Cour Pénale Internationale



International Criminal Court

Original: English

No.: ICC-01/12-01/18 Date: 25 February 2019 Date of submission: 13 May 2019

PRE-TRIAL CHAMBER I

Before:

Judge Péter Kovács, Single Judge

SITUATION IN THE REPUBLIC OF MALI

IN THE CASE OF

THE PROSECUTOR v. AL HASSAN AG ABDOUL AZIZ AG MOHAMED AG MAHMOUD

Public

With Secret, *EX PARTE*, Annexes A to I only available to the Prosecution and the Victims and Witnesses Unit

Public redacted version of the "Prosecution Request for

and to withhold the identity of Witness MLI-OTP-P-0004 upon whose evidence the Prosecution will rely at the confirmation of charges hearing", 26 February 2019, ICC-01/12-01/18-257-Secret-Exp

Source: Office of the Prosecutor

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

The Office of the Prosecutor Ms Fatou Bensouda Mr James Stewart	Counsel for the Defence Ms Melinda Taylor
Legal Representatives of the Victims Mr Seydou Doumbia Mr Mayombo Kassongo Mr Fidel Luvengika Nsita	Legal Representatives of the Applicants
Unrepresented Victims	Unrepresented Applicants (Participation/Reparation)
The Office of Public Counsel for Victims	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	Other

Introduction

 Pursuant to article 68(1) of the Rome Statute ("Statute"), rule 81(2) of the Rules of Procedure and Evidence ("Rules"), and regulation 42(3) of the Regulations of the Court ("Regulations"), the Prosecution seeks the Single Judge's authorisation to withhold at this stage of the proceedings the identity of Prosecution Witness MLI-OTP-P-0004 from and other evidence he provides, which the Prosecution will rely upon at the confirmation of charges hearing.

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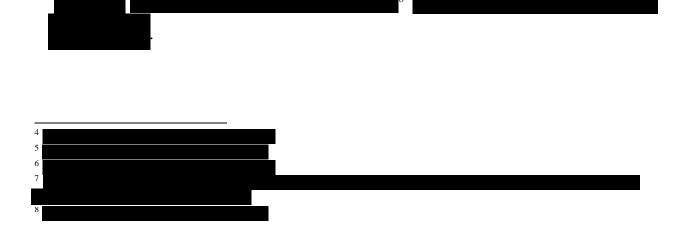


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	" ⁶ .
8.	The Prosecution intends to rely on P-0004 during the confirmation of charges
	hearing.
	, the Prosecution seeks to redact all identifying information
	from P-0004's evidence prior to its disclosure to the Defence.
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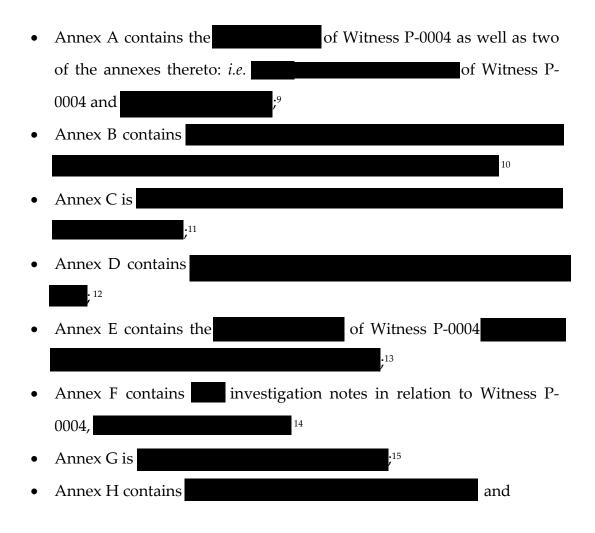
Confidentiality

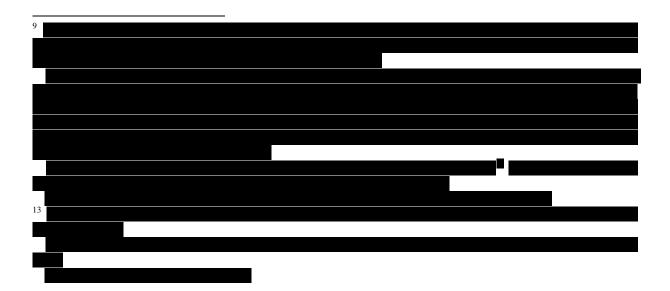
9. Under regulation 23*bis*(2) of the Regulations, this application and its annexes are classified secret *ex parte* as they relate



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10. The present request contains identifying information, including in the annexes.These annexes are divided as follows:





• Annex I contains

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11. A secret redacted version of the present motion, available to the Defence, is filed simultaneously.

Applicable law

12. The Prosecution recalls and reproduces by reference its submissions on the applicable law in a prior motion and the Single Judge's decision resolving the motion.¹⁷ The Prosecution also recalls the finding of the Chamber in its decision ICC-01/12-01/18-122

Submissions

A. Security risks

13. The Prosecution submits that, in the present circumstances at this stage, the redactions and the non-disclosure of documents requested below are necessary and proportionate to the risks P-0004 is facing in case of disclosure of his identity.

B. Documents to be redacted or withheld

14. The Prosecution seeks to disclose P-0004's

	(see Anne	exes A and E), with redaction
of any identifying infor	mation in their content and m	netadata.
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¹⁷ ICC-01/12-01/18-48-	12-26; ICC-01/12-01/18-88	particularly para. 15-17.
¹⁸ <i>Cf.</i> ICC-01/12-01/18-122	para. 42.	

- redactions of any identifying information from their content and/or metadata.
- 15. The Prosecution seeks to disclose Annexes B and D to the present filing with redactions of any identifying information from their content and/or metadata.

16. The Prosecution seeks to disclose Annex C to the present filing with redactions of any identifying information from its content and metadata.

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7. In Annex F, the Prosecution seeks to disclose	investigation notes

17. In Annex F, the Prosecution seeks to disclose investigation notes it contains, with redactions to their content and/or metadata. In addition, in the investigation note for the Prosecution seeks to not replace for the prosecution seeks to not replace for the prosecution seeks to not disclose the investigation note

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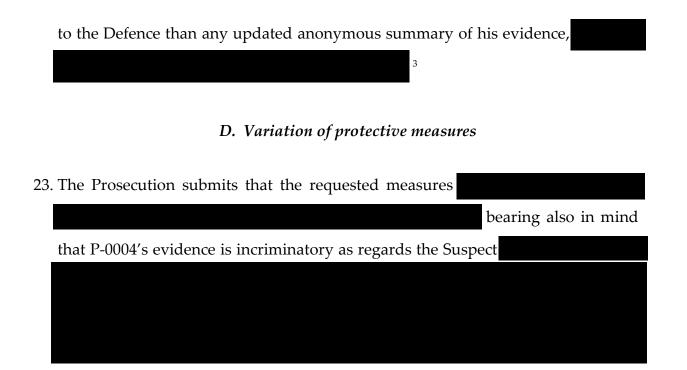
		This investigation
	note is in any event of minimal relevance for the Defence, and	
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18.	Annex G	
	·	
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19.	The Prosecution seeks to no longer disclose Annex I	

20. All the above mentioned annexes contain, when necessary, the Prosecution's proposed redactions to their content/metadata to protect P-0004's identity, although some also contain *proprio motu* redactions.²²

C. Lack of prejudice to Defence

- 21. Withholding information identifying P-0004 from his evidence will neither prejudice the Defence nor undermine the fairness and impartiality of the confirmation proceedings. The redactions proposed to be applied aim at protecting the witness as necessary, resulting in incriminatory information also being redacted. They should not hinder the Defence's understanding and appreciation of P-0004's evidence.
- 22. More so, the Single Judge's authorisation will enable the disclosure of P-0004's evidence to the Defence, albeit in redacted form, which will provide more details
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²² ICC-01/12-01/18-31, para. 29.



Relief requested

24. Based on the foregoing, the Prosecution seeks the Single Judge's authorisation to disclose the following materials with redactions to their content and/or metadata to prevent the identification of P-0004 as a Prosecution witness²⁴:

•	P-0004's two ICC	P-0004's	
	and the	attached to his	(see
	Annexes A and E); and		
•	Investigation notes		
	and	(see Annex F).	

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²⁴ That material also contains *proprio motu* redactions.

25. The Prosecution also seeks to disclose the following material with redactions of any identifying information to the content and/or metadata,



26. Finally, the Prosecution seeks authorisation not to disclose the following evidence:

• Investigation note (in Annex F); and

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	Bernaa	

Fatou Bensouda Prosecutor

Dated this 25th of February 2019

At The Hague, The Netherlands

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