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Date: **12 March 2015**

TRIAL CHAMBER I

Before: Judge Geoffrey Henderson, Presiding Judge
Judge Cuno Tarfusser
Judge Olga Herrera-Carbuccia

SITUATION IN THE REPUBLIC OF COTE D'IVOIRE

**IN THE CASE OF
*THE PROSECUTOR v. LAURENT GBAGBO***

**Public redacted version
of filing ICC-02/11-01/11-802-Conf**

**Further submissions of the Common Legal Representative of victims pursuant to
the order setting deadlines for the filing of submissions on outstanding protocols
(ICC-02/11-01/11-739)**

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. PROCEDURAL BACKGROUND

1. On 4 November 2014, Trial Chamber I (the “Chamber”) held its first status conference, during which the Chamber encouraged the parties and participants to enter into discussions on the protocols to be used at trial.¹

2. On 4 December 2014, the Chamber held its second status conference, during which the Chamber sought the views of the parties and participants *inter alia* on the following protocols: i) Protocol concerning the disclosure of the identity of witnesses of the other party (the “Protocol on witness identities”); ii) Protocol concerning the handling of confidential information in the course of investigations (the “Protocol on confidential information”); iii) Protocol concerning contacts with witnesses of the opposing party (the “Protocol on contact with witnesses”); iv) Proposed mechanisms for exchange of information on individuals with dual status (the “Protocol on dual status witnesses”); v) Protocol on the vulnerability assessment and support procedure used to facilitate the testimony of vulnerable witnesses (the “Protocol on vulnerable witnesses”); and vi) Unified protocol on the practices used to prepare and familiarise witnesses for giving testimony (the “Familiarisation Protocol”) together with the witness preparation protocol (the “Witness Preparation Protocol”) (hereafter referred to as “the Protocols”).²

3. On 18 December 2014, the Single Judge of the Chamber directed the parties, the Legal Representative of Victims and the Victims and Witnesses Unit (the “VWU”) to conclude their discussions on the Protocols and to make any further submissions on the Protocol on witness identities, the Protocol on confidential information and the Protocol on contact with witnesses by 20 February 2015, and on the Protocol on

¹ See the transcript of the status conference held on 4 November 2014, No. ICC-02/11-01/11-T-25-CONF-ENG ET, p. 26, lines 3-16 (open session).

² See the transcript of the status conference held on 4 December 2014, No. ICC-02/11-01/11-T-27-CONF-ENG ET, pp. 17, 19, 30, 35 and 47 (open session).

dual status witnesses, the Protocol on vulnerable witnesses, the Familiarisation Protocol and the Witness Preparation Protocol by 27 February 2015.³

4. On 20 February 2015, the Prosecution,⁴ the Defence,⁵ and the Principal Counsel of the Office of Public Counsel for Victims,⁶ acting as Common Legal Representative of the victims authorised to participate in the case (the “LRV”),⁷ filed their submissions on the Protocol on witness identities, the Protocol on confidential information, the Protocol on inadvertent disclosure and the Protocol on contact with witnesses.

5. On 25 February 2015, the Defence circulated to the Prosecution, the Legal Representative and the VWU its proposed amendments to the Protocol on vulnerable witnesses.⁸

6. On 26 February 2015, the Defence circulated to the Prosecution, the Legal Representative and the VWU its proposed amendments to the Protocol on dual status witnesses.⁹ On the same day, the LRV and the Prosecution filed a joint submission on the Familiarisation Protocol,¹⁰ and the Prosecution and the Defence filed a joint submission on the Witness Preparation Protocol.¹¹

³ See the “Order setting deadlines for the filing of submissions on outstanding protocols” (Trial Chamber I, Single Judge), No. ICC-02/11-01/11-739, 18 December 2014, para. 8.

⁴ See the “[REDACTED]”, No. ICC-02/11-01/11-777-Conf, 20 February 2015.

⁵ See the “[REDACTED]”, No. ICC-02/11-01/11-778-Conf, 20 February 2015.

⁶ See the “Submissions of the Common Legal Representative of victims pursuant to the order setting deadlines for the filing of submissions on outstanding protocols (ICC-02/11-01/11-739)”, No. ICC-02/11-01/11-776, 20 February 2015.

⁷ See the “Decision on Victims’ Participation and Victims’ Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-01/11-138, 4 June 2012, pp. 25-26; and the “Second decision on victims’ participation at the confirmation of charges hearing and in the related proceedings” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-01/11-384, 6 February 2013, pp. 22-23.

⁸ See the email sent by the Defence to the Prosecution, the LRV and the VWU on 25 February 2015 at 18:02 h.

⁹ See the email sent by the Defence to the Prosecution, the LRV and the VWU on 26 February 2015 at 15:29 h.

¹⁰ See the “Joint submission of the Prosecution and the Legal Representative of Victims on the proposed familiarisation protocol”, No. ICC-02/11-01/11-783, 26 February 2015.

¹¹ See the “[REDACTED]”, No. ICC-02/11-01/11-784-Conf, 26 February 2015.

7. On 27 February 2015, the LRV and the Prosecution filed a joint request for extension of time to provide their submissions on the Protocol on dual status witnesses and the Protocol on vulnerable witnesses.¹² On the same day, the VWU filed its submissions on the Protocol on vulnerable witnesses¹³ and on the Protocol on dual status witnesses.¹⁴

8. On 3 March 2015, the Defence circulated to the Prosecution, the Legal Representative and the VWU the final version of its proposed amendments to the Protocol on dual status witnesses (the “Defence Protocol on dual status witnesses”).¹⁵

9. On 5 March 2015, the Single Judge issued a decision granting the requested extension of time to provide submissions on the Protocol on dual status witnesses and the Protocol on vulnerable witnesses until 6 March 2015 (the “Extension of Time Decision”).¹⁶

10. Pursuant to the Extension of Time Decision, the LRV submits her observations on the Protocol on dual status witnesses, the Protocol on vulnerable witnesses and the Witness Preparation Protocol.

II. SUBMISSIONS BY THE COMMON LEGAL REPRESENTATIVE

1. On the Protocol on dual status witnesses

¹² See the “Joint request of the Common Legal Representative of victims and the Prosecution for an extension of time to file their submissions on the outstanding protocols”, No. ICC-02/11-01/11-785-Conf, 27 February 2015.

¹³ See the “Victims and Witnesses Unit’s submission on the Protocol on the vulnerability assessment and support procedure used to facilitate the testimony of vulnerable witnesses pursuant to Order ICC-02/11-01/11-739”, No. ICC-02/11-01/11-789, 2 March 2015 (dated 27 February 2015).

¹⁴ See the “Victims and Witnesses Unit’s submission of the proposed mechanisms for exchange of information on individuals enjoying dual status pursuant to Order ICC-02/11-01/11-739”, No. ICC-02/11-01/11-790, 2 March 2015 (dated 27 February 2015).

¹⁵ See the email sent by the Defence to the Prosecution, the LRV and the VWU on 3 March 2015 at 13:21 h (the “Defence Protocol on dual status witnesses”).

¹⁶ See the “Decision on Requests for an extension of time to submit observations on the outstanding protocols” (Trial Chamber I, Single Judge), No. ICC-02/11-01/11-796, 4 March 2015. The Single Judge had already granted the request via email on 27 February 2015 at 14:44 h. *Idem*, para. 5.

11. As a preliminary remark, the LRV takes note of the fact that the Defence provides comments on [REDACTED].¹⁷ In this regard, the LRV agrees with the Prosecution that the Chamber must consider the most recent version of this Protocol, namely the one adopted by Trial Chamber VI in the *Ntaganda* case,¹⁸ and subsequently filed by the VWU in the record of this case.¹⁹ Consequently, the LRV makes the following submissions on the basis of the latest Protocol filed by the VWU, underlining that the English version of said document remains the authoritative one until an official French translation is provided by the Registry.

12. The LRV also takes note of the Defence's agreement to [REDACTED].

13. The LRV agrees with the Prosecution that the Protocol on dual status witnesses filed by the VWU in this case²⁰ must be adopted by the Chamber, although with limited changes in sections 2.c) and 5.a).

14. Regarding section 2.c) of this Protocol, the LRV agrees with the Prosecution and the Defence that it must be amended for the VWU to be obliged to disclose the contact details of protected individuals when so ordered by the Chamber. The LRV understands the importance of the principle of confidentiality pointed out in this regard by the VWU,²¹ but considers that the following addition to section 2.c) suffices to ensure the full respect of this principle by the parties and the participants:

¹⁷ [REDACTED].

¹⁸ See the "Decision adopting the Protocol on dual status witnesses and the Protocol on vulnerable witnesses" (Trial Chamber VI), No. ICC-01/04-02/06-464, 18 February 2015, paras. 2 and 5.

¹⁹ See the "Proposed mechanisms for exchange of information on individuals enjoying dual status", No. ICC-02/11-01/11-790-Anx1-Corr, 4 March 2015.

²⁰ *Idem*.

²¹ See the "Victims and Witnesses Unit's submission of the proposed mechanisms for exchange of information on individuals enjoying dual status pursuant to Order ICC-02/11-01/11-739", *supra* note 14, pp. 4-5.

“c) The VWU does not have an obligation to disclose to a party or the participants the details of contact with a protected individual, unless the Chamber orders otherwise.”²²

15. Regarding section 5.a) of this Protocol, the LRV agrees with the Prosecution that the Defence must inform not only the LRV but also the Prosecution when it becomes aware that one of its witnesses is also a victim. This obligation is equivalent to the one agreed upon by the Prosecution *vis-à-vis* the Defence.²³ The LRV considers that adding the following text to section 5.a) is necessary to clarify the equivalent obligations of the parties in this regard:

“a) The Defence shall inform the legal representative and the Prosecution if he becomes aware that a victim is a potential witness for the Defence.”²⁴

16. The LRV strongly opposes any other change to the Protocol on dual status witnesses proposed by the Defence because said changes are unnecessary, redundant, inconsistent with the rights of individuals enjoying dual status, and/or based on an apparent misunderstanding of the law and established practice regulating the participation of victims in proceedings before the Court and the role of the legal representative in this regard.

17. Firstly, the Defence requests some additions to the Protocol circulated by the VWU without realising that the content of said additions is already included therein.

18. In particular, [REDACTED].²⁵ The Protocol filed by the VWU already establishes an obligation for the Prosecution in this regard.²⁶

²² See the “Proposed mechanisms for exchange of information on individuals enjoying dual status”, *supra* note 19, section 2.c) (emphasis added to the text suggested for addition).

²³ *Idem*, section 4.a).

²⁴ *Ibid.*, section 5.a) (emphasis added to the text suggested for addition).

²⁵ See the Defence Protocol on dual status witnesses, *supra* note 15, section 4.

²⁶ See the “Proposed mechanisms for exchange of information on individuals enjoying dual status”, *supra* note 19, section 4.a).

19. Secondly, other modifications proposed by the Defence fail to take into account the legal regime applicable to the victim application process.

20. In particular, [REDACTED].²⁷ In this regard, the LRV observes that the Defence does not specify in which form said applications should be transmitted to it and that this proposal seems to be based on the erroneous understanding that applications for participation can be assimilated to witnesses' statements. Indeed, as indicated by the consistent practice of the Court, victims' applications for participation are not evidence subject to the disclosure obligations of the Prosecution.²⁸

21. Moreover, the LRV reiterates her observations already filed with the Chamber in accordance to which applications for participation of victims (and therefore also the ones of dual status individuals) cannot be transmitted directly to the Defence, but must be submitted to the Chamber for the latter to determine whether and to what extent the redactions applied to said applications can be lifted or must be maintained *vis-à-vis* the Defence.²⁹ In this regard, the LRV reiterates that she has already indicated that she has no objection to the transmission of lesser redacted applications of dual status individuals to the Defence, provided that the redactions in said applications are in conformity with the ones applied by the Prosecution in the relevant witness' statements.³⁰ A mechanism is already in place in this regard and therefore there is no need to further regulate this matter in the Protocol.

²⁷ See the Defence Protocol on dual status witnesses, *supra* note 15, section 4.a).

²⁸ See the "Judgment on the Appeal of Mr Katanga Against the Decision of Trial Chamber II of 22 January 2010 Entitled 'Decision on the Modalities of Victim Participation at Trial'" (Appeals Chamber), No. ICC-01/04-01/07-2288 OA11, 16 July 2010, para. 81; and the "Decision on the Defence Requests in Relation to the Victims' Applications for Participation in the Present Case" (Pre-Trial Chamber II, Single Judge), No. ICC-01/09-01/11-169, 8 July 2011, paras. 9-10 and 18.

²⁹ See the "Soumissions conjointes de la Représentante légale des victimes et de la Défense de M. Laurent Gbagbo portant sur certaines questions relatives à la participation des victimes au procès", No. ICC-02/11-01/11-748, 19 January 2015, para. 12.

³⁰ *Idem*, para. 9.

22. Thirdly, other changes to the Protocol proposed by the Defence are inconsistent with the role played by the LRV when the parties call individuals enjoying dual status to testify.

23. In particular, [REDACTED].³¹ In this regard, the LRV repeats that she cannot disregard the confidentiality obligations imposed on her by the Chamber and the Code of Professional Conduct for counsel.³² Accordingly, [REDACTED]. Regarding the scope of the information eventually transmitted to the Defence, the LRV reiterates her disagreement with the Defence on the extent of the redactions that may be lifted in the applications, already conveyed to the Chamber in the joint filing.³³ Also for this part of the Protocol, the LRV indicates that the proposed changes are unnecessary insofar as a mechanism is already in place as indicated *supra*.

24. Fourthly, some of the amendments to the Protocol on dual status witnesses proposed by the Defence must not be adopted because they limit the rights of individuals enjoying dual status or are redundant in light of other protocols.

25. In particular, [REDACTED],³⁴ [REDACTED].³⁵ The LRV reiterates her opposition in this regard, already submitted to the Chamber,³⁶ and contends that, in any event, the Protocol on contact with witnesses alone cannot regulate the modalities of contact with dual status individuals. To do otherwise would be inconsistent *inter alia* with the professional obligations of the LRV towards her clients.

³¹ See the Defence Protocol on dual status witnesses, *supra* note 15, section 5.a) and b). See also *idem*, section 4.d) and e).

³² See Code of Professional Conduct for counsel, article 8.

³³ See the “Soumissions conjointes de la Représentante légale des victimes et de la Défense de M. Laurent Gbagbo portant sur certaines questions relatives à la participation des victimes au procès”, *supra* note 29, paras. 6-8 and 15-16.

³⁴ See the Defence Protocol on dual status witnesses, *supra* note 15, section 6.a).

³⁵ See the “[REDACTED]”, No. ICC-02/11-01/11-778-Conf-Anx, 20 February 2015, p. 10.

³⁶ See the “Submissions of the Common Legal Representative of victims pursuant to the order setting deadlines for the filing of submissions on outstanding protocols (ICC-02/11-01/11-739)”, *supra* note 6, paras. 9-21.

26. Pursuant to the Code of Professional Conduct for counsel, the LRV must take into account the personal circumstances and specific needs of her clients, must consult with them on the means by which the objectives of their representation are to be pursued, and must provide them with all explanations reasonably needed to make informed decisions regarding said representation.³⁷ [REDACTED], the LRV would be prevented from fulfilling these obligations and the individuals with dual status would be thereby deprived of the means provided to them for the exercise of their rights.

27. In this regard, the Defence appears to understand [REDACTED].³⁸ The LRV strongly disagrees with this understanding and points out that the Court has consistently found that “[t]he parties and participants do not ‘own’ the witnesses they call to testify. Indeed, the witnesses do not ‘belong’ to parties or participants; witnesses ‘are the property neither of the Prosecution nor of the Defence and [...] should therefore not be considered as witnesses of either party, but as witnesses of the Court’”.³⁹

28. Moreover, the LRV submits that the inclusion of [REDACTED],⁴⁰ appears to be unnecessary in light of [REDACTED].⁴¹

29. Similarly, [REDACTED].⁴² The LRV contends that it is obvious that the medical examination referred to in section 9 of the Protocol is carried out with the consent of the individual for the purpose of becoming evidence in the proceedings and therefore there is no reason to [REDACTED]. For the same reasons,

³⁷ See Code of Professional Conduct for counsel, articles 9(2), 14(2)(a) and 15(1).

³⁸ See the Defence Protocol on dual status witnesses, *supra* note 15, section 6.b).

³⁹ See the “Decision on the ‘Prosecution Motion on Procedure for Contacting Defence Witnesses and to Compel Disclosure’” (Trial Chamber III), No. ICC-01/05-01/08-2293, 4 September 2012, para. 23. See also the “Redacted Second Decision on disclosure by the defence and Decision on whether the prosecution may contact defence witnesses” (Trial Chamber I), No. ICC-01/04-01/06-2192-Red, 20 January 2010, para. 49; and the “Decision on the Practices of Witness Familiarisation and Witness Proofing” (Pre-Trial Chamber I), No. ICC-01/04-01/06-679, 8 November 2006, para. 26.

⁴⁰ See the Defence Protocol on dual status witnesses, *supra* note 15, section 7.a).

⁴¹ See the “[REDACTED]”, No. ICC-02/11-01/11-784-Conf-Anx, paras. 10-11.

⁴² See the Defence Protocol on dual status witnesses, *supra* note 15, section 9.

[REDACTED],⁴³ the LRV submits that the guiding principle must be the consent of said individuals to the presence of the LRV during the medical examination.

30. Fifthly, other changes to the Protocol proposed by the Defence regarding the contact with witnesses with dual status reveal a serious misunderstanding of the role played by a legal representative in the proceedings.

31. In particular, [REDACTED].⁴⁴ In this regard, the LRV submits that the victims authorised to participate in these proceedings,⁴⁵ including individuals with dual status, are “clients” and not [REDACTED]⁴⁶ of the LRV, and that the LRV serves as their “counsel” for all aspects of the proceedings, pursuant to the decisions of the Chamber and the Code of Professional Conduct for counsel.⁴⁷ Accordingly, the LRV submits that the Defence has a duty to inform the LRV of its intention to contact a dual status individual and to let her know that it has already done so because the LRV is the latter’s counsel.⁴⁸

32. Moreover, the LRV contends that the parties must provide the LRV with a copy of the statement, transcript or recording made during their interview with her clients.⁴⁹ Otherwise, the Prosecution and the Defence could directly exchange information related to the LRV’s clients without taking into account the specific right of the legal representative to be informed of any matter concerning her clients.

33. In this regard, the LRV notes that she is entitled to have access to all witness statements, be they confidential or not.⁵⁰ In these circumstances, it would be

⁴³ *Idem*.

⁴⁴ See the Defence Protocol on dual status witnesses, *supra* note 15, sections 6.c), 7.a) and 8.a) and 10.

⁴⁵ See *supra* note 7.

⁴⁶ See the Defence Protocol on dual status witnesses, *supra* note 15, section 7.a).

⁴⁷ See the Code of Professional Conduct for counsel, articles 1 (“*This Code shall apply to defence counsel, counsel acting for States, amici curiae and counsel or legal representatives for victims and witnesses practising at the International Criminal Court, hereinafter referred to as ‘counsel’*”) and 2(2) (“*In this Code: [...] – ‘client’ refers to all those assisted or represented by counsel;*”).

⁴⁸ [REDACTED].

⁴⁹ [REDACTED].

⁵⁰ See the “Decision on the Legal Representative of Victims’ access to certain confidential filings and to the case record” (Trial Chamber I, Single Judge), No. ICC-02/11-01/11-749, 19 January 2015, paras. 15

paradoxical if the LRV were prevented from having access to the materials of those witnesses who are also her clients, namely the individuals enjoying dual status. Moreover, the LRV points out that [REDACTED] would make ineffective the possibility for the LRV to question victims with the leave of the Chamber,⁵¹ since she would be unaware of information relevant for said questioning. Eventually, [REDACTED] would also make redundant the obligation imposed on the Prosecution and the Defence to make a recording of their interviews with any person they question.⁵² The language used in the Protocol on dual status witnesses recently adopted in the *Ntaganda* case confirms these conclusions and must therefore be adopted in this case.⁵³

34. For the same reasons, the LRV strongly disagrees with [REDACTED], apparently inconsistent with the submissions made before the Chamber.⁵⁴ Once again, the LRV must be entitled to attend the interviews of her clients, provided that the latter consents. In this regard, the Defence's suggestion that [REDACTED] is overly onerous on the individual having dual status and must not be adopted.⁵⁵ Likewise, the Defence suggests [REDACTED].⁵⁶ In this regard, the LRV submits that she must be entitled to be present during the interview unless her client expresses his or her opposition to it by any means, and the party wishing to make an exception to

and 20. See also the "Decision on victims' participation in trial proceedings" (Trial Chamber VI), No. ICC-01/04-02/06-449, 6 February 2015, para. 55.

⁵¹ See rule 91(3) of the Rules of Procedure and Evidence. See also the "Decision on victims' participation" (Trial Chamber I), No. ICC-01/04-01/06-1119, 18 January 2008, para. 108; the "Decision on the Manner of Questioning Witnesses by the Legal Representatives of Victims" (Trial Chamber I), No. ICC-01/04-01/06-2127, 16 September 2009, paras. 21 and 25--27; the "Decision on the Modalities of Victim Participation at Trial" (Trial Chamber II), No. ICC-01/04-01/07-1788-tENG, 22 January 2010, paras. 72-78; and the "Corrigendum to Decision on the participation of victims in the trial and on 86 applications by victims to participate in the proceedings" (Trial Chamber III), No. ICC-01/05-01/08-807-Corr, 30 June 2010, paras. 38-40.

⁵² See rule 111 of the Rules of Procedure and Evidence.

⁵³ See the "Proposed mechanisms for exchange of information on individuals enjoying dual status", *supra* note 19, section 8.c).

⁵⁴ See the transcript of the status conference held on 4 December 2014, No. ICC-02/11-01/11-T-27-CONF-ENG ET, p. 30, line 25 to p. 31, line 1 (submissions made in open session).

⁵⁵ Cf. the Defence Protocol on dual status witnesses, *supra* note 15, section 10.

⁵⁶ *Idem*.

her right to be present during the interview must bring the matter to the Chamber and not the other way round.

35. In conclusion, the adoption of the Protocol on dual status witnesses with the changes suggested in paragraphs 14 and 15 above will not prevent the Chamber from achieving some degree of uniformity with the protocols used at trial proceedings by other Chambers, considering that said changes are justified and of a minor nature. By contrast, the LRV contends that the amount and nature of the changes suggested by the Defence are totally inconsistent with the protocols on dual status witnesses filed in other cases,⁵⁷ including the latest one adopted by the Court, namely the one in the *Ntaganda* case,⁵⁸ and should therefore be rejected by the Chamber.

2. On the Protocol on vulnerable witnesses

36. The LRV agrees with the Prosecution and the VWU that the version of the Protocol on vulnerable witnesses adopted by the Pre-Trial Chamber in this case must also be applied during the trial phase,⁵⁹ taking into account that the calling party (or the participant) and the LRV in case of victims enjoying dual status will be provided by the VWU with a copy of the recommendation of the vulnerability assessment performed by the Unit.⁶⁰

37. The LRV opposes all amendments to the Protocol on vulnerable witnesses suggested by the Defence.⁶¹ In this regard, the LRV notes that the Defence appeared

⁵⁷ See for instance the “Decision on certain practicalities regarding individuals who have the dual status of witness and victim” (Trial Chamber I), No. ICC-01/04-01/06-1379, 5 June 2008, paras. 59-72; and the “[REDACTED]”, No. ICC-02/05-03/09-556-Conf-Anx, 11 April 2014.

⁵⁸ See the “Decision adopting the Protocol on dual status witnesses and the Protocol on vulnerable witnesses”, *supra* note 18, paras. 2 and 5.

⁵⁹ See the “Protocol on the vulnerability assessment and support procedure used to facilitate the testimony of vulnerable witnesses”, No. ICC-02/11-01/11-93-Anx2, 16 April 2012.

⁶⁰ See the “Victims and Witnesses Unit’s submission on the Protocol on the vulnerability assessment and support procedure used to facilitate the testimony of vulnerable witnesses pursuant to Order ICC-02/11-01/11-739”, *supra* note 13, pp. 3-4.

⁶¹ See *supra* note 8.

to agree on the application of the Protocol on vulnerable witnesses without any changes during the status conference held on 4 December 2014.⁶² Moreover, the LRV submits that the continued application of the Protocol on vulnerable witnesses would be consistent with the intention stated by the Single Judge to “*achiev[e] some degree of uniformity with regard to protocols used at trial level*”⁶³ and to have “*an overall protocol which can be applied uniformly throughout the Court system*”.⁶⁴ In this regard, the LRV notes that the same version of the Protocol on vulnerable witnesses applied by the Pre-Trial Chamber in this case has been recently adopted by Trial Chamber VI in the *Ntaganda* case.⁶⁵

38. Finally, the LRV wishes to inform the Chamber that she supports the arguments provided by the VWU in relation to the Defence proposed amendments to the Protocol on vulnerable witnesses.⁶⁶

3. On the Witness Preparation Protocol

39. The LRV notes that the Prosecution and the Defence filed a joint submission on this Protocol,⁶⁷ without the LRV being consulted or informed accordingly. However, the LRV wishes to inform the Chamber that she agrees with the proposed Protocol, and requests the Chamber that said Protocol be extended to any witness eventually called by the LRV.

⁶² See the transcript of the status conference held on 4 December 2014, No. ICC-02/11-01/11-T-27-CONF-ENG ET, p. 30, lines 11-12 and p. 46, lines 8-9 (submissions made in open session).

⁶³ See the transcript of the status conference held on 4 November 2014, No. ICC-02/11-01/11-T-25-CONF-ENG ET, p. 26, lines 5-7 (submissions made in open session).

⁶⁴ See the transcript of the status conference held on 4 December 2014, No. ICC-02/11-01/11-T-27-CONF-ENG ET, p. 28, lines 4-5 (open session).

⁶⁵ See the “Decision adopting the Protocol on dual status witnesses and the Protocol on vulnerable witnesses”, *supra* note 18, paras. 3 and 5.

⁶⁶ See the “Victims and Witnesses Unit’s submission on the Protocol on the vulnerability assessment and support procedure used to facilitate the testimony of vulnerable witnesses pursuant to Order ICC-02/11-01/11-739”, *supra* note 13.

⁶⁷ See the “[REDACTED]”, *supra* note 11.

FOR THE FOREGOING REASONS, the LRV respectfully requests the Trial Chamber to adopt the Protocol on dual status witnesses with the changes indicated in paragraphs 14 and 15 above, to adopt without any change the Protocol on vulnerable witnesses applied by the Pre-Trial Chamber in this case, and to adopt the Witnesses Preparation Protocol agreed by the parties, extending it to any witness eventually called by the LRV.

A handwritten signature in black ink, appearing to read 'Paolina Massidda', with a horizontal line drawn underneath the name.

Paolina Massidda
Principal Counsel

Dated this 12^h day of March 2015

At The Hague, The Netherlands