



Original: French

No.: ICC-01/04-01/07

Date: 4 May 2009

TRIAL CHAMBER II

Before: Judge Bruno Cotte, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Hans-Peter Kaul

**SITUATION IN DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
*THE PROSECUTOR v. GERMAIN KATANGA and MATHIEU NGUDJOLO CHUI***

Public document

**Decision on the Prosecutor's Application to Redact Information under Article 67(2)
of the Statute or Rule 77 of the *Rules of Procedure and Evidence*
(ICC-01/04-01/07-934)**

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

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
 Ms Fatou Bensouda, Deputy Prosecutor
 Mr Eric MacDonald, Senior Trial Lawyer

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Katanga
 Mr David Hooper
 Mr Andreas O'Shea

Counsel for the Defence of Mathieu

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Legal Representatives of the Victims

Ms Carine Bapita Buyangandu
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Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
 Section**

Other

Trial Chamber II of the International Criminal Court (“the Chamber” and “the Court” respectively), acting pursuant to articles 54, 67 and 68 of the *Rome Statute* (“the Statute”) and rules 77 and 81 of the *Rules of Procedure and Evidence* (“the Rules”), decides as follows:

I. Procedural history

1. This decision arises from the Prosecutor’s application (“the Application”) to redact documents under article 67(2) of the Statute and rule 77 of the Rules.¹ The Application was submitted in accordance with the Chamber’s *Decision on the Redaction Process*.²

2. The Application was filed on 27 February 2009, after the prescribed time limit had expired. In fact, the Chamber had ordered the Prosecutor to file all applications to redact documents under article 67(2) and rule 77 before 4 p.m. on 16 February 2009.³ In his Application, the Prosecutor acknowledged that he had not invoked regulation 35 of the *Regulations of the Court* to seek an extension of the prescribed time limit.⁴ The Chamber takes note of this, but reminds the Prosecutor that each time a party becomes aware that it will not be able to abide by a prescribed time limit, it must invoke that regulation in an application for extension of time, setting out the grounds on which the application is made.

3. The Prosecutor is seeking authorisation to redact certain information contained in these documents under rules 81(2) and 81(4) of the Rules. In addition, he refers to information falling under rule 81(1) of the Rules.

¹ Office of the Prosecutor, “*Requête de l’Accusation aux fins d’expurgations d’informations dans certains éléments de preuve relevant de l’Article 67(2) ou de la Règle 77*”, 27 February 2009, ICC-01/04-01/07-934, with confidential and *ex parte* annexes available only to the Prosecutor.

² *Decision on the Redaction Process*, 12 January 2009, ICC-01/04-01/07-819-tENG.

³ *Order Fixing the Schedule for Pre-Trial Disclosure of Incriminatory and Exculpatory Evidence and the Date of a Status Conference (rule 132 of the Rules of Procedure and Evidence)*, 23 January 2009, ICC-01/04-01/07-846-tENG.

⁴ ICC-01/04-01/07-934, para. 3.

4. On 9 March 2009, the Defence for Germain Katanga submitted observations on the Application,⁵ unlike the Defence for Mathieu Ngudjolo, which did not respond.

II. The Chamber's analysis

5. The Chamber emphasises once again⁶ the requirements laid down by the Appeals Chamber: 1) the existence of an objectively justifiable risk to the safety of the person concerned or which may prejudice further or ongoing investigations;⁷ 2) the existence of a link between the source of the risk and the accused;⁸ 3) the infeasibility or insufficiency of less restrictive protective measures;⁹ 4) an assessment of whether the redactions sought are prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial;¹⁰ and 5) the obligation to periodically review the decision authorising the redactions should circumstances change.¹¹

⁵ Germain Katanga's Defence Team, "Defence Response to the *Requête aux fins d'expurgations d'informations dans certains éléments de preuve relevant de l'Article 67-2 ou de la Règle 77*", 9 March 2009, ICC-01/04-01/07-948.

⁶ *Grounds for the Oral Decision on the Prosecutor's Application to Redact the Statements of Witnesses 001, 155, 172, 280, 281, 284, 312 and 323 and the Investigator's Note concerning Witness 176 (rule 81 of the Rules of Procedure and Evidence)*, 10 February 2009, ICC-01/04-01/07-888-Conf-Exp-tENG and ICC-01/04-01/07-889-Conf, para. 4; *Decision on Three Prosecutor's Applications to Maintain Redactions or Reinstate Redacted Passages* (ICC-01/04-01/07-859, ICC-01/04-01/07-860 and ICC-01/04-01/07-862), 25 March 2009, ICC-01/04-01/07-987-Conf-Exp, para. 4.

⁷ Appeals Chamber, *Judgment on the appeal of the Prosecutor against the decision of Pre-Trial Chamber I entitled "First Decision on the Prosecution Request for Authorisation to Redact Witness Statements"*, 13 May 2008, ICC-01/04-01/07-475, paras. 71 and 97.

⁸ ICC-01/04-01/07-475, para. 71.

⁹ Appeals Chamber, *Judgment on the Prosecutor's appeal against the decision of Pre-Trial Chamber I entitled "Decision Establishing General Principles Governing Applications to Restrict Disclosure pursuant to Rule 81 (2) and (4) of the Rules of Procedure and Evidence"*, 13 October 2006, ICC-01/04-01/06-568, para. 37; Appeals Chamber, *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"*, 14 December 2006, ICC-01/04-01/06-773, para. 33.

¹⁰ ICC-01/04-01/06-773, para. 34.

¹¹ ICC-01/04-01/07-475, para. 73.

6. As the Chamber has had occasion to point out more than once,¹² any application for redactions is subject to strict judicial scrutiny on a case-by-case basis. Any decision by which the Chamber authorises the non-disclosure of part of a document to the Defence must be sufficiently reasoned in light of, *inter alia*, the arguments submitted by the Prosecutor in support of his application. The Chamber has a duty to balance the various interests at stake, as stipulated in rule 81 of the Rules, whilst ensuring that the proceedings include safeguards that would protect the interests of the accused so as to comply, to the fullest extent possible, with the requirements of adversarial proceedings and the principle of equality of arms. The Chamber has undertaken a detailed review of each redaction sought on the basis of the criteria set out in the previous paragraph.

7. In order to better assess the redactions sought on a case-by-case basis, the Chamber has drawn a distinction between those redactions justified by the Prosecutor on the basis of rule 81(1) of the Rules, those whose purpose is to avoid prejudicing further or ongoing investigations (rule 81(2) of the Rules) and those which aim to protect the safety of witnesses and members of their families (rule 81(4) of the Rules).

8. The Chamber notes that the Prosecutor's arguments pertaining to the existence of an objectively justifiable risk are identical, both for redactions sought under rule 81(2) of the Rules and for those sought under rule 81(4). It therefore seems appropriate to give a joint response on this issue.

9. The Prosecutor mentions the state of insecurity prevailing in the Democratic Republic of the Congo ("the DRC") and, more specifically, in Ituri. He also mentions

¹² Order Instructing the Registry to File Documents on the Influence that the Accused may have Retained in the DRC and on the Pressure that they Might Currently Exert on Victims and Witnesses, 18 December 2008, ICC-01/04-01/07-800-tENG, para. 9; ICC-01/04-01/07-819-tENG, paras. 1 and 7; ICC-01/04-01/07-888-Conf-Exp-tENG; ICC-01/04-01/07-889-Conf-tENG, para. 3; ICC-01/04-01/07-987-Conf-Exp, para. 5.

the incidence of crime, the remote possibility that security forces will intervene on the ground and threats to persons cooperating with the Court.¹³

10. Furthermore, he draws the Chamber's attention to threats allegedly made against [REDACTED].¹⁴ The Chamber has already acknowledged that there is an objectively justifiable risk resulting from the state of insecurity prevailing in Ituri and, more generally, in the DRC, both for the Prosecutor's ongoing and further investigations and for the safety of witnesses, victims and members of their families.¹⁵

11. This general observation does not, however, prejudice the existence of an objectively justifiable risk of which the Chamber must satisfy itself when reviewing each of the redactions sought on a case-by-case basis.

(a) Non-disclosure of internal documents of the Office of the Prosecutor (rule 81(1))

12. The Prosecutor requests, pursuant to rule 81(1) of the Rules, that certain passages in several investigators' notes pertaining to Witnesses 163¹⁶ and 249 be redacted.¹⁷ He submits that these passages contain internal comments of the Office of the Prosecutor or information pertaining to its internal operations and considers that, as such, they fall under rule 81(1) of the Rules.

13. The Defence for Germain Katanga raises no objection since the redactions effectively fall under rule 81(1) of the Rules.¹⁸

14. The Chamber takes note thereof, while recalling that the provisions of rule 81(1) of the Rules cannot constitute a valid legal basis for the submission of

¹³ ICC-01/04-01/07-934, para. 15.

¹⁴ ICC-01/04-01/07-934-Conf-Exp-Anxs A, B, C, D, E, F, G, H, I.

¹⁵ ICC-01/04-01/07-888-Conf-Exp-tENG and ICC-01/04-01/07-889-Conf-tENG, para. 9; ICC-01/04-01/07-987-Conf-Exp, para. 10.

¹⁶ ICC-01/04-01/07-934-Conf-Exp-Anx G.

¹⁷ ICC-01/04-01/07-934-Conf-Exp-Anx I.

¹⁸ ICC-01/04-01/07-948, para. 13.

applications for redactions. The Chamber suggests once again to the Prosecutor that, in future, he should set out, in a separate document, everything that falls strictly under rule 81(1) of the Rules, such that only information which should be disclosed may be the subject of requests for redactions.¹⁹

(b) Protection of further or ongoing investigations (rule 81(2))

(i) Locations where interviews were conducted

15. The Prosecutor requests, pursuant to rule 81(2) of the Rules, that references to “[REDACTED]” in the transcript of the statement of Witness 303²⁰ be redacted. He also requests the redaction of the name of a potential place for an interview with Witness 163, “[REDACTED]”.²¹

16. The Prosecutor submits that [REDACTED] is one of the only towns [REDACTED] where it is possible to obtain statements from witnesses.²² He considers that it is only by redacting the name of the place where the interviews are conducted that the risk would be lessened and that there is no less restrictive protective measure that can be implemented, since this is the only place in the region which offers satisfactory security conditions. Noting the existence of threats to persons cooperating with the Court, the Prosecutor would like the name of that locality to be temporarily removed in order to avoid obstruction of his activities by persons demonstrating hostility towards the Court’s action. He proposes that the information redacted be disclosed 30 days prior to the commencement of the trial.²³

17. The Defence for Germain Katanga does not object to the redaction of the names of locations where interviews are conducted, provided such redactions are

¹⁹ ICC-01/04-01/07-888-Conf-Exp-tENG and ICC-01/04-01/07-889-Conf-tENG, para. 10; ICC-01/04-01/07-987-Conf-Exp, para. 14.

²⁰ ICC-01/04-01/07-934-Conf-Exp-Anx H.

²¹ ICC-01/04-01/07-934-Conf-Exp-Anx G.

²² ICC-01/04-01/07-934-Conf-Exp-Anx H.

²³ *Idem*.

strictly limited.²⁴ However, it points out that this information is relevant to the Defence because it details the circumstances in which the witnesses' statements were taken.²⁵

18. The Chamber has already accepted that, because of the prevailing instability in Ituri and the resulting danger, disclosing the interview location could indeed interfere with ongoing investigations.²⁶ It notes that redacting the names of the locations or premises where interviews are conducted does not affect the intelligibility or use of the documents by the Defence, because the redactions are limited to the specific interview locations. Moreover, the proposed redactions are limited in time. Because of this double limitation, it does not seem feasible, at this stage, to have recourse to measures which are less restrictive than those proposed. Accordingly, the Chamber grants the redactions requested by the Prosecutor until the thirtieth day prior to the commencement of the trial.

(ii) Sources of the Office of the Prosecutor and field staff

19. The Prosecutor seeks permission to redact references appearing in several documents to two non-governmental organisations ("NGO"): [REDACTED]²⁷ and [REDACTED],²⁸ as well as other information enabling these organisations and their employees to be identified. The Prosecutor believes that the redactions sought are necessary insofar as these organisations, which operate in the region, are a source for his Office. He also points out, with respect to the NGO [REDACTED].²⁹

20. The Prosecutor also requests the redaction of the names "[REDACTED]"³⁰ and "[REDACTED]".³¹ He also requests that the name of an employee of another

²⁴ ICC-01/04-01/07-948, para. 14.

²⁵ ICC-01/04-01/07-948, para. 15.

²⁶ ICC-01/04-01/07-888-Conf-Exp-tENG; ICC-01/04-01/07-889-Conf-tENG, para. 15; ICC-01/04-01/07-987-Conf-Exp, para. 20.

²⁷ ICC-01/04-01/07-934-Conf-Exp-Anxs A, D, E, F.

²⁸ ICC-01/04-01/07-934-Conf-Exp-Anxs A, D.

²⁹ ICC-01/04-01/07-934-Conf-Exp-Anxs A, D, E, F, G, H.

³⁰ ICC-01/04-01/07-934-Conf-Exp-Anx G.

international organisation operating in the region be redacted in order to protect his investigations.³²

21. According to the Prosecutor, the redaction of these names is necessary since the persons concerned act as intermediaries and facilitate contact between witnesses and his Office. He considers that these persons and organisations are vital for the conduct of his activities and that, without their cooperation, his investigations would be slowed down considerably, if not made impossible.³³ He points out that intermediaries or NGO members are not covered by the Court's protection programme and generally need to stay in the DRC or in bordering countries.³⁴ Accordingly, he submits that disclosing their identity could endanger their safety and, hence, prejudice ongoing investigations.³⁵

22. According to the Prosecutor, the services of these intermediaries will be required throughout the pre-trial phase or during the trial itself.³⁶ He therefore requests the redaction of the names of these sources for the duration of the trial,³⁷ which, in some cases, means that the redactions would be permanent.³⁸

23. Where the proposed redaction does not allow the nature of the information in question to be deduced, the Prosecutor suggests that it be specified that it involves an "intermediary of the Office of the Prosecutor", the "name of an NGO", a "member of an NGO" or a "staff member of an international organisation", as well as information enabling him or her to be identified.³⁹

³¹ ICC-01/04-01/07-934-Conf-Exp-Anx H.

³² ICC-01/04-01/07-934-Conf-Exp-Anx E.

³³ ICC-01/04-01/07-934, para. 19.

³⁴ ICC-01/04-01/07-934, para. 16.

³⁵ ICC-01/04-01/07-934, para. 18.

³⁶ ICC-01/04-01/07-934, para. 18.

³⁷ ICC-01/04-01/07-934-Conf-Exp-Anxs A, D, E, F, G, H.

³⁸ ICC-01/04-01/07-934-Conf-Exp-Anx D.

³⁹ ICC-01/04-01/07-934-Conf-Exp-Anxs A, D, E, F, H.

24. The Defence for Germain Katanga maintains that a general statement that there is a prevailing state of insecurity in Ituri is not sufficient to justify the permanent redaction of the names of the intermediaries.⁴⁰ It considers that such redactions should only be allowed on an exceptional basis, after it has been demonstrated that these intermediaries are actually in danger. Moreover, the Defence fails to understand why the accused would want to threaten persons who do not provide incriminating information.⁴¹ Furthermore, the Defence objects to the redactions being authorised on a permanent basis, given that these intermediaries are in possession of information that could be relevant to its preparation.⁴²

25. The Chamber considers that disclosing the identity of these intermediaries could only increase the threats hanging over any person in the DRC who cooperates with the Court. Accordingly, it considers that it is necessary to redact the names of those persons and organisations acting in this capacity between the Court and potential witnesses in order to ensure their protection. It is also mindful of the important role played by these sources in the proper conduct of the investigations and of the risk that they might refuse to continue to cooperate with the Office of the Prosecutor and, more generally, with the Court, in the event that their names were disclosed. Redacting their names therefore is necessary for the protection of the investigations, and it does not appear feasible to resort to less restrictive measures.

26. The Chamber considers that these redactions do not interfere with the overall intelligibility of the documents. The Defence will, in fact, have access to most of the information contained therein. However, it is of the view that it cannot authorise the redactions until the end of the trial, as the Chamber does not believe that such a measure, under the circumstances, takes sufficient account of the rights of the Defence. At this stage, it is difficult for the Chamber to conclusively assess the usefulness and relevance of such information for the Defence. It is actually up to the

⁴⁰ ICC-01/04-01/07-948, para. 18.

⁴¹ ICC-01/04-01/07-948, para. 21.

⁴² ICC-01/04-01/07-948, para. 23.

Defence to make such an assessment, since it is the Defence and the Defence alone which determines the strategy it intends to adopt.

27. In this case, the Defence has so far been unable to fully assess the value of this information, since the Applications only describe it in general terms. It will have the opportunity to analyse and assess the usefulness and relevance of the redacted documents once it has received them, and, if necessary, will be able to submit an application for reconsideration to the Chamber prior to the commencement of the trial. In that event, the Chamber will assess the actual impact of the redactions sought, in light of the arguments advanced by the Defence. For his part, the Prosecutor may also, no later than 45 days prior to the commencement of the trial, request that these redactions be maintained.

28. Having thus balanced the interests at stake, the Chamber finds that the redactions sought are warranted until the thirtieth day prior to the commencement of the trial.

(iii) Means of Communication

29. The Prosecutor seeks permission to redact the information pertaining to the means of communication that he uses to contact witnesses. In his view, these redactions are necessary to prevent the risk of revealing the technique he uses to communicate with witnesses or of their being located. The purpose of these redactions is therefore to protect the investigations as well as those persons who cooperate with the Office of the Prosecutor. He requests that these redactions be permanent, since he does not deem them material to the preparation of the Defence.⁴³

30. The Chamber concurs with the Prosecutor concerning the possibility of reprisals against persons who cooperate with the Court. In fact, the disclosure of any of the means of communication used by the Prosecutor could make it easy to identify

⁴³ ICC-01/04-01/07-934-Conf-Exp-Anx G.

his witnesses. Consequently, this information must be redacted pursuant to rules 81(2) and 81(4). The Chamber notes that the redactions sought do not interfere with the intelligibility of the document in question and that they do not prejudice the fairness of the trial. Nevertheless, adopting the same position as set forth at paragraphs 26 and 27 of this decision, the Chamber authorises the redactions sought until the thirtieth day prior to the date of the trial. For his part, the Prosecutor may also, no later than 45 days prior to the commencement of the trial, request that these redactions be maintained.

(c) **Safety of witnesses, members of their families and the IRS Process (rule 81(4))**

(i) **Identities of witnesses and information about their families**

31. The Prosecutor requests, under rule 81(4) of the Rules, leave from the Chamber to permanently redact the names of the family members of Witnesses 14⁴⁴ and 50⁴⁵ as well as information enabling the family members of Witnesses 14,⁴⁶ 50,⁴⁷ 55⁴⁸ and 303⁴⁹ to be located.

32. According to the Prosecutor, these persons run a genuine risk, even if they are not family members of prosecution witnesses. In fact, he considers that the mere fact that these witnesses have provided a written statement to him identifies them as persons cooperating with the Court. Lastly, he points out that, while witnesses personally assume risks when they cooperate with the Court, they do not, however, intend that their actions would have repercussions on their families.⁵⁰

⁴⁴ ICC-01/04-01/07-934-Conf-Exp-Anx A.

⁴⁵ ICC-01/04-01/07-934-Conf-Exp-Anx B.

⁴⁶ ICC-01/04-01/07-934-Conf-Exp-Anx A.

⁴⁷ ICC-01/04-01/07-934-Conf-Exp-Anx B.

⁴⁸ ICC-01/04-01/07-934-Conf-Exp-Anx C.

⁴⁹ ICC-01/04-01/07-934-Conf-Exp-Anx H.

⁵⁰ ICC-01/04-01/07-934, para. 28.

33. The Prosecutor submits that information pertaining to relatives is of limited interest and is not material to the preparation of the Defence given that they are not prosecution witnesses and were mentioned by witnesses only incidentally.⁵¹ Thus, he considers that disclosing the identity of relatives would undermine the position of witnesses and their families, a situation that is not “[TRANSLATION] offset by a manifest interest on the part of the accused”.⁵²

34. The Prosecutor proposes, in certain cases, other forms of redaction where it is not clear from the text that the information in question pertains to the families of witnesses. Hence, he suggests that reference be made to the “place of residence of the members of the family” of Witnesses 55⁵³ and 303.⁵⁴ The Chamber agrees with this proposal, which enables the Defence to assess the nature of the information which has been redacted.

35. The Defence for Germain Katanga submits that the redaction of the name and whereabouts of the family members of witnesses is not justified since they are not participants in the case.⁵⁵

36. The Chamber considers, as does the Prosecutor, that disclosing the identity of the family members of witnesses as well as information enabling them to be identified or located might jeopardise their safety, especially where they are located in Ituri. It also considers that, even if the family members of witnesses are not involved in this case, persons wishing to exert influence on the witnesses could use the family members to exert pressure on them.

37. Moreover, the Chamber is of the opinion that some of the redactions sought constitute an appropriate measure to lessen that risk, and that no other less restrictive

⁵¹ ICC-01/04-01/07-934, para. 27.

⁵² ICC-01/04-01/07-934, para. 29.

⁵³ ICC-01/04-01/07-934-Conf-Exp-Anx C.

⁵⁴ ICC-01/04-01/07-934-Conf-Exp-Anx H.

⁵⁵ ICC-01/04-01/07-948, para. 25.

measure would achieve the same result since the family members of the witnesses in question are not covered by the Court's witness protection programme.⁵⁶

38. The Chamber considers that the redactions sought in the format suggested by the Prosecutor do not prejudice the rights of the accused, since the documents can be read, understood and used by the Defence. The Chamber is therefore in favour of authorising the redactions sought, but is of the view that it can only redact the passages in question on a temporary basis and not through to the end of the trial as, in its opinion, such a measure seems excessive with regard to the exercise of the rights of the Defence. It therefore authorises the redactions until the thirtieth day prior to the date of the trial.

39. The Prosecutor also requests the redaction of the surname, first name and nickname [REDACTED].⁵⁷ [REDACTED].⁵⁸

40. The Chamber considers that, under the circumstances, disclosing the identity [REDACTED] as well as information that would make it possible to identify him or her could jeopardise [REDACTED] security, [REDACTED]. Moreover, it is of the opinion that the redactions sought are an appropriate measure to lessen this risk and that no other less restrictive measure would achieve the same result, [REDACTED]. It therefore authorises these redactions [REDACTED].

41. The Prosecutor also seeks the redaction of the telephone number of Witness 349, which appears in interview notes, in order to prevent any improper use thereof.⁵⁹ This redaction is sought on a permanent basis.

42. The Chamber considers that a witness's telephone number is personal information and, as such, is protected under international human rights treaties.⁶⁰

⁵⁶ ICC-01/04-01/07-934-Conf-Exp-Anxs A, B, C, H.

⁵⁷ Office of the Prosecutor, "Prosecution's Submissions on the Modalities of Disclosure Required for the Protection of Incriminating Witnesses", 9 February 2009, ICC-01/04-01/07-882.

⁵⁸ ICC-01/04-01/07-934-Conf-Exp-Anx G.

⁵⁹ ICC-01/04-01/07-934-Conf-Exp-Anx I.

Furthermore, the Chamber considers that the Defence teams may not contact this witness directly, and that, as a result, they must obtain the witness's consent through the Office of the Prosecutor if they consider such contact necessary for their preparation.⁶¹ The Chamber therefore authorises this redaction on a permanent basis.

(ii) Information pertaining to the assessment of the safety of the witness

43. The Prosecutor requests the redaction of information pertaining to the assessment of the safety of Witness 55 in an investigator's note and in the transcript of his statement. He points out that this witness is covered by the Court's protection programme and that this information pertains to the assessment of the witness's safety with a view to the implementation of the Initial Response System and the protection programme. According to the Prosecutor, if "[TRANSLATION] this information were disclosed, [it would] undermine the measures implemented under the Court's protection programme".⁶²

44. Having reviewed the redactions requested, the Chamber notes that they cover a very significant portion of the document and apparently go well beyond the objective sought. It will therefore ask the Prosecutor, after consulting with the Victims and Witnesses Unit, to review the redactions sought by restricting them to those passages that are strictly necessary.

FOR THESE REASONS, THE CHAMBER

- 1) GRANTS** the Application, whilst reserving the right to periodically review the redactions authorised, either *proprio motu* or upon an application brought

⁶⁰ See article 17 of the *International Covenant on Civil and Political Rights* (1966), article 11 of the *American Convention on Human Rights* (1969), article 8 of the *European Convention on Human Rights* (1950), article 5 of the *African Charter on Human and Peoples' Rights* (1982) and articles 1 and 7 of the *Charter of Fundamental Rights of the European Union* (2000).

⁶¹ See to the same effect, Trial Chamber I, *Decision on the Prosecution's application for an order governing disclosure of non-public information to members of the public and an order regulating contact with witness*, 3 June 2008, ICC-01/04-01/06-1372, para. 11.

⁶² ICC-01/04-01/07-934-Conf-Exp-Anx C.

for that purpose, with the exception of the request referred to at paragraph 44 of this decision, for which the Prosecutor must review the redactions sought, limiting them to those passages that are strictly necessary;

- 2) **DIRECTS** the Prosecutor to submit his new proposals no later than 4 p.m. on 9 April 2009; and
- 3) **AUTHORISES** all of the redactions sought until the thirtieth day prior to the date of the commencement of the trial, save that the Prosecutor may, no later than 45 days prior to the date of the commencement of the trial, request that they be maintained, with the exception of the information mentioned at paragraph 42 of this decision.

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

[signed]

Judge Bruno Cotte
Presiding Judge

[signed]

Judge Fatoumata Dembele Diarra

[signed]

Judge Hans-Peter Kaul

Dated this 4 May 2009
At The Hague, The Netherlands