

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/04-01/06**

Date: **28 May 2021**

TRIAL CHAMBER II

Before: Judge Chang-ho Chung, Presiding Judge
Judge Péter Kovács
Judge María del Socorro Flores Liera

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
*THE PROSECUTOR v. THOMAS LUBANGA DYILO***

Public

Second order on the reclassification of documents

To be notified, in accordance with regulation 31 of the Regulations of the Court, to:**The Office of the Prosecutor**

Ms Fatou Bensouda
Mr James Stewart

Counsel for the Defence

Ms Catherine Mabilie
Mr Jean-Marie Biju-Duval

Legal Representatives of Victims V01

Mr Luc Walley
Mr Franck Mulenda

Legal Representatives of Applicants**Legal Representatives of Victims V02**

Ms Carine Bapita Buyangandu
Mr Paul Kabongo Tshibangu
Mr Joseph Keta Orwinyo

Unrepresented Victims**Unrepresented Applicants for
Participation/Reparation****The Office of Public Counsel for
Victims**

Ms Paolina Massidda

**The Office of Public Counsel for the
Defence****States' Representatives***Amicus Curiae***REGISTRY****Registrar**

Mr Peter Lewis

Counsel Support Section**Victims and Witnesses Unit**

Mr Nigel Verrill

Detention Section**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Trust Fund for Victims

Mr Pieter de Baan

Trial Chamber II of the International Criminal Court (the ‘Chamber’), in the case of *The Prosecutor v. Thomas Lubanga Dyilo* (the ‘Lubanga case’), having regard to articles 68(3) and 75 of the Rome Statute, rules 81(1) and 96 of the Rules of Procedure and Evidence (‘Rules’), and regulation 23*bis* of the Regulations of the Court (‘Regulations’), issues this Second order on the reclassification of documents (the ‘Second order’).

1. On 13 April 2021, in order to give full effect to the principle of publicity of the reparations proceedings, the Chamber ordered the parties, the Registry, and the TFV to review their previous submissions in the case record and file public redacted versions, request the reclassification as public, or justify the need to maintain the current classification of all their filings and annexes currently classified as confidential or confidential *ex parte*, by 12 May 2021, at the latest.¹

2. Noting the submissions and filings made in compliance with the order referred above,² and pursuant to regulation 23*bis*(3) of the Regulations, the Chamber hereby orders the reclassification as public, without redactions, of the following documents:

A. Filings from the TFV and the Registry:

- i. ICC-01/04-01/06-3503-Conf-Exp;
- ii. ICC-01/04-01/06-3481-Conf;
- iii. ICC-01/04-01/06-3467-Conf-Exp-AnxN;
- iv. ICC-01/04-01/06-3467-Conf-Exp-AnxP;
- v. ICC-01/04-01/06-3467-Conf-Exp-AnxQ;
- vi. ICC-01/04-01/06-3273-Conf-Exp-AnxD2;
- vii. ICC-01/04-01/06-3271-Conf-AnxA-Red;
- viii. ICC-01/04-01/06-3261-Conf;
- ix. ICC-01/04-01/06-3223-Conf-Anx;
- x. ICC-01/04-01/06-2833-Conf.

B. Decisions:

- i. ICC-01/04-01/06-3504-Conf-Exp;
- ii. ICC-01/04-01/06-3501-Conf-Exp;
- iii. ICC-01/04-01/06-3499-Conf;

¹ Order on the reclassification of documents, 13 April 2021, [ICC-01/04-01/06-3511](#), para. 4.

² Trust Fund for Victims’ Second Request for Reclassification (‘TFV Second Request’), 12 May 2021, [ICC-01/04-01/06-3515](#); Registry Submissions related to the Order on the Reclassification of Documents (‘Registry Submissions’), 12 May 2021, ICC-01/04-01/06-3516-Conf-Exp.

- iv. ICC-01/04-01/06-3494-Conf;
- v. ICC-01/04-01/06-3493-Conf;
- vi. ICC-01/04-01/06-3482-Conf;
- vii. ICC-01/04-01/06-3479-Conf;
- viii. ICC-01/04-01/06-3479-Conf-tENG;
- ix. ICC-01/04-01/06-3476-Conf;
- x. ICC-01/04-01/06-3476-Conf-tENG;
- xi. ICC-01/04-01/06-3475-Conf;
- xii. ICC-01/04-01/06-3472-Conf;
- xiii. ICC-01/04-01/06-3472-Conf-tENG;
- xiv. ICC-01/04-01/06-3470-Conf.
- xv. ICC-01/04-01/06-3418-Conf;
- xvi. ICC-01/04-01/06-3418-Conf-tENG;
- xvii. ICC-01/04-01/06-3255-Conf;
- xviii. ICC-01/04-01/06-3255-Conf-tENG;
- xix. ICC-01/04-01/06-3230-Conf-Exp;
- xx. ICC-01/04-01/06-3230-Conf-Exp-tENG;
- xxi. ICC-01/04-01/06-3182-Conf-Exp;
- xxii. ICC-01/04-01/06-3182-Conf-Exp-tENG;

3. Having reviewed the factual and legal basis provided by the TFV and the Registry justifying the need to maintain the confidentiality of a series of documents,³ in light of the applicable legal framework, the Chamber is satisfied that the basis for the classification of the following documents as confidential and confidential *ex parte* continues to exist and should therefore be maintained:

- i. ICC-01/04-01/06-3512-Conf-Exp-AnxA;
- ii. ICC-01/04-01/06-3512-Conf-Exp-AnxB;
- iii. ICC-01/04-01/06-3503-Conf-Exp-Anx;
- iv. ICC-01/04-01/06-3497-Conf-Exp-AnxB to ICC-01/04-01/06-3497-Conf-Exp-AnxD;
- v. ICC-01/04-01/06-3491-Conf-Exp-AnxB;
- vi. ICC-01/04-01/06-3491-Conf-Exp-AnxC;

³ TFV Second Request, [ICC-01/04-01/06-3515](#), para. 2; Registry Submissions, ICC-01/04-01/06-3516-Conf-Exp, paras 6-12, 17.

- vii. ICC-01/04-01/06-3490-Conf-Anx;
- viii. ICC-01/04-01/06-3481-Conf-Exp-AnxA;
- ix. ICC-01/04-01/06-3480-Conf-Exp-AnxA;
- x. ICC-01/04-01/06-3478-Conf-Exp-AnxB to ICC-01/04-01/06-3478-Conf-Exp-AnxD;
- xi. ICC-01/04-01/06-3474-Conf-Exp-AnxB to ICC-01/04-01/06-3474-Conf-Exp-AnxD;
- xii. ICC-01/04-01/06-3473-Conf-Exp-Anx;
- xiii. ICC-01/04-01/06-3467-Conf-Exp-AnxB to ICC-01/04-01/06-3467-Conf-Exp-AnxM;
- xiv. ICC-01/04-01/06-3467-Conf-Exp-AnxO;
- xv. ICC-01/04-01/06-3400-Conf-Exp-AnxB;
- xvi. ICC-01/04-01/06-3329-Conf-Exp-Anx1 to ICC-01/04-01/06-3329-Conf-Exp-Anx56;
- xvii. ICC-01/04-01/06-3323-Conf-Exp-Anx1 to ICC-01/04-01/06-3323-Conf-Exp-Anx62;
- xviii. ICC-01/04-01/06-3312-Conf-Exp-Anx1 to ICC-01/04-01/06-3312-Conf-Exp-Anx61;
- xix. ICC-01/04-01/06-3304-Conf-Exp-Anx1 to ICC-01/04-01/06-3304-Conf-Exp-Anx62;
- xx. ICC-01/04-01/06-3287-Conf-Exp-Anx1 to ICC-01/04-01/06-3287-Conf-Exp-Anx93;
- xxi. ICC-01/04-01/06-3270-Conf-Exp-Anx1 to ICC-01/04-01/06-3270-Conf-Exp-Anx97;
- xxii. ICC-01/04-01/06-3269-Conf-Exp-Anx 1 to ICC-01/04-01/06-3269-Conf-Exp-Anx24;
- xxiii. ICC-01/04-01/06-3144-Conf-Exp;
- xxiv. ICC-01/04-01/06-3144-Conf-Exp-Anx1;
- xxv. ICC-01/04-01/06-3144-Conf-Anx2;
- xxvi. ICC-01/04-01/06-3144-Conf-Anx3;
- xxvii. ICC-01/04-01/06-3142-Conf-Exp;
- xxviii. ICC-01/04-01/06-2906-Conf-Exp-Anx;
- xxix. ICC-01/04-01/06-2847-Conf-Exp-Anx1;
- xxx. ICC-01/04-01/06-2833-Conf-Exp-Anx1;

- xxxix. ICC-01/04-01/06-2833-Conf-Exp-Anx2;
- xxxii. ICC-01/04-01/06-2829-Conf;
- xxxiii. ICC-01/04-01/06-2782-Conf;
- xxxiv. ICC-01/04-01/06-2776-Conf;
- xxxv. ICC-01/04-01/06-2742-Conf-Exp;
- xxxvi. ICC-01/04-01/06-2742-Conf-Exp-Anx;
- xxxvii. ICC-01/04-01/06-1962-Conf-Exp;
- xxxviii. ICC-01/04-01/06-1962-Conf-Exp-Anx.

4. Noting that no justification has been provided for the current classification of certain filings, the Chamber hereby directs the Registry, the Legal Representatives of Victims V02 ('LRV02'), and the Defence, to file public redacted versions, request the reclassification as public, or justify the need to maintain the current classification of the following documents by 11 June 2021, at the latest:

A. Filings from the Registry:

- i. ICC-01/04-01/06-3516-Conf-Exp.

B. Filings from LRV02:

- i. ICC-01/04-01/06-3318-Conf;
- ii. ICC-01/04-01/06-3309-Conf;
- iii. ICC-01/04-01/06-3284-Conf;
- iv. ICC-01/04-01/06-3284-Conf-tENG;
- v. ICC-01/04-01/06-3244-Conf.

C. Filings from the Defence:

- i. ICC-01/04-01/06-3229-Conf-Exp;
- ii. ICC-01/04-01/06-3188-Conf-Exp;
- iii. ICC-01/04-01/06-3134-Conf.

5. Finally, noting that a filing submitted in the record of the case by the *Ligue pour la Paix, les Droits de l'Homme et la Justice* ('LIPADHOJ'), ICC-01/04-01/06-3197-Conf, is currently classified as confidential, the Chamber hereby orders the Registry to contact LIPADHOJ for it to indicate whether any redactions are necessary. The Registry shall implement any redactions or reclassify the said filing as public, by 18 June 2021.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY,

ORDERS the reclassification as public, without redactions of filings: ICC-01/04-01/06-3503-Conf-Exp; ICC-01/04-01/06-3481-Conf; ICC-01/04-01/06-3467-Conf-Exp-AnxN; ICC-01/04-01/06-3467-Conf-Exp-AnxP; ICC-01/04-01/06-3467-Conf-Exp-AnxQ; ICC-01/04-01/06-3273-Conf-Exp-AnxD2; ICC-01/04-01/06-3271-Conf-AnxA-Red; ICC-01/04-01/06-3261-Conf; ICC-01/04-01/06-3223-Conf-Anx; and ICC-01/04-01/06-2833-Conf.

ORDERS the reclassification as public, without redactions of decisions: ICC-01/04-01/06-3504-Conf-Exp; ICC-01/04-01/06-3501-Conf-Exp; ICC-01/04-01/06-3499-Conf; ICC-01/04-01/06-3494-Conf; ICC-01/04-01/06-3493-Conf; ICC-01/04-01/06-3482-Conf; ICC-01/04-01/06-3479-Conf; ICC-01/04-01/06-3479-Conf-tENG; ICC-01/04-01/06-3476-Conf; ICC-01/04-01/06-3476-Conf-tENG; ICC-01/04-01/06-3475-Conf; ICC-01/04-01/06-3472-Conf; ICC-01/04-01/06-3472-Conf-tENG; ICC-01/04-01/06-3470-Conf; ICC-01/04-01/06-3418-Conf; ICC-01/04-01/06-3418-Conf-tENG; ICC-01/04-01/06-3255-Conf; ICC-01/04-01/06-3255-Conf-tENG; ICC-01/04-01/06-3230-Conf-Exp; ICC-01/04-01/06-3230-Conf-Exp-tENG; ICC-01/04-01/06-3182-Conf-Exp; and ICC-01/04-01/06-3182-Conf-Exp-tENG.

ORDERS that the current classification should be maintained for filings: ICC-01/04-01/06-3512-Conf-Exp-AnxA; ICC-01/04-01/06-3512-Conf-Exp-AnxB; ICC-01/04-01/06-3503-Conf-Exp-Anx; ICC-01/04-01/06-3497-Conf-Exp-AnxB to ICC-01/04-01/06-3497-Conf-Exp-AnxD; ICC-01/04-01/06-3491-Conf-Exp-AnxB; ICC-01/04-01/06-3491-Conf-Exp-AnxC; ICC-01/04-01/06-3490-Conf-Anx; ICC-01/04-01/06-3481-Conf-Exp-AnxA; ICC-01/04-01/06-3480-Conf-Exp-AnxA; ICC-01/04-01/06-3478-Conf-Exp-AnxB to ICC-01/04-01/06-3478-Conf-Exp-AnxD; ICC-01/04-01/06-3474-Conf-Exp-AnxB to ICC-01/04-01/06-3474-Conf-Exp-AnxD; ICC-01/04-01/06-3473-Conf-Exp-Anx; ICC-01/04-01/06-3467-Conf-Exp-AnxB to ICC-01/04-01/06-3467-Conf-Exp-AnxM; ICC-01/04-01/06-3467-Conf-Exp-AnxO; ICC-01/04-01/06-3400-Conf-Exp-AnxB; ICC-01/04-01/06-3329-Conf-Exp-Anx1 to ICC-01/04-01/06-3329-Conf-Exp-Anx56; ICC-01/04-01/06-3323-Conf-Exp-Anx1 to ICC-01/04-01/06-3323-Conf-Exp-Anx62; ICC-01/04-01/06-3312-Conf-Exp-Anx1 to ICC-01/04-01/06-3312-Conf-Exp-Anx61; ICC-01/04-01/06-3304-Conf-Exp-Anx1 to ICC-01/04-01/06-3304-Conf-Exp-Anx62; ICC-01/04-01/06-3287-Conf-Exp-Anx1 to ICC-01/04-01/06-3287-Conf-Exp-Anx93; ICC-01/04-01/06-3270-Conf-Exp-Anx1 to ICC-01/04-01/06-3270-Conf-Exp-Anx97; ICC-01/04-01/06-3269-Conf-Exp-Anx1 to ICC-01/04-01/06-3269-Conf-Exp-Anx24; ICC-01/04-01/06-3144-Conf-Exp; ICC-01/04-01/06-3144-Conf-Exp-Anx1; ICC-

01/04-01/06-3144-Conf-Anx2; ICC-01/04-01/06-3144-Conf-Anx3; ICC-01/04-01/06-3142-Conf-Exp; ICC-01/04-01/06-2906-Conf-Exp-Anx; ICC-01/04-01/06-2847-Conf-Exp-Anx1; ICC-01/04-01/06-2833-Conf-Exp-Anx1; ICC-01/04-01/06-2833-Conf-Exp-Anx2; ICC-01/04-01/06-2829-Conf; ICC-01/04-01/06-2782-Conf; ICC-01/04-01/06-2776-Conf; ICC-01/04-01/06-2742-Conf-Exp; ICC-01/04-01/06-2742-Conf-Exp-Anx; ICC-01/04-01/06-1962-Conf-Exp; and ICC-01/04-01/06-1962-Conf-Exp-Anx.

DIRECTS the Registry, LRV02, and the Defence to file public redacted versions, request the reclassification as public, or justify the need to maintain the current classification of the documents referred at paragraph 4 above, by 11 June 2021, at the latest;

ORDERS the Registry to contact LIPADHOJ for it to indicate whether any redactions to filing ICC-01/04-01/06-3197-Conf are necessary and to implement any redactions or reclassify the said filing as public, by 18 June 2021, at the latest.

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



Judge Chang-ho Chung, Presiding Judge



Judge Péter Kovács



Judge María del Socorro Flores Liera

Dated this Friday, 28 May 2021

At The Hague, The Netherlands