hereinafter: 'Victims V01's Reply to the OPCV's Consolidated Response'). Victims V01 note that, at the time of filing, the OPCV's Consolidated Response to the Appeal Briefs was filed as 'confidential'.¹² Victims V01 state that, '[i]n accordance with regulation 23 *bis* (2) of the Regulations of the Court, the present reply is similarly classified', but that they 'have no objection to its reclassification as public'.¹³

10. Also on 20 August 2018, pursuant to the Appeals Chamber's Order of 26 July 2018, the Registrar reclassified, *inter alia*, the OPCV's Consolidated Response to the Appeal Briefs as 'public'.

11. On 27 August 2018, Mr Lubanga filed the 'Requête de la Défense en reclassification'¹⁴ (hereinafter: 'Mr Lubanga's Request for Reclassification'). Noting that the OPCV's Consolidated Response to the Appeal Briefs was originally filed as 'confidential' and then later reclassified as 'public', Mr Lubanga seeks the reclassification of Mr Lubanga's Request for Leave to Reply as 'public'.¹⁵

12. Pursuant to regulation 23 *bis* (3) of the Regulations of the Court, a chamber may reclassify a document when the basis for the original classification no longer exists. In light of Victims V02's, Mr Lubanga's, and Victims V01's submissions, the Appeals Chamber considers that there is no reason to maintain the classification as 'confidential' of Victims V02's Consolidated Response to the Appeal Briefs and its annex, Mr Lubanga's Request for Leave to Reply, Victims V01's Reply to the OPCV's Consolidated Response, and their corresponding translations, and therefore instructs the Registrar to reclassify them as 'public'.

¹¹ 'Reply to the "Consolidated Response to the Appeals Briefs of the Defence and the Legal Representatives of V01 Victims against the Trial Chamber II Decision of 15 December" filed on 18 May 2018 by the Office of Public Counsel for Victims', ICC-01/04-01/06-3416-Conf-tENG.

¹² Victims V01's Reply to the OPCV's Consolidated Response, para. 6.

¹³ Victims V01's Reply to the OPCV's Consolidated Response, para. 6.

¹⁴ [ICC-01/04-01/06-3417](#).

¹⁵ [Mr Lubanga's Request for Reclassification](#), para. 5.

Done in both English and French, the English version being authoritative.

A handwritten signature in black ink, appearing to read 'P. Hofmański', written over a horizontal line.

Judge Piotr Hofmański
Presiding Judge

Dated this 5th day of October 2018

At The Hague, The Netherlands