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TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Presiding Judge
Judge Olga Herrera Carbuccion
Judge Geoffrey Henderson

SITUATION IN CÔTE D'IVOIRE

**IN THE CASE OF
*THE PROSECUTOR v. LAURENT GBAGBO AND CHARLES BLÉ GOUDÉ***

**Public Document
with five Confidential *Ex parte* Annexes,
only available to the LRV and the OTP**

**Response to ICC-02/11-01/15-465 and request to maintain certain redactions in the
victim applications of dual status individuals**

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 admitted to participate in the proceedings (the “Legal Representative”)¹ submits that the request by the Prosecution to lift certain redactions in the application forms of nine dual status individuals (the “Request”) should be rejected. The Prosecution fails to advance any reason why the disclosure to the Defence of the redacted information identified in the nine applications (the “redacted information”) falls within the scope of its disclosure obligations under article 67(2) of the Rome Statute and/or rule 77 of the Rules of Procedure and Evidence. In this regard, as already concluded by the Single Judge in the Decision to maintain redactions dated 2 September 2015,² the identifying information of an intermediary is not always relevant to the Defence.

2. Assuming *arguendo* that the redacted information identified in the nine applications falls within the Prosecution’s disclosure obligations, the Legal Representative submits that the Request cannot be granted because it does not provide information about the consent by the individuals concerned to the disclosure of the information at hand. The Request must also be denied because it fails to ponder whether the redaction of said information remains necessary to protect the safety and well-being of victims, intermediaries and/or third parties concerned.

3. Lastly, the Request fails to consider measures that are proportionate to its purpose. In particular, the Legal Representative submits that eventually, and in the alternative, the application of a pseudonym to the name of the intermediaries would suffice to protect the rights of the Defence without jeopardising the safety, dignity,

¹ See the “Decision on victim participation” (Trial Chamber I), No. ICC-02/11-01/11-800, 6 March 2015; and the “Decision on victims’ participation status” (Trial Chamber I), No. ICC-02/11-01/15-379, 7 January 2016, p. 23.

² See the “Decision on the Legal Representative of Victims’ requests to maintain redactions to information relating to certain intermediaries” (Trial Chamber I, Single Judge), No. ICC-02/11-01/15-202, 2 September 2015 (the “Redactions Decision”), para. 20.

privacy and well-being of the victims, intermediaries and/or third parties concerned. As a consequence, the lifting of the redactions currently applied is not necessary.

4. In light of the considerations above, the Legal Representative also requests that discrete redactions – as identified in the four Annexes to this response – to the applications of dual status individuals a/20094/13 (P-0489), a/10179/14 (P-0350), a/10228/14 (P-0188) and a/25130/15 (P-0442) be maintained.

II. Confidentiality

5. Pursuant to regulation 23*bis* (2) of the Regulations of the Court, the Legal Representative files this submission as public and its Annexes as confidential *ex parte*, only available to the Legal Representative and the Prosecution, because they contain information not disclosed to the Defence.

III. Background

6. On 15 December 2014, the Single Judge of Trial Chamber I (the “Single Judge”) adopted the redaction regime to be followed in the case of *The Prosecutor v. Laurent Gbagbo* (the “Redaction Protocol”).³

7. On 8 June 2015 and on 7 July 2015, the Legal Representative filed two requests (the “First Request” and the “Second Request” respectively) to maintain redactions to the identifying and contact information of the intermediaries mentioned in several applications of dual status individuals to be disclosed by the Prosecution (the “LRV Requests”).⁴

³ See the “Protocol establishing a redaction regime in the case of *The Prosecutor v. Laurent Gbagbo*” (Pre-Trial Chamber I), No. ICC-02/11-01/11-737-AnxA, 15 December 2014 (the “Redaction Protocol”).

⁴ See the “Request to maintain redactions to the identifying and contact information of the intermediaries mentioned in the applications of dual status individuals”, No. ICC-02/11-01/15-85, 8 June 2015 (the “First Request”); and the “Second request to maintain redactions to the identifying and contact information of the intermediaries mentioned in the applications of dual status individuals”,

8. On 26 June 2015, the Legal Representative filed her reply to the responses of the Defence teams of Mr Gbagbo and Mr Blé Goudé opposing the First Request (the “Reply”).⁵

9. On 2 September 2015, the Single Judge granted the LRV Requests upon finding that “[a]pplying the redactions sought is the most appropriate measure to protect the safety of the intermediaries, and also of other individuals who have applied or may apply for participation through these intermediaries or are otherwise in contact with these intermediaries in the field”.⁶

10. On 18, 21 and 22 March 2016, the Prosecution informed the Legal Representative that, pursuant to rule 77 of the Rules of Procedure and Evidence, it disclosed to the Defence teams of Mr Gbagbo and Mr Blé Goudé, four applications for participation of dual status individuals a/20094/13 (P-0489), a/10179/14 (P-0350), a/10228/14 (P-0188) and a/25130/15 (P-0442) with some redactions marked “LRV” (the “Applications”).

11. On 21 March 2016, the Prosecution filed the Request,⁷ seeking authorisation to lift redactions in the application forms of nine dual status individuals previously disclosed to the Defence and currently containing redactions to identifying information of intermediaries and/or third parties who assisted said individuals during the application process.

No. ICC-02/11-01/15-126, 7 July 2015 (the “Second Request”; together with the First Request, the “LRV Requests”).

⁵ See the “Public redacted Version - Reply to Defence responses ICC-02/11-01/15-98 and ICC-02/11-01/15-100”, No. ICC-02/11-01/15-106-Red, 26 June 2015 (the “Reply”).

⁶ See the Redactions Decision, *supra* note 2, para. 20.

⁷ See the “Prosecution request for the lifting of certain redactions in the victim applications of nine dual status witnesses”, No. ICC-02/11-01/15-465, 18 March 2016 (the “Request”).

12. Pursuant to regulation 24(2) of the Regulations of the Court and articles 64(2) and 68(1) of the Rome Statute, the Legal Representative submits the following response to the Request and files an application to maintain discrete redactions in the applications for participation of dual status individuals a/20094/13, a/10179/14, a/10228/14 and a/25130/15.

IV. Submissions

13. The Legal Representative preliminarily observes that the Prosecution did not oppose her previous applications to maintain redactions and that the reason why the lifting of redactions would be warranted at this point in time is unclear in the Request. The Legal Representative further indicates that, for the reasons specified *infra*, she does not oppose the lifting of redactions to document CIV-OTP-0082-0018 as identified in Annex A to the Prosecution's submission.⁸

1. The identifying information of the intermediaries and third parties indicated in the Request does not fall within the Prosecution's disclosure obligations

14. The Legal Representative submits that the practice of the Court has consistently determined that victims' application forms provide information to the Chamber only for the purposes of substantiating their status as victims of the case, and are not evidence on either points of facts or law.⁹ However, in the case of individuals enjoying the dual status of participating victims and witnesses, less redacted versions of their application forms are provided to the Defence.

⁸ See the "Annex A to the Prosecution request for the lifting of certain redactions in the victim applications of nine dual status witnesses", No. ICC-02/11-01/15-465-Conf-AnxA, p. 1.

⁹ See, *inter alia*, 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, 08 July 2011, paras. 9-10 and 18; and the "Public redacted version of the First decision on the prosecution and defence requests for the admission of evidence, dated 15 December 2011" (Trial Chamber III), No. ICC-01/05-01/08-2012-Red, 9 February 2012, paras. 100-101. See also the "Decision on the confirmation of charges" (Pre-Trial Chamber I), No. ICC-01/04-01/07-717, 1 October 2008, para. 232; and the transcript of the confirmation of charges hearing of 7 July 2008, No. ICC-01/04-01/07-T-44-ENG ET, p. 14, line 25 to p. 15, line 3.

15. Pursuant to said approach, the Legal Representative facilitated the disclosure to the Defence of information contained in the application forms of dual status individuals in a manner consistent with the information made available in the corresponding witness statements.¹⁰ Similarly, when the Prosecution – not having consulted with the Legal Representative – did not redact reference expressly made to an intermediary or an organisation in the statement of certain dual status witnesses, the Legal Representative did not oppose the disclosure of similar information contained in the application forms in these very limited instances.¹¹

16. The Legal Representative submits that – contrary to the Prosecution’s contention¹² – the mere fact that a person who is also a Prosecution’s witness is mentioned in the application form of a dual status individual as an intermediary or as the person who assisted the latter to fill in the application form does not trigger *per se* any obligation under rule 77 of the Rules of Procedure and Evidence regarding said application form.

17. In fact, the Prosecution fails to explain why the information identified *supra*, which is currently redacted, falls within the scope of said rule. The Request merely states that the “[t]he identities and organisational affiliations of such Prosecution witnesses is information which the Prosecution is required to disclose under rule 77 of the Rules”.¹³

18. In this regard, in the *Lubanga* case, the Trial Chamber clarified that “[b.] [t]he threshold for disclosure [of the intermediary’s identity] is whether prima facie grounds have been identified for suspecting that the intermediary in question had been in contact with one or more witnesses whose incriminating evidence has been materially called into question,

¹⁰ 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 (dated 16 January 2015) (the “Joint Submissions”), para. 9.

¹¹ See the First Request, *supra* note 4, para. 14.

¹² See the Request, *supra* note 7, para. 12.

¹³ *Idem*.

for instance by internal contradictions or by other evidence. In these circumstances, the intermediary's identity is disclosable under Rule 77 of the Rules [...] c. The identities of intermediaries (or others who assisted in a similar or linked manner) who do not meet the test in b. are not to be disclosed".¹⁴

19. The same Chamber subsequently reiterated that “[u]nless there are substantive reasons for suspecting that the individuals who assisted the applicants in this way attempted to persuade one or more of them to give false evidence, or otherwise misused their position, disclosure of the identities of those who provided assistance is not required”.¹⁵

20. Therefore, the Legal Representative submits that the identifying information of an intermediary should be disclosed to the Defence only in two instances: when said individual is also called as a witness – his or her application form is then disclosed under article 67(2) of the Rome Statute; – or when doubts could be casted upon the actions of said intermediary *vis-à-vis* other victims – the information is then disclosable under rule 77 of the Rules of Procedure and Evidence–. The identifying information of the intermediary or a third party who assisted dual status individuals in completing their application forms are not disclosable *per se*, even in the circumstances in which the individual is a Prosecution's witness.

21. The Appeals Chamber expressly endorsed this approach, upon finding that “[t]he term [“material to the preparation of the defence” in rule 77] should be understood as referring to all objects that are relevant for the preparation of the defence”,¹⁶ and that “[i]t is reasonable that, in particular where the submissions in the victims’

¹⁴ See the “Redacted Decision on Intermediaries” (Trial Chamber I), No. ICC-01/04-01/06-2434-Red2, 31 May 2010, para. 139(b) and (c).

¹⁵ See the “Redacted version of the Corrigendum of Decision on the applications by 15 victims to participate in the proceedings” (Trial Chamber I), No. ICC-01/04-01/06-2659-Corr-Red, 8 February 2011, para. 30. See also the “Redacted Decision on the variation of protective measures under Regulation 42 on referral from Trial Chamber II on 22 July 2009” (Trial Chamber I), No. ICC-01/04-01/06-2209-Red, 16 March 2010, para. 12.

¹⁶ See the “Judgment on the appeal of Mr. Lubanga Dyilo against the Oral Decision of Trial Chamber I of 18 January 2008” (Appeals Chamber), No. ICC-01/04-01/06-1433 OA11, 11 July 2008, para. 77.

applications for participation indicate that victims may possess potentially exculpatory information, the Prosecutor's investigation should extend to discovering any such information in the victims' possession. Such information would then be disclosed to the accused pursuant to article 67 (2) of the Statute and rule 77 of the Rules of Procedure and Evidence".¹⁷

22. In this regard, the Prosecution does not indicate in the Request how the redacted information may be potentially exculpatory and fails to identify any ground for suspicion regarding the intermediaries or third parties assisting the dual status individuals to fill in their application forms. Consequently, the redacted information cannot be said to be "*material to the preparation of the defence*" under rule 77 of the Rules of Procedure and Evidence.¹⁸

23. In fact, although the Defence of Mr Gbagbo expressed its disagreement with the Legal Representative regarding the scope of redactions to be lifted in some victims' applications in 2015,¹⁹ it did not include the identity of the intermediaries assisting the dual status individuals among the information requested to be disclosed in said applications.²⁰

24. In any event, the Legal Representative notes that the redacted information in the application forms of the nine dual status individuals referred to in the Request was already disclosed to the Defence when the Prosecution transmitted the relevant

¹⁷ 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 (footnotes omitted). See also the "Decision on the Defence Requests in Relation to the Victims' Applications for Participation in the Present Case", *supra* note 9, paras. 11-12.

¹⁸ Cf. the Redactions Decision, *supra* note 2, para. 20 ("*the Single Judge considers that the Defence has not demonstrated how the identity or contact information of these intermediaries is relevant to any known issues in this case*").

¹⁹ See the Joint Submissions, *supra* note 10, para. 6.

²⁰ *Idem*, para. 8.

witness statements.²¹ The relevant application forms of Prosecution's witnesses who are also participating victims have also been disclosed in less redacted form to the Defence by virtue of the Chamber's order.²²

25. Accordingly, the Legal Representative submits that the disclosure obligations set by rule 77 of the Rules of Procedure and Evidence upon the Prosecution do not arise regarding the intermediaries or third parties who assisted dual status individuals in completing their application forms.

26. *A fortiori*, the Legal Representative submits that the identifying information of intermediaries who are not Prosecution's witnesses mentioned in the application forms of dual status individuals should not be disclosed either. For the purposes of this request, the Legal Representative underlines that the intermediaries mentioned in the applications of a/20094/13 (P-0489) and a/10179/14 (P-0350) are not Prosecution's witnesses and that the Prosecution in the Request does not seek to lift redactions to this category of intermediary. Indeed, the Prosecution indicated to the Legal Representative by e-mail that it does not oppose the proposed discrete redactions.

2. The disclosure of the identifying information of the intermediaries and third parties indicated in the Request requires the previous consent of the latter

27. Assuming *arguendo* that the redacted information referred to in the Request does fall under rule 77 of the Rules of Procedure and Evidence, the Legal Representative submits that the disclosure of said information requires the prior consent of the intermediaries and/or the third parties concerned. The Legal

²¹ See the "Annex A to the Prosecution's submission of its second amended List of Evidence", No. ICC-02/11-01/15-371-Conf-AnxA, 18 December 2015.

²² See the "Decision on victim participation", *supra* note 1, para. 56; and the Request, *supra* note 7, paras. 5 and 7.

Representative considers said consent as a “*countervailing basis for non-disclosure of this information*”.²³

28. The intermediaries and third parties who are also Prosecution’s witnesses agreed to testify in the case and thereby to the disclosure to the Defence of their identities as witnesses. However, in agreeing to testify, they did not consent to disclosing their identities as intermediaries or third parties. Therefore, this information, contained in documents other than the ones directly signed by them, cannot be disclosed to the Defence without their express consent.

29. In fact, regulation 42(3) of the Regulations of the Court expressly provides that once protective measures have been ordered, “[t]he Chamber shall seek to obtain, whenever possible, the consent of the person in respect of whom the application to rescind, vary or augment protective measures has been made”.

30. The practice of the Court in this regard shows consistency. In the *Lubanga* case, for instance, Trial Chamber I instructed the legal representatives of the victims to consider seeking the consent of the individuals concerned prior to the communication of their identities to the defence, and ordered the Registry to contact the relevant individuals to establish their views on disclosure of their identities to the defence, and thereafter to report to the Chamber.²⁴

31. In turn, in the *Katanga and Ngudjolo Chui* case, Trial Chamber II considered itself bound to implement regulation 42 of the Regulations of the Court *proprio motu*, concerning the non-disclosure of the identity of an individual for whom another

²³ See the Request, *supra* note 7, para. 13.

²⁴ See, for instance, the “Redacted Decision on the disclosure of information from victims’ application forms (a/0225/06, a/0229/06 and a/0270/07)” (Trial Chamber I), No. ICC-01/04-01/06-2586-Red, 4 February 2011, paras. 15 and 43.

Chamber had authorised protective measures and who still did not consent to the disclosure of his identity.²⁵

32. Similarly, other Chambers routinely verified whether the individuals concerned consent to their identities being disclosed to the Defence.²⁶

3. Maintaining the redactions to the identifying information of the intermediaries and third parties is a necessary measure

33. Assuming *arguendo* that the redacted information does fall under rule 77 of the Rules of Procedure and Evidence and can be disclosed without the relevant persons' consent, the Legal Representative recalls all the arguments she made in the First and Second Requests and in the Reply supporting the maintenance of redactions to the identifying and contact information of the intermediaries.²⁷ All these arguments, which were endorsed by the Chamber in the Redactions Decision,²⁸ are equally applicable to the information marked with the code "LRV" in the Request and in the Annexes to this response. The identifying information of the intermediaries and third parties who assisted dual status individuals should remain redacted as the disclosure of said information poses a risk to the safety, dignity, privacy and well-being of the victims, intermediaries and/or third parties concerned. This is indeed another "*countervailing basis for non-disclosure of this information*".²⁹

34. Furthermore, the Legal Representative endorses the additional arguments provided in the Registrar's Observations to maintain redacted the identifying

²⁵ See the "Decision concerning the situation of Witness 270 (regulation 42 of the Regulations of the Court)" (Trial Chamber II), No. ICC-01/04-01/07-1448-tENG, 1 September 2009, para. 5.

²⁶ See, for instance, the "Decision on the prosecution's applications for lifting redactions on material relating to Witnesses 307 and 484 pursuant to Regulation 42 of the Regulations of the Court" (Trial Chamber IV), No. ICC-02/05-03/09-393, 12 September 2012, para. 9. See also the "Redacted Decision on the variation of protective measures under Regulation 42 on referral from Trial Chamber II on 22 July 2009", *supra* note 15, para. 36.

²⁷ See the First Request, *supra* note 4, paras. 26-39 and 43-59; and the Reply, *supra* note 5, paras. 10-27.

²⁸ See the Redactions Decision, *supra* note 2, paras. 19-20.

²⁹ See the Request, *supra* note 7, para. 13.

information of the intermediaries, and submits that said arguments are also applicable to the applications referred to in the Request and contained in the Annexes to this response.³⁰

35. Lastly, the Legal Representative informs the Chamber that during her recent mission to Côte d'Ivoire to consult with her clients, she also met with the intermediaries who helped the victims authorised to participate in the case, including the ones for whom redactions are sought to be maintained.³¹ Said intermediaries expressed their view that the situation on the ground is still volatile and that the start of the trial has triggered reactions from the supporters of the accused persons in the present case. More generally, they indicated that the pro-Gbagbo network is very active and able to mobilise his supporters. Therefore, there is a risk of violence uprisings in the neighbourhoods where they live, worsening their security situation and preventing their contact with the victims they are in contact with.

36. A particular concern was voiced during the meeting because of the extensive coverage of the trial by the media. The trial is highly followed within the country and, therefore, a large number of persons are acquainted with the developments of the proceedings. In addition, social networks are used to comment extensively about the trial and often contain speculations about the proceedings, including about names of witnesses, victims and/or intermediaries.

37. As a consequence, the intermediaries indicated that - while they are willing to continue to support the activities of the Court - they might reconsider their interaction with the Court and the Legal Representative should they be required to disclose their identities in all circumstances.

³⁰ See the "Registry's observations on the 'Request to maintain redactions to the identifying and contact information of the intermediaries mentioned in the applications of dual status individuals' (ICC-02/11-01/15-85)", No. ICC-02/11-01/15-107, 29 June 2015 (dated 26 June 2015).

³¹ See the "Communication of the Common Legal Representative concerning the non-disclosure to the Defence of the identity of participating victims", No. ICC-02/11-01/15-460, 7 March 2016.

38. In these conditions, even assuming that the redacted information could be somehow useful for the Defence, lifting the redactions identified in the Request will pose an objective risk to the safety of the very victims supported by the intermediaries, whether to be called as witnesses or not, and it will materially increase the security risks to relevant individuals and organisations, given the limited extent of the information already known publicly.³²

39. Indeed, each of the intermediaries in the present case is assisting a large number of victims who have not been called to testify in the proceedings and who may not have applied for participation yet. Thus, it is submitted that by disclosing the identity of the intermediaries, the Defence could reasonably discover the identities of victim applicants or victims authorised to participate while investigating the activities of the intermediaries. The redaction of the intermediaries' identities is therefore warranted to protect the victims they have assisted and their families.

40. In this regard, the Legal Representative emphasizes that some participating victims, particularly victims of rape, have not disclosed their participation to their family members for fear of the social stigmatisation attached to the crimes they suffered from. Lifting the redactions identified in the Request would jeopardize the privacy and well-being of the said victims in an unnecessary and disproportionate manner.

41. In this regard, in the *Lubanga* case, Trial Chamber I found that “[n]on-disclosure of the identities of those who assisted the [victim] applicants is necessary in order to protect the applicants, by maintaining their anonymity, pursuant to Article 68(1) of the Statute. This step is not detrimental to rights of the accused”.³³

³² Cf. the “Redacted Decision on the disclosure of information from victims' application forms (a/0225/06, a/0229/06 and a/0270/07)”, *supra* note 24, paras. 32-34 and 40-42.

³³ See the “Redacted Decision on Intermediaries”, *supra* note 14, para. 139(b). See also the “Redacted version of the Corrigendum of Decision on the applications by 15 victims to participate in the proceedings”, *supra* note 15, para. 30.

42. Finally, the Legal Representative submits that the disclosure of the identifying information of the intermediaries poses an objective risk to their ongoing activities, in particular because they continue to support the activities of the Registry and of counsel.

4. Maintaining the redactions to the identifying information of the intermediaries and third parties is a proportionate measure

43. In the alternative, should the Chamber be eventually minded to lift the redactions identified in the Request and order the disclosure of any of the information at hand to the Defence, the Legal Representative submits that the use of pseudonyms to identify the names of the intermediaries and third parties who assisted the dual status individuals in filling in their application forms would serve the interests of the Defence while protecting at the same time the safety, dignity, privacy and well-being of the victims, intermediaries and/or third parties concerned.

44. The use of pseudonyms would comply with the principle of proportionality as defined by the Appeals Chamber,³⁴ especially taking into account that the Defence already has access to the identities of the dual status individuals.³⁵ In these circumstances, the pseudonyms would suffice to protect the persons concerned without affecting the intelligibility and usability of the relevant applications, and thereby without having an adverse impact on the rights of the Accused.

45. In fact, the Single Judge ordered the substitution of the redacted identifies of the intermediaries concerned by pseudonyms “[i]n order to facilitate investigations and

³⁴ See the “Judgment on the appeal of Mr. Thomas Lubanga Dyilo against the decision of Pre-Trial Chamber I entitled First Decision on the Prosecution Requests and Amended Requests for Redactions under Rule 81” (Appeals Chamber), No. ICC-01/04-01/06-773 OA5, 19 December 2006, para. 34.

³⁵ See *mutatis mutandis* the “First Decision on the Prosecution Request for Authorisation to Redact Witness Statements” (Pre-Trial Chamber I, Single Judge), No. ICC-01/04-01/07-90, 7 December 2007, para. 37.

the Defence's ability to prepare for trial".³⁶ The Legal Representative considers that the use of a pseudonym in the present instance suffices.

5. Request to maintain redactions in further four application forms of dual status individuals

46. In light of the arguments *supra*, the Legal Representative requests that the existing redactions to the identifying information of the intermediaries mentioned in the application forms of dual status individuals a/25130/15 (P-0442), a/20094/13 (P-0489) and a/10179/14 (P-0350), respectively disclosed by the Prosecution on 18, 21 and 22 March 2016, be maintained. These redactions are marked with the code "LRV" in the attached confidential *ex parte* Annexes 1, 2 and 4, which also contain the redactions made by the Prosecution pursuant to the Redaction Protocol.

47. Concerning the application for participation of a/10228/14 (P-0188), disclosed by the Prosecution on 21 March 2016, the Legal Representative notes that the name of the intermediary in the witness statement was not redacted by the Prosecution. Consequently, this information is already known to the Defence. However, the Legal Representative requests that the redactions to the other identifying information of the intermediary mentioned in said application be maintained. These redactions are marked with the code "LRV" in the attached confidential *ex parte* Annex 3, which also contains the redactions made by the Prosecution pursuant to the Redaction Protocol.

48. Finally, the Legal Representative informs the Chamber that the Prosecution indicated to her by e-mail that it does not oppose the discrete redactions to the identifying information of the intermediaries - who are not Prosecution's witnesses - contained in applications a/20094/13 and a/10179/14.

³⁶ See the Redactions Decision, *supra* note 2, para. 21.

V. Conclusion

49. For the foregoing reasons, the Legal Representative respectfully requests the Chamber to dismiss the Request except for the proposed lifting of redactions related to a/20009/12 (P-0237), and to rule that the information related to the intermediaries mentioned in the applications for participation of dual status individuals a/20094/13, a/10179/14, a/10228/14 and 25130/15 must remain redacted. In the alternative, should the Chamber be minded to grant the Request, the Legal Representative respectfully requests the Chamber to rule that the use of pseudonyms to identify the names of intermediaries and third parties who assisted the dual status individuals in filling in their application forms is a proportionate measure to serve the interests of the Defence.



Paolina Massidda
Principal Counsel

Dated this 29th day of March of 2016

At The Hague, The Netherlands